

MINUTES OF THE ROSEAU RIVER WATERSHED DISTRICT BOARD OF MANAGERS MEETING HELD July 7, 2010

ORDER: Chairman Todd Miller called the meeting to order at 8:00 a.m.

MANAGERS PRESENT: Floyd Haugen, LeRoy Carriere, Laverne Voll, Allison Frislie and Todd Miller.

STAFF PRESENT: Administrator, Rob Sando; Administrative Assistant Halstengard

OTHERS PRESENT: Refer to attendance sheet.

DELEGATIONS: No Delegations in attendance.

AGENDA: A **motion** was made by Manager Voll and seconded by Manager Carriere to approve the agenda with changes. Carried - unanimous.

MINUTES: Approval of the June 2, 2010 minutes was tabled until a resolution on the Beltami Project is completed.

Attorney Pat Moren read aloud a draft resolution on the settlement with Wagner Construction, Inc.

RECEIPTS:

Receipts -- Memo	Balance
Citizens State Bank -- Interest on checking	\$ 106.94
Lake of the Woods County -- share of taxes	\$ 367.89
Marshall County -- share of taxes	\$ 1,182.98
Beltrami County -- share of taxes	\$ 1,208.75
Marshall County -- share of taxes	\$ 429.18
Roseau County -- share of taxes	\$ 268,557.35
Wendy Lee -- 1st half ring dike payment	\$ 4,093.75
Robert Lee -- 1st half ring dike payment	\$ 4,093.75
State of Minnesota -- Hay Creek reimbursement	\$ 82,335.43
TOTAL	\$ 362,376.02

Bills -- Memo	Amount
City of Roseau -- utilities	\$ 182.79
Verison -- cell phone charge	\$ 51.39
CenturyLink -- phone bill	\$ 125.02
Sjoberg's Cable TV -- cable internet	\$ 42.32
Tony Torn -- copier maintenance	\$ 13.25
Roseau Times-Region -- notice	
Minnesota Energy -- natural gas bill	\$ 18.50
postmaster -- mailing board packets	\$ 24.50
Patrick D. Moren -- legal fees	\$ 1,968.75
JOR Engineering -- project team engineering	\$ 2,375.50
HDR Engineering -- Project Engineering	\$ 39,523.43
Floyd Haugen -- meetings, mileage and expenses	\$ 346.05
LeRoy Carriere -- meetings, mileage and expenses	\$ 69.26
Allison Frislie -- meetings, mileage and expenses	\$ 348.79
Todd Miller -- meetings, mileage and expenses	\$ 305.79
LaVerne Voll -- meetings, mileage and expenses	\$ 267.79
Rob Sando -- expenses and mileage	\$ 420.30
Rob Sando -- salary	\$ 3,093.63
Tracy Halstensgard -- wages	\$ 1,881.49
Multi Office Products -- supplies	\$ 69.45
PERA -- employee and employer share	\$ 847.62
IRS -- withholding tax	\$ 1,578.22
Minnesota Revenue -- quarterly withholding tax	\$ 781.05
Doug's Supermarket -- food for meetings and supplies	\$ 43.29
Drees, Risky & Vallager -- 2009 audit	\$ 5,335.00
Jon Schauer / DbA Consulting -- Quickbooks consulting	\$ 1,200.00
D & E Sports Shop -- ranger maintenance	\$ 81.91
Quality Printing -- miscellaneous printing	\$ 359.63
Rinke Noonan -- Legal fees	\$ 3,373.50
ICS construction Inc. -- Hay Creek Construction	\$ 17,905.33
North Pine Aggregate -- Hay Creek Construction	\$ 3,616.40
Wagner construction -- Hay Creek Construction	\$ 9,749.70
Border State Bank -- savings deposit	\$ 500,000.00
TOTAL	\$ 595,999.65

BILLS: A motion was made by Manager Carriere to pay the normal monthly bills, seconded by Manager Haugen. Motion carried unanimous.

PROJECT TEAM & ENGINEERS REPORT:

Hay Creek / Norland: Mike Grahn addressed the board with concerns about the seeding and weeds along the corridor. Mr. Grahn stated that the wet conditions are not a reason for the spraying not to have occurred. Mr. Grahn also has an issue with wetlands along the corridor. Randy Knott, HDR Engineering, addressed the wetland issues and stated that he was open to options as far as the spraying was concerned. Administrator Sando stated that items on the punch-list had not been completed because of wet conditions. Mr. Grahn questioned the flow out of the impoundment to ditch 18. He stated they intend to farm land near the outlet and was concerned about the outletting of impoundment flows that would be coming down ditch 18. Manager Voll stated that they created some of the problem when they built the drainage ditch across their field and that the Watershed is not responsible for ditches on private land. Chairman Miller asked

Engineer Knott to include the landowners in discussions with the County on ditch 18 discussions and the O&M committee. Engineer Knott discussed the amount of flow that will be going down the ditch and the operation of the outlets. Mr. Grahn asked about a structure that was placed in the ditch near the Lateral 3 of CD 61 control structure that forced the water overland during recent rain events. Engineer Knott explained the situation to the board and stated that with the heavy rain, the conveyance around the construction area was inadequate and water ended up going across fields. Manager Voll stated that he talked to a representative from the Cenex West Plant, and stated that Cenex should be out there today to spray. There was discussion on the best avenues to pursue seeding and weed control.

There is a soft spot of loose gravel on a portion of Mattson Island Road that was rebuilt as part of the project. Engineer Knott will view the area and make a determination as to the cause of the instability.

Engineer Knott discussed clearing and grubbing in the ditches adjacent to the project. Chairman Miller stated that they need to get together with the County and make a determination as to what will be done. Engineer Knott, Managers Miller and Voll and Administrator Sando will meet with the County today after the meeting.

Hancock Concrete Products has offered a reduction in price on precast box culverts that they have in inventory. It was the consensus of the board to use the inventory culverts.

Chairman Miller asked if Spruce Valley has submitted a haul plan to HDR. Randy Knott stated that he had not seen it yet.

A **motion** was made by Manager Frislie and seconded by Manager Carriere to approve payment to ISC, Inc in the amount of \$17,905.33. Motion carried unanimously. A **motion** was made by Manager Carriere and seconded by Manager Frislie to approve payment to Wagner Construction in the amount of \$9,749.70 pending the correction to the signature. Motion carried unanimously. A **motion** was made by Manager Voll and seconded by Manager Frislie to approve payment to Agassiz Seed & Supply in the amount of \$31,594.07. Motion carried unanimously. A **motion** was made by Manager Carriere and seconded by Manager Frislie to approve payment to HDR Engineering in the amount of \$39,125.01. Manager Voll asked for a more detailed bill from HDR Engineering. Motion carried unanimously.

The Board received a letter from Wagner Construction requesting a time extension. A **motion** was made by Manager Carriere and seconded by Manager Haugen to extend the deadline for Wagner Construction to September 15, 2010 with a review at the August Board meeting. Motion carried unanimously.

Palmville Project: There was nothing to report

Ring Dikes: A **motion** was made by Manager Carriere and seconded by Manager Frislie to approve payment to HDR Engineering in the amount of \$298.42. Motion carried unanimously.

Beltrami: A **motion** was made by Manager Frislie and seconded by Manager Carriere to approve payment to JOR Engineering in the amount of \$2,375.50. Motion carried unanimously.

Tony Moe, Fourtown Grygla Sportsman's Club addressed the board with the permit application they had submitted to the board. Mr. Moe stated that they would not move forward without the blessing of the local government agency. The latest information from the DNR was that they were not going to alter their permit. A **motion** was made by Manager Frislie and seconded by Manager Carriere to approve the permit submitted by the Fourtown Grygla Sportsman's Club. The permit had been previously denied. Motion carried with Manager Voll opposed.

DELEGATIONS: There were no delegations for this meeting.

PERMITS:

A **motion** was made by Manager Voll and seconded by Manager Frislie to approve permit #10-09 (Douglas Erickson) with the amended culvert size to 24". Motion carried unanimously.

A **motion** was made by Manager Frislie and seconded by Manager Voll to approve permit #10-10 (Douglas Erickson). Motion carried unanimously. Administrator Sando will send a copy of the permit to the township.

A **motion** was made by Manager Carriere and seconded by Manager Frislie to approve permit #10-11 (Mark Johnson). Motion carried unanimously.

A **motion** was made by Manager Voll and seconded by Manager Frislie to approve permit #10-12 (Dennis Strandland) to install a 24” culvert. Motion carried unanimously.

Attorney Moren presented the Board with the following resolution on the settlement with Wagner Construction.

A **motion** was made by Manager Frislie for adoption of the following Resolution with respect to the construction of the Roseau River Watershed District Project entitled Hay Creek Set Back Levees and Norland Impoundment Phase 2 – Norland Improvement

RESOLUTION

WHEREAS, the Board of Mangers of the Roseau River Watershed District did call for bids on Phase 2 of the above described project to be publicly opened at the Roseau River Watershed District offices on Wednesday, May 5, 2010, at 10 o'clock a.m.; and

WHEREAS, said bids were publicly opened and read by the Board of Managers at 10 o'clock a.m. on May 5, 2010; and

WHEREAS, the lowest bid was submitted by Wagner Construction, Inc., of South International Falls, Minnesota, in the amount of \$4,485,607.15; and

WHEREAS, following the opening of the bids a representative of Wagner Construction, Inc., advised the Board of Managers that Wagner Construction, Inc., had made a substantial error with respect to its bid calculations; and

WHEREAS, Wagner Construction, Inc., alleged that it met the criteria under Minnesota law to be relieved of the obligation of entering into a contract with the Roseau River Watershed District based upon a unilateral mistake in its bid calculations, which allegation was disputed by the Roseau River Watershed District; and

WHEREAS, Wagner Construction, Inc., in conjunction with the bidding process had in accordance with the bid specifications furnished a corporate surety bid bond for 10% of the amount of the bid; and

WHEREAS, the Board of Mangers subsequently advised Wagner Construction, Inc., that the Roseau River Watershed District would not allow Wagner Construction, Inc., to be relieved of its obligations to enter into a contract with the Roseau River Watershed District; and

WHEREAS, the Board of Managers did on May 14, 2010, accept the low bid of Wagner Construction, Inc.; and

WHEREAS, Wagner Construction, Inc., notwithstanding the acceptance by the Roseau River Watershed District of its low bid, advised the Roseau River Watershed District that it would not honor its low bid and enter into a contract with the Roseau River Watershed District; and

WHEREAS, Wagner Construction, Inc., thereafter offered the Roseau River Watershed District the sum of Five Thousand and no/100 (\$5,000.00) Dollars to be relieved of its obligation to enter into a contract with the Roseau River Watershed District; and

WHEREAS, the Roseau River Watershed District rejected said Five Thousand and no/100 (\$5,000.00) Dollar offer, but did later offer Wagner Construction, Inc., the opportunity to be relieved of its obligation to enter into a contract in return for Wagner Construction, Inc., paying to the Roseau River Watershed District the sum of Forty-five Thousand and no/100 (\$45,000.00) Dollars in consideration of which the Roseau River Watershed District would forego its right to take legal action to recover from the bid bond of Wagner Construction, Inc.; and

WHEREAS, this offer was made by Roseau River Watershed District in part to avoid likely protracted and costly litigation, the outcome of which would be uncertain, and therefore, it was deemed by the Board of Mangers to be in the best interest of the Roseau River Watershed District to make said Forty-five Thousand and no/100 (\$45,000.00) Dollar offer; and

WHEREAS, following negotiations between legal counsel for Wagner Construction, Inc., and legal counsel for the Roseau River Watershed District, Wagner Construction, Inc., agreed to pay said Forty-five Thousand and no/100 (\$45,000.00) Dollars to the Roseau River Watershed District; and

WHEREAS, a Settlement Agreement and Release has been prepared by legal counsel with respect to the Forty-five Thousand and no/100 (\$45,000.00) Dollar settlement, which agreement has been executed by Wagner Construction, Inc., and delivered to the Roseau River Watershed District together with a check from Wagner Construction, Inc., in the amount of Forty-five Thousand and no/100 (\$45,000.00) Dollars made payable to the Roseau River Watershed District; and

WHEREAS, a copy of said Settlement Agreement and Release is appended to this Resolution.

NOW THEREFORE, be it resolved by the Board of Managers that the Roseau River Watershed District accepts the check in the amount of Forty-five Thousand and no/100 (\$45,000.00) Dollars from Wagner Construction, Inc., and consents to the Settlement Agreement and Release, and the Chairman of the Board of Managers of the Roseau River Watershed District is hereby authorized and directed to execute the original of the Settlement Agreement and Release appended to this Resolution.

The above Motion was seconded by Manager Carriere and, following discussion, the following Managers voted in favor of the Motion to adopt this Resolution: Allison Frislie, LeRoy Carriere, LaVerne Voll, Floyd Haugen and Todd Miller.

Administrator's Report:

Administrator Sando reported on the following issues:

- Ring Dike updates
- Kim Durbin's response concerning borrowing funds. There was discussion on the benefits to SD 51 and borrowing funds versus charging for benefit. There was discussion on alternatives to manage the construction funds. Manager Haugen will work with Administrator Sando on this issue.
- North Pine Aggregate's letter requesting additional payment. A **motion** was made by Manager Frislie and seconded by Manager Carriere to approve payment of legitimate additional expenses upon review by Administrator Sando and Engineer Knott. Motion carried unanimously
- Stormwater permit for Phase 2 of Hay Creek Norland
- Malung Stream Gage letters. Chairman Miller talked about finding alternative funding options (ie. County, SWCD, City of Roseau).
- Wes Otto requested being allowed to hay the West Interceptor channel. The board was in favor of allowing Mr. Otto to hay the ditch with the following conditions: remove bales by a certain date and if there are bales remaining after stated date (cutting by Aug 1, 2010 and bales removed by Aug 15, 2010), Mr. Otto will be responsible for costs of removal of those bales; the ditch must be left in the current condition (not rutted)
- Annual FDRWG and RRWMB Conference— discussion at the FDRWG was monitoring on projects.
- Possible projects in Beltrami proposed by the DNR. Chairman Miller updated the board on discussions with various individuals concerning Beltrami projects.
- Bois de Sioux flow reduction plan.
- Water Summit in St. Cloud
- Project Team Handbooks will be available for board members soon.
- FEMA sites

RRIW: Manager Voll reported on the June RRIW meeting.

BIG SWAMP PROJECT TEAM: Manager Haugen reported on the June meeting. Blake Carlson, JOR Engineering, presented some potential sites for impoundments at the meeting.

WARROAD RIVER PROJECT TEAM: There was nothing new to report. They were meeting today.

OLD BUSINESS:

Chairman Miller will review the letter from Drees, Risky & Vallager.

Manager Voll stated he had talked to Scott Hetteen about the repairs to the West Interceptor.

NEW BUSINESS:

There was discussion on a letter from Joe Laurin. After discussion, Chairman Miller stated that in the future any expenses incurred by the Watershed District attorney after being contacted by Mr. Laurin, prior to coming before the board will be paid by Mr. Laurin.

Manager Haugen discussed the coverage of Watershed District deposits and the possibility of depositing funds in a savings account. Manager Voll made a **motion**, seconded by Manager Carriere to authorize Manager Haugen and Administrator Sando to make the necessary changes transferring funds to a higher interest bearing account. Motion carried unanimously.

The next meeting is scheduled for August 4th, 2010. After reviewing the manager's vouchers, a **motion** by Manager Voll and seconded by Manager Haugen, to approve the manager's vouchers. Motion carried unanimously.

A **motion** to adjourn the meeting was made by Manager Haugen, seconded by Manager Miller. Motion carried unanimously. Meeting adjourned at 11:26 p.m.

Respectfully submitted,

LeRoy Carriere, Secretary

Tracy Halstensgard, Administrative Assistant