

**MINUTES OF THE ROSEAU RIVER WATERSHED DISTRICT BOARD OF
MANAGERS SPECIAL MEETING HELD September 29, 2010**

Manager Miller called the meeting to order at 5 p.m. Managers present were LaVerne Voll, Floyd Haugen, Leroy Carriere, Allison Frislie and Todd Miller. Staff present was Administrator Sando. Others present were HDR Engineer Nate Dalager and Roseau County Commissioner Roger Falk.

The purpose of this special meeting was to discuss the Hay Creek/Norland Project and Wagner Construction's request for a time extension to complete the NW and SW outlet structures.

HDR Engineer Dalager discussed the history of Wagner Construction's bid on the 3 outlet structures, work that has been accomplished on the 2 outlet structures (NW & SW) that were awarded to them from the start of construction in the fall of 2009 till today. He discussed the structures, earth work and progress of Wagner Construction. He also discussed the joint that is between the concrete structure and box culverts that connect to the structure. Wagner had used expanding spray foam in a can to fill the gap between the box culvert and structure with grout over the top, when HDR Engineering had notified them that this was not acceptable.

HDR Engineer Dalager also discussed the funding and discussed what has been paid to Wagner Construction and what funding is left to complete the structures.

There was discussion on the MN DOT spec. 18.08, engineering fees, finish time, weather. After discussion the board directed Engineer Dalager to document all engineering associated with the 2 structures as a result of the current situation so that it can be applied in addition to the cost of the 2 structures to finish.

The Board of Managers reviewed the e-mail dated September 2, 2010 from Kalan Wagner (Vice President, Wagner Construction) requesting a time extension beyond the September 15, 2010 deadline. A **motion** was made by Manager Voll and seconded by Manager Carriere to deny Wagner Construction's request for a time extension to complete the 2 outlet structures. Motion carried – unanimously.

There was considerable discussion on assessing liquidated damages to Wagner Construction according to the MN DOT spec. 18.08. A **motion** was made by Manager Frislie and seconded by Manager Voll to assess liquidated damages to Wagner Construction from the date of expiration (9/15/10) until the day of the special board meeting (9/29/10) in the amount of \$14,000.00. Motion Carried – unanimously.

The Board of Managers reviewed a prepared settlement agreement that had been prepared by Rinke/Noonan, HDR and the watershed. After discussion a **motion** was made by Manager Frislie and seconded by Manager Voll to proceed with the settlement agreement with Wagner Construction. Motion carried – unanimously.

Administrator Sando informed the board that any attorney costs associated with this current situation cannot be included with expenses to the State of MN grant for reimbursement.

Mattson Island Road

The board discussed the condition of the road after Lavalla Construction completed the conditioning of the road. There are some soft spots that are reappearing. Manager Miller discussed his recent conversation with Spruce Township official Torris Bakken. There was discussion on the road being a minimum maintenance road, and directed Administrator of arranging a meeting with Spruce Township officials and to have them attend the boards next regularly scheduled board meeting.

Construction haul roads for Hay Creek/Norland project

There was discussion on the haul roads that the construction crews are using. Spruce Valley indicated that they will use existing gravel from the project to try and keep the haul roads in decent shape. It was noted that Spruce Valley has been attempting to gravel the roads to the west outlet structure and the SW outlet structure. It was the consensus of the board that the roads stay in good shape during construction and there will be adequate roads to access the project when the project is completed. The contractor has to keep the roads in good drivable condition.

Habstritt Road

The board noted that the Habstritt road was in rough shape as compared to when the project was started. Spruce Valley indicated that they will have a road grader on site in the near future and will keep this road in decent shape to pre-existing project condition.

The Board directed Administrator Sando to contact Dennis Wagner and arrange a date for the Engineer, Administrator and Managers Miller and Voll to meet with Mr. Wagner to discuss the settlement agreement.

A **motion** was made by Manager Frislie and seconded by Manager Voll to adjourn the meeting. The meeting was adjourned at 6:07 p.m.

Respectfully submitted,

LeRoy Carriere, Secretary

Rob Sando, Administrator