

**MINUTES OF THE ROSEAU RIVER WATERSHED DISTRICT BOARD OF  
MANAGERS MEETING HELD APRIL 22, 2020**

**ORDER:** Chairman Jason Braaten called the meeting to order at 8:00 a.m. and let the Pledge of Allegiance.

**MANAGERS PRESENT:** In the office, Tony Wensloff ; On the phone, LeRoy Carriere, Cody Schmalz, Carter Diesen, and Jason Braaten.

**STAFF PRESENT:** Administrator Halstengard and Specialist McCormack

**CONSULTING STAFF PRESENT:** In the office, Attorney Michelle Moren; On the phone, Nate Dalager and Jake Huwe, HDR Engineering.

**ON THE PHONE:** Landowners Mitch Magnusson, Matt Magnusson, and Mark Wierschke.

A **motion** was made by Manager Carriere, seconded by Manager Wensloff, to approve the agenda. Chairman Braaten then conducted a roll call vote as follows: Diesen, yes; Carriere, yes; Wensloff, yes; Schmalz, yes; Braaten, yes. Motion passed unanimously. Chairman Braaten turned the meeting over to Vice-Chair Wensloff.

Vice-Chair Wensloff asked Administrator Halstengard to explain the reestablishment of records for the CD#16 system. Administrator Halstengard and Attorney Moren discussed MN Statute 103E.101 subd. 4a and the process it involves. Administrator Halstengard read the following:

**STATE OF MINNESOTA**  
*Before the*  
**ROSEAU RIVER WATERSHED DISTRICT**  
**SITTING AS THE DRAINAGE AUTHORITY FOR**  
**ROSEAU COUNTY DITCH #16**

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**In the Matter of:**

**the Reestablishment of Roseau County Ditch #16  
Drainage System Records**

**FINDINGS, ORDER AND RESOLUTION  
INITIATING THE REESTABLISHMENT OF  
DRAINAGE SYSTEM RECORDS**

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The Roseau River Watershed District Board of Managers, sitting as the drainage authority for Roseau County Ditch #16 pursuant to Minn. Stat. § 103E.101, subd. 4a, based on the record and proceedings, Manager \_\_\_\_\_ moved, seconded by Manager \_\_\_\_\_ to adopt the following Findings and Order and Resolution:

**Findings:**

1. The Roseau River Watershed District is the drainage authority for Roseau County Ditch #16.
2. After thorough investigation of the drainage system record, the drainage authority finds that the records establishing the alignment, profile, and right-of-way of Roseau County Ditch #16 are incomplete.

3. The Board has reviewed a brief history of the system contained in a Technical Memorandum to Reestablish Roseau County Ditch #16 dated April 21, 2020. Said history is incorporated by reference into these findings, order, and resolution.
4. Minn. Stat. § 103E.101, subd. 4a allows the drainage authority to initiate proceedings to reestablish records defining the alignment; cross-section; profile; hydraulic structure locations; materials; dimensions and elevations; or right-of-way of a drainage system as originally constructed or subsequently improved.

**Order and Resolution:**

Based on the foregoing Findings and the entire record of proceedings before the Board, acting as the drainage authority for Roseau County Ditch #16 hereby orders and resolves as follows:

- A. The Board shall follow the procedures of Minn. Stat. § 103E.101, subd. 4a to reestablish and correct the drainage system record for Roseau County Ditch #16 to reflect the functional alignment, dimension, grade, and right-of-way of the system.
- B. HDR Engineering Inc. is hereby appointed to serve as the engineer for the investigation and preparation of the engineer's report. The engineer, to the extent not already accomplished in its analysis supporting the Technical Memorandum to Reestablish Roseau County Ditch #16, shall investigate and report findings defining the alignment; cross-section; profile; hydraulic structure locations, materials dimensions, elevations; and right-of-way of the drainage system.
- C. Once the engineer's report is filed, the secretary shall give notice of the hearing by mail to the commissioner of natural resources, the executive director of the Board of Water and Soil Resources, and all property owners benefited or damaged by the drainage system and shall give additional notice either in a newspaper of general circulation in the drainage system area or by publication on the drainage authority's website.

After discussion, the Board Chair called the question by roll call vote. The question was on the adoption of the foregoing findings, order, and resolution, and there were \_\_\_\_ yeas, \_\_\_\_ nays, \_\_\_\_ absent, and \_\_\_\_ abstentions as follows:

	Yea	Nay	Absent	Abstain
Wensloff	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Diesen	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Schmalz	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Carriere	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Braaten	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Upon vote, the Chair declared the motion passed and the Findings, Order, and Resolution adopted.

\_\_\_\_\_  
Tony Wensloff, Acting Chairman

Dated: \_\_\_\_\_

After reading of the resolution, a **motion** was made by Manager Carriere and seconded by Manager Diesen. Vice-chair Wensloff conducted a roll-call vote as follows: Diesen, yes; Schmalz yes; Carriere, yes; Braaten, abstains; Wensloff, yes. Motion carried.

The Board then moved on to setting the public hearing for the reestablishment of records. Administrator Halstensgard discussed being able to have the public hearing if the COVID – 19 and special consideration if social distancing is still a requirement. A **motion** was made by Manager Carriere to set the public hearing for the Reestablishment of the Records for the Roseau County Ditch #16 system on June 3, 2020 at 8:30 a.m. at a location to be determined based on State requirements due to COVID – 19, seconded by Manager Schmalz. Vice-Chair Wensloff conducted a roll-call vote as follows Diesen, yes; Schmalz yes; Carriere, yes; Braaten, abstains; Wensloff, yes. Motion carried.

Engineer Dalager asked the board to accept the Detailed Survey Report and the Viewers` Report and set the public hearing. The reports will be made available to the public. A **motion** was made by Manager Diesen to accept the Detailed Survey Report and the Viewers` Report, seconded by Manager Carriere. Vice-Chair Wensloff conducted a roll-call vote as follows Diesen, yes; Schmalz yes; Carriere, yes; Wensloff, yes; Braaten, abstains. Motion carried.

Administrator Halstensgard read the following Order for Public Hearing:

**STATE OF MINNESOTA**  
*Before the*  
**ROSEAU RIVER WATERSHED DISTRICT**  
**SITTING AS THE DRAINAGE AUTHORITY FOR**  
**ROSEAU COUNTY DITCH #16**

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**In the Matter of:**

**Petition for Improvement of Roseau County  
Ditch #16**

**ORDER FOR PUBLIC HEARING**

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At a public meeting conducted by the Roseau River Watershed District sitting as drainage authority for Roseau County Ditch #16 on April \_\_\_\_\_, 2020, Manager \_\_\_\_\_ moved, seconded by Manager \_\_\_\_\_ for adoption of the following Findings and Order:

**Findings:**

5. Roseau River Watershed District is the drainage authority for Roseau County Ditch #16.
6. On March 6, 2019 (with clarification received from petitioners on March 29, 2019), a petition for Improvement of Roseau County Ditch #16 was received by the drainage authority.
7. On March 6, 2019 and confirmed with clarifications on April 3, 2019, the drainage authority adopted findings and an order accepting the petition and appointing Nate

Dalager as the project engineer. Dalager was ordered to prepare a preliminary survey and file a preliminary survey report with the drainage authority.

8. The preliminary survey report was filed with the secretary on July 3, 2019.
9. On August 6, 2019, the drainage authority noticed and held a preliminary hearing on the preliminary survey report. The drainage authority adopted findings and an order accepting the preliminary survey report, ordering the engineer to proceed with the detailed survey, and appointing three viewers to determine benefits and damages.
10. On April 21, 2020 the engineer filed the detailed survey report with the secretary. A copy of the detailed survey report was mailed to the commissioner of natural resources for review.
11. On April 18, 2020 the viewers filed the viewers' report with the secretary and auditor along with a detailed statement showing the actual time the viewers were engaged and the costs incurred.
12. Within 30 days after the viewers' report was filed, the secretary made a property owners' report from the information in the viewers' report in conformance with the requirements of Minn. Stat. § 103E.323, subd. 1. A copy of the property owners' report was mailed to each owner of property affected by the proposed drainage project and an affidavit of mailing is on file with the drainage authority.
13. A commissioner's final advisory report was filed with the drainage authority on \_\_\_\_\_, 2020 (or / No commissioner's final advisory report was filed)
14. Pursuant to Minn. Stat. § 103E.325, subd. 3 the final hearing must be noticed by publication, posting, and mail.

#### **Order:**

Based on the foregoing Findings and the entire record of proceedings before the Board, the Board, acting as the drainage authority for Roseau County Ditch #16, hereby orders as follows:

**D. Final Hearing – time and date:**

A final hearing shall be held at 8:30 a.m. on Wednesday, June \_\_\_\_\_, 2020, at the office of the Roseau River Watershed District located at 714 6<sup>th</sup> Street, SW, Roseau, Minnesota 56751. IN THE EVENT OF A CONTINUED STATE OF EMERGENCY DUE TO THE PANDEMIC, THIS HEARING SHALL BE HELD BY ELECTRONIC MEANS: *Pursuant to Minnesota Statutes §13D.021, because of the declaration by Governor Tim Walz on March 13, 2020 of a Peacetime State of Emergency due to the COVID-19 Pandemic, the final hearing will be conducted by telephone or other electronic means. Tony Wensloff, as the Acting Chairman of the Roseau River Watershed District Board of Managers for Roseau County Ditch #16, has determined that an in-person final hearing is not practical or prudent due to the health pandemic.*

Those wishing to attend the meeting may use the following information: [Link TBD](#)

- E. The secretary shall publish notice of the final hearing once per week for three successive weeks in a newspaper of general circulation in the area of the proposed project.
- F. The secretary shall post a printed copy of the final hearing notice for each affected county at least three weeks before the date of the final hearing at the front door of the courthouse in each county.
- G. Within one week after the first publication of notice, the secretary shall give notice by mail of the time and location of the final hearing to the commissioner of natural resources, all property owners, and others affected by the proposed drainage project and listed in the detailed survey report and the viewers' report.

After discussion, the Board Chair called the question. The question was on the adoption of the foregoing findings and order, and there were \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ absent, and \_\_\_\_\_ abstentions as follows:

	Yea	Nay	Absent	Abstain
Wensloff	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Diesen	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Schmalz	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Carriere	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Braaten	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Upon vote, the Chair declared the motion passed and the Findings and Order adopted.

\_\_\_\_\_  
 Tony Wensloff, Acting Chairperson

Dated: \_\_\_\_\_

A **motion** was made by Manager Diesen, seconded by Manager Carriere, to adopt the Petition for Improvement of Roseau County Ditch #16; Order For Public Hearing to be held on June 3, 2020 at 9:00 am. Vice-Chair Wensloff conducted a roll-call vote as follows Diesen, yes; Schmalz yes; Carriere, yes; Wensloff, yes; Braaten, abstains. Motion carried.

Administrator Halstensgard stated that the Final Hearing Notice will be completed, advertised, and mailed to all the required entities.

Vice Chair Wensloff stated that the next item on the agenda is for the meeting to be closed to discuss land purchase and requested Administrator Halstensgard read the resolution. Administrator Halstensgard read aloud the following resolution:

**RESOLUTION CLOSING BOARD MEETING**

WHEREAS, the Minnesota Open Meeting Law, Minn. Stat. § 13D.05, subd. 3(c) (3) states that:

“A public body may close a meeting:

To develop or consider offers or counteroffers for the purchase or sale of real or personal property.

Before holding a closed meeting under this paragraph, the public body must identify on the record the particular real or personal property that is the subject of the closed meeting. The proceedings of a meeting closed under this paragraph must be tape recorded at the expense of the public body. The recording must be preserved for eight years after the date of the meeting and made available to the public after all real or personal property discussed at the meeting has been purchased or sold or the governing body has abandoned the purchase or sale. The real or personal property that is the subject of the closed meeting must be specifically identified on the tape. A list of members and all other persons present at the closed meeting must be made available to the public after the closed meeting. If an action is brought claiming that public business other than discussions allowed under this paragraph was transacted at a closed meeting held under this paragraph during the time when the tape is not available to the public, Section 13D.05, subdivision 3, applies.

An agreement reached that is based on an offer considered at a closed meeting is contingent on approval of the public body at an open meeting. The actual purchase or sale must be approved at an open meeting after the notice period required by statute or the governing body’s internal procedures, and the purchase price or sale price is public data.”

WHEREAS, Pursuant to Minnesota Statutes §13D.021, because of the declaration by Governor Tim Walz on March 13, 2020 of a Peacetime State of Emergency due to the COVID-19 Pandemic, the meeting will be conducted by telephone or other electronic means. Jason Braaten, as the Chairman of the Roseau River Watershed District Board of Managers, has determined that an in-person meeting is not practical or prudent due to the health pandemic.

WHEREAS, the Roseau River Watershed District will be developing or considering offers or counteroffers for the purchase of the following described real property: E1/2 SW1/4, SE1/4; SECTION 35 TOWNSHIP 163 RANGE 39

On April 22<sup>nd</sup>, 2020, commencing at 8:30 a.m., those wishing to attend the meeting may use the following information: Please join the meeting from your computer, tablet or smartphone at the following link.

<https://global.gotomeeting.com/join/609652045>

Join the conference call: 1.866.583.7984 Conference #4114569280#

And;

BE IT RESOLVED by the Roseau River Watershed District Board as follows:

1. The Roseau River Watershed District Board hereby closes this meeting pursuant to Minn. Stat. § 13D.05, subd. 3(c)(3) to develop or consider offers or counteroffers for purchase of the above described real property;
2. That any agreement reached based upon an offer considered at this meeting shall be contingent upon approval of the Roseau River Watershed District Board at an open meeting and the actual purchase or sale must be approved at an open meeting after the notice period required by statute or the Roseau River Watershed District Board’s internal procedures and the purchase price or sale price as public data.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Secretary

A **motion** was made by Manager Carriere, seconded by Manager Schmalz to adopt the resolution to close the public hearing. Vice-Chair Wensloff conducted a roll-call vote as follows Diesen, yes; Schmalz yes; Carriere, yes; Wensloff, yes; Braaten, yes. Motion carried.

The meeting was closed and attendees on the phone were asked to leave the call.

A **motion** was made by Manager Braaten, seconded by Manager Schmalz re-open the special meeting. Vice-Chair Wensloff conducted a roll-call vote as follows Braaten, yes; Diesen yes; Carriere, yes; Schmalz, yes; Wensloff, yes. Motion carried.

A **motion** was made by Manager Carriere, seconded by Manager Schmalz to adopt the resolution to close the public hearing. Vice-Chair Wensloff conducted a roll-call vote as follows Diesen, yes; Schmalz yes; Carriere, yes; Wensloff, yes; Braaten, yes. Motion carried.

A **motion** was made by Manager Carriere, seconded by Manager Diesen to counter-offer \$152,606.40 to Kelman Kvien (who had offered to sell the parcel for \$700.00 per acre) for parcel described as the E1/2 SW1/4, SE1/4; SECTION 35 TOWNSHIP 163 RANGE 39. Vice-Chair Wensloff conducted a roll-call vote as follows Braaten, yes; Diesen yes; Schmalz, yes; Carriere, yes; Wensloff, yes. Motion carried. Mr. Kvien's response will be discussed at the May meeting.

After a **motion** by Manager Carriere and second by Manager Schmalz, the meeting adjourned at 1:40 p.m. Motion carried unanimously

Respectfully submitted,



Cody Schmalz, Secretary



Tracy Halstengard, Administrator