

**MINUTES OF THE ROSEAU RIVER WATERSHED DISTRICT BOARD OF  
MANAGERS MEETING HELD AT THE ROSEAU CITY CENTER ON JULY 16, 2020**

**ORDER:** Acting Chairman Tony Wensloff called the meeting to order at 8:30 a.m. and led the Pledge of Allegiance. The meeting was held in person, via WebEx, and via telephone

**STAFF PRESENT:** in person, Administrator Halstensgard; via WebEx, Watershed Specialist McCormack

**CONSULTING STAFF PRESENT:** in person, Nate Dalager and Jake Huwe, HDR Engineering; Michelle Moren, Attorney

**Roseau County Ditch #16 Reestablishment Hearing:** Vice-Chair Wensloff, acting chair for the hearings, read the following statement: *This hearing shall come to order. The Board of Managers of the Roseau River Watershed District, acting as a drainage authority under Minnesota Statutes, Chapter 103E, is holding this final hearing on the petition to improve Roseau County Ditch #16. This hearing has been continued from June 3, 2020 so that the viewers could meet with concerned landowners again and so that the engineer could present another cost alternative.*

A **motion** was made by Manager Carriere, seconded by Manager Diesen to open the public hearing. Motion carried with Jason Braaten continuing his recusal as a Board Member.

Introductions took place with the following in person attendees announcing their names: Michelle Moren, Attorney; Vice-Chair and Acting Chair, Tony Wensloff; Tracy Halstensgard, Administrator; Rob Wagner, Viewer; Roger Beiswenger, Viewer; Mike Baumgartner, Viewer; Jake Huwe, Engineer; Nate Dalager, Engineer; LeRoy Carriere, Manager; Secretary, Cody Schmalz; Treasurer, Carter Diesen; Roger Falk, County Commissioner; landowners Mitch Magnusson, Matt Magnusson, Buddy Erickson, Greg Lislegard, Brad Fevold, Loren Johnson, James Johnson, Gerald and Liz Knutson, Jason Braaten (as a landowner and not as a member of the Board), Richard Fredrickson, Greg Braaten, Tom Fugleberg, Douglas Erickson, Jordan Erickson, Rodney Paulson, Dennis Kjuava, Charlie Peckman, and Burl Peckman,. On the WebEx were Watershed District Specialist Torin McCormack, and Viewer Jerry Bennett.

Administrator Halstensgard was called upon to review the legal process prescribed in Minnesota Stature 103E for an improvement to a drainage system. Administrator Halstensgard presented a PowerPoint presentation (attached as Exhibit A). The presentation was made available to the attendees as a handout.

Acting Chairman Wensloff stated the next item of business is to have the project engineer provide a summary of a technical memo prepared to show lower cost alternative to what was presented at the June 3, 2020 hearing. This will be in addition to the detailed survey report which was presented and discussed at the June 3, 2020 hearing.

Engineer Huwe gave a presentation on the proposed cost reduction measures. The presentation included the total estimated cost of the project with estimated cost savings as outlined in the Technical Memorandum (attached with the Detailed Survey Report as Exhibit B), showed that the project was practical and necessary, and stated that the outlet (State Ditch 51) is adequate. Attorney Moren asked if the option outlined in the Technical Memorandum still met the criteria outlined in the Petition. Engineer Huwe replied that it did meet the 10-year design criteria.

Following Engineer Huwe's presentation, Vice- Chair Wensloff called for comments on the Detailed Survey Report and Technical Memorandum. The public comments and replies (if any) are as follows.

- Matt Magnusson asked about replacement of culverts in poor repair under the proposal to use existing culverts when able. Additionally, Mr. Magnusson asked how just reducing the culverts being replaced reduced the cost by nearly \$600,000.
  - Engineer Huwe stated that during construction, any unsalvageable culverts would be replaced. Administrator Halstensgard stated that the reduced cost also took into consideration the Clean Water Funded components of the project.
- Jordan Erickson asked if the cost saving measures reduced the capacity of the ditch.

- Engineer Huwe stated that the capacity would remain the same.
- There were no further questions regarding the Engineers' Technical Memo.

A **motion** was made by Manager Carriere, seconded by Manager Schmalz to close discussion on the Detailed Survey Report and Technical Memorandum. Motion carried with Jason Braaten continuing his recusal as a Board Member.

Attorney Moren requested Administrator Halstensgard to read into the record a letter presented and signed by several landowners. Administrator Halstensgard read the letter (attached as Exhibit C).

Attorney Moren requested that Viewer Rob Wagner provide a summary of the viewers' report as amended and specifically review the method used to calculate benefits; the method used to calculate damages and the net benefits of the project. Mr. Wagner reviewed the methods used to calculate value, benefits, and damages, then gave a presentation explaining the amended recommendations for revisions (attached as Exhibit D). The total benefits calculated in the revised test levy proposed are \$1,697,072.32. Mr. Wagner also addressed questions posed in the letter (Exhibit C) previously read for the record as follows: *Question 1*) Benefits to lands not adjacent to the ditch; *Reply*, viewers look at where the water drains to. If it gets into the system at some point, that property has a benefit. The scale of benefits varies throughout the drainage area. *Question 2*) How are residences at the top of the hill benefitted; *Reply*, the land at the top of the hill has in indirect benefit. *Question 3*) land that receive higher amounts of crop damage should be taxed more than lands that aren't damaged as much; *Reply*, lands that don't see higher rates of damages are in that position because the ditch moves the water away faster, therefore those lands do see a higher rate of benefit. *Question 4*) It seems like the viewers were given the Engineer's cost estimate and worked backwards; *Reply*, The viewers do see the Preliminary Survey Report, but determine the benefits and damages without giving estimated costs consideration. Attorney Moren asked if the Benefits outweigh the costs of the project. Mr. Wagner stated that they did and explained that the original Viewers' report submitted prior to the June 3<sup>rd</sup> hearing would not be changed, rather the recommendations being made today would be added as an addendum to the original report. Acting Chairman Wensloff asked if the Viewers' had any other recommendations relating to the project. Mr. Wagner stated they had no other recommendations other than what was being submitted today. Acting Chairman Wensloff asked for other comments or questions regarding the Viewers' Report. The following are the comments and questions put forth:

- Gerald Knutson talked about State Highway 89 and the location of culverts. Mr. Knutson asked how he is benefitted by the ditch when his property is on the opposite side of the road.
  - Mr. Wagner replied that there was consideration given to the possibility of improvements such as installation of new culverts. When an improvement is deemed impractical, the per acre benefit is reduced.
- Mitch Magnusson questioned why land in Area 3 is assessed at a lower rate, stating he believes the land drains into CD 16. Mr. Magnusson also stated that if a retention area is to be constructed it should be in Sect. 3, not Section 11.

After calling for further comments and there being none, Vice-Chair Wensloff called for a motion to close the public comments on the Viewers' Report. Manager Diesen made the **motion**, seconded by Manager Carriere. Motion carried with Jason Braaten continuing his recusal as a Board Member.

Attorney Moren stated that the next item of business is to receive, review and discuss testimony from any interested person relating to the project that has not previously been covered.

- Matt Magnusson thanked the board and the Viewers for reviewing landowner comments but felt that the extent of the cross-hatched area as shown on the Viewer's report/presentation are still debatable.
- Jordan Erickson asked when the viewers were last out looking at the area. It was stated that Mike Baumgartner was out within the last week. Mr. Erickson stated that this project is needed in the area. Landowners need to look to the future and plan accordingly and drainage is a part of that. He stated that if a project like this had been done 20 years ago it would be paid for and everyone would be better off.

There being no further comments, Attorney Moren asked Administrator Halstensgard to read for the record any written comments received. Administrator Halstensgard read for the record a letter from Gerald and Elizabeth Knutson (attached as Exhibit E), and a PowerPoint from Jeff Bennett (attached as Exhibit F).

Acting Chairman asked if there were any further comments. Those comments follow.

- Jason Braaten made comments in support of the project moving forward.
- Mr. Wagner pointed out that there had been a parcel inadvertently left out of the original report that was added as part of the recommendations.
- Mitch Magnusson commented about the extent south and asked why the whole system was being improved when the problems seem to be downstream.
  - Engineer Dalager stated that this is a petitioned project and in that petition it defines the starting point of the system to begin the improvement. The recommendation of the engineer is an improvement of the complete system.
- Jordan Erickson spoke about the conditions in the area and the difficulties of farming with inadequate drainage.
- Matt Magnusson stated that other areas need drainage and asked if they could get a drainage project like this instead of the Roseau Lake Project.
  - Administrator Halstensgard stated that any landowners that are willing to submit a legal petition and bond as defined by State Statutes are able to do so.
- Rich Fredrickson stated that he felt this project went beyond trying to solve the problems of the petitioners.
- Gerald Knutson asked who would be paying the cost of cleaning the ditch on the West side of Highway 89 and he was opposed to the project.
- Mitch Magnusson asked if or why the Braatens were denied a request for a cleaning. Administrator Halstensgard stated that around the time the Whitney Lake Project was initiated, cleaning was discussed but it was determined that just a cleaning or repair of the system was not sufficient to handle the amount of runoff from the drainage area for any significant rainfall event. The Braatens were aware of this and as the Whitney Project progressed, decided to initiate the improvement by legal petition.

A **motion** was made by Manager Carriere and seconded by Manager Schmalz to close the public comment portion of the meeting. Motion carried with Jason Braaten continuing his recusal as a Board Member. Acting Chairman Wensloff asked each Manager to provide their thoughts and comments on the project.

Attorney Moren advised the Board that they needed to make a decision as whether to order a dismissal of the petition or to order the establishment of the project. The Board was advised that specific findings were necessary for either action.

The Board members each commented on the petition and the consensus was that they member were in support of the project based upon the evidence received.

Attorney Moren reviewed the proposed findings to establish the project and advised the Board that a motion was necessary for each finding.

1. Manager Carriere made a **motion** finding that based upon the evidence, the board find that the detailed survey report and viewers' report have been made and other proceedings as outlined in the meeting on June 3, 2020 and today's hearing have been completed under Minnesota Statutes, Chapter 103E; seconded by Manager Diesen. There being no further discussion, Acting Chairman Wensloff called for the vote. Motion carried with Jason Braaten continuing his recusal as a Board Member.
2. Manager Carriere made a **motion** finding that based upon the evidence, the board find that the reports made or amended are complete and correct; seconded by Manager Diesen. There being no further discussion, Acting Chairman Wensloff called for the vote. Motion carried with Jason Braaten continuing his recusal as a Board Member.
3. Manager Diesen made a **motion** finding that based upon the evidence, the board find that the damages and

benefits have been properly determined; seconded by Manager Carriere. There being no further discussion, Acting Chairman Wensloff called for the vote. Motion carried with Jason Braaten continuing his recusal as a Board Member.

4. Manager Diesen made a **motion** finding that based upon the evidence, the board find that the estimated benefits are greater than the total estimated cost, including damages; seconded by Manager Carriere. There being no further discussion, Acting Chairman Wensloff called for the vote. Motion carried with Jason Braaten continuing his recusal as a Board Member.
5. Manager Carriere made a **motion** finding that based upon the evidence, the board find that the proposed drainage project will be of public utility and benefit, and will promote the public health; seconded by Manager Diesen. There being no further discussion, Acting Chairman Wensloff called for the vote. Motion carried with Jason Braaten continuing his recusal as a Board Member.
6. Manager Carriere made a **motion** finding that based upon the evidence, the board find that the proposed drainage project is practicable; seconded by Manager Diesen. There being no further discussion, Acting Chairman Wensloff called for the vote. Motion carried with Jason Braaten continuing his recusal as a Board Member.

Attorney Moren advised the Board that a motion, with the following criteria, needed to be passed to establish the project by Order:

Based upon the findings, I move that the board issue its order:

- (i) containing the drainage authority's findings;
- (ii) adopting and confirming the viewers' report as made or amended; and
- (iii) adopting and confirming the engineers' report as made or amend; and
- (iv) establishing the proposed drainage project as reported or amended;
- (v) directing the engineer to prepare the detailed plans and specifications and other necessary documents for bidding on the project;
- (vi) directing that the secretary, with assistance of staff, take all necessary actions for the construction of the Ditch 16 improvement project.
- (vii) directing that the viewers, engineer, and attorney are allowed payment of their accounts of work;
- (viii) that upon completion of the project, the drainage system record shall be updated with the as built alignment.

Upon Acting Chairman Wensloff's call, the stated **motion** was made by Manager Carriere and seconded by Manager Diesen. There being no further discussion, Acting Chairman Wensloff called for the vote. Motion carried with Jason Braaten continuing his recusal as a Board Member.

Attorney Moren read the following:

I move that the Roseau County Auditor be contacted by petitioners or their attorney to confirm the length of time and number of annual statements in which the assessments for the project shall be paid and the interest rate to be borne by the drainage lien, and whether drainage bonds are to be issued to finance the construction, including the rate of interest for such bonds; and that this information be included in the final resolution and order. Upon Acting Chairman Wensloff's call, the stated **motion** was made by Manager Carriere and seconded by Manager Schmalz. There being no further discussion, Acting Chairman Wensloff called for the vote. Motion carried with Jason Braaten continuing his recusal as a Board Member.

Attorney Moren read the following:

I move that the RRWD attorney draft the resolution and findings and order establishing the drainage project and the resolution and order will be considered and adopted at the next open meeting of the board of managers, and duly issued forthwith. Upon Acting Chairman Wensloff's call, the stated **motion** was made by Manager Carriere and seconded by Manager Diesen. There being no further discussion, Acting Chairman Wensloff called for the vote. Motion carried with Jason Braaten continuing his recusal as a Board Member.

There being no further business before the board, a **motion** by Manager Diesen and second by Manager Schmalz, to adjourn the meeting at 9:40 p.m. Motion carried, and the meeting was adjourned.

Respectfully submitted,

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Cody Schmalz, Secretary

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Tracy Halstensgard, Administrator

