

**MINUTES OF THE ROSEAU RIVER WATERSHED DISTRICT BOARD OF
MANAGERS MEETING HELD SEPTEMBER 1, 2021**

The meeting was held at the Roseau River Watershed District office located at 714 6th Street SW, Roseau, MN 56751 with participation also available online via WebEx.

ORDER: Chairman Carter Diesen called the meeting to order at 8:00 a.m. and led the Pledge of Allegiance.

MANAGERS PRESENT: In person: Cody Schmalz, Jason Braaten, Tony Wensloff, LaVerne Voll and Carter Diesen.

STAFF PRESENT: In Person: Watershed Specialist McCormack and Administrator Halstensgard.

OTHERS PRESENT: In Person: Matt Magnusson; Alex Halverson, Halverson Sand & Gravel; Roger Falk, County Commissioner. Via WebEx: Chad Reese and Melanie Benit, Institute for Justice; Terry Kveen; Deb Stone

CONSULTING STAFF PRESENT: In person, Nate Dalager, HDR Engineering; Michelle Moren, Moren Law office.

AGENDA: A **motion** was made by Manager Wensloff, seconded by Manager Braaten to approve the agenda as amended. Motion carried unanimously.

A **motion** was made by Manager Wensloff, seconded by Manager Schmalz to adopt the resolution to close the public meeting to discuss pending litigation. Motion carried with Manager Braaten abstaining. Manager Braaten left the meeting.

A **motion** was made by Manager Wensloff, seconded by Manager Schmalz to open the public meeting. Motion carried with Manager Braaten absent. Manager Braaten returned to the meeting and was seated with the public, abstaining from all discussion on the CD 16 Improvement project. Attorney Moren stated that since the court has not ruled on the appeal by Burl Peckman, the board has two options concerning the CD 16 Bids: 1) reject all bids and rebid in the future; or 2) accept the low bid and award the contract once a favorable decision has been reached by the court. If a favorable decision is not reached by the court, a contract cannot be awarded. Chairman Diesen asked for a motion to accept the combined low bid of the lowest responsible bidder, with the contract awarded contingent upon a favorable decision on the establishment appeal within the time allowed. If there is not a favorable decision within that time, no contract will be awarded. Manager Wensloff made that a **motion**, seconded by Manager Voll. Motion carried with Manager Braaten abstaining. Attorney Moren stated for the record that Jason Braaten was not a part of this discussion or motion and Mr. Braaten did not take part in the closed session.

Manager Braaten rejoined the board at the table.

CONSENT AGENDA: A **motion** to approve the Consent Agenda was made by Manager Braaten and seconded by Manager Schmalz. The motion carried unanimously. Adoption of the Consent Agenda included approving the August 4, 2021 regular meeting minutes with the

addition of Rob Sip as an attendee, the August 23, 2021 special meeting minutes, the Treasurer's Report, Permit #21-13, #21-14, #21-15, and #21-16, and manager expense vouchers.

PERMITS:

After Specialist McCormack provided information on the permit application, Manager Schmalz made a **motion** to approve permit #21-17 (MN DOT), seconded by Manager Voll. Motion carried unanimously.

After Specialist McCormack provided information on the permit application, Manager Wensloff made a **motion** to table permit #21-18 (Steven Kvien) for additional information, seconded by Manager Schmalz. Motion carried unanimously.

REPORTS:

ADMINISTRATOR: Administrator Halstensgard discussing the following in addition to her written report:

- Oak Crest Coulee retrofit update – updated Houston Engineering proposal and potential partnership outreach. The Board gave Administrator Halstensgard authorization to continue to pursue the project.
- Citizens State Bank Certificate of Deposit renewal – A **motion** was made by Manager Braaten seconded by Manager Schmalz to renew the CD. Motion carried unanimously.

WATERSHED SPECIALIST: Specialist McCormack provided the following update to the Board:

- Roseau Lake survey and monitoring equipment removal
- Lost River field survey to take place from Sept. 27 through Oct. 8th
- CPL grant application for the structures under the Norland Forest Road.
- Beaver dam issue – the beaver were trapped, now the dam needs to be removed.
- Emergency haying is ongoing
- Whitney downstream drainage survey

RRWMB: Manager Braaten updated the board on RRWMB fund balances and financial commitments. He also attended the August board meeting in Wheaton and tour of the Bois de Sioux watershed.

Attorney Moren requested an amendment to the previous motion concerning the CD 16 bid award as the previous motion did not identify low bidder.

The motion was amended as follows:

The combined low bid of Zavoral, as the lowest responsible bidder be accepted, with the award of a contract contingent upon a favorable decision on the establishment appeal within the time allowed. If there is not a favorable decision within that time, no contract will be awarded. Manager Wensloff made that amended **motion**, seconded by Manager Voll. Motion carried with Manager Braaten abstaining.

Manager Jason Braaten was not a part of this discussion or amended motion.

Chairman Diesen asked if there were any comments on the Reports. Matt Magnusson asked about the status of the Whitney Lake process and was informed as to the ongoing work.

At 9:00 a.m. Chairman Diesen called for a motion to open the Budget Hearing. A **motion** to open the hearing was made by Manager Schmalz, seconded by Manager Braaten and carried unanimously. Administrator Halstensgard stated that no comments on the proposed budget were received in the office. The 2022 proposed budget was published as required. Administrator Halstensgard reviewed the proposed levies and budget. Mr. Magnusson asked about the ditch levy percentages. Administrator Halstensgard stated the board would be setting the amounts when they adopt the resolution. A **motion** was made by Manager Braaten, seconded by Manager Wensloff to close the public hearing. Motion carried unanimously.

NEW BUSINESS:

Administrator Halstensgard read aloud the Administrative / General fund levy resolution. Attorney Moren noticed an error in the decimal point placement which was corrected. Manager Braaten made a **motion** to adopt the resolution (see attached), seconded by Manager Voll. Motion carried unanimously.

A **motion** was made by Manager Wensloff, seconded by Manager Braaten to adopt the 2022 Budget as presented. Motion carried unanimously.

2022 Budget

Salaries & Benefits	\$	145,000.00
Manager's per diem and expenses	\$	12,000.00
Dues & registrations	\$	5,000.00
Engineering	\$	4,000.00
Legal & other professional services	\$	20,000.00
Real estate taxes	\$	10,000.00
Rent & utilities	\$	4,650.00
Insurance	\$	6,000.00
Telephone & internet	\$	2,850.00
Office supplies & misc	\$	15,600.00
Cap. Outlay & building maintenance	\$	8,000.00
Stream gaging	\$	11,500.00
RRWD projects / maintenance	\$	-
Programs & planning	\$	5,400.00
	\$	<u>250,000.00</u>

Administrator Halstensgard reviewed information for the Ditch systems. The board was presented with the attached ditch levy resolution. After discussion, the board set the levies as follows.

Watershed Ditch #3	15%
County Ditch #8	20%
County Ditch #16	30%
West Intercept (City of Roseau)	\$2,500 (set amount)
State Ditch #51	1% on redetermined benefits

A **motion** was made by Manager Schmalz, seconded by Manager Braaten to adopt the 2022 Ditch Levy as presented. Manager Schmalz asked about funding for project maintenance. Administrator Halstensgard discussed the use of Construction funds for future maintenance of

projects. There was discussion on utilizing SD 51 funds for projects that benefit the SD 51 system. Motion carried unanimously.

The board was presented with attached Red River Water Management Board (Construction) levy resolution. A **motion** was made by Manager Braaten, seconded by Manager Voll to adopt the resolution as presented. There was no further discussion and the motion carried unanimously.

The board discussed the damages to the recently constructed City Center Site due to the recent 3" rain event. A **motion** was made by Manager Wensloff, seconded by Manager Braaten to move forward with the geogrid repair and request a resolution of completion from the City of Roseau. Motion carried unanimously.

OLD BUSINESS: Administrator Halstengard the website update. A **motion** was made by Manager Voll seconded by Manager Schmalz to authorize dot.com Connections to move forward with the update. Motion carried unanimously.

PROJECTS:

Roseau Lake: -- Administrator Halstengard updated the board on the record of decision for the EAW. An Environmental Impact Statement (EIS) is not required for the project. The Project Team meeting that was set for September 16 has been postponed due to a scheduling conflict for a landowner participant. The petition for partial ditch abandonment has been sent to Roseau County and is on the Commissioner's agenda for the September 14 meeting. Manager Wensloff asked when the Project Team meeting would be rescheduled. Administrator Halstengard stated that the postponement request had just been received and a new meeting date had not yet been set. Administrator Halstengard will send the list of Project Team members to Mr. Magnusson.

Chairman Diesen asked if there were any comments on the Projects. Deb Stone requested additional landowner inclusion in project development. Mr. Magnusson asked about dike height and asked that the Board address landowner solutions. Administrator Halstengard stated that the board has involved landowners and listened to their concerns and to suggest otherwise was disingenuous. The Board has met, in just the last year, with landowners at a special meeting in August of 2020 and again in November of 2020. The Board also provided an opportunity for the public to comment on the Operating Plan and addressed those comments in writing. Throughout the entire planning process for the project the Board has listened to landowners and made changes based on those inputs. Those changes include moving the alignment on for Alternative 2a', changing trigger points in the Operating Plan, changing alignments per landowner request, and changing from Alternative 2a' to Alternative 1. Mr. Magnusson acknowledged that the Board has listened and made changes to address landowner concerns. However, he is still not satisfied with the project. There was additional discussion on project goals and the District's involvement.

A **motion** was made by Manager Wensloff, seconded by Manager Braaten, to adopt the resolution to close the meeting to discuss land acquisition. Motion carried unanimously.

A **motion** was made to open the regular meeting by Manager Voll, seconded by Manager Wensloff. Motion carried unanimously and the regular meeting was opened to the public.

Other Items: There were no other items discussed.

A **motion** was made by Manager Wensloff, seconded by Manager Braaten to schedule the next meeting for October 13, 2021 at 8:00 a.m. at the RRWD office. After a **motion** by Manager Voll and second by Manager Wensloff, the meeting was adjourned at 10:30 a.m.

Respectfully submitted,



Cody Schmalz, Secretary



Tracy Halstensgard, Administrator

RRWD August 2021 Bills and Receipts

RRWD Checkbook Balance as of July 27, 2021	\$137,232.51
Receipts:	
Beltami County -- share of taxes	\$ 668.80
Marshall County -- share of taxes	\$ 0.80
Kittson County -- share of taxes	\$ 4,149.06
Citizens State Bank -- interest 6-21-21	\$ 4.67
Total:	\$ 4,823.33
Bills:	
Tracy Halstensgard -- Salary and Insurance	\$5,039.64
Torin McCormack -- Salary and Insurance	\$5,486.64
Tracy Bergstrom -- wages	\$1,115.33
Tracy Bergstrom -- reimbursement	\$25.61
Jason Braaten - per diem and mileage	\$104.67
Carter Diesen -- per diem and mileage	\$220.54
LaVerne Voll -- per diem and mileage	\$225.02
Tony Wensloff -- per diem and mileage	\$92.35
Internal Revenue Service -- Withholding	\$4,144.92
Minnesota Department of Revenue -- Withholding	\$660.00
PERA -- Employer / Employee Contribution	\$1,877.28
Cardmember Services -- web service fees, meeting & fair expenses, supplies	\$857.47
City Of Roseau -- utilities	\$244.53
Marco -- Copier agreement	\$162.66
Minnesota Energy -- Natural Gas	\$10.87
Patrick Moren Law Office -- Legal Fees	\$3,762.50
Roseau Times Region -- Meeting Notices	\$122.40
Roseau Electric Co-op -- Int/phone --	\$158.60
SuperOne - supplies	\$33.83
Northern Resources Cooperative -- gas for work truck	\$87.77
Verizon Wireless -- Trimble	\$40.01
 	
Halverson Sand and Gravel -- City Center Site	\$48,500.00
At Your Service Lawn Care - mowing	\$434.98
Roseau County Highway Dept -- WD#3 culverts	\$1,742.50
Universal Screenprint -- river trail poster for fair booth	\$42.75
HDR -- Inv #s 1200359892, 1200359891 & 1200359889	\$11,041.23
HDR -- invoice 1200358841	\$44,617.92
Total:	\$130,852.02

ROSEAU RIVER WATERSHED DISTRICT
ROSEAU, MINNESOTA 56751

Resolution passed at the September 1, 2021 meeting of the Roseau River Watershed District Board of Managers:

Upon motion by Manager Braaten, seconded by Manager Voll the following resolution passed with fine in favor and none opposed.

“BE IT RESOLVED BY THE BOARD OF MANAGERS OF THE ROSEAU RIVER WATERSHED DISTRICT:

Pursuant to M.S.A. § 103D.905 Subd. 3, the Roseau River Watershed District does hereby levy an ad valorem tax of 0.048 percent of the total market value of real estate and personal property (not to exceed \$250,000) of all taxable property within the district in the counties of Roseau, Kittson, Marshall, Beltrami, and Lake of the Woods, as set forth in the above mentioned Chapter. Such funds are to be used for general administration expenses and for the construction and maintenance of projects of common benefit to the District.”

Dated this 1st day of September, 2021.

ROSEAU RIVER WATERSHED DISTRICT

By  it's Chairman
Carter Diesen

ROSEAU RIVER WATERSHED DISTRICT
ROSEAU, MINNESOTA 56751

Resolution passed at the September 1, 2021 meeting of the Roseau River Watershed District Board of Managers:

Upon motion by Manager Schmalz, seconded by Manager Braaten the following resolution was passed with five in favor and none opposed.

BE IT RESOLVED BY THE BOARD OF MANAGERS OF THE ROSEAU RIVER WATERSHED DISTRICT:

That the Roseau River Watershed District does hereby levy the below stated amounts to each ditch system as listed for the year 2021 and shall be collectible with the taxes recovered in the year 2022.

15% levy be made on Ditch System WD-3

20% levy be made on Ditch System 8.

30% levy be made on Ditch System 16.

\$ 2,500.00 levy be made on West Interceptor

A one percent assessment on redetermined benefits be made on State Ditch 51.

Approximate figures are:	Roseau County	\$88,177.69
	Kittson County	\$ 1,155.02
	Marshall County	\$ 641.92
	Beltrami County	\$ 899.65
	Lake of the Woods County	\$ 648.60

Dated this 1st day of September, 2021.

ROSEAU RIVER WATERSHED DISTRICT

By  _____, it's Chairman
Carter Diesen

**ROSEAU RIVER WATERSHED DISTRICT
ROSEAU, MINNESOTA 56751**

Resolution passed at the September 1, 2021 meeting of the Roseau River Watershed District Board of Managers, upon motion by Manager Braaten seconded by Manager Voll the following resolution passed with five in favor and none opposed.

“BE IT RESOLVED BY THE BOARD OF MANAGERS OF THE ROSEAU RIVER WATERSHED DISTRICT:

WHEREAS, the Roseau River Watershed District is a member of the Red River Watershed Management Board and pursuant to a resolution duly adopted, the Board of Managers executed a Joint Powers Agreement, and

WHEREAS, the resolution adopted by the Red River Watershed Management Board under the date of July 20, 2021, said Management Board, pursuant to the provision of Chapter 162, Section 1, 1976 Session Laws, and in accordance with the provisions of the Joint Powers Agreement, did direct this Watershed District to levy an ad valorem tax in the amount of .0003627 percent of the estimated market value. This levy to be made on all taxable property within their district in accordance with the provisions of Minnesota 1976 Sessions Law, Chapter 162, Section 1; as amended by laws of 1982, Chapter 474, Section 1; Laws 1983, Chapter 338; and laws of 1989 First Special Session, Chapter 1, Article 5, Section 45 and

WHEREAS: the Board of Managers of the Roseau River Watershed District are desirous of cooperation and fulfilling this obligation,

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF MANAGERS OF THE ROSEAU RIVER WATERSHED DISTRICT:

That the Roseau River Watershed District does hereby levy and ad valorem tax in the amount of .0003627 percent of the estimated market value of all taxable property within this district and within the counties set forth in Chapter 162, 1976 Session Laws.

That said levy shall be for the year 2021 and shall be collectible with the taxes recovered in the year 2022.

That the County Auditor of the County of Roseau, Kittson, Marshall, Beltrami, and Lake of the Woods shall make said levy in accordance with the provisions of the Minnesota Watershed Act, Chapter 112, chapter 162 (1976) the Joint Powers Agreement and Legislative direction.

That all proceeds of said levy shall be forwarded by the County Auditor of the County of Roseau, Kittson, Marshall, Beltrami, and Lake of the Woods to the Treasurer of the Roseau River Watershed District.

That the Treasurer of the Roseau River Watershed District shall retain one half of the proceeds of said levy, and the proceeds from the remaining on half shall be transmitted to Robert L Sip, Executive Director, Red River Watershed Management Board, 11 5th Avenue East, Suite B, Ada, MN 56510 and shall be credited to the general fund of the Red River Watershed Management Board.”

Dated this 1st day of September, 2021.

ROSEAU RIVER WATERSHED DISTRICT

By  it's Chairman
Carter Diesen

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.03, 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, the Roseau River Watershed District will be developing or considering offers or counteroffers for the purchase of the following described real property:

Roseau Lake - Lands under consideration include portions of Sections 7-8, 12-14, 23-24 and 26, Dieter Township (T163N, R41W), Roseau County and Sections 20-22 and 28-29, Unorganized Township (T163N, R40W), Roseau County (see attached map).

On September 1, 2021, during the regular board meeting commencing at 8:00 a.m., at the Roseau River Watershed District Board office located at 714 6th Street SW, Roseau, Minnesota, 56751; 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.

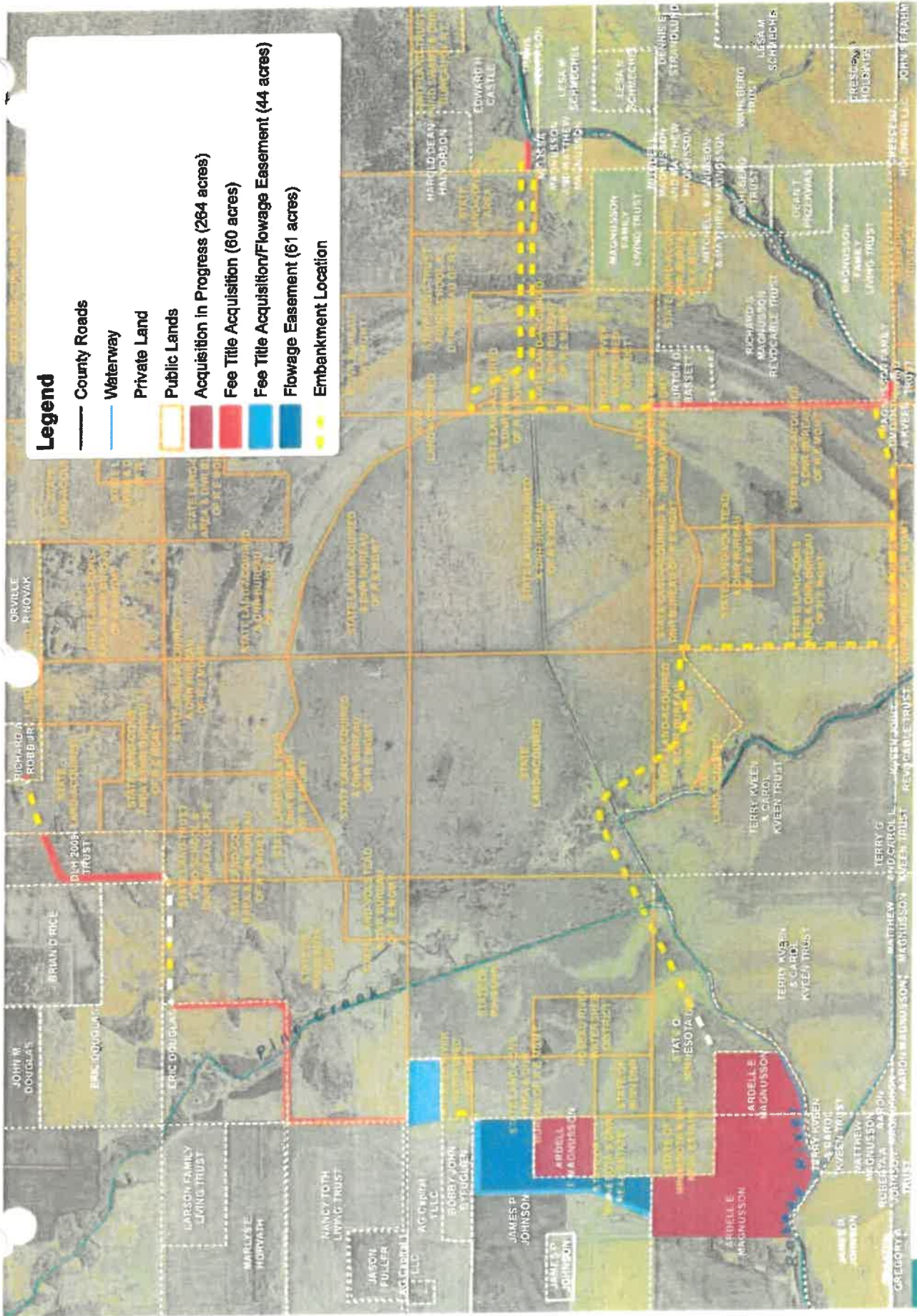
Dated this 1st day of Sept, 2021.



Chairman



Secretary



Legend

- County Roads
- Waterway
- Private Land
- Public Lands
- Acquisition in Progress (264 acres)
- Fee Title Acquisition (60 acres)
- Fee Title Acquisition/Flowage Easement (44 acres)
- Flowage Easement (61 acres)
- Embankment Location

ROSEAU LAKE PROJECT

LAND EASEMENTS AND ACQUISITION
 UPDATED DECEMBER 2020



RESOLUTION CLOSING BOARD MEETING

WHEREAS, the Minnesota Open Meeting Law, Minn. Stat. § 13D.05, subd. 3(b) states that “meetings may be closed if the closure is expressly authorized by statute or permitted by the attorney-client privilege;” and

WHEREAS, a copy of a “Judicial Appeal of Order for Improvement of ‘Ditch 16’ dated August 5, 2020” (“Appeal”) was delivered to the Administrator of the Roseau River Watershed District (“RRWD”) on May 14, 2021;

WHEREAS, the Appellant, Burl Peckman individually and in his capacity of Trustee of the Burl W. Peckman Living Trust, seeks a declaratory judgment against the RRWD declaring that, among other things, that the RRWD has exceeded its authority and lacks jurisdiction, said Appeal further requests an injunction from awarding bids, a restraining order and a trial on costs and benefits, if applicable;

WHEREAS, the RRWD seeks to meet with its attorney, to discuss the threatened litigation; and

WHEREAS, it would be detrimental to the interests of the Board of Managers of the RRWD to hold a public discussion with its attorney regarding the strengths and weaknesses of its legal position(s), strategy, and potential settlement position where an opposing party or opposing attorney could listen to or be made aware of the RRWD’s positions; and

WHEREAS, there is an absolute need for the RRWD Board of Managers to obtain confidential legal advice regarding the threatened litigation and potential settlement in order to maintain the attorney-client privilege.

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

1. The Roseau River Watershed District Board of Managers hereby closes this meeting based upon the attorney-client privilege pursuant to Minn. Stat. § 13D.05, subd. 3(b);

2. The specific subjects to be discussed, pursuant to Minn. Stat. § 13D.01, subd. 3, are the legal strategy in responding to the threatened litigation (Appeal) against the RRWD and potential settlement position.

Dated this 1st day of Sept., 2021.



Chairman



Secretary