

**MINUTES OF THE ROSEAU RIVER WATERSHED DISTRICT BOARD OF
MANAGERS MEETING HELD AUGUST 3, 2022**

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

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

STAFF PRESENT: Administrator Halstensgard, Watershed Specialist McCormack, and Watershed Assistant Bergstrom.

OTHERS PRESENT: Roger Falk, Roseau County Commissioner; Landowners Linquist family, Lesa Schmechel, Matt Magnusson, Mitch Magnusson, and Richard Magnusson; Tom Enright and Randy Prachar, MN DNR

CONSULTING STAFF PRESENT: Ericka Halstensgard, Houston Engineering Inc.; Nate Dalager and Jake Huwe, HDR Engineering; and Michelle Moren, Attorney.

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

CONSENT AGENDA: A **motion** to approve the Consent Agenda was made by Manager Voll and seconded by Manager Wensloff. The motion carried unanimously. Adoption of the Consent Agenda included approving the July 6, 2022 regular meeting minutes, the Treasurer's Report, and manager and employee expense vouchers.

PERMITS:

Specialist McCormack discussed permit application #22-10 (Allan & Donald Lindquist). After discussion with the landowner and Lindquist family, Manager Voll made a **motion**, seconded by Manager Braaten to approve the permit. The motion carried unanimously.

Specialist McCormack reviewed permit application #22-11 (Craig Sunsten). A **motion** was made by Manager Braaten, seconded by Manager Voll, to approve permit #22-11. The motion carried unanimously.

Specialist McCormack reviewed permit application #22-12 (Tony Brateng). A **motion** was made by Manager Braaten, seconded by Manager Wensloff, to approve permit #22-12. The motion carried unanimously.

Specialist McCormack reviewed permit application #22-13 (Tony Brateng). A **motion** was made by Manager Voll, seconded by Manager Braaten, to approve permit #22-13. The motion carried unanimously.

A **motion** was made by Manager Wensloff, seconded by Manager Schmalz to approve the resolution to close the public meeting. Motion carried unanimously.

A **motion** was made by Manager Wensloff, seconded by Manager Schmalz to open the meeting. Motion carried unanimously.

A **motion** was made by Manager Wensloff to begin the land exchange process between Richard Magnusson and the District (see attached map) by getting a legal survey and appraisal of the property, seconded by Manager Voll. Motion carried unanimously.

PROJECT UPDATES:

Roseau Lake: Administrator Halstensgard presented the Construction Joint Powers Agreement (JPA) and the Sprague Creek JPA for them to review. Attorney Moren stated her concerns with the termination language, suggesting that the termination be for cause. There was discussion on the purpose of the agreements and Specialist McCormack explained the Sprague Creek Mitigation process. The agreements will be on the September agenda for consideration.

Attorney Moren discussed the status of land/easement acquisitions.

CD 16 Improvement: Manager Braaten recused himself from the CD 16 Improvement discussion. Administrator Halstensgard pointed out edits to the “Bonding Term, Interest Rate, and Deficiency Resolution” and “Reimbursement Resolution”. Manager Wensloff made a **motion**, seconded by Manager Schmalz to adopt the Reimbursement Resolution. Chairman Diesen called for a roll call vote. After the vote, Chairman Diesen declared the resolution adopted. Manager Wensloff made a **motion**, seconded by Manager Schmalz to adopt the Bonding Term, Interest Rate and Deficiency Resolution. Chairman Diesen called for a roll call vote. After the vote, Chairman Diesen declared the resolution adopted.

Attorney Moren updated the board on the Appellate Court’s decision supporting the District Courts decision that the complainant didn’t have standing.

Engineer Huwe gave the Board an update on construction status and presented the signed Payment Requests from RJ Zavoral & Sons. Manager Wensloff made a **motion** to approve Payment Request 2-2 and authorize payment, seconded by Manager Schmalz. Motion carried unanimously. Manager Wensloff made a **motion** to approve Payment Request 1-4 and authorize payment, seconded by Manager Schmalz. Motion carried unanimously. Engineer Huwe reviewed Change Order #3 with the Board. Manager Wensloff made a **motion** to approve Change Order #3, seconded by Manager Voll. Motion carried unanimously.

SD #51 Cutoff #1: Engineer Dalager and Specialist McCormack discussed the proposals addressing landowner concerns along SD #51 Cutoff #1 utilizing side water inlets. There was discussion on the responsible party for the culvert under the township road near Mickelson Bridge. The Board directed staff to continue development of the project and meet with Jadis Township to discuss the culvert under the township road.

Manager Wensloff left the meeting at 9:35.

Oak Crest Coulee: Administrator Halstensgard discussed the funding strategy for the project. Houston Engineering submitted a scope of work for the next phase of engineering. Engineer Halstensgard discussed the deliverables outlined in the scope of work. Manager Braaten made a **motion** to accept the scope of work and move forward with project development, seconded by Manager Schmalz. Motion carried unanimously.

WD#4: Administrator Halstensgard updated the board on the progress the Viewers are making on the Viewers’ Report. The goal is to have the presentation of the Viewers’ Report and Detailed Survey Report at the September board meeting and schedule the final hearing in October. Manager Braaten discussed potential funding from NRCS through landowner programs.

NEW BUSINESS:

Administrator Halstensgard discussed the draft 2023 Budget. After reviewing the draft budget, Manager Braaten made a **motion** to set the Budget hearing for September 7th, 2022 at 8:30 a.m. in the RRWD office. Motion was seconded by Manager Schmalz and carried unanimously.

Administrator Halstensgard discussed a request from Jack Swanson to purchase the approximately 1 acre of property adjacent to a lot his family owns along the West Interceptor

project. Part of the agreement when the District purchased the property from Bruce Baumgartner was to offer him first opportunity to purchase the property back. After discussion the Board directed Administrator Halstensgard to reach out to Mr. Baumgartner to see if he is interested in purchasing the property. A **motion** was made by Manager Voll seconded by Manager Schmalz to offer the land to adjacent landowners for \$2,000.00 plus the cost of survey. Motion carried unanimously.

OLD BUSINESS:

Administrator Halstensgard stated that Blooming Valley was the low quote and agreed to complete the installation of the new culvert along the west side of CR 3 south of the river (Lins culvert). There was discussion on having Blooming Valley complete the repair work needed on the Duxby Levee. The initial damage was caused by spring flooding and Blooming Valley had done the emergency repair earlier this year, now the permanent repair needs to be completed. Manager Braaten made a motion, seconded by Manager Schmalz, to approve hiring Blooming Valley to complete the Duxby Levee repair at the same unit costs quoted for the Lins Culvert work. Specialist McCormack will contact them and confirm their willingness to do the work for those costs. Motion carried unanimously.

REPORTS:

RRWMB: Manager Braaten discussed current project funding and that the levy was kept the same as last year. The updated Joint Powers Agreement was presented to the board for approval. Manager Braaten made a **motion** to approve the Joint Powers Agreement, seconded by Manager Voll. motion carried unanimously.

WATERSHED SPECIALIST: Specialist McCormack discussed a request for maintenance on CD #8 and West Intercept culvert.

ADMINISTRATOR: Administrator Halstensgard discussed the following topics:

- MAWD summer tour & meeting in Grand Forks, August 23 – 25.
- After the meeting, there will be a photo – op out at the CD 16 project.
- Juneberry issues – Managers Schmalz and Braaten will participate in a stakeholder meeting scheduled for August 30.
- 2023 will be the RRWD's 60th Anniversary as a watershed district.

Matt Magnusson commented on Canadian thistle along the West Intercept. Staff will contact the individual who has the project.

The next meeting will be September 7, 2022 at 8:00 a.m. After a **motion** by Manager Voll and seconded by Manager Braaten, the meeting was adjourned at 10:40 a.m.

Respectfully submitted,



LaVerne Voll, Secretary



Tracy Halstensgard, Administrator

August 2022 Treasurer's Report

Checkbook Balance as of July 28, 2022	\$990,088.70
Receipts:	
Kittson County -- share of taxes	\$ 1,073.71
Beltrami County -- Share of taxes	\$ 614.61
Roseau SWCD -- 1W1P reimbursement	\$ 1,675.92
State of Minesota - Roseau Lake reimbursement	\$ 156,742.51
Citizens State Bank -- interest 7-18-22	\$ 47.26
Total:	\$ 160,154.01
Bills:	
Tracy Halstengard -- Salary and Insurance	\$ 5,627.60
Torin McCormack -- Salary and Insurance	\$ 5,695.60
Tracy Bergstrom - wages	\$ 882.34
Jason Braaten -- per diem & mileage	\$ 129.19
Carter Diesen -- per diem & mileage	\$ 135.43
Tracy Halstengard -- mileage	\$ 199.38
Torin McCormack -- reimbursement	\$ 75.00
Cody Schmaltz -- per diem & mileage	\$ 290.26
LaVerne Voll -- per diem & mileage	\$ 275.87
Tony Wensloff -- per diem & mileage	\$ 115.44
Internal Revenue Service -- Withholding	\$ 3,824.66
Minnesota Department of Revenue -- Withholding	\$ 662.00
PERA -- Employer / Employee Contribution	\$ 1,891.63
Cardmember Services -- web service fees, meeting expenses, supplies	\$ 1,071.46
City Of Roseau -- utilities	\$ 226.37
Marco -- Copier agreement & service	\$ 166.15
Patrick Moren Law Office -- Legal Fees	\$ 3,600.00
Roseau Times Region -- Meeting Notices	\$ 91.80
Roseau Electric Co-op -- Int/phone --	\$ 156.99
Northern Resources Cooperative -- gas for vehicle, June	\$ 453.15
At your Service LawnCare	\$ 335.01
Verizon Wireless -- Trimble	\$ 40.01
Northern Resources Cooperative -- gas for vehicle, July	\$ 179.25
Pete Kvien - Hay Creek / Norland mowing	\$ 9,450.00
Minnesota Energy Resources -- natural gas utility	\$ 11.24
Edward, Clinton & Kathleen Castle - land purchase	\$ 27,500.00
Roseau County Recorder - Castle land	\$ 92.00
Roseau County Treasurer - Castle land	\$ 184.80
Roseau - Lake of the Woods Title & Abstract - Castle land	\$ 992.00
Roger Beiswenger - WD #4 vieweing	\$ 2,300.00
Roseau - Lake of the Woods Title & Abstract - Toth land acquisition	\$ 17,511.35
RJ Zavoral & Sons - CD 16 Improvement PR #1-4	\$ 251,591.51
RJ Zavoral & Sons - CD 16 Improvement PR #1-4	\$ 63,823.35
HDR -- Inv #1200444593 & #1200444592	\$ 14,481.23
HDR -- Inv #1200444590 & #1200444780	\$ 12,986.98
HDR -- 4-24-22 to 6-25-22 Roseau Lake Inv #1200445041	\$ 208,720.10
Total:	\$ 635,769.15

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 12-14, 23, 24, and 26, Dieter Township (T163N, R41W), Roseau County and Sections 7, 21-22, and 28-30, Unorganized Township (T163N, R40W), Roseau County, and; portions of NE, E1/2 W1/2, W1/2 SE; Section 33 Township 163 Range 40

WHEREAS, the Roseau River Watershed District will be developing or considering offers or counteroffers for the sale of the following described real property:
Portions of Section 33 Township 163 Range 40

On August 3, 2022 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 3 day of Aug., 2022.



Chairman



Secretary

STATE OF MINNESOTA
ROSEAU RIVERWATERSHED DISTRICT
DRAINAGE AUTHORITY FOR ROSEAU COUNTY DITCH 16

The matter of the petition of Jason S. Braaten and Gregory A. Braaten, for the improvement of Roseau County Ditch 16

**Bonding Term, Interest Rate,
and Deficiency Resolution**

At the regular meeting of the Board of Managers of the Roseau River Watershed District, Drainage Authority for Roseau County Ditch (CD) 16, on Aug 3, 2022, Manager Wensloff moved, seconded by Manager Schmalz for adoption of the following Resolution:

1. The petition of Jason S. Braaten and Gregory A. Braaten, for the improvement of Roseau County Ditch 16 was filed with the Board of Managers pursuant to Minnesota Statutes Section 103D.625, subd. 4.
2. Jason S. Braaten is a Manager of the Roseau River Watershed District and has abstained from any and all Board action in regard to the petition for improvement.
3. The Board, as Drainage Authority, initiated proceedings and held a Preliminary Hearing on August 6, 2019. At the Preliminary Hearing, the Board ordered the preparation of a Detailed Survey Report, appointed Viewers, and directed the determination of improvement benefits and damages pursuant to statute.
4. A bifurcated final hearing was held on June 3, 2020 and July 16, 2020. Following the bifurcated hearing, the Board established the project and subsequently awarded the construction contract for the project. Because the establishment order and damages were appealed, Petitioner's bond remained in place. The Petitioners' bond will cover costs incurred in the proceedings. As the Board established the project, all costs, including the costs of proceedings prior to establishment, must be paid from the proceeds of assessments to benefitted properties. The Board may incur costs on behalf of the drainage system prior to bonding for the project.
5. Statutes section 103E.655 requires the costs for drainage project proceedings and construction to be paid from the drainage system account by drawing on the account. Statutes section 103E.645 requires the payment of fees and expenses.

6. Statutes section 103E.635 authorizes the County Board to issue bonds after the contract for the construction of a drainage project is awarded, in an amount necessary to pay the cost of establishing and constructing the drainage project, such bonds to be in an amount not in excess of the total cost, including expenses, to be assessed to pay for the drainage system.
7. Following establishment, the Board will levy assessments against property benefitted by the ditch project payable to the treasurer of Roseau County in up to 20 equal annual installments, in accordance with Statutes section 103E.611, which provides that the interest rate on such assessments cannot exceed the rate determined by the state court administrator for judgments under section 549.09 (currently 4% maximum), and Roseau County may issue bonds pursuant to statutes section 103E.635 to pay the costs of the drainage project proceedings and construction.
8. Because of the interest rate limitation, prepayment of assessments and delinquencies, it is possible that the collection of drainage assessments to pay the principal and interest on the drainage bonds will be less than that required to meet the repayment obligations.
9. Despite possible deficiencies in the drainage assessments collected to pay the principal and interest on the drainage bonds, the obligation to repay the bonds remains a cost and obligation of the drainage systems. (See §§103E.645; E.655).

Based on the foregoing, the Drainage Authority Resolves:

- A. Should and Roseau County issue bonds to cover the costs of the established project, the Drainage Authority obligates itself to pay to said county the amount in each year by which the drainage assessments collected by the Counties in such year are insufficient to pay the principal and interest on the drainage bonds. Such deficiency payment shall be paid from the reserve account and debited against the drainage system account from which the deficiency originates.
- B. Funds transferred from the reserve account shall be repaid by additional annual assessments certified against property in the debited drainage system.

After discussion, the Chairman called the question. The question was on the adoption of the Resolution and there were 4 yeas and 0 nays as follows:

	<u>Yea</u>	<u>Nay</u>	<u>Absent</u>	<u>Abstain</u>
Jason Braaten	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Carter Diesen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cody Schmalz	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
LaVerne Voll	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tony Wensloff	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Upon vote, the President declared the Resolution adopted.



Carter Diesen, Board Chair

Dated: Aug 3, 2022

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I, LaVerne Voll, Secretary of the Roseau River Watershed District, do hereby certify that I have compared the above resolution with the original thereof as the same appears of record and on file with the District and find the same to be a true and correct transcript thereof.

IN TESTIMONY WHEREOF, I hereunto set my hand this 3rd day of Aug, 2022.



LaVerne Voll, Secretary

STATE OF MINNESOTA
ROSEAU RIVER WATERSHED DISTRICT
DRAINAGE AUTHORITY FOR ROSEAU COUNTY DITCH 16

The matter of the petition of Jason S. Braaten and Gregory A. Braaten., for the improvement of portion of Roseau County Ditch 16

Reimbursement Resolution

At the regular meeting of the Board of Managers of the Roseau River Watershed District, Drainage Authority for Roseau County Ditch (CD) 16, on Aug 3, 2022, Manager Wassloff moved, seconded by Manager Schmalz for adoption of the following Resolution

1. The petition of Jason S. Braaten and Gregory A. Braaten., for the improvement of portion of Roseau County Ditch 16 was filed with the Board of Managers pursuant to Minnesota Statutes Section 103D.625, subd. 4.
2. Jason S. Braaten is a Manager of the Roseau River Watershed District and has abstained from any and all Board action in regard to the petition for improvement.
3. The Board, as Drainage Authority, initiated proceedings and held a Preliminary Hearing on August 6, 2019. At the Preliminary Hearing, the Board ordered the preparation of a Detailed Survey Report, appointed Viewers, and directed the determination of improvement benefits and damages pursuant to statute.
4. A bifurcated final hearing was held on June 3, 2020 and July 16, 2020. Following the bifurcated hearing, the Board established the project and subsequently awarded the construction contract for the project. Because the establishment order and damages were appealed, Petitioner's bond remained in place. The Petitioners' bond will cover costs incurred in the proceedings. As the Board established the project, all costs, including the costs of proceedings prior to establishment, must be paid from the proceeds of assessments to benefitted properties. The Board may incur costs on behalf of the drainage system prior to bonding for the project.
5. Statutes section 103E.655 requires the costs for drainage project proceedings and construction to be paid from the drainage system account by drawing on the account. Statutes section 103E.645 requires the payment of fees and expenses.

6. Statutes section 103E.655 allows the Drainage Authority, in the event the drainage system account is insufficient to pay costs, to transfer money from another account to pay costs until such time as alternative financing is in place to cover costs.
7. Statutes section 103E.635 authorizes the County Board to issue bonds after the contract for the construction of a drainage project is awarded, in an amount necessary to pay the cost of establishing and constructing the drainage project, such bonds to be in an amount not in excess of the total cost, including expenses, to be assessed to pay for the drainage system.

Based on the foregoing, the Drainage Authority Resolves:

- A. As the project is established, payment of costs in the current proceedings may be paid from the reserve account, or from interim financing from the County, until such time as alternative financing or bonding is in place to cover costs.
- B. Payment of costs may be reimbursed by the issuance of tax-exempt bonds, issued pursuant to statutes sections 103E.635 - .641.

After discussion, the Chairman called the question. The question was on the adoption of the Resolution and there were 4 yeas and 0 nays as follows:

	<u>Yea</u>	<u>Nay</u>	<u>Absent</u>	<u>Abstain</u>
Jason Braaten	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Carter Diesen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cody Schmalz	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
LaVerne Voll	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tony Wensloff	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Upon vote, the President declared the Resolution adopted.



Carter Diesen, Board Chair

Dated: Aug 3, 2022

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I, LaVerne Voll, Secretary of the Roseau River Watershed District, do hereby certify that I have compared the above resolution with the original thereof as the same appears of record and on file with the District and find the same to be a true and correct transcript thereof.

IN TESTIMONY WHEREOF, I hereunto set my hand this 3rd day of Aug., 2022.



LaVerne Voll, Secretary