

**Minutes of the Regular Meeting of the Board of Managers
Of the Two Rivers Watershed District
Held: Thursday, March 4, 2021 @ 8:00 a.m.**

The Board of Managers of the Two River Watershed District held their regular meeting beginning at 8:00 a.m. on Thursday, March, 2021. Due to the ongoing COVID-19 pandemic the meeting was held in the upstairs meeting room of the Kittson County Courthouse in Hallock, MN with social distancing guidelines in place. The meeting was also held via “GoTo Meeting” to allow for the public to attend electronically either by phone or by computer.

Managers present in person included President Paul Olsonawski, Secretary Daryl Klegstad, Bruce Anderson, Rick Sikorski, and Scott Klein. Vice President Roger Anderson attended electronically. Treasurer Joel Muir was absent.

Others present in person included District Administrator Dan Money, Head Technician Matt Thompson, Attorney Jeff Hane (Brink, Sobolik, Severson, Malm & Albright, P.A.) and landowner Shaun Beauclair. Participating electronically were Engineers Jake Huwe and Nate Dalager (HDR Engineering), and Engineer Blake Carlson (WSN Engineering).

The meeting was called to order by President Olsonawski. Olsonawski then called for any additions or corrections to the proposed meeting agenda, the regular meeting minutes from February 4, 2020 and the special meeting minutes from February 18, 2020. The meeting agenda and the minutes of February 4th and February 18th, 2020 were approved upon a **motion** by Sikorski, **second** by Klegstad, and **unanimous vote** of the Managers.

Treasurer’s Report:

Money presented the treasurer’s report including the fund balances, accounts listing, and deposit detail. It was noted that checks written for the month include check numbers 9303 through 9321 and electronic funds transfers to PERA, MN Dept. of Revenue, and Electronic Federal Tax Payment System, as reported and contained within the report.

Questions and discussion was held regarding various fund balances. Some of the categories listed are old and not used any longer so they should be closed out. The treasurer’s report was then approved upon a **motion** by B. Anderson, a **second** by Klegstad, and a **unanimous vote** by the Board.

Administrator’s Report:

District Administrator Money gave a report on the following and distributed a handout:

Program Report:

Monitoring: The monitoring season is coming up and staff is readying water quality and streamflow monitoring equipment. There is a need to replace one piece of streamflow equipment. A ‘shuttle’ device that is used to download information from water level monitoring data loggers has corroded and failed. Replacement cost is \$250. Upon a **motion** by Sikorski, **second** by B. Anderson and **unanimous vote** of the Managers, purchase of the device was approved.

Buffer Law / Enforcement: The District is responsible for enforcement of the Buffer Law on ditches that it is in charge of. If a Soil & Water Conservation District reports a violation to the TRWD, enforcement actions need to be undertaken. 11 entities were reported by SWCD's to the TRWD in December 2020. The TRWD send letters out regarding potential enforcement, but has only heard back from on of the 11. Discussion was held regarding the buffer law and the role of the TRWD in enforcement. The Board directed the Attorney to write a follow up letter and send it via certified mail to the landowners who are out of compliance. A deadline of March 31 will be given to respond otherwise enforcement will begin with the issuance of an administrative penalty order.

Horseshoe Lake: Over the past two years the DNR, Kittson County, and TRWD have been monitoring the outlet structure. It was constructed around 1968 and is showing signs of aging. Recently the DNR completed a feasibility study to either repair or replace the outlet pipe. TRWD engineer Blake Carlson previously supplied comments on the study regarding some inadequacies in the proposal. Money has coordinated a meeting between DNR, Kittson County TRWD, and St. Joseph Township to discuss the outlet structure, erosion concerns along a township road at the outlet to Skull Lake, and also the north project dike and consideration to level out a portion of it. The meeting will be held on March 8 both in person and electronically.

Two Rivers Plus One Watershed One Plan: Money reported that the final draft of the plan has been written and has been put out to the public and agencies for a required 60 day public review which will end on April 14th, 2021. The required process after that is to address and reply to any comments that are submitted, hold a public hearing, and then submit the plan to the Board of Water & Soil Resources for approval. The likely timeline is to have a State approved plan by the end of June 2021.

One item that will need to be decided by each entity and ratified by the Policy Committee is the formation of either a Joint Powers Entity or a Joint Powers Collaboration. The Policy Committee has recommended a collaboration, however Roseau SWCD has stated they would prefer an Entity. The Policy Committee is looking for further input and will meet again on March 18 to discuss this further. Attorney Hane reviewed details of each and Money handed out information from MN Counties Intergovernmental Trust. The Board indicated that it would prefer a collaboration over an entity.

Several Managers indicated reservations with the 1W1P and questioned whether the District should pull out of this agreement and simply write its own Overall Plan instead. Pros and cons of the 1W1P planning process were discussed in detail. At issue is that while the plan does include language regarding flood control, drainage, water quality, and conservation, it has lost some of the focus on specific TRWD issues that the 2004 Overall Plan accomplished. Because there are 5 entities the focus is broader than it would be if it were only the TRWD. In addition, the BWSR has stated the only funding for this plan comes from the Clean Water Funds, and therefore only projects with a water quality focus can be funded, which rules out most projects that have flood control or drainage as their primary purpose. It seems to be turning out there is a large amount of burden that comes with doing this plan, cumbersome requirements and rules, and higher planning costs. The full board was not present and no action was taken, therefore the TRWD will continue to participate cautiously in the Two Rivers Plus 1W1P.

MN Association of Watershed Districts: MAWD will be holding a ½ day virtual meeting on legislative issues with registration fee of \$100 per watershed district (all staff and managers can attend). This is in place of the annual legislative breakfast.

Reports on bills affecting watershed districts will be given, and information on how to communicate with legislators will be provided. Information was provided to the Managers regarding concerns that MAWD has with BWSR and some news items and fact sheets they have produced. There are several funding and policy bills being watched that affect watershed districts. The Board authorized paying the registration fee for staff and managers to attend.

Project Report:

Klondike Clean Water Retention Prj. #11: A number of items relative to the project and to recent discussion were discussed.

- Roseau Overflows – A memo from Attorney Hane, received in June 2020 was reviewed. The memo addresses Manager Sikorski's concerns about excessive water coming out of legal ditch systems that are upstream and inundating State Ditch #72. Hane's memo concluded that there would be a significant burden of proof to bring to any proceedings, and we would need to identify the specific actions taken by upstream entities and have the liable scientific evidence showing the degree of harm and linking the harm specifically to their actions. It was general opinion of the Board to not pursue this further.
 - It was discussed that on several occasions the District has met with the Roseau River WD and Roseau County as the ditch authority regarding ditches that allow the transfer of water between the RRWD and the TRWD. To date suggestions have been made and generally agreed to place ground level blocks in these lateral ditches. To date, the ditch authority has not addressed this issue. Discussion was held regarding whether to ask about the status or possibly wait until both Kittson and Roseau Counties have hired personnel to fill their vacant County Highway Engineering positions. No action was taken at this time and **the matter was tabled.**
- Right of Way – Hane and Money have been working on this issue and Hane provided a draft letter to send to landowners. Discussion was held on what to offer as a payment for the right of way, and whether we should pursue outright purchase of the land or possibly purchase of an easement that would allow the District to construct and maintain a project without actually owning the land.
 - A **motion** was made by B. Anderson, **seconded** by Klein and **unanimously approved** to offer the purchase of an easement and offer payment for the easement at 100% of the 2021 land value determined by the Roseau County Assessor. Hane was directed to work with Money to rewrite the letter and send it out to all landowners the District is seeking right of way from.
- Funding – Various approaches to funding were discussed. One option is identified in legislation enacted in 2001 whereby lands obtained by the TRWD can become tax exempt if certain conditions are met. Other forms of funding were discussed. No action was taken at this time.

S. Beauclair: Mr. Beauclair was in attendance to address the Board and staff regarding permit application #2021-05. He discussed his proposal and wishes to change several existing culvert sizes and regrade the existing road ditch to provide improved drainage for ag lands. Discussion was held regarding the District's culvert sizing policy, existing and proposed culvert capacities, drainage areas, and current flooding issues. It was noted that part of his project proposal is on land not owned by him, and that he would need to get permissions from

both the Township to work in their right of way and the landowner to enter onto land he does not own. The District thanked Beauclair, will continue to review the application, and will notify him of any information needed and any decisions that are made. No action was taken at this time and the application was referred to the permit committee.

Determination of Ditch Benefits: The Board of Managers discussed how benefits and damages are determined by Viewers under the drainage law, and how the Board can weigh in with the Viewers in making these determinations. Attorney Hane and Administrator Money reviewed specific sections of drainage law, MN Statute 103E that lay out duties of Viewers and the methods they use to determine benefits. Discussion was held regarding various methods of appraisal, and whether a flat rate could be used to simplify the process. It was noted that the law specifies certain things and requires the Viewers must make certain findings in order for a project to proceed. It may be possible to use one flat rate for certain ditch systems, but others will most likely need to have a tiered system in order to be equitable. Money will hold discussion with the Viewers on RCD 4.

Permits:

The Board acted on the following permits. The review and comments of the permit committee were carefully considered and taken into consideration. Any comments provided by members of the committee, road authorities, or affected landowners have been recorded filed with the permit documentation in the District office. Conditions, if any, are listed on the permit sent to the individual.

<i>App. #</i>	<i>Applicant</i>	<i>Location</i>	<i>Purpose</i>	<i>Action</i>
2020-76	Jamie Isane	Grimstad 17	install culvert in dry crossing	Tabled
2020-79	Blawat Farms	Soler 15	lower existing 24" cmp	Tabled
2021-02	Mike Olsonawski	Hampden 32	Tile Drainage	Tabled
2021-03	Terry Osowski	N Red River 36	Tile Drainage	Tabled
2021-04	Dan Younggren	Hampden 28	Tile Drainage	Tabled
2021-05	Middle River Farm	Lind 36; East Pk 1&12	Drainag; culverts	Tabled
2021-07	Justin Dagen	Jupiter 27	Tile Drainage	Tabled

The following permit application was previously approved by the Permit Committee:

2020-01	Jason Carlson	Deerwood 34	18" field crossing	Approved
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The following after the fact permit applications were discussed:

2021-06	Lyn Johnson	Eagle Point 5	Center Line Culvert	Approved
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It was noted that this project has been installed by the applicant and that it was reported by Teien Township. It was noted that this would have been approved as it is located in the Red River floodplain and the District's culvert sizing policy does not apply. The permit was **approved** upon a **motion** by Sikorski, **second** by Klegstad and **unanimous vote**. The base after the fact fee of \$500 was waived, however a \$150 inspection fee was charged to the applicant. The permit is not valid until the fee is paid.


The permit violation of Ristad Farms in sections 16-17 of Hazelton Township was once again discussed. The work was done during the summer flooding of 2020 by Ristad Farms, who raised an existing township road. This activity protected ag lands, however generally caused flooding to increase on adjacent lands. Several meetings with Ristad, affected persons and Hazelton Township officials have been held. The District has expended many staff and consulting engineering hours surveying, researching, and looking at alternatives.

Engineer B. Carlson handed out and discussed a memo regarding certain components he was asked to research. He discussed various alternatives, including a potential new channel to divert overflows into and carry them downstream, a potential impoundment area to hold floodwaters and release them after the flood wave has gone by, a road raise to prevent road overtopping and protect the traveling public, possible addition of road center line culverts, and various other related items. It was Carlson's opinion the best alternative would be to generally allow the work that done, however a 600 foot section of the road in the area where the work was done by Ristad would need to be lowered by one-half foot in order to match the elevation of the low point in the road on the north side of the section. This would allow for a level of greater protection to the lands to the west without damaging adjacent lands to the north by allowing the water to equally flow over the road both on the north and the south sides of the section as it did before. Upon a **motion** by Sikorski, **second** by B. Anderson and **unanimous vote** of the Managers it was approved to grant a permit for the work that was done with a condition that 1) a 600 foot long section of the road as determined by the TRWD must be lowered by ½ foot and 2) that approval for the project must be given by Hazelton Township because it is their township road that was altered. The work must be completed in a timely manner after the spring snowmelt, and the location of the required work will be noted on the survey that was done and inspected by the TRWD.

The after the fact permit fee was discussed. Costs incurred by the TRWD so far include the \$500 base after the fact permit fee, a \$3,586.25 engineering bill, \$375 in staff time for surveying and inspection, and \$150 in Manager's time for a total of \$4,611.25. The Board contemplated the fees and noted that leniency has been granted in the recent past on other after the fact permits for various reasons. It was mentioned that part of the cost calculated in the fees would have been incurred as a normal part of the permit review, and also noted that Ristad has been cooperative in the meetings that have been held to address this matter. Upon a **motion** by Klein, **second** by Sikorski, and **unanimous vote** of the Managers, it was approved to charge Ristad a \$1,000 after the fact permit fee. The approved permit is not valid until the fee has been paid.

With no other matters to come before the Board of Managers, the meeting was adjourned.

Attest:


Paul Olsonawski, President


Daryl Klegstad, Secretary

