

WILD RICE WATERSHED DISTRICT

11 East 5th Avenue – Ada, Minnesota 56510
Phone (218) 784-5501

APPROVED MINUTES

1. A **Regular Meeting** of the Wild Rice Watershed District (WRWD) Board of Mangers was held on **Wednesday, October 12, 2005** at 8:30 a.m. at the District Office located at 11 5th Ave East, Ada MN 56510. WRWD Managers present were: Diane Ista, Steve Dalen, Jim Skaurud, Chairman Warren Seykora, Joe Spaeth, Robert Wright and Jim Wagner, Sr. Others attending included: Jerry Bents, Houston Engineering (H.E.), Mark Aanenson, Acting Administrator, (H.E.), Tim Halle, Publicist, Kari Kujava, recording secretary. Absent: Attorney Hanson.

Chairman Seykora called the meeting to order at 8:33 a.m.

2. **Approval of Agenda – Corrections – Additions**

Manager Skaurud suggested the addition of the permit submitted by Mitchell Hoekstra – Section 4 – Home Lake Twp – Norman County. **Motion** by Manger Wright to approve the agenda with the addition. **Seconded** by Manager Spaeth. **Carried**.

3. **Project Team Meeting Agenda**

- Adopt high priority CREP areas
- Upper Felton
- Support for the 2006 bonding requests

Motion was made by Manager Wagner to proceed with the proposed agenda for a project team meeting scheduled for Wednesday, October 26, 2005 and for notices to be sent to all Project Team members. **Seconded** by Manager Dalen. **Carried**.

4. **Appointments**

- **9:00 a.m. Don Johnson**

1. . Don Johnson, Extend culvert for wider crossing. Section 24, Winchester Township (9-28-05-34) Mark explained the complaint from one of the landowners that received the notification of the permit application.

Motion was made by Manager Wright to approve the permit as an “after-the-fact permit” since the work was done prior to board approval and inform Mr. Johnson of cost incurred to District. He will be receiving an invoice outlining the costs and will be expected to pay the District accordingly. **Seconded** by Manager Dalen. **Carried**.

- **9:30 a.m. Tera Getter / Administrator Position Finalist**

Motion was made by Manager Skaurud to close the meeting to discuss salary/labor negotiations. **Seconded** by Manager Spaeth. **Carried**. **MEETING CLOSED**.

Motion made by Manager Dalen to re-open the meeting. **Seconded** by Manager Wagner. **Carried**.

- **11:00 a.m. City of Ada**
Mayor Ellefson, Woody Roux, and Dennis Ouder Kirk (Moore Engineering) were in attendance representing the City of Ada.
A **motion** was made by Manager Dalen and **seconded** by Manager Wagner authorizing Engineer Bents to prepare a repair report on two slide areas along J.D. 53 on the north side of the City of Ada. **Carried**. The City is to pay the cost of relocation of pipes and manholes and is to contact Engineer Bents with plans to approve for the repair they have planned for fall of 2005.
- **11:30 a.m. Conrad Wiger – Culvert Drainage Problems – Section 20, Ulen Twp**
Mr. Wiger was advised to apply for a permit to install a culvert in Section 20, Ulen Twp. in Clay County to help alleviate the drainage problems. He also addressed the potential flood storage site land that he had offered the District. Engineer Bents explained to him that there isn't enough storage capacity at that site to store the amount of water intended.
- **1:00 p.m. Duane Pazdernik, Dale Pazdernik and Ed Scherping Permits**
After discussion **motion** was made by Manager Ista to table all three of the permits until affected landowners sign on to the permit to prove that they are in agreement with the above permits. **Seconded** by Manager Dalen. **Carried**.

5. **Managers Concerns/Topics**

- **Permit Spreadsheet**
Motion was made by Manager Dalen to utilize the permit spreadsheet more effectively and be able to approve groups of permits that have been reviewed by Engineering and recommendations have been made. The motion indicated changing the permit numbering system to the "date received" along with the number the permit receives on the agenda and to try this new form of permit approval for 3 months then to reassess its effectiveness. **Seconded** by Manager Ista. **Carried**.
- **County Commissioner Opinion**
 - Manager Dalen commented on the County Commissioners' concerns with the performance of the elected Board members.
- **Ring Dikes**
 - Manager Wright presented a letter to the Board that was received by the Clay County SWCD regarding funding for 2 ring dikes to be constructed in the year 2006. There was discussion differentiating the shore land zone ring dikes and the Farmstead Ring Dike program. It was suggested that Manager Dalen gather more information from the SWCD to determine the difference between the 2 programs. More discussion to take place at the November meeting.

6. **Review of Regular and Special Meeting Minutes**

- The Board reviewed draft minutes for the September 8, 2005, COE WRRFS Public Meeting. **Motion** was made by Manager Wright to approve minutes as written. **Seconded** by Manager Dalen. **Carried**.
- The Board reviewed draft minutes for the September 14, 2005, regular monthly meeting. **Motion** was made by Manager Ista and **Seconded** by Manager Skaurud to approve the minutes with the following corrections:
 - Paragraph 7, bullet 5 of page 2. Sentence should read, "Motion was made by Manager Skaurud clarifying that Paul Borgen's complaint is not in violation of the Watershed...."
 - Paragraph 7, bullet 6 of page 2. Sentence 2 should read, "His intent is to only clean the ditch along the west side of the NW ¼ of Section 34 of Lockhart Twp; therefore no permit was required for that activity."
 - Paragraph 7, bullet 8 of page 2. Manager Wright requested that it be noted in the minutes that he abstained from any discussion due to owning land in the Upper Felton Project area.

- Paragraph 8, bullet 10, page 8. Manager Wright requested that it be noted in the minutes that he abstained from any discussion due to owning land in the Upper Felton Project area.
- Paragraph 9, bullet 1 of page 8. Manager Wright requested that it be noted in the minutes that he abstained from any discussion due to owning land in the Upper Felton Project area.
- Paragraph 9, bullet 8 of page 9. Sentence 2 should read, :It was also agreed that Chairman Seykora talk to Clayton Roering about repairing....."
- Paragraph 4, bullet 1 of page 10. Correction of Guetter.

7. **Financials**

- Doug Marcussen presented the September financial report. **Motion** by Manager Wright to approve the September financial report. **Seconded** by Manager Wagner. **Carried**.
- Consider Billings
Motion made by Manager Wright to approve monthly billings. **Seconded** by Manager Dalen. **Carried**.
- **Attorney Billing Issues**
Attorney Hanson asked for direction from the Board regarding how to deal with billing out time when landowners come in with complaints regarding the watershed. After discussion, it was decided to allow a landowner to visit with Attorney Hanson to state their case, but to make it clear that if excessive time is used, anything exceeding 1/4 hour, the landowner will be billed for any costs incurred. Consensus of the Board.
- **JB & Associates COE Contract**
After discussion, the Board continues to stay with its original motion, which was to deny payment due to employee termination prior to completion of work proposed in COE Contract.
- **Data Practices Revised Policy**
MN Legislature recently acted on a statute that outlines how to manage data requests and the costs to be charged for information requested. Attorney Hanson didn't have a lot of information since it was newly adopted but will have more information for the Board at the November meeting. Mark noted that a shortened version would be posted on the bulletin board in the entry to educate anyone that comes in asking for information. **Motion** was made by Manager Ista to comply with applicable law spelled out by Attorney Hanson. **Seconded** by Manager Spaeth. **Carried**.
- **Insurance Committee Report**
The insurance committee reported to the board what information was gathered from the joint agent meeting held on Tuesday, October 4, 2005. **Motion** was made by Chairman Seykora to send the insurance issue back to the insurance committee and have them do more research and report to the Board at the November meeting. **Seconded** by Manager Wright. **Carried**. Attorney Hanson informed the committee to make sure the new policy acts as a "claims made" policy vs. an "action policy."

8. **PERMIT APPLICATIONS**
Norman County

Randy Green, Widen crossing – Section 7, Green Meadow Twp

Motion by Manager Dalen and **seconded** by Manager Wagner to approve. **Carried**.

2. Al Leiseth, Install culvert – Section 23, Lake Ida Twp

Motion made by Manager Dalen and **seconded** by Manager Wagner to approve permit with the recommendation that applicant seek additional approval from NRCS regarding wetland issues. **Carried**.

3. Mitchell Hoekstra Install culvert – Section 4, Home Lake Twp

Motion made by Manager Dalen and **seconded** by Manager Wagner to approve permit with the recommendation that applicant seek additional approval from the Norman County Highway Department. **Carried**.

Mahnomen County

4. John Haugo, Install culvert – Section 16, Popple Grove Twp
Motion by Manager Dalen and seconded by Manager Wagner to approve. Carried.
5. John Haugo, Install culvert – Section 7, Popple Grove Twp
Motion by Manager Dalen and seconded by Manager Wagner to approve. Carried.

Clay County

6. Mark Jossund, Install culvert – Section 8, Georgetown Twp
Motion was made by Manager Dalen to approve permits 2,3,4,5,6, and 11 with no conditions. Permit 8 was approved with the recommendation that the upstream 24" culvert be put back at the same elevation as it is now. Seconded by Manager Wagner. Carried.

Tabled Permits

7. Jerry Bitker, Project 30/CR 19 – Install Culvert, Section 13, Anthony Twp.
Motion by Manager Ista to deny the permit due to the Board determining the work is unnecessary. Seconded by Manager Dalen. Carried.

Due to the increase of "after-the-fact" permits and the cost incurred to the District, a motion was made by Manager Skaurud to institute a policy to charge the applicant \$100.00 for the first violation and \$500.00 for any thereafter. Seconded by Manager Wagner. Carried.

9. **COMPLAINTS/VIOLATIONS**

- ***Pederson Brothers – Section 7 – Gregory Twp – Mahnomen County***
Norman County Attorney Tom Opheim suggested that the District turn this violation over to Mahnomen County to see if they would prosecute. Mahnomen County Attorney has agreed to do so. Attorney Hanson will keep the board informed since he will be receiving legal correspondence from Mahnomen County. Attorney Hanson informed Mark that the Sheriff's Department in Mahnomen is aware of the situation and to contact them if necessary.
- ***Eugene Vik – Section 35 – Hegne Twp – Norman County***
Attorney Hanson received a letter from Norman County Attorney Tom Opheim stating that the work has been restored. Vik is aware that the District is seeking a ROW easement on his property for access to Project #31 and the necessary repairs. Motion was made by Manager Skaurud authorizing Manager Ista to meet with Vik and offer him the option of dropping the violation costs incurred by the District in return for the ROW Easement. If this option isn't favorable to Vik, Ista is to make him aware that the District will then file the matter into conciliation court. Seconded by Manager Wagner. Carried,
Motion was made by Manager Spaeth to close the meeting to discuss land negotiations regarding Eugene Vik. Seconded by Manager Wagner. Carried. **MEETING CLOSED**.
Motion was made by Manager Skaurud to open the meeting and continue with regular business. Seconded by Manager Wagner. Carried.
- ***Brian Borgen – Section 10 – Mary Twp – Norman County***
The pre-trial hearing is scheduled for October 19, 2005. There has been a tentative offer of settlement, however Borgen continues to contest. The Norman County Highway Department restored the levee and they are billing Borgen in the amount of \$5,293. Mark is to verify with the County that the District costs are included in the above amount and bill out the District's charges accordingly.
- ***Matter/Jirava – Section 4 – Spring Creek Twp – Becker County***
Chairman Seykora informed the Board that the work has been completed. Motion was made by Manager Spaeth to send out the billing. Seconded by Manager Wagner. Carried.

10. **UNFINISHED BUSINESS**

- ***Heiberg Dam***
 - Furuseth Update

Attorney Hanson informed the Board that the eminent domain action has been filed. The Furuseths have since filed a motion to have the eminent domain proceeding moved to Federal Court. Hanson reported that Attorney Von Korff will be filing a motion to keep the proceeding in State court and also a separate motion to dismiss the Federal action brought by the Furuseths. Attorney Hanson further informed the Board that it remains his opinion that the necessary property interests on the Furuseth property have been appropriately taken through the hearing process

- Contracting/Funding
Engineer Bents reported on the status of the funding sources for the Heiberg Project. Bents also noted that the current bid prices are only valid within 120 days of the original bid opening of July 12, 2005. A **motion** was made by Manager Skaurud to award the contract and proceed with the project. **Seconded** by Manager Wagner. **Carried**. Dalen opposed.
- **Employee Policy Manual**
 - Final Edits and Approval
Motion was made by Manager Skaurud to table this issue until an administrator is hired. **Seconded** by Manager Wagner. **Carried**.
- **WRWD Bylaws**
Motion was made by Manager Ista to table this matter until an administrator is hired. **Seconded** by Manager Wagner. **Carried**.
- **Norman County Acquisition Status**
It was reported that the previous administration had applied for an extension on the DNR portion of the rural acquisition grant until June 2006 with Ed Fick, DNR. However the District recently received notification that funds were no longer available as of June 2005. Loretta faxed the extension letter to Mr. Fick and he also found a copy in his files. His advice was to re-apply for funds. **Motion** was made by Manager Ista for Mark to submit a new grant application to the DNR and also notify Roger Lee and Robin Stene keeping them updated on the status of the acquisition process.
- **Farmstead Ring Dike Update**
 - **Motion** was made by Manager Ista to approve the final pay request to Geray Dozing in the amount \$36,089.42 for completion on the Roger Dyrdaahl ring dike. **Seconded** by Manager Spaeth. **Carried**.
 - **Motion** was made by Manager Spaeth to approve the final pay request to RBR Construction in the amount of \$3,148.40 for the Schreiner Ring Dike. **Seconded** by Manager Wagner. **Carried**.
 - **Motion** made by Manager Spaeth to approve Partial Pay Request #2 to Roger Hennen in the amount of \$2,916.00 for the Mjolsness ring dike. **Seconded** by Manager Dalen. **Carried**.
- **Upper Felton Storage Update**
Marilyn Fuchs is the only landowner that hasn't returned the Permission to Survey and Bore form. The deadline was Friday, October 7, 2005. Consensus of the Board is for Mark to contact her and give her a couple days to sign and return the forms and if she doesn't comply, Attorney Hanson will send her a letter stating that she hasn't held up to her agreement and she will not be receiving her check to compensate her for her land.
- **South Branch – North Side – Section 8 Hagen Repair Report**
Following discussion, a **motion** was made by Manager Wagner to deny the repair request by A.C. Heiraas for additional work on the North Side of Section 8, Hagen Township. **Seconded** by Manager Dalen. **Carried**.
- **A.C. Heiraas Lawsuit.** The lawsuit, which is a jury trial, is scheduled for December 29, 2005. Attorney Hanson informed the Board that some board members and employees of Houston Engineering might be called to testify.

Motion made by Manager Spaeth to close the meeting for the purpose of discussing pending legal proceedings with District legal counsel regarding the A.C Heiraas matter. **Seconded** by Manager Ista. **Carried**. MEETING CLOSED.

Motion made by Manager Skaurud to re-open the meeting. **Seconded** by Manager Spaeth. **Carried**.

- **South Branch – Winchester Repair Update**

Motion made by Manager Spaeth to approve request for partial payment No.3 to Midwest Seeding in the amount of \$120,177.00. **Seconded** by Manager Ista. **Carried**.

- **South Branch – Hagen Repair Update**

Motion made by Manager Ista to approve request for partial payment No. 2 to Gordon Construction in the amount of \$101,560.50. **Seconded** by Manager Spaeth. **Carried**.

- **Moccasin Creek Survey Update**

Engineer Bents reported that the surveying is complete and he will bring the results to the November meeting.

- **Upper Reaches**

- Brian Borgen Request to Restore Flow Split

Motion made by Manager Ista to deny the repair request due to the following: Ongoing COE Feasibility Study; considerable additional cost of ordering engineer's report; a previous study done by the U.S. COE indicated that a diversion down the Marsh River was not feasible; and lastly the fact that it's not clear whether the request is a repair or an improvement. **Seconded** by Manager Skaurud. **Carried**.

- Regarding correspondence from the City of Ada requesting a Redetermination of Benefits on the Upper Reaches Project, Attorney Hanson stated that it was made clear to the City in correspondence he sent to them that they would need individual signatures on a petition from property owners vs. a "blanket" statement from the City of Ada on behalf of the taxpayers.

- **Visser Pay Request**

Motion made by Manager Spaeth to approve request for partial payment No. 3 to Visser Trenching in the amount of \$5,740.38. **Seconded** by Manager Wagner. **Carried**.

- **J.D. #51 Slide Repair**

Motion was made by Manager Skaurud to approve request for partial payment No. 3 to Visser Trenching in the amount of \$2,349.45. **Seconded** by Manager Spaeth. **Carried**.

- **DEM/LIDAR**

Engineer Bents reported that the LIDAR funding would be split between MNDot, DNR and FEMA.

- **Project 31 – Heitman Coulee – Vik Easement**

Attorney Hanson received a letter from Norman County Attorney Tom Opheim stating that the work has been restored. Vik is aware that the District is seeking a ROW easement on his property for access to the necessary Project #31 Repairs.

Motion was made by Manager Skaurud authorizing Manager Ista to meet with Vik and offer him the option of dropping the violation costs incurred by the District in return for the ROW Easement. If this option isn't favorable to Vik Ista is to make him aware that the District will then file the matter into conciliation court. **Seconded** by Manager Wagner. **Carried**.

- **MAWD Resolutions**

The MAWD Resolution deadline is Friday, October 14, 2005. Manager Ista presented a draft resolution to the Board regarding the inability of the District to sell property acquired through the rural buy out program to private citizens. **Motion** made by Manager Ista to work with Mark in submitting the resolution by the deadline. **Seconded** by Manager Wagner. **Carried**.

11. **WILD RICE RIVER FEASIBILITY STUDY**

- **Update on Phase 2 Progress**

Engineer Bents informed the Board that he is working with Nan Bischoff, U.S. COE, to give her a scope of the direction the Board has decided to go.

12. **NEW BUSINESS**

- ***WRWD Building Repairs (Insurance Requirement)***
Willard Gade reported that the estimate to repair the shed is \$6,000. No action taken by the Board. Manager Skaurud will continue to obtain an estimate of the repair of the brickwork on the outside of the main building.
- ***Dalen Coulee***
Manager Dalen agreed to talk to Hoffs regarding a low water crossing issue and determine if the crossing is still necessary. Dalen will report to the Board at the November meeting.
 - ***Update Establish Inspection Committee / Low Water Crossing***
Engineer Bents recommended that the Board appoint a ditch committee for the Dalen Coulee Project. **Motion** made by Manager Skaurud authorizing Manager Dalen to visit with landowners on the Dalen Coulee Project and set up a ditch inspection committee. **Seconded** by Manager Wagner. **Carried**.
- ***JD 53 Main Culvert Repair***
Mike Holte requested a culvert repair in Section 21 of Shelly Twp in Norman County. Engineering reviewed the culverts and confers with the request to replace four 18" culverts with flap gates at an estimated cost of \$8,000 to \$10,000. **Motion** made by Manager Dalen to approve request. **Seconded** by Manager Wagner. **Carried**.
- ***JD 53 Main***
George Aalgaard submitted a request for a ditch cleaning on JD 53 Main in Section 29 of Good Hope Twp in Norman County. The initial request from Eugene Ueland asked for a "spot clean" but now Mr. Aalgaard is requesting that the remaining ¾ mile of ditch be cleaned. Mr. Ueland has requested that the work be completed by Roger Hennen.

12. **MEETINGS/CONFERENCES/SEMINARS**

- ***Project Team Meeting scheduled for Wednesday, October 26, 2005.***
- ***Bonding Tour – Tuesday, October 18, 2005 – Moorhead Marriot***
There has been positive support from legislatures and they plan to have put a bill into place for the upcoming legislative session.
- ***MAWD 35th Annual Meeting & Trade Show – Dec 1- 3, 2005 – Alexandria***
Motion made by Manager Ista to authorize the entire Board to attend. **Seconded** by Spaeth. **Carried**. Members are responsible for making their own arrangements.

14. **OTHER ISSUES - DISCUSSIONS**

No business.

15. **Motion** made by Manager Wagner to adjourn meeting at 2:00 p.m. **Seconded** by Manager Spaeth. **Carried**.

MEETING ADJOURNED

Dale Pazdernik Install tile, Section 34, Pembina Twp

Duane Pazdernik Install tile, Section 2, Popple Grove Twp

Ed Scherping, Install culvert, Section 35, Pembina Twp

Motion made by Manager Spaeth to approve permits 9-11. **Seconded** by Manager Wagner. **Carried**.

Jim Skaurud, Secretary