

RED LAKE WATERSHED DISTRICT
Board of Manager's Minutes
September 10, 2020

Vice President Gene Tiedemann called the meeting to order at 9:00 a.m. at the Red Lake Watershed District Office, Thief River Falls, MN.

Present in person: Gene Tiedemann, Terry Sorenson, Allan Page, LeRoy Ose, Brian Dwight, and Les Torgerson. Absent: Dale M. Nelson. Staff Present: Myron Jesme and Tammy Audette and Legal Counsel, Delray Sparby.

The Board reviewed the agenda. Manager Torgerson noted that the Pine Lake Project Team meeting will be held on September 18, 2020 at 9:30 a.m. at the District office. Motion by Dwight, seconded by Torgerson, and passed by unanimous vote that the Board approve the agenda. Motion carried.

The Board reviewed the August 27, 2020 minutes. Motion by Sorenson, seconded by Ose, to approve the August 27, 2020 Board meeting minutes as presented. Motion carried.

The Board reviewed the Financial Report and Investment Summary dated September 9, 2020. Motion by Page, seconded by Sorenson, and passed by unanimous vote to approve the Financial Report and Investment Summary dated September 9, 2020 as presented.

Staff member Arlene Novak indicated that the premiums for District's dental insurance did not change from the 2020 plan year. Health insurance premiums did increase by 4.8%, which will take effect January 1, 2021. Novak indicated that staff members will meet on September 14, 2020, to review various health insurance plans.

The 2021 Proposed Special Revenue Project levies were presented by Administrator Jesme, staff members Arlene Novak and Christina Slowinski, and discussed by the Board. Questions regarding different ditch systems were fielded. Motion by Ose, seconded by Torgerson, to approve the following Special Revenue Assessments for 2021: RLWD Ditch No. 1, RLWD Project No. 5, \$8,000; RLWD Ditch No. 3, RLWD Project No. 7, \$3,000; RLWD Ditch No. 7, RLWD Project No. 20, \$3,000; Pine Lake Maintenance, RLWD Project No. 35, \$7,000; RLWD Ditch No. 8, RLWD Project NO. 36, \$1,000; RLWD Ditch No. 9, RLWD Project No. 39, \$2,000; J.D. No. 72, RLWD Project No. 41, \$9,000; Burnham Creek, RLWD Project No. 43B; \$20,000; J.D. 2, Branch A & B, RLWD Project No. 48, \$1,000; J.D. 2B & C, RLWD Project No. 49, \$2,000; Krostue Petition, RLWD Project No. 53, \$3,500; J.D. 5 (Four-Legged Lake), RLWD Project No. 102, \$2,200; Arveson Petition, RLWD Project No. 109, \$2,500; RLWD Ditch 1, Lateral C, RLWD Project No. 115, \$4,000; Kenneth Johnson Petition, RLWD Project No. 117, \$2,000; Polk County Ditch Improvement, RLWD Project No. 119, \$10,000; Challenger Ditch, RLWD Project No. 122, \$2,000; Scott Baatz Petition, RLWD Project No. 123, \$1,000; Polk County Ditch 33, RLWD Project No. 135, \$3,000; RLWD Ditch No. 10, RLWD Project No. 161, \$2,500; RLWD Ditch No. 12, RLWD Project No. 169, \$20,000; RLWD Ditch No. 13,

RLWD Project No. 170A, \$2,000; RLWD Ditch No. 14, RLWD Project No. 171, \$7,000; and TRF FDR Project, RLWD Project No. 171A, \$1,000. Motion carried.

The Board reviewed Pay Estimate No. 7 in the amount of \$106,727.23 to Burski Excavating, Inc., for construction of RLWD Ditch 16, RLWD Project No. 177. Motion by Sorenson, seconded by Page, to approve Pay Estimate No. 7 to Burski Excavating, Inc., in the amount of \$106,727.23 for construction of RLWD Ditch 16, RLWD Project No. 177. Motion carried. Engineer Jerry Pribula, Pribula Engineering, Inc., discussed construction activity, and the need to change gravel suppliers. The Board reviewed a letter from Attorney Mark A. Grainger, representing landowner Mark Holy, stating that the District does not have authority to enter upon Mr. Holy's property for construction of Ditch 16, as the District has not acquired interest in the land. Legal Counsel Sparby reviewed the Property Owners Report sent to Mr. Holy prior to the final hearing, stating that the report was very close to what the assessment will be. Sparby referenced Minnesota State Statute 103E.515, that states, awarded damages to be paid, less any assessment against the property, before the property is entered for construction of the drainage project. Since Mr. Holy's damages were less than his assessment to the property, damages were taken from the assessment with the remainder to be put on the lien set up by the County. The property owner's report information is in the hands of the Polk County Auditor. Sparby will draft a letter to Mr. Grainger.

The Board reviewed Pay Estimate No. 9 in the amount of \$328,127.82 to R.J. Zavoral and Sons, Inc. for construction of the Thief River Falls Westside Flood Damage Reduction Project, RLWD Project No. 178. Motion by Ose, seconded by Page, to approve Pay Estimate No. 9 in the amount of \$328,127.82 to R.J. Zavoral and Sons, Inc., for construction of the Thief River Falls Westside Flood Damage Reduction Project, RLWD Project No. 178. Motion carried. Engineer Nate Dalager, HDR Engineering, Inc., reviewed Change Order No. 5 in the amount of \$30,000 for the moving of excavated material. Motion by Torgerson, seconded by Page, to approve Change Order No. 5, in the amount of \$30,000 to R.J. Zavoral & Sons, for construction of the Thief River Falls Westside Project, RLWD Project No. 178. Dalager stated that Change Order No. 6 is for the removal of a box culvert on 6th Street, to be replaced with a 24" RC Pipe, in the amount of \$39,328.00. Dalager indicated that when working around 6th Street, the wingwalls were caving in, making for unsafe conditions. Discussion was held on Pennington County using maintenance funds to pay for replacement of the box culvert, since it is in their jurisdiction. Motion by Sorenson, seconded by Ose, to approve Change Order No. 6 in the amount of \$39,328.00, for replacement of the box culvert on 6th Street, to R.J. Zavoral & Sons, for construction of the Thief River Falls Westside Project, RLWD Project No. 178 and request assistance for the costs from Pennington County. Dalager reviewed a draft letter he proposed to be submitted to R.J. Zavoral & Sons, Inc., regarding their request for an extension of time for substantial completion and final completion dates. When the request for an extension was submitted, the District took it under advisement. Dalager stated that the project partners met this week to discuss where to go from here with the project. Administrator Jesme stated that the project was supposed to be substantially completed by September 15, 2020, with final completion on October 15, 2020. Dalager indicated his recommendation was to give R.J. Zavoral & Sons, Inc. until October 1st to substantially complete the project. R.J. Zavoral & Sons, Inc., request was to shift the dates back two weeks. Dalager and Mark Borseth and Wayne

Johnson, representing the City of Thief River Falls, discussed their concerns that the project will not be finished by the deadline dates. Johnson discussed replacement of the force main that will run parallel to the storm sewer. Discussion was held on the decision of the Contractors to not complete the outlet end of the project, prior to moving upstream. R.J. Zavoral & Sons, Inc., have moved most of their construction crew out to the Highway 1 project. Johnson stated that at the weekly update meeting, R.J. Zavoral & Sons, Inc. indicated that they would have the force main completed within two weeks. The force main needs to be completed so that the contractor on the pond project can lower the old main north of County Road 62. Johnson stated that the contractor needs to submit a schedule as to how this will be completed. Concern was expressed about the completion of the ditch along Greenwood Street and the Pioneer Village. Currently the ditch slopes are vertical, and if a large rain event would occur, it could jeopardize the road and the Pioneer Village property. Jesme reminded the Board, that the request for a two-week extension may have to do with rain days. There was considerable discussion that rainfall events were not that abnormal and that sequencing of the project by R.J. Zavoral & Sons may have been a bigger problem than rainfall events. Dalager stated if the Board approves the extension, liquidated damages could be assessed on October 1, 2020. Dalager stated that the letter acknowledges the extension as accepted but puts them on notice for the October 1st deadline. The letter also indicates what absolutely must be completed, and that they are out of compliance on their storm water permit. Borseth questioned if the District would consider extending their substantial completion date, but not the final completion date. Motion was made by Manager Ose, to grant an extension to R.J. Zavoral & Sons, Inc. for construction of the Thief River Falls Westside Project, RLWD Project No. 178. Motion died for a lack of a second. Further discussion was held on assessment of liquidated damages. Dwight indicated that if they have pulled off our site to work on TH#1 overlay and culvert installation, why would we then grant them an extension on our project? Motion by Ose, seconded by Dwight, to deny the request of R.J. Zavoral & Sons, Inc., for a project completion extension, and that an assessment of applicable damages for anything not substantially completed by September 15, 2020 may be applied and is being taken under advisement by the Board. Motion carried. Dalager stated that he will ask for a meeting with the Contractor and all partners involved in the project.

Administrator Jesme stated that although the District did not officially receive an Appeal for the Improvement to Polk County Ditch #39, RLWD Ditch #17, RLWD District 179, there was an Appeal sent for filing with the Polk County Auditor for the Improvement to Polk County Ditch 39, RLWD Project No. 179. Upon the termination of the 30-day appeals period, Legal Counsel Sparby will review the document sent for filing with the Polk County Auditor

Engineer Tony Nordby, Houston Engineering, Inc., stated that advertisement for the construction of the Black River Impoundment, RLWD Project No. 176, is taking place. A pre-bid meeting will be held this afternoon. Currently there are 15 prime bidders that have downloaded the plans and specifications. Discussion with the utility companies is taking place. Deadline for quotes for the geotechnical testing is September 17, 2020. Discussion was held on the purchase of right-of way from the church, and removal of the trees. Administrator Jesme is working on easements for the diversion ditches and the template of the dike. Legal Counsel Sparby will prepare easements for landowners Scott and Dorinda Sorvig.

Engineer Tony Nordby, Houston Engineering, Inc., submitted a letter to Administrator Jesme regarding an extension of time for the funding from FEMA for repairs to the outlet of Ditch 10, RLWD Project No. 161. Nordby stated that due to it being late in the year and current construction prices, bidding the project would be a tight window, and recommended that we hold off on construction until next Spring. Jesme stated that he spoke with one of the landowners at the outlet and he would like to see construction next Spring. Staff member Christina Slowinski will submit an extension request for funding through FEMA. It was the consensus of the Board, to wait until the Spring of 2021 for construction, conditioned upon FEMA approval of the funding extension.

Engineer Jeff Langan, Houston Engineering, Inc., discussed the inspection he completed on the south pool of the Moose River Impoundment, RLWD Project No. 13, regarding concerns District staff had regarding structural changes. Langan stated that he did not see any further damages or concerns at this time, recommending repairs to the structure within the next 2-4 years. Langan gave a general summary of repairs to be made to restore the initial intent of the project. An inspection sheet will be completed for District staff to use while documenting the project and what to monitor on the structures.

Staff member Christina Slowinski contacted Robin Brekken, Hammond Township, regarding the replacement of culverts referred to as the Hanson Crossing, on the Burnham Creek Project, RLWD Project No. 43B. Mr. Brekken indicated that the township has filed a request with Polk County for bridge funds for the project. Hammond Township did question who will pay for the required cost share.

District staff have completed the survey and plans for property owned by Ron Salentine for modifications to the Brandt Impoundment, RLWD Project No. 60D. The plans include knocking down of a portion of the spillway, placement of a berm, and removal of trees. Engineer Nate Dalager, HDR Engineering, Inc., will review the plans for approval.

Staff member Nick Olson discussed Ditch 15, RLWD Project No. 175, as it relates to RLWD Permit No. 20-185, landowners Gary Pulkrabek and Dacian Bienek. Olson stated that the landowners wish to clean the ditch and increase the culvert sizes, which would require the culvert that goes into Ditch 15 through the spoil bank to be increased. Olson stated that the culvert that is in-place was sized for what the flow rates were at the time of the establishment of the drainage system. However, the petition will increase flows thus resulting in the existing culvert to be inadequate in size. The landowners are requesting the ditch system pay for the increase of culvert through the spoil bank. Motion by Ose, seconded by Torgerson, to approve allocating funds from Ditch 16, RLWD Project No. 175, for replacement of the culvert through spoil and to size in accordance to petition request. Motion by Ose, seconded by Dwight, to approve RLWD Permit No. 20-185, Gary Pulkrabek/Dacian Bienek, Euclid Township, Polk County, with conditions stated on the permit. Motion carried.

Motion by Sorenson, seconded by Dwight, to table RLWD Permit No. 20-159 and No. 20-160, Gary Pulkrabek and Dacian Bienek, Euclid Township Polk County. Motion carried.

Motion by Torgerson, seconded by Page, to grant a one-year extension for RLWD Permit No. 19-181, Wayne Vettleson, Equality Township, Red Lake County. Motion carried.

Motion by Page, seconded by Sorenson, to grant a one-year extension for RLWD Permit No. 2019-129, Tim Chaput, Lake Pleasant Township, Red Lake County. Motion carried.

Motion by Sorenson, seconded by Dwight, to amend RLWD Permit No. 20-104, KAM Farmland Holdings, GP, Badger Township, Polk County, per conditions stated on the permit. Motion carried.

The Board reviewed the permits for approval. Motion by Torgerson, seconded by Ose, to approve the following permits with conditions stated on the permit: No. 20-195, Marshall County Highway Department, Agder Township, Marshall County; No. 20-198, Pennington County Highway Department, Reiner Township, Pennington County; No. 20-199, Jeremiah Johnson, Garnes Township, Red Lake County; No. 20-200, Jeremiah Johnson, Lambert Township, Red Lake County; No. 20-201, Charles Kiesow, Moylan Township, Marshall County; No. 20-202, Pete Cielinski, Sullivan Township, Polk County; No. 20-203, BNSF Railway Company, Fanny Township, Polk County; No. 20-204, BNSF Railway Company, Euclid Township, Polk County; No. 20-210, Marshall County Highway Department, Thief Lake Township, Marshall County; No. 20-211, Jim Reitmeier, Fanny Township, Polk County; No. 20-213, Scott Vonasek, Northland Township, Polk County; 20-215, Jim Knott, Black River Township, Pennington County; and, No. 20-217, Kyle Stromstad, Onstad Township, Polk County. Motion carried.

The Board reviewed changes to the District's COVID-19 Preparedness Plan. Motion by Torgerson, seconded by Page, to approve the District's COVID-19 Preparedness Plan as submitted. Motion carried.

Administrator Jesme discussed the Scott Baatz Petition, RLWD Project No. 123, that drains into the Burnham Creek Project, RLWD Project No. 43B. Jesme stated that a landowner wishes to have a 48" culvert that goes under the township road extended. Staff member Christina Slowinski informed the landowner that after construction of the project, jurisdiction of the culvert goes back to the township. Slowinski stated that the culvert was not replaced during construction, and no damages were awarded to the township. It was the consensus of the Board, that the township has jurisdiction over the culvert and if they want to extend the culvert, that is up to the township and landowner to address.

Administrators Update:

- Jesme will attend the September 15, 2020 RRWMB meeting via WebEx. The District's Water Quality Funding Agreements are on the agenda for approval.
- Jesme will participate in a Red Lake River 1W1P PWG meeting on September 17, 2020 and a Policy Committee meeting on October 21, 2020 at the District office.
- Bids for the BR-6 Wildlife Habitat Impoundment structure replacement will be opened at the District office on September 22nd and presented to the Board at the September 24th meeting.

- A Pine Lake Project Work Team meeting will be held on September 18, 2020 via WebEx or in-person.

Manager Sorenson discussed the beaver dams upstream of Pine Lake. Administrator Jesme stated that the Project Work Team will look at existing streams going into the lake and what is the present inflows.

Legal Counsel Sparby completed a cursory review of the appeal to the Improvement to Polk County Ditch 39, RLWD Project No. 179. Sparby indicated he will discuss with Attorney John Kolb but feels we should send some type of reply to some of the assertions contained in the Appeal.

Legal Counsel Sparby stated that he has not heard any decision from the courts on the JD 5/Four-Legged Lake Project, RLWD Project No. 102.

Manager Tiedemann asked about repairs to the berm near the Parnell Impoundment, RLWD Project No. 81. Administrator Jesme stated that he has informed staff member Nick Olson regarding the matter.

Manager Torgerson asked if the Little Pine Lake Project, RLWD Project No. 26A, had been operated this summer. Administrator Jesme stated that he was not aware that it had been operated. Jesme did indicate that with the retirement of Dave Rave from the Minnesota Department of Natural Resources (DNR), he will have discussion with the DNR to assure new staff are comfortable with the operating plan and to assure they still want to operate the structure or request that the District operate the impoundment under DNR supervision.

Motion by Dwight, seconded by Ose, to adjourn the meeting. Motion carried.



LeRoy Ose, Secretary