

RED LAKE WATERSHED DISTRICT
Board of Manager's Minutes
January 28, 2021

President Dale M. Nelson called the meeting to order at 9:00 a.m. at the Red Lake Watershed District Office, Thief River Falls, MN.

Present in person: Managers Dale M. Nelson, Allan Page, LeRoy Ose, Terry Sorenson, Gene Tiedemann, and Tom Anderson. Present via Zoom: Brian Dwight. Staff Present: Myron Jesme and Tammy Audette, and Legal Counsel, Delray Sparby.

The Board reviewed the agenda. A motion was made by Ose, seconded by Tiedemann, and passed by unanimous vote that the Board approve the agenda. Motion carried.

The Board reviewed the January 14, 2021 minutes. Motion by Tiedemann, seconded by Sorenson, to approve the January 14, 2021 Board meeting minutes as presented. Motion carried.

The Board reviewed the Financial Report dated January 27, 2021. Motion by Tiedemann, seconded by Dwight, to approve the Financial Report dated January 27, 2021. Motion carried.

The Board reviewed Pay Estimate No. 15 in the amount of \$407,978.83 to R.J. Zavoral & Sons, Inc. for construction of the Thief River Falls Westside Flood Damage Reduction Project, RLWD Project No. 178. Motion by Ose, seconded by Tiedemann, to approve Pay Estimate No. 15 in the amount of \$407,978.83 to R.J. Zavoral & 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., discussed Change Order No. 8, which includes unexpected rock blockages that the subcontractor encountered under State Hwy 32 at the intersection of Greenwood Street, while boring a culvert under Highway 32. Dalager discussed the construction sequence chosen by the contractor that was not consistent with sequencing discussed at the preconstruction meeting, which specifically, was the lack of completing the diversion portion of the project prior to the directional bore of the culvert under Highway 32. Dalager stated that because of the sequence chosen by the contractor and due to nuisance rainfall events, the boring area had to be dewatered various times due to the prime contractor's decision to allow water from a six square mile drainage area continue to flow towards the Highway 32 boring site, noting that contractor continued to work with no approval of overages from the District. Dalager stated that he is not able to tell the difference between encountering rock or water removal from the contractor's invoice, stating that the hours the subcontractor submitted should be the responsibility of the prime contractor to control. Dalager also noted that water management is incidental to the work. The contractor is requesting \$85,400, with Dalager recommending payment in the amount of \$30,035.34. Dalager informed the Board that there is a provision in the contract documents that if there is going to be a change order, they need prior approval before moving forward without permission or approval. If the contractor does not agree Dalager's recommendation, the contractor can make a claim. Discussion was held that the staging and sequencing of the project is all on the contractor, and that unknown subsurface conditions are a thing that should be taken into consideration when making a bid. Legal Counsel Sparby stated that he would like to see them break down their costs further. Staff from HDR Engineering documented work while they were completing the directional bore, and was keeping

the City of Thief River Falls, Pennington County and the District aware of the situation. Motion by Dwight, to authorize approval of Change Order No. 8 in the amount of \$30,035.34, to R.J. Zavoral & Sons, Inc., provided the Change Order has the support of the City of Thief Falls. The motion died for a lack of a second. Mark Borseth, City of Thief River Falls, stated that the city was frustrated with the contractor's procedure of starting the boring without having the diversion in place. Sparby asked if this change order was a pass through for the city to pay or are the costs split between entities? Borseth indicated that the city would accept any help the District would give towards the cost of the change order. Motion by Ose, seconded by Tiedemann, to authorize Dalager and Administrator Jesme to negotiate with the contractor in regard to Change Order No. 8, for construction of the Thief River Falls Westside Flood Damage Reduction Project, RLWD Project No. 179 and report back to the Board with their recommendations. Motion passed with Manager Dwight opposed.

Engineer Nate Dalager, HDR Engineering, Inc., stated that the Engineers Report for the Pine Lake Flood Damage Reduction and Fish Habitat Project, RLWD Project No. 26B, was submitted to BWSR and MnDNR for their review. Dalager indicated that a hearing date should be scheduled in the near future. Motion by Ose, seconded by Anderson, to schedule the hearing for the Pine Lake Flood Damage Reduction and Fish Habitat Project, RLWD Project No. 26B, for March 11, 2021 at 10:30 a.m. at the District office. Motion carried. Staff member Nick Olson stated that advertising notice has begun for aeration on Pine Lake, with the Gonvick Sportsman Club monitoring the oxygen levels.

Engineer Tony Nordby, Houston Engineering, Inc., reviewed Change Order No. 1 for construction of the Black River Impoundment, RLWD Project No. 176 in the amount of \$51,564.65. Motion by Page, seconded by Tiedemann, to approve Change Order No. 1 in the amount of \$51,564.65 for construction of the Black River Impoundment, RLWD Project No. 176. Motion carried. Nordby reviewed Pay Estimate No. 5 in the amount of \$45,351.10. Motion by Page, seconded by Ose, to approve Pay Estimate No. 5 for the construction of the Black River Impoundment, RLWD Project No. 176, in the amount of \$45,351.10 to R.J. Zavoral & Sons, Inc. Motion carried. Administrator Jesme and Legal Counsel Sparby are working on easements for the diversion ditches. Jesme indicated that additional verbiage is needed from Sparby prior to submittal to the landowners.

District Manager, Peter Nelson, Pennington SWCD, updated the Board on construction projects for all the LGU's within the Red Lake River 1W1P, RLWD Project No. 149. Nelson and Staff member, Arlene Novak, stated that BWSR recently completed a reconciliation of the first 50% allocation of the 2018 grant, which approves the release of the next 40% of the available funding.

Engineer Tony Nordby, Houston Engineering, Inc., stated that after review of the bids for the Ditch 10 Outlet Repairs, RLWD Project No. 161, Nordby submitted the contract documents to R.J. Zavoral & Sons, Inc. for review.

The Board reviewed a petition from landowners James and Lori Reinbold to allow drainage of approximately 40 acres in the NE ¼ of Section 9, Equality Township, Red Lake County, to be included into the Ditch No. 7, RLWD Project No. 20 benefitted area. Staff member Nick Olson stated that Reinbold submitted a tile permit, Permit No. 20156, in which a portion of that area currently drains into Judicial County Ditch No. 3. Legal Counsel Sparby noted that the District

would need to hold a hearing to allow Reinbold to drain into the Ditch 7, RLWD Project No. 20 benefitted area. Motion by Page, seconded by Tiedemann, to approve the Petition from James and Lori Reinbold to Petition into the Ditch 7, RLWD Project No. 20 benefitted area. Motion carried. Motion by Ose, seconded by Tiedemann, to hold a hearing on April 9, 2021 at 9:30 a.m. at the District office, for the inclusion of land owned by James and Lori Reinbold into the Ditch 7, RLWD Project No. 20 benefitted area. Motion carried.

Staff member Corey Hanson reviewed a proposal for continuation of financial support for the analysis of lake samples collected by the East Polk SWCD. Hanson stated that the East Polk SWCD will collect water quality samples on nine lakes for a monitoring period of three years (2021-2023). The East Polk SWCD contribution is approximately \$8,663.04, which includes staff time, administration, and transportation. The District's contribution would cover the cost of lab testing and shipping at an approximate cost of \$7,290 over the three-year term. Motion by Sorenson, seconded by Dwight, to approve the lake monitoring proposal with the East Polk SWCD at an approximate cost of \$7,290.00 for a three-year term. Motion carried.

MAWD dues for 2021 were presented to the Board. Motion by Tiedemann, seconded by Page, and passed unanimously to approve paying \$7,500 for the 2021 MAWD dues. Motion carried.

Legal Counsel Sparby indicated that Staff member Tammy Audette completed gathering the information to submit to the courts for the appeal on the Polk County Ditch 39 Improvement, RLWD Project No. 179. Sparby will complete a Certification of Record, that will need to be signed by Secretary Ose, prior to submittal to all the parties and the court.

Administrators Update:

- Jesme and Manager Ose participated in the January 19, 2021 RRWMB meeting.
- Jesme and Staff member Olson participated in a telephone conference with BWSR to discuss the PTMApp for the Clearwater River 1W1P. Hanson also participated in a meeting to review the draft Bylaws for the Policy Committee, that will be submitted to each LGU.
- Jesme and Staff member Novak participated in a Red Lake River 1W1P reconciliation of the 2018 Red Lake River 1W1P Grant.
- Included in the packet was the 2021 MAWD Legislative recommendations for the 2021 platform.
- Included in the packet was the December 2020 Water Quality Report

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



LeRoy Ose, Secretary