

**MEETING MINUTES  
RED RIVER JOINT WATER RESOURCE DISTRICT  
EXECUTIVE COMMITTEE MEETING  
ORIGINATING AT THE TRAILL COUNTY WATER RESOURCE DISTRICT  
HILLSBORO, NORTH DAKOTA  
MARCH 11, 2020 ~ 9:30AM**

The Executive Committee meeting was called to order by Chairman Thompson on March 11, 2020 at 9:30am in Hillsboro, ND. Those present were: Chairman Gary Thompson; Managers: Ben Varnson, Dan Jacobson, Larry Tanke, Josh Ihry, and Jim Haugen. Also present were: Sean Fredricks, Attorney for the Board; Nettie Johnson, Secretary; Carol Harbeke Lewis, Treasurer; Randy Gjestvang, SWC; Kurt Lysne, Moore Engineering, Inc.; Mike Opat, Houston Engineering, Inc.; Keith Weston, RRRRA; Mike Bassingthwaite, Interstate Engineering, Inc.; Attorney Jack Dwyer; Chuck Fritz and Asher Kingery, IWI; and Don Kemp, Pembina County WRD.

**ORDER OF AGENDA**

Dan Jacobson moved to approve the order of the agenda as amended. Jim Haugen seconded the motion. Upon roll call vote, the motion carried unanimously.

**MEETING MINUTES**

Josh Ihry moved to approve the January 8, 2020 Executive Committee meeting minutes as presented. Larry Tanke seconded the motion. Upon roll call vote, the motion carried unanimously.

**TREASURER'S REPORT**

Treasurer Carol Harbeke Lewis presented the RRJWRD financial report for the Committee to review. Dan Jacobson moved to approve the report and payment of check numbers 3758 – 3772 along with the electronic funds transfers. Larry Tanke seconded the motion. Upon roll call vote, the motion carried unanimously.

**2021 BUDGET**

Sean Fredricks described the proposed budget for 2021 which include funds necessary for the Joint Board's operations and cost-share to member districts and other projects. The Executive Committee must adopt a recommended budget for 2021 for consideration by the full Joint Board. After further discussion, Larry Tanke moved to submit a draft Resolution to the full Joint Board recommending 1.5 mill levies for 2021. Josh Ihry seconded the motion. Upon roll call vote, the motion carried unanimously.

**COST SHARE REQUESTS**

The Richland County WRD has requested additional funding for the North Branch Antelope Creek NRCS Small Watershed Study for the purpose of covering overrun costs. The cap on the RRJWRD share of the cost overrun would be \$21,125.00 (65% after \$17,500.00 SWC cost-share) if the SWC approves the entire requested amount. If the SWC does not cost share, the RRJWRD cap would be \$32,500.00. Ben Varnson moved to approve the request and recommend to the full Joint Board to pay up to \$32,500.00 contingent on what the SWC

approves. This would include costs already incurred from the cost overrun. Josh Ihry seconded the motion. Upon roll call vote, the motion carried unanimously.

The Pembina County WRD has requested cost-share from the RRJWRD for the Weiler Dam gate improvements. During their annual inspection, it was discovered that the gate system on the dam is nearing the end of its lifespan and will need replacement in the very near future to ensure safe operation of the dam. The existing catwalk system needed to properly access and maintain the gate system also needs to be replaced and improved for safety. Total cost for the repairs is \$198,207.00. It is anticipated that the SWC will consider cost share of 75% up to \$148,655.25 based on their cost share policy for dam safety projects. Dan Jacobson moved to recommend to the full Joint Board to approve 65% of the non-state share up to \$32,208.64 for the repairs of the gate system and catwalk on the Weiler Dam. Josh Ihry seconded the motion. Upon roll call vote, the motion carried unanimously.

## **LEGISLATION UPDATES**

### **North Dakota Assessment and Reassessment Procedures**

Sean Fredricks indicated there is a meeting in Bismarck the second week of April, organized by one of the drainage-viewer companies in Minnesota, with members of the State Water Commission and certain North Dakota legislators. The company also invited Jack Dwyer, Lance Gaebe, and Luke Siemieniewski, chair of the Sargent County WRD. The purpose of the meeting is unclear, but Sean, Jack, and Lance held a conference call with Chad Engels and Chris Gross to discuss the matter.

The Sargent County WRD owns and operates Sargent County Drain No. 11, a legal assessment drain with a massive watershed that benefits thousands of acres. The Sargent County WRD is in the process of developing a Drain 11 improvement project to improve drainage for properties that benefit from Drain 11, but a few landowners have attempted to block the project via litigation and other methods. The Sargent County WRD prevailed at the North Dakota Supreme Court on the lawsuit commenced by the landowners, but they persist in their efforts to block the project. Most recently, one of the landowners submitted a petition to force the Board to reassess Drain 11; by law, a WRD can be forced by petition to reassess a drain once every ten years.

The Sargent county WRD is considering options for reassessing Drain 11, and the landowners involved in the lawsuit are pushing the Board to utilize the Minnesota “drainage viewers” process to conduct the reassessment and benefit analysis, as opposed to utilizing the Board’s engineer, like WRDs have done in North Dakota for decades. The Board engaged the company from Minnesota who is now responsible for organizing the April meeting in Bismarck. The company’s current estimate for conducting the reassessment is approximately \$300,000, several times more than what the Board would spend ordinarily.

Sean, Jack, Lance, Chad, and Chris discussed the upcoming meeting. They are concerned the Minnesota viewers and other proponents of eliminating ND water resource districts in favor of Minnesota watershed districts may propose changes in North Dakota law to require the Minnesota “drainage viewers” process, and may request cost-share for this type of process, a cost-share move by the SWC that would be unprecedented. Jack, Lance, and Luke Siemieniewski will all be at the April meeting in Bismarck, and they all agreed Chad Engels would attend on behalf of WRDs for the benefit of the RRJWRD; Chad has worked with ND WRDs and Minnesota Watershed Districts, and he can explain the disadvantages of utilizing the Minnesota model.

### **Cost-Share and Economic Analysis**

The Committee next discussed issues RRJWRD members have encountered regarding North Dakota State Water Commission cost-share procedures, especially the economic analysis process. The SWC's cost-share policies define "economic analysis" as "an estimate of the economic benefits and direct costs that result from the development of a project." The EA process is required for "water conveyance and flood-related projects expected to cost two hundred thousand dollars or more."

The Committee discussed the disparity between cost-share for WRD-related projects and cost-share for other projects, such as water supply. The EA process for drainage projects in particular seems to be a moving target due to refinements of the newly developed EA model. Further, there is no clear legal indication of how the SWC should interpret or apply a final B/C determination and, as a result, the Commission is still determining policy of how to use a B/C score.

The Committee would like the SWC to provide a clear indication of how they are conducting the EA review process and what goes into the EA model, to ensure the SWC is applying and construing the EA process so all entities can approach the EA process in the same manner. The Committee directed Sean Fredricks to prepare a letter to the SWC for the Committee's consideration. Sean will work with Randy and the RRJWRD's consultants to prepare a letter.

### **Right of Way Acquisition Issues**

Discussion was held on a Pembina County WRD right of way acquisition issue. The Board apparently alluded to eminent domain and alternative procedures earlier this year and some legislators are evidently disturbed by this. Sean Fredricks noted that we should be prepared for some legislators to come against some WRD's in the next session regarding our quick-take and eminent domain authority.

### **INTERNATIONAL WATER INSTITUTE**

Chuck Fritz and Asher Kingery approached the Committee this morning with a request for the RRJWRD to continue to support funding for the River Watch and River of Dreams programs. The programs would engage 600 4<sup>th</sup> and 5<sup>th</sup> graders in sub-watershed, basin, and continental activities. After further discussion, Josh Ihry moved to approve up to \$59,600.00 per year for 2 years (July 2020-July 2022) for both the River Watch and River of Dreams Programs for a total of \$119,200.00. Ben Varnson seconded the motion. Upon roll call vote, the motion carried unanimously.

### **RED RIVER RETENTION AUTHORITY**

Keith Weston stated that there are 7 dams that are going to be rehabilitated and the plans for them are being put together now. They will hopefully be completed in 2 years.

Keith told the Committee that he and several others were on the Joel Heitkamp radio show to talk about RRRRA and RRJWRD topics.

Keith reiterated the importance of having an NRCS representative at meetings with county commissioners when WRD's are there seeking mill levies to aid in creating new legal drains and other watershed projects.

The next RRRRA meeting is scheduled for March 26<sup>th</sup> at 1:00pm in West Fargo.

**RANDY GJESTVANG REPORTS AND UPDATES**

Randy Gjestvang provided a report on meetings and inspections that he has been involved with from January 8, 2020 through March 10, 2020.

Randy provided updates for the Lower Red River Detention Analysis. Tasks 3 and 4 are expected to be added to the contract between the RRBC and the Corps. A draft scope of the work has been prepared and a contract will need to be signed before consultants continue on with work items. The Study must be completed by June 30, 2021 in order to obtain cost share from the SWC. Current SWC policy requires requests for cost overrun be approved before they occur to be eligible for cost share. After further discussion, Josh Ihry moved to direct Randy to draft a *Letter of Support* requesting additional funding for cost overruns in the amount of \$32,905.00. Ben Varnson seconded the motion. Upon roll call vote, the motion carried unanimously.

Randy suggests updating the RRJWRD Water Management Strategy Report in 2020 with a list of detention projects submitted for the SWC 2021 Development Plan.

A SWC Subcommittee meeting is being held tomorrow at 1:00pm for the purpose of discussing economic analysis results; dam safety cost share; cost share application, and 4-year progress reports.

Discussion was held on the stream gage in Grafton. The diversion is now operable and the USGS recommends putting a seasonal gage on the diversion to measure high flows and to keep the existing gage in Grafton for non-flood flows.

**ADJOURNMENT**

Having no further business to be considered by the Committee, the meeting adjourned at 12:00p.m.without objection.

APPROVED:

ATTEST:

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Gary Thompson, Chairman

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Nettie Johnson, Secretary