

# **MINUTES OF THE REGULAR MEETING OF THE BOARD OF MANAGERS OF THE BUFFALO CREEK WATERSHED DISTRICT**

The Managers of Buffalo Creek Watershed District met on the 27<sup>th</sup> day of April, 2021, at 7:00 p.m., for its regular monthly business meeting. The meeting, upon special notice, was conducted in person and by alternative means (via Webex) pursuant to Statutes Section 13D.021 because of a State declared emergency related to the COVID-19 pandemic, and a determination by the Board President that it was neither feasible, prudent, nor safe to conduct an in-person meeting for all participants.

The following managers were present:  
(in-person at the meeting place)

- Don Belter
- Larry Phillips
- Larry Kramer
- Chad Stuewe
- Matt Melberg

Also attending the meeting were:

- John Kolb, Attorney
- Jeff Broderius, Via Webex
- Dayna Schmalz, Via Webex
- Doug Krueger, McLeod County
- Seth Sparks, Renville County
- Wayne Schmalz
- Brian Schrupp
- Patrick Krumrey
- Kevin Lindemann
- Al Robeck
- Kevin Dettman, Via Webex
- Kevin Schmalz
- Dean Zimmerli
- Lynn Schrupp

President Belter called the meeting to order and announced the first order of business was to suspend the regular meeting and convene the preliminary hearing for the petitioned improvement of Branch Q, JD 15.

Motion by Manager Phillips seconded by Manager Kramer to suspend the regular meeting and convene the preliminary hearing for the improvement of Branch Q of Judicial Ditch 15. After discussion, and by unanimous, roll call vote, the Board of Managers suspended the regular meeting and convened the hearing. Votes as follows by roll call: President Belter – Y, Manager Kramer – Y, Manager Melberg – Y, Manager Phillips – Y, and Manager Stuewe – Y.

**Preliminary Hearing for Branch Q, JD 15 Petitioned Improvement.** Proceedings at the Preliminary Hearing are reflected in the Preliminary Hearing Findings and Order, Reimbursement Resolution and Deficiency Resolution all moved for adoption by Manager Melberg, seconded by Manager Kramer and adopted by the following, roll call vote: President Belter – Y, Manager Kramer – Y, Manager Melberg – Y, Manager Phillips – Y, and Manager Stuewe – Y.

Upon completion of the preliminary hearing, President Belter reconvened the regular meeting and called for the consideration of the minutes of the regular meeting of the Board of Managers held on March 23, 2021. Motion by Manager Kramer seconded by Manager Stuewe to approve the minutes with corrections as follows, on page 3 regarding permit 2021- 01 correcting Section 17 in Osceola Township, Renville County to Section 14 in Glencoe Township, McLeod County. After discussion, the Board of Managers approved the minutes for the meeting held on March 23, 2021. Votes as follows by roll call: President Belter – Y, Manager Kramer – Y, Manager Melberg – Y, Manager Phillips – Y, and Manager Stuewe – Y.

President Belter called upon Manager Phillips for the Treasurer’s report. Manager Phillips presented a written report which outlined income and expenses as follows:

<b>Security Bank &amp; Trust Co.</b>	
<b>Money Market Checking Account -</b>	
<b>Beginning Balance:</b>	<b>\$192,114.06</b>
<b>Income:</b>	
Interest earned thru March 2021	\$30.31
Deposit from Kevin Lindeman for WD 79-2	\$4,576.00
Deposit from Seneca Foods for permit fee	\$1,700.00
<b>Expenses:</b>	
To checking to cover other checks issued	\$32,747.53
Marsh Water Project – Rinke Noonan	\$1,295.00
JD 15 Br. Q – Rinke Noonan	\$1,095.50
JD 15 Br. Q – Gislason & Hunter, LLP	\$230.50
JD 15 Br. Q – Bolton & Menk	\$2,497.00
<b>Ending Balance:</b>	<b>\$160,554.84</b>
Balance in Security Bank Now Account	\$1,005.32
Balance in Security Bank Savings Account - Projects	\$115,386.75
<b>Total for all bank accounts:</b>	<b>\$276,946.91</b>

Motion by Manager Kramer seconded by Manager Melberg to approve the Treasurer’s Report subject to audit. After discussion, and by unanimous, roll call vote, the Board of Managers approved the Treasurer’s Report subject to audit. Votes as follows by roll call:

President Belter – Y, Manager Kramer – Y, Manager Melberg – Y, Manager Phillips – Y, and Manager Stuewe – Y.

President Belter next called for the bills that had been presented to the Board since the last meeting. Manager Phillips reported as follows:

ISG Group, Inc. – JD 15 Br. P1	\$3,545.00
Gislason & Hunter, LLP – JD 15 Br. Q	\$97.50
Bolton & Menk – JD 15 Br. Q	\$2,688.50
League of Minnesota Cities – Property/Casualty Premium	\$2,379.00
Rinke Noonan – Various	\$8,313.02
Houston Engineering – Various	\$3,731.25
2021 MAWD Membership Dues	\$5,744.00
Mary Henke	\$606.25
Linda Phillips	\$325.00
Don Belter	\$77.10
Larry Kramer	\$111.82
Matt Melberg	\$110.70
Larry Phillips	\$217.87
Chad Stuewe	\$72.62
<b>Total:</b>	<b>\$28,019.63</b>

Motion by Manager Kramer seconded by Manager Melberg to approve the bills for payment. After discussion, and by unanimous, roll call vote, the Board of Managers approved the above bills for payment. President Belter – Y, Manager Kramer – Y, Manager Melberg – Y, Manager Phillips – Y, and Manager Stuewe – Y.

President Belter called any new permits:

**Permit 2021-04, Litzau Farm Drainage & Mackenthun:** Section 15, Sumter Township, McLeod County.

Motion by Manager Phillips seconded by Manager Melberg to consider, carried. After discussion, and by unanimous, roll call vote, the Board of Managers approved the consideration of the permit. Votes as follows by roll call: President Belter – Y, Manager Kramer – Y, Manager Melberg – Y, Manager Phillips – Y, and Manager Stuewe – Y.

Litzau Farm Drainage, on behalf of property owner Jillaine Mackenthun, would like to abandon and destroy 2,000 feet of old clay and cement 12-inch tile and replace it with new 12-inch plastic perforated tile at .10 grade. Over 50 acres on Mackenthun’s property would be re-drained and a private ditch on the property would be cleaned out. The project takes place solely on Mackenthun’s property and meets the Board’s 3/8” coefficient requirement.

Larry Phillips recommends approval.

Motion by Manager Melberg seconded by Manager Kramer to approve the permit. After discussion, the Board of Managers approved the permit. Votes as follows by roll call: President Belter – Y, Manager Kramer – Y, Manager Melberg – Y, Manager Phillips – Y, and Manager Stuewe – Y.

**Permit 2021-05, Dean Zimmerman:** Section 35, Township 110 North, Range 30 West, Lynn Township, McLeod County.

Motion by Manager Phillips seconded by Manager Kramer to consider, carried. After discussion, and by unanimous, roll call vote, the Board of Managers approved the consideration of the permit. Votes as follows by roll call: President Belter – Y, Manager Kramer – Y, Manager Melberg – Y, Manager Phillips – Y, and Manager Stuewe – Y.

Dean Zimmerman is working on a joint USDA/NRCS project to install three water and sediment control basins (WASCOB) and one main line tile. The WASCOBs will consist of earthen embankments constructed across a slope to form a sediment trap and provide water retention with 3.5-inch, 4.5-inch, and 5.5-inch diameter intakes used to control the rate of discharge. The outlet tile to be installed is 15-inch diameter Dual Wall Perforated pipe. Riprap will also be installed at the outlet to prevent erosion and the project does not drain areas that do not already drain into the District.

Larry Phillips and Houston Engineering recommend approval with the following conditions:

1. Final plans are submitted which show riprap to be installed at the outlet; and
2. Documentation of easements is submitted.

Motion by Manager Phillips seconded by Manager Melberg to approve the permit with conditions. After discussion, the Board of Managers approved the permit with conditions. Votes as follows by roll call: President Belter – Y, Manager Kramer – Y, Manager Melberg – Y, Manager Phillips – Y, and Manager Stuewe – Y.

**Permit 2021-06; McLeod County Drainage Authority:** Sections 27, 28, 32, 33, 34, 35, Township 115 North, Range 30 West, Collins Township, McLeod County.

Motion by Manager Melberg seconded by Manager Kramer to consider, carried. After discussion, and by unanimous, roll call vote, the Board of Managers approved the consideration of the permit. Votes as follows by roll call: President Belter – Y, Manager Kramer – Y, Manager Melberg – Y, Manager Phillips – Y, and Manager Stuewe – Y.

The McLeod County Drainage Authority would like to clean out County Ditch 64, install side inlets and remove two culverts per landowner request, and repair and reset three existing culverts, that are separating. There would be no new pipe added to any of the affected areas.

Larry Phillips has reviewed the plan and erosion controls and recommends approval.

Motion by Manager Phillips seconded by Manager Kramer to approve the permit. After discussion, the Board of Managers approved the permit. Votes as follows by roll call: President Belter – Y, Manager Kramer – Y, Manager Melberg – Y, Manager Phillips – Y, and Manager Stuewe – Y.

President Belter next called for discussion of old business:

**Glencoe East and Central Project.** No update on coordinating with the City. Landowners Brian and Lynn Schrupp appeared to discuss a high water and erosion issue on a private easement/access road near the high school. The Schrupps discussed conditions affecting an access easement to their property and the bank of the road is washing out. Manager Phillips reported a prior estimate from S&S to clean about 1,800 feet of ditch. The estimate was \$57,000.00. The work would cross several property owners. Current status of the East and Central project will not allow the District to perform or assess the work. Work of this type could be included in the project.

**One Watershed One Plan.** Motion by Manager Phillips seconded by Manager Kramer to authorize and direct the necessary Board offices to execute a planning agreement consistent with the BWSR planning agreement template. Attorney Kolb is directed to use the BWSR template to draft the agreement for execution and circulation to other planning partners. Kolb is to notify Coleton Draeger and Ryan Freitag of the authorization. After discussion, the Board of Managers adopted the motion. Votes as follows by roll call: President Belter – Y, Manager Kramer – Y, Manager Melberg – Y, Manager Phillips – Y, and Manager Stuewe – Y.

**Improvement Proceedings; JD 15, Set Hearing Dates.** Attorney Kolb presented the Board with optional dates for the various final hearings based on the availability of viewers, engineers, and petitioners' attorneys. The Board considered the status of proceedings in the petitioned improvement projects. Upon review of the status and preparedness of the engineer and viewers to produce and deliver final documents in the proceedings, Manager Phillips moved, seconded by Manager Melberg, for adoption of the following and directed Kolb to prepare individual orders in each proceeding consistent with the same:

1. The final hearing in the matter of the petition of Matzdorf, et al., for the improvement of Branch S of Renville County Judicial Ditch 15, shall be held on Tuesday, June 15, 2021, at 6:00 p.m., in the meeting room at the Renville County Government Center in Olivia, Minnesota;
2. The final hearing in the matter of the petition of Melberg, et al., for the improvement of portions of Branch P of Judicial Ditch 15, shall be held on Wednesday, June 16, 2021, at 6:00 p.m., in the meeting room at the Renville County Government Center in Olivia, Minnesota;
3. The final hearing in the matter of the petition of Broderius Investments, LLC, et al., for the improvement of Branch A of Judicial Ditch 15, shall be held on Tuesday, June 22, 2021, at 4:00 p.m., in the meeting room at the Renville County Government Center in Olivia, Minnesota; and

4. The final hearing in the matter of the petition of Melberg, et al., for the improvement of Branch M20 of Judicial Ditch 15, shall be held on Monday, June 14, 2021, at 6:00 p.m., in the meeting room at the Renville County Government Center in Olivia, Minnesota.
5. In advance of each final hearing, the following shall occur:
  - a) Final viewers' reports and amendments shall be filed with the Board pursuant to statutes section 103E.321.
  - b) Owners' reports shall be sent to the owners of property affected by the project as required by statutes section 103E.323.
  - c) The engineer shall provide any update to its engineer's report and complete final coordination with the DNR and other entities as required by statutes sections 103E.015, 103E.291 and 103E.301.
  - d) The viewers shall coordinate and notice shall be provided of an informal meeting with landowners to review the viewers' determination of improvement benefits and damages. Such informal meetings shall occur no sooner than one week after the property owners' reports are mailed.
  - e) Notice of the final hearing shall be provided to all owners of property and governmental entities affected by the improvement as required by statutes section 103E.325. Additional notice shall be given to all owners of property benefitted by JD 15 and affected by the separable maintenance portion of the improvement.

Kolb was directed to give notice of the final hearing orders to the DNR, viewers, engineer, attorneys for petitioners, where appropriate, and Seth Sparks at Renville County. The Board will consider an alternative meeting time and location given its June meeting given that the Branch A hearing is scheduled for the same day.

After discussion, the Board of Managers adopted the motion and directed preparation and execution of the orders. Votes as follows by roll call: President Belter – Y, Manager Kramer – Y, Manager Melberg – Y, Manager Phillips – Y, and Manager Stuewe – Y.

**Gorsuch Bridge Removal, Review and Approval of Cost Share Agreement:** Attorney Kolb reviewed the draft cost share agreement for removal of the Gorsuch Bridge. Motion by Manager Stuewe seconded by Manager Phillips to approve the agreement and authorize its execution. After discussion, and by unanimous, roll call vote, the Board of Managers approved the agreement and authorized its officers to execute it. Votes as follows by roll call: President Belter – Y, Manager Kramer – Y, Manager Melberg – Y, Manager Phillips – Y, and Manager Stuewe – Y.

President Belter next called new business:

**Manager Re-Appointment – Don Belter.** Manager Belter was reappointed for another term commencing May 18, 2021. The oath and bond will be administered and executed at the May meeting.

**Retirement Acknowledgement.** The Board recognized the long and committed service of Manager Phillips and congratulated him on his retirement from the Board. President Belter presented Manager Phillips with a plaque in recognition of his service.

President Belter next called for Manager reports:

Manager Phillips reported on S&S spoil leveling work on the north lateral of Marsh; during the inspection, sloughing was identified near the school property. S&S made a recommendation to resolve the issue by resloping and installing a wicking tile parallel to the ditch. The Board directed Manager Phillips to request a proposal with cost from S&S for consideration by the Board.

The Board asked Manager Phillips to consider a consulting agreement after his retirement under which he could continue to review and make recommendations regarding permits, perform and report on inspections, and coordinate contractors and contracts for the District. Manager Phillips indicated he would consider it.

The Board discussed the new manager appointment to fill the vacancy created by Manager Phillips' retirement from the Board. McLeod County has indicated its intent to appoint Kevin Lindeman to the vacancy. The Board authorized Manager Phillips to contact the prior technology vendor and to acquire a laptop and related accessories for the new manager.

There being no further business to come before the Board, upon motion duly made, seconded and unanimously carried, the Board of Managers adjourned the meeting until the next regular meeting of the Board of Managers on Tuesday, May 25, 2021, at 7:00 p.m. in person in the Board's meeting room in the Glencoe City Center with an option for attendance and participation by alternative means as provided by Statutes Section 13D.021.

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Matt Melberg, Secretary