North Fork Crow River Watershed District
Proposed Regular Meeting Minutes
July 18th, 2016

Managers Present: Berndt, Brauchler, Wuertz, Barchenger, Hanson
Managers Absent: None
Staff Present: Tara Ostendorf, Christine Knutson, Christopher Lundeen, William Lee
Others Present: Kurt Deter (Rinke-Noonan), Roger Lyon (JD1), Larry Ladwig (JD1), Steve Notch (Stearns Commissioner), John Mueller (JD2), Troy Walz (CD32), Roger Walz (CD32), Kevin Bruntlett (CD43), Roger Olson (Landowner), Boyd Fischer (CD32), Boyce Fischer, (CD32), Ken Zimmerman, Marvin Borgerding, Jim Weller (CD32), Art Marthaler (CD32), Roger Indieke (Kandiyohi Commissioner), Brad Marthaler (CD32), Ralph Klassen (RLA), Merlin Krupke (JD2), Dave Johnson (JD1), Harold Marthaler, Others

Call to Order:
Chairperson Wuertz called the meeting to order at 6:30 pm.

Review and Approve Agenda
Chairperson Wuertz asked for additions or correction to the agenda. Manager Berndt requested discussion of buffer staking under other ditch business. Motion to approve the agenda as amended made by Manager Barchenger, seconded by Manager Brauchler. Motion carried with all in favor.

Consent Agenda Items
Chairperson Wuertz called for a motion to approve the consent agenda. Motion to approve consent agenda items made by Manager Brauchler, seconded by Manager Barchenger. Motion carried with all in favor.

1. Treasurer’s Report and Bills to July 18th, 2016
   a. Check Register - 106 Bonanza Checking Acct
   b. P & L Detail – All Accounts
   c. Balance Sheet – All Accounts
2. Additional Items
   a. June 13, 2016 Regular Meeting Minutes
   b. June 27, 2016 CD43 Acceptance Hearing Minutes
   c. June 29, 2016 JD2 Special Meeting Minutes

Open Discussion from the Public
Chairman Wuertz asked for comment from the public. Ralph Klassen, acting as representative for Rice Lake Association, presented a petition to request a study for the water level control on Rice Lake. Board and counsel discussed procedures for acceptance. Manager Berndt asked for clarification on the purpose for the petition. Klassen stated the purpose of the petition was to stabilize lake levels. After additional discussion, Wuertz called for a motion. Motion to accept the petition and forward to DNR for review made by Manager Brauchler, seconded by Manager Barchenger. Motion carried with all in favor.

Larry Ladwig, landowner on JD1, requested to be added to the NFCRWD citizen advisory committee. Manager Hanson explained the purpose of the committee. Ladwig stated that he would like to volunteer to be on the committee.

Regular Agenda

Public Hearings
None

Presentations
Drone Presentation – Joe Lewis, HEI
Joe Lewis gave a presentation on using drone technology for drainage inspections.
Staff Reports

Administrator’s Report:

2017 Budget Discussion and set August Hearing Date
Ostendorf presented 2017 preliminary budget for review and asked for hearing date to be set. Motion to set hearing for August 8th at 8:00 pm made by Manager Brauchler, seconded by Manager Hanson. Motion carried with all in favor.

Approval of 2015 Annual Report
Ostendorf presented 2015 annual report and asked for motion to approve report. Motion to approve the 2015 annual report as presented made by Manager Barchenger, seconded by Manager Brauchler. Motion carried with all in favor.

Buffer Legislation Updates – LGU Meetings
Ostendorf presented the recently released DNR buffer map to the Board. Ostendorf informed the Board and public that the state will be holding a number of buffer meetings around the state in the coming month.

Request for funding – Pope/Stevens Conservation Day
Ostendorf presented request for funding. Motion to approve funding request in the amount of $200 made by Manager Brauchler, seconded by Manager Hanson. Motion carried with all in favor.

1W1P: Prioritization of Potential Concerns Survey
Ostendorf presented survey for public input regarding the “One Watershed, One Plan” priority concerns to be included in the plan.

Additional Business
None

Technician’s Report:

Activity Report:

Prairie Storm Wetland Project- Review and acceptance of bids for construction; approval of change order; update on MOU development.
Lundeen updated the Board on the bid opening for the Prairie Storm Wetland Project and presented the bid tabulation. The District received one bid. Manager Berndt questioned accepting the bid if only one bid was submitted. Deter stated that there was not an issue with accepting the bid, as it was received through the formal bid process. Additional discussion from public regarding rock availability for project. Roger Lyon stated that he would no longer be willing to sign an MOU for future maintenance, but would be accepting of the project if the MOU was between the District and the USFWS. Ostendorf stated that she would coordinate an additional meeting to discuss language changes to the MOU. Motion to table the acceptance of the bid pending action on the MOU made by Manager Berndt, seconded by Manager Hanson. Motion carried with all in favor.

Monitoring Report – E.coli results
Lundeen presented the monitoring results and E.coli trends throughout the District. Lundeen stated that JD1, CD32 CD7, CD5 and CD4 are all showing trends of exceeding state standards for E.coli levels, and will likely be added to impairment listings. Lundeen stated that readings for 2016 are some of the highest on record for the District. Board allowed discussion from the public. Public questioned if high levels could be coming from DNR property inhabited by deer and wildlife as a cause. Staff stated that was not likely the cause as some of the samples are taken from reaches which do not flow through state or federal lands, and are mostly surrounded by agricultural property. Additional discussion from public.

Funds Manager / Administrative Assistant Report:
As reported in Financial Statements.
Program Reports

Permit Report:
None

Drainage Report:

**CD 32 Repair: Status Update and Approve Payment Request**
Ostendorf updated the Board on construction progress. Mid-MN Excavating has cleaned BR1 and moved to BR2. Ostendorf presented partial payment request for work completed to date in the amount of $64,887.12. Motion to approve partial payment as presented made by Manager Brauchler, seconded by Manager Hanson. Motion carried with Manager Berndt opposed.

**CD 32 Repair: Additional Excavation on BR1 - Heieie: Update on status of Heieie decision; Direct engineer to prepare change order.**
Ostendorf stated that she had contacted Mr. Heieie regarding his willingness to continue pursuing a change order to add the additional extents of excavation through his pasture, providing that he agree to sign a hold harmless agreement due to the possibility of perceived wetland impacts that may affect his future farm benefits. Ostendorf stated that Mr. Heieie confirmed that he wanted to continue. Motion to direct engineer to draft a change order for additional extents of excavation made by Manager Barchenger, seconded by Manager Brauchler. Motion carried with all in favor. Manager Berndt abstained due to a conflict of interest as a benefitting landowner on the system.

**CD 32 Repair: Additional Tile Extension: Discussion of Engineer’s memo for recommendation on tile extension and opinion of cost.**
Ostendorf summarized engineer’s memorandum and opinion of cost for tile extension on Branch 2 in Section 36 of Raymond Township. Board discussed the possibility that based on historical records the tile may actually be 15 inch instead of the 18 inch tile observed during survey of the exposed pipe. Deter stated that for purposes of a repair, the tile cannot be any bigger than existing. Motion to do additional tile exploration to determine accurate pipe size made by Manager Hanson, seconded by Manager Brauchler. Motion carried with all in favor. Manager Berndt abstained due to a conflict of interest as a benefitting landowner on the system.

Board allowed comment from public regarding additional concerns of work completed to date. Ostendorf recommended that the Board hold an informational meeting on site to discuss current scope of work and excavation completed to date. Board directed staff to hold meeting on Thursday July 21st at 9 am with the District engineer to answer landowner questions. Board appointed Managers Barchenger and Berndt to attend to listen to the discussion informally.

**CD 32 / JD1 BR12 Repair: Temporary Financing: Discussion of temporary financing option for CD 32 / JD1 BR12 through Stearns County; approval of Resolution for Request of Interim Financing**
Ostendorf presented proposed interim financing agreement and resolution requesting interim financing from Stearns County. Motion to approve interim financing agreement and resolution for request of interim financing from Stearns County in the amount of $600,000 made by Manager Hanson, seconded by Manager Brauchler. Motion carried with all in favor. Managers Berndt and Barchenger abstained as benefitting landowners on the systems.

Additional discussion between Board, public and counsel regarding voting procedures and conflict of interest of Managers.

**JD2: Update on Project Status:**
Ostendorf updated the Board on the special meeting held earlier [and documented in the approved minutes]. Board allowed comment from John Mueller and Merlin Krupke regarding current flooding and tile elevation issues. Joe Lewis, engineer with Houston Engineering Inc, presented a technical memo regarding the culvert analysis prepared for the special meeting. Currently the culvert in question on the Gruber property would be considered oversized by today’s design standards and would not be recommended to be upsized from 42” to 48” as requested by Mr. Mueller. Field verification showed the Mueller tile to be approximately 8-12” under water, likely caused by the ditch profile in that section being incorrectly sloped in that area. Lewis stated that an adjusted culvert elevation would provide
minimal benefit to that location. Board discussed alternatives for design. Motion to direct the engineer to verify culvert elevations and original tile elevation designs provided by Mr. Mueller and report back to the Board at the August meeting made by Manager Berndt, seconded by Manager Barchenger. Motion carried with all in favor. Manager Brauchler abstained due to conflict of interest as an affected landowner.

**JD 1 BR 12 Repair: Status Update: Update on construction progress.**

Manager Berndt stated his unhappiness with the contractor’s [Mr. Dirt] work to date. Joe Lewis, project engineer, gave a summary of the work completed to date. Lewis stated that the contractor began work on the downstream end of the repair extents over the holiday weekend and has likely covered approximately 10% of the project length. When notified by the District that the work had been started, the engineer inspected the work completed. Lewis stated that at that time, the work was not to specification. A summary was drafted and issued of work needing to meet specifications. Lewis stated that he completed an inspection of the work the day of the meeting and specifications were still not being met. Lewis stated that he spoke with the contractor again to notify him. Engineer does not recommend payment to the contractor for work completed to date. Lewis stated that he has asked the contractor for a written plan for correcting the work and moving forward. Lewis recommended that the Board direct the contractor to remedy the work to date before moving on to new sections.

Managers asked Deter to summarize contract language for termination. Deter read aloud the contractual statements for cause for termination. Board allowed additional comment from Manager Berndt and public regarding quality of work to date. General consensus from public that the work is not adequate and a lack of faith that the contractor has the experience and ability to perform the work to specification.

Motion to authorize pursuit of contract termination [with Mr. Dirt] subject to attorney review of contractual language made by Manager Brauchler, seconded by Manager Hanson. Motion carried with all in favor. Managers Berndt and Barchenger abstained as benefitting landowners on the systems.

**JD 1 Main and Branches: Presentation of Scope of Services - HEI:**

Joe Lewis, project engineer, summarized the Board’s previous direction. Record reviews and planning are underway with Houston Engineering Inc. (HEI). HEI staff will be reviewing public waters and potential permitting issues and will eventually produce a recommended approach for repair and an opinion of cost. Plan will be presented in October – November. Ostendorf stated that a grant application is also planned to receive funding for water quality components of the recommended repair plan. Chairperson Wuertz called for Board comment.

Board allowed comment from David Johnson, JD1 landowner. Johnson presented his research on historic water levels of Grove Lake based on DNR information. Lewis recommends that the Board check up on the DNR’s elevation datum adjustments. Board directed Ostendorf to put together project summary for Grove Lake dam.

**CD7 Repair: Status Update: Discussion of current plan and profile; set-up informational meeting for landowners.**

Ostendorf recommended an informational meeting be set for benefitting landowners. Motion to authorize Ostendorf to set a meeting within 30 days made by Manager Barchenger, seconded by Manager Hanson. Motion carried with all in favor.

**CD7 Repair: Redetermination of Benefits Proceedings:**

Ostendorf updated the Board that the viewers have received the historical information on the ditch and have begun work.

**CD 43 Repair: Status Update:**

Ostendorf summarized the meeting minutes from the public hearing. Board allowed comment from Kevin Bruntlett, landowner on CD 43. Mr. Bruntlett asked for accountability of the engineer on the work done to date. Additional discussion regarding process for repair determinations and additional permitting requirements.

**CD 5 – Status Update:**

Joe Lewis, project engineer, stated that survey will be completed within the next month.

Joe Lewis, project engineer, summarized the scope of services provided. Tasks include survey, as-built and drawings, preparation of bid documents, construction staking and observation, and as-built survey and drawings. Ostendorf stated that the project will require a conditional use permit from the County for work in the floodplain, work which was not included in the provided scope. Manager Berndt cited statute and argued that the District should not need County permits for this work. Ostendorf stated that the District had attempted that argument for exemption with the same requirements on the CD 32 repair with no success.

Board allowed public comment. Alan Loch, CD 21 landowner, stated that the culvert under County Road 32 was done incorrectly back in the mid-2000’s, which is causing many of the issues. Board allowed additional comments and complaints regarding past work on the system.

Additional discussion regarding proposed scope of services. Motion to approve Task 1 and 2 [existing channel survey and drawings (Sta 0+00 to 63+44) and as-built survey and drawings (Sta 63+44 to 166+06 and Branch 1 0+00 to 31+90)] in the amount of $7,200 made by Manager Berndt, seconded by Manager Hanson. Motion carried with all in favor.

**Other Ditch Business: Buffer staking program discussion.**

Manger Berndt stated that staff had incorrectly followed Board direction regarding staking of buffer right-of-way of those systems with acquired buffers under M.S. 103E including incorrect staking of buffer limits and incorrect placement of stakes throughout the ditch. Ostendorf restated Board direction to staff and recommended that the Board clarify their direction to staff if the intent was different. Additional discussion between Ostendorf and Manager Berndt on statute regarding extent of buffers.

**Board Member Meeting Reports:**

None

**Closed Session:** Closed session pursuant to MN Stat 13D.05, Subd 3(c)(3) to discuss easement acquisition of property use as part of the CD32 Repair.

Chairperson Wuertz declared the meeting closed pursuant to MN Stat 13D.05, Subd 3(c)(3) to discuss easement acquisition of property use as part of the CD32 Repair.

Wuertz declared session open. Motion to appoint Manager Hanson to determine comparable project payments and direct engineer to determine costs for maintaining tile alignment on Weller property made by Manager Barchenger, seconded by Manager Brauchler. Motion carried with all in favor. Manager Berndt abstained due to conflict of interest as a benefitting landowner on the system.

**Items for Next Meeting Agenda:**

No comment.

**Calendar Review:**

No comment.

**FYI Items**

No comment.

**Adjournment:**

Motion to adjourn made by Manager Berndt, seconded by Manager Hanson. Meeting Adjourned.

______________________________
John Hanson –Secretary