North Fork Crow River Watershed District
CD 43 Acceptance Hearing
June 27th, 2016

Managers Present: Berndt, Wuertz, Barchenger, Brauchler, Hanson
Managers Absent: None
Staff Present: Tara Ostendorf
Others Present: Kevin Bruntlett, Mike Huberty (Meeker Co. Commissioner), Don McCoy, Abe Yoder, Troy Soine (Contractor), Larry Hedeen

Pre-Hearing Site Visit:
Managers gathered at the posted location and traveled to the repair site at 6:00 pm. Joe Lewis, appointed project engineer from Houston Engineering Inc, presented the work completed to date for three site locations. Managers discussed the work completed to date and did not find any work to be completed. Managers commented on woody vegetation and noxious weeds within the channel that will need to be sprayed or maintained by the end of the year. Upon completion of the site visit, Managers traveled back to the posted meeting location.

Opening of Public Hearing:
Chairperson Wuertz opened the public hearing at 7:00 pm.

Purpose of Hearing:
Kurt Deter, attorney representing the NFCRWD Board, stated that the purpose of the hearing was to fulfill requirements of MN Statute 103E.555 which requires that after substantial completion of a project, a hearing shall be held to direct payment for work completed. The hearing is to allow public comment regarding the work completed to determine payment to the contractor.

Report on Status of Work:
Joe Lewis, appointed project engineer from Houston Engineering Inc, provided a summary of the work directed by the Board and the completed work to date. Lewis summarized the technical memo presented to the Board on June 13th, 2016 which recommended payment for work completed to date. Work included open channel excavation, clearing and leveling of spoil banks, fish barrier removal, pipe culvert extension and stabilization at 555th Avenue, erosion control and seeding. The only remaining work within the scope of the contract is limited to the disposal of cleared tree and brush piles, which the contractor has indicated will be completed in late 2016 or early 2017, before the completion date of June 15, 2017. Lewis stated that the work was completed to specification and recommended full payment to the contractor in the amount of $43,355.34 minus 5% retainage until fulfillment of full scope of work. Total payment recommended was $41,187.57.

Public Comment and Questions:
Chairperson Wuertz opened the hearing for public comment. Kevin Bruntlett, benefitting landowner, commented that he was disappointed with the extent of the work completed and would like to see the Board extend the excavation into the outlet of West Lake. He stated that tile lines are still underwater due to the fact that West Lake does not have an adequate outlet. Landowners discussed accountability of engineer in setting project extents. Lewis explained the process for setting grade of ditch and the limitations of excavating in public waters without additional approval from DNR.

Bruntlett stated that the ditch needed to opened up into West Lake to allow adequate drainage that they previously had, as indicated by the height of his tile outlets, currently still underwater.

Larry Hedeen, benefitting landowner, stated that the North Fork Crow River has a significant backwater impact on the ditch into West Lake, and feels that may be part of the issue related to Bruntlett’s complaint.
Don McCoy, benefitting landowner, stated that he felt the repair never should have been completed and doesn’t want any additional expenses. McCoy also questioned the process for conducting the original repair.

Deter stated multiple times that the purpose of the hearing and public comment was to decide if the contractor had fulfilled his obligations and met the specifications. Bruntlett stated the contractor met his obligations and the work was completed satisfactorily, but more needed to be done.

**Discussion by Board and Possible Action:**
Chairperson Wuertz called for motion regarding payment for work completed. Motion to approve payment to Land Pride Construction LLC in the amount of $43,355.34 minus 5% retainage until fulfillment of full scope of work [total payment $41,187.57] by Manager Berndt, seconded by Manager Barchenger. Motion carried with all in favor.

**Discussion of Other Issues Raised:**
Chairperson Wuertz asked for comment on any additional issues. Bruntlett discussed his current issue with tile lines. Tile lines on his property are original clay and concrete, 10” tiles from early 1900’s that are under water. Bruntlett feels that the age of the tiles indicated the water level used to be much lower. Lewis stated that additional survey work was conducted to determine any blockages up to the open water portion of the lake. Blockages were found and removed from the inlet to West Lake, which did increase the flow of water into the Lake. Additional blockages were found on the outlet of the Lake, however, those extents were not included in the repair as the permit did not state approval to do that work. Ostendorf stated that she had had conversations with the DNR Hydrologist, who had given verbal confirmation that the permit may be amended to include additional excavation. Ostendorf stated she was waiting on Board approval to apply for the amended permit and prepare additional work extents. Ostendorf stated that she was not willing to commit to additional expenses without Board approval. After additional discussion related to the regulatory authority of the DNR and permitting processes, the Board directed staff to apply for the permit amendment. Upon approval by the DNR, the Board will contact the landowners to discuss additional expenses.

**Adjournment:**
Motion to adjourn the public hearing made by Manager Hanson, seconded by Manager Barchenger.

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John Hanson, Secretary