

DRAFT

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD
HELD ON THURSDAY, OCTOBER 18, 2012 AT 7:00 P.M., IN THE COMMISSIONERS ROOM,
SARGENT COUNTY COURTHOUSE, FORMAN, NORTH DAKOTA

Managers present: Jim Bosse, Mark Breker, Richard Engst, and Roger White. Absent: Chris McFarland. Also present: Chad Engels, Moore Engineering, Inc.; Sean Fredricks, Ohnstad, Twichell; Mark Bopp, Mayor, Forman City; and Al Carton and Sue Kleingarn, council members, Forman City.

Approve September 20, 2012 minutes as corrected and September financial statement. (White/Engst, unanimous).

Approve payment of the following bills: (Engst/Breker, unanimous)

66781 James Bosse	Travel	29.42
66782 Mark Breker	Travel	19.98
66783 Al Carton	Dr # 11-culvert clean out	250.00
66784 Dakota Improvement, Inc.	Dr # 11 cleanout	3,917.50
66785 Richard Engst	Travel	109.34
66786 JAV Construction, Inc.	Dr # 4 Reconstruction project	174,938.68
66787 John Excavation	Dr # 7 Crossing project	99,834.88
66788 Moore Engineering, Inc.	Shortfoot Creek Study-\$937.50; Banish complaint -	
\$135.00 =		1,072.50
66789 Ohnstad Twichell	Attorney fees-General-\$365.70; Joe Breker-\$38.00; Dr #	
4-Rick Hoistad-\$608 and Reconstruction-\$592.00; Dr # 7-\$530.00 =		2,133.70
66790 Roger White	Travel	41.07
7575 Mark Breker	1 PD less 6.78 taxes	113.22
7576 Sherry Hosford	Salary less 17.89 taxes	298.78
7577 Richard Engst	8 PD less 84.74 taxes	875.26
7578 Roger White	2 PD less 13.56 taxes	226.44
7579 Jim Bosse	2 PD less 13.56 taxes	226.44
DD Sargent County Bank	Withholding taxes	281.36

Chad Engels updated the Board on the Drain No. 4 Construction project. The work is complete except to do the seeding. Change Order No. 1 was explained by Chad which includes \$700 for drain tile, \$746 for a control density fill and \$4400 to install the box culvert cut off walls for a total of \$5,846. Motion to approve the Change Order No. 1. (Breker/Engst, unanimous)

Motion to approve Partial Payment No. 1 to JAV Construction on the Drain No. 4 Reconstruction project for \$174,938.68. (Engst/White, unanimous)

Next item on the agenda is attorney consultation regarding litigation with Rick Hoistad. This item may be discussed in an executive session. The legal authority for closing this portion of the meeting is North Dakota Century Code 44-04-19.1. The topic or purpose of this executive session is attorney consultation regarding threatened litigation from Rick Hoistad.

At this time, a motion would be in order to discuss the next topic in executive session rather than in an open meeting. Motion by Manager Engst and second by Manager White to proceed into executive session. Roll call vote: Aye: Engst, White, Bosse, and Breker. Nay: None. Absent and not voting: McFarland. Motion carried.

The executive session will be recorded and all members of the governing body and others present are reminded to limit the discussion during the executive session to the announced topic. Any collective decision, collective commitment, or other final action by the governing body must occur after it reconvenes in an open meeting, unless final action is specifically required by law to be taken during the executive session. The prohibition on taking final action during the executive session does not apply to providing guidance or instructions to our attorney or negotiator.

We will now ask the members of the public who are attending the meeting to leave the room. We anticipate adjourning the executive session, and reconvening the open portion of the meeting at approximately 7:45 p.m. The minutes will show the executive session began at 7:30 p.m. and was attended by Roger White, Richard Engst, Jim Bosse, Mark Breker, Sherry Hosford, Chad Engels, Sean Fredricks, Mark Bopp, Al Carton, and Susan Kleingarn. Chris McShane, Attorney for Ohnstad Twichell and Mike Opat, Engineer, Moore Engineering, Inc. joined the session via conference call.

The minutes will show that the executive session was adjourned at 8:00 p.m. and no decisions were made. The public has been invited to return to the meeting room and we are now back in open session.

Chad Engels provided a map of Drain No. 9 for the board to view regarding reassessment. The Board viewed the map and made suggestive changes. Manager Engst introduced the following resolution and moved its adoption: RESOLUTION SETTING HEARING ON REASSESSMENT FOR SARGENT COUNTY DRAIN NO. 9 – Copy of full text of resolution is attached to the minutes. The motion for the adoption of the resolution was duly seconded by Manager Breker. On roll call vote, the following managers voted aye: Bosse, Breker, Engst and White. The following managers voted nay: none. The following managers were absent and not voting: McFarland. The motion carried unanimously, and the resolution was duly adopted.

Chad Engels updated the Board on the Drain No. 7 Crossing Improvements project. Several problems were encountered including some contaminated materials that had to be removed and also a city water line that was too shallow and had to be lowered. These issues were addressed in Change Order No. 1 – Contaminated soil removal - \$4,635.00 and Stabilize Unstable Ground - \$2,858.64 for a total of \$7,493.64. Chad Engels recommended the approval of these items. Motion to approve the Change Order No. 1. (Breker/Engst, unanimous) Motion to approve Partial Payment No. 1 to Johnson Excavation for \$99,834.88 for Drain No. 7 Crossing Improvements. (Engst/Breker, unanimous)

Chad Engels presented an engineer's opinion of probable cost to rip rap the Frenier Dam erosion damage to an elevation of 1250 feet. There is approximately 4-5 feet of erosion and he is suggesting that the entire length of the dam be rip rapped at a 3 1/2:1 slope. This would include reestablishing the material, very little dirt work and 2,500 cubic yards of riprap. Chad reported that both the North Dakota State Water Commission (NDSWC) and the Red River Joint Water Board (RRJWB) could cost share this project. The total cost of this project is \$335,000 – with 65% from NDSWC (no engineering costs) = \$159,802.50 and 65% of the local cost plus engineering from the RRJWB = \$113,878.38. This would leave a local cost share of \$61,319.13. Authorize Moore Engineering to submit a cost share request to both the NDSWC and RRJWB. (Engst/Breker, unanimous)

Mark Breker informed the Board that he talked to Bohnenkamp Construction about leveling the spoil bank south of Sprague Lake and by Kenny Hamilton's but Mr. Bohnenkamp is unable to do the work. Heitkamp Construction is available and can do the work. Authorize Heitkamp Construction to level the spoil bank in the Tewaukon Watershed area. (Breker/Engst, unanimous)

Chad Engels reported on a Wild Rice River Study that is being conducted by the Cass County Joint Water Board and the Richland County Water Board. Sargent County will be included in this study and Chad wanted the Board to be informed of this study.

Further discussed the Kiefer/Lee/Pherson complaint against Dana Banish. The Board reviewed the Notice of Decision and passed a motion to confirm previous motion to dismiss the complaint and instruct Sean Fredricks to send the Notice of Decision to the parties involved. (Engst/White, unanimous)

The ND Department of Emergency Services (NDDES) sent letters to the Board regarding time extensions and status of projects for Disaster 1907 (2010) and 1981 (2011) One project has been completed on the list. The Secretary was instructed to request an extension on the other two projects. The third project (PW #4145 in 2011) included repairs to a crossing on Drain No. 4. Since this crossing was included in the Reconstruction of Drain No. 4, the Secretary was instructed to send a letter to NDDES informing them that the money allowed for this project has not been spent as it was included in the bidding of the reconstruction project.

The meeting adjourned at 10:00 p.m.

JIM BOSSE – VICE-CHAIRMAN

ATTEST:

SHERRY HOSFORD - SECRETARY