

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD HELD ON THURSDAY, FEBRUARY 18, 2016 AT 9:00 A.M., IN THE COMMISSIONERS ROOM, SARGENT COUNTY COURTHOUSE, FORMAN, NORTH DAKOTA

Managers present: Lucas Siemieniewski, Roger Zetocha, Richard Engst and Korey Martinson. Absent: Todd Stein. Also present: Board Attorney Sean Fredricks; Chris Gross, Board Engineer; Brian Vculek, Crete; Tom Jones, NRCS.

The meeting was called to order by Sherry Hosford, Secretary and the Board proceeded to organize for 2016.

The Oath of Office was signed by Korey Martinson, Milnor-reappointed for three-year term. Todd Stein, Cogswell was appointed to the position previously held by Jim Bosse. Mr. Stein will take his Oath of Office at the next meeting.

Nominations for Chairman. Motion for Lucas Siemieniewski. Zetocha/Martinson. No other nominations. Motion to cast a unanimous ballot for Siemieniewski. (Engst/Martinson. Motion carried.)

Nominations for Vice-Chairman. Motion for Roger Zetocha. Engst/Martinson. No other nominations. Motion to cast a unanimous ballot for Zetocha. (Engst/Martinson. Motion carried.)

Re-appoint Sherry Hosford as Secretary-Treasurer. (Zetocha/Martinson, unanimous)

Approve 2016 meeting dates on the third Thursday of each month. All dates and times will be on file in the County Auditor's Office. (Engst/Martinson, unanimous)

Approve following appointments to other boards which members serve: DICKKEY/SARGENT JOINT BOARD – Members- Zetocha, Siemieniewski and Stein – alternates – Martinson and Engst; RED RIVER JOINT BOARD – Member – Siemieniewski – alternate Engst; RICHLAND/SARGENT # 1 – Members – all; TRI-COUNTY BOARD – Member – Martinson – alternate Engst. (Zetocha/Engst, unanimous)

Approve December 17, 2015 minutes. (Martinson/Engst, unanimous) and December 2015 and January 2016 financial statement. (Engst/Martinson, unanimous).

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

72777	Dickey Co. Water Board	Dickey/Sargent Expenses	715.75
72778	Richard Engst	Travel	129.60
72779	Farmers National Co.	Drain No. 8 Market Value Appraisal	3000.00
72780	Korey Martinson	Travel	72.36
72781	Moore Eng. Inc.	Dr # 8-\$9244.00; Dr # 11 - \$11422.50; Storm Lake study-\$20,820.00; General fees-\$694.50; Julie Vculek permit-\$227.25; Jackson Twp./Quandt Brothers complaint-\$391.75; Gwinner Dam-\$9464.25; Brummond-Lubke EAP-\$5819.75; Nelson Dam EAP-\$5679.75 = Total	63763.75
72782	ND Dept. of Emergency Services	De-obligate funds for 2011 FEMA – Dr # 4-\$4103.82; Dr # 8-\$1702.14 = TOTAL	5805.96
72783	ND Water Resource Districts	2016 Dues	475.00
72784	ND Water Users Assn	2016 Dues	300.00
72785	Ohnstad Twichell	General - \$1175.00; Gwinner Dam - \$794.00; Kelley/Hemminger complaint-\$422.70; Doug Harris permit-\$228.00; Julie Vculek permit-\$296.80; Drain # 8 - \$3032.71 = Total	5949.21
72786	Richland County WRD	RS # 1 Expenses	182.12
72787	Lucas Siemieniewski	Travel	127.20
72788	Roger Zetocha	Travel	91.80
11821	Sherry Hosford	Salary less 494.75 taxes	1505.25
11822	Richard Engst	5 PD less 45.90 taxes	554.10
11823	Roger Zetocha	3 PD less 44.79 taxes	315.21
11824	Lucas Siemieniewski	7 PD less 77.01 taxes	762.99
11825	Korey Martinson	5 PD less 90.15 taxes	509.85
DD	Sargent County Bank	Withholding taxes	1107.20

SHORTFOOT CREEK WATERSHED PLANNING PROJECT/NRCS: The Board previously requested cost-share from the Red River Joint Water Resource Board (RRJTWDRD) in the amount of \$185,900 regarding the Shortfoot Creek RCPP Watershed Planning process. Sean Fredricks presented a cost-share agreement between the Board and RRJTWDRD. Motion to authorize Chairman Siemieniewski to sign the request form (Zetocha/Engst, unanimous) Chris Gross also asked board members to continue to gather names of possible board members from Sargent County to serve on the Planning Committee for this project.

DRAIN NO. 8: Board members proceeded to the courtroom for a public hearing on whether or not the water board should proceed with construction of improvements to Drain No. 8 and with the modification of the Drain No. 8 assessment district to finance and fund the proposed improvements, which include reconstruction of two miles of the drain channel and a 1,250 foot alignment modification at the upstream end, project components that will improve flow in Drain No. 8 and will improve the side slope safety of County Road 10. The channel bottom improvements will include a final channel bottom width of 8 feet and 4:1 side slopes along County Road 10 and adjacent field to provide a more stable slope improvements to help eliminate channel erosion; improvement of slope safety along County Road 10; providing the City of Rutland a more efficient storm water outlet channel; and establishment of a constant channel gradient to improve the existing channel hydraulics. The Project will also provide drainage improvements to the agricultural properties adjacent to Drain No. 8. The engineer's opinion of probable total project cost is \$615,000, less ND SWC funding of \$210,772; less estimated Sargent County funding of 11,747.81 for a total estimated project cost to assess against the potential assessment district of \$392,480.19. Comments from the public hearing as follows:

SARGENT COUNTY WATER RESOURCE BOARD

PUBLIC HEARING ON DRAIN NO. 8

FEBRUARY 18, 2016

The hearing was opened with introductions of the board members, engineer and attorney.

A handout prepared by Engineer Gross with the Plan and Profile sheets including the layout of the drain and features of the project and total cost. Chris explained this is the project hearing and that, by statute, the purpose of the hearing is to explain the mechanics of the project and how the voting process will work. Chris further explained that, with regard to assessments, if the assessment vote is successful, the Board will conduct an assessment hearing where landowners can ask questions about their benefits and proposed assessments.

Chris explained the location of the drain and that, approximately a year ago, some landowners met with the water board to describe issues with the drain, including culverts, slope of the road and safety of the roadway. The Board took their concerns under advisement and agreed some improvements were necessary to the drain. Alternatives were reviewed including burying a pipe in the road ditch, but the Board ultimately concluded that option was cost prohibitive. Additional cost for additional right of way would be required if the Board pursued the open ditch concept, along with significant impacts to utilities and a farmstead. Board members and engineers agreed that this would not be feasible and decided to re-route the ditch from the east side of the county road to the west side to reduce impacts. Chris reviewed the profile of the ditch and stated that the purpose of this project was not to deepen the ditch but to provide adequate drainage for the watershed, to improve drainage from the City of Rutland, and to improve the side slopes along the highway to 4:1. This option would not require relocation of the utilities in the road ditch; instead, the project would allow drainage along a different flow path. Chris explained installation of an adequately sized culvert under the roadway would be necessary to allow the water to flow down the ditch.

Joel Prindiville asked why a culvert can't be installed in the ditch on the east side of the road, under the approach, to handle all the water. Mr. Prindiville further explained that another culvert would be needed on County # 3 going west out of Rutland to bring the lagoon water to County #10. Chris Gross explained the Board developed this project and voted to pursue this project; he further explained the Board has already commenced the assessment vote process and cannot make major modifications of the project once the Board has commenced with the vote. Sean explained the Board can modify a project in the course of or following an assessment vote, but cannot make major modifications that alter the nature of the project. The Board, Chris, and Sean would have to examine any proposed modifications. Typically, the only reason a Board modifies a project post-vote is due to unforeseen circumstances or to accommodate utility relocations, but the Board can review this proposal.

Mark Breker asked if the Board can vote to rescind this project and look at another project. Sean explained that is possible; he explained the Board would have to terminate the current voting process, and the Board would not have any mechanism for recouping the costs already incurred, and the Board would incur additional costs commencing a new process, but it is possible. Mark voiced his opinion that assessing the townships was irresponsible. Chris explained the project will result in transportation benefits and the benefits to the township and county road, and he further explained the indirect votes to the public entities as a result of those indirect benefits that will benefit several outside of the project watershed. Further, the township benefits have been in place since the Board, or its predecessor, originally established the drain.

Chris explained the Board began developing this project over a year ago and that the Board and Moore Engineering offered several opportunities for Joel Prindiville to comment or suggest alternatives. Chris noted Joel never presented this alternative plan to the Board until this hearing; with that in mind, the Board would not likely accept Joel's suggestion that the Board simply abandon the current project and declare Joel's option is a better, more viable option. The Board has spent considerable time and effort developing this project and the Board feels the project is a legitimate and viable plan to address the issues in this area.

Lyle Erickson explained he owns lots in Rutland and a section of land in the assessment district, and that his mother and brother also have land in the assessment area. He only received two ballots in his packet; Chris explained that the assessment list is in the packet and each ballot has a number showing what will be assessed. Chris responded that in the Erickson case, one ballot is regarding the right of way votes Mr. Erickson has due to the right of way the Board will have to acquire from Mr. Erickson to accommodate the project. Chris and Sean explained landowners who own property the

Board must acquire to accommodate the project are entitled to right of way votes for that property based on their "assessed value" as set by the County, all according to law.

Chris reviewed the project history and schedule for the project. If the vote passes, the project would proceed as follows: 1) the Board would likely conduct the Assessment Hearing in May of 2016; 2) the Board would proceed with Final Design and project bidding in the summer of 2016; 3) the Board will proceed with right of way acquisition in the spring or early summer of 2016; and 4) the Board would commence construction in the fall of 2016. The remaining pages in the handout were reviewed including the project cost, project map and drain information.

General discussion followed on money spent on the drain and where the money comes from. Question asked if the maintenance levy would continue and the board responded that they review the balances each year to determine whether additional funds will be required for the ensuing year. Further, Chris explained the maximum maintenance levy under current law is \$4 per acre for agricultural property.

Sean explained the voting process and indicated that, by law, the ballots are based on information from the tax rolls. The Board must use the tax rolls for this process and if the tax rolls do not accurately reflect ownership, the landowners must provide a copy of a recorded deed or some other evidence of ownership and the Board can generate new ballots to reflect the correct ownership. Sean explained the Ballot Instructions included with the packets mailed to the landowners, including the different ownership categories, and that if someone owns more than one parcel in the district, they should have received more than one ballot, in which case all ballots must be signed and returned. Sean also explained the members of the proposed assessment district must return original ballots with original signatures; the Board will not accept faxed, photocopied, stamped, or emailed ballots. The Board will only count ballots returned and of those ballots returned, if more than 50% of the votes are in favor of the project, the vote is successful.

Richard Engst asked for clarification on how the bond will work. Chris and Sean explained that, if the vote is successful, the new assessment district will replace the existing assessment district, the Board will issue bonds to finance and fund the costs of the project, and the Board will levy special assessments against the properties in the assessment district.

Bill Anderson, Rutland and County Commissioner said that regardless of what happens on this project he wants to thank the Board for their fortitude to study this drain to see what improvements can be done and are badly needed. The ditch fills up in the snowy years, freezes and not a drop of water flows until the ditch thaws and builds up and after the thaw the water flows. Several homes in Rutland have water in their basement. Improvements are needed and commend the board for the effort to consider these improvements and everyone needs to weigh the benefits and costs and make their own decisions.

Lyle Erickson suggested the reason the ditch does not thaw is because the ditch has not been cleaned out. Chris Gross noted that following drain reconstructions in Cass and Traill Counties, the drains have opened up the following years and the drains have operated well.

Ron Narum, Rutland Mayor, indicated the ditch fills up and not much water sets in there except in the north end. The culverts are not plugged, they are open but because of the compacted snow, water won't run through and a safety feature because of that steep ditch. In his view, it's a miracle no one has lost their life on this roadway.

Mark Breker compared this project to the FM Diversion project – and again voiced his opinion that this is an ill-advised project and this should be scrapped. Sean commented that this is a drainage project and is not similar to the FM Diversion project.

Joel Prindiville said he did not realize that the initial project was to put the culvert the entire 2 miles and he believed the proposed project was cost prohibitive. He encouraged the Board to go look at the site and install a culvert in the approach on the Prindiville approach from the west under 10 and into the original ditch. Chris again pointed out he had worked with existing plans and Joel did not respond to Chris' multiple contacts and he did not communicate with the Board.

Michael Mahrer, Rutland commented that he felt the taxpayers had been misled on the cost per year. It was \$2.00 per acre and increased to \$4.00. Chris Gross explained that Mr. Mahrer was referring to the maintenance levy for the drain and Chris explained the Board examines that on a yearly basis and modifies the levy according to needs. Chris further indicated the Board did not intend to mislead the City, and that the maintenance levy would be used for continuing expenses either in cleaning the drain or other costs.

Hearing was closed at 10:50 a.m.

Brian Vculek, Crete arrived at the meeting as well as Tom Jones, NRCS and Edwin and Terry Erickson and Paul Ellefson all of Milnor.

EDWIN ERICKSON JR. SURFACE DRAIN PERMIT APPLICATION NO. 4765: Edwin and Terry Erickson, Milnor and Paul Ellefson, Milnor were present to discuss a surface drain application which has been sent to the SWC and returned to this board indicating that the Office of the State Engineer has determined the proposed surface drainage to be of statewide significance because the project will convert previously noncontributing areas into permanently contributing areas. The location of the project is in the E1/2 of Section 7 and S1/2 of Section 8-131-54 (Shuman Township). The purpose of the application is to lower the water table and maintain it at a management elevation. Greg Thompson, Houston Engineering, Inc. has been retained by Mr. Erickson to provide data and other unique factors on this project. Mr. Thompson was called and attended the meeting via conference call. After reviewing the application, Sean Fredricks and Chris Gross explained the process and requirements to proceed with the statewide significance process: 1) The Applicants provide

information to the Board regarding potential impacts of the project; 2) the Board reviews the Applicants' analysis; 3) the Board conducts deed searches regarding impacted landowners and prepares meeting notices, as required by North Dakota law; 4) the Board conducts a public hearing; 5) following the hearing, the Board takes any comments under advisement; 6) the Board makes a decision regarding the permit, including any conditions recommended by the Board, and issues its proposed decision; and 7) the Board forwards its decision to the State Engineer; 8) the State Engineer considers the application, the Board's recommended decision, and the results of its own investigation and issues a final decision regarding the permit (the application does not become a permit until/unless approved by the State Engineer). Greg Thompson indicated that, in his opinion, the project will not result in adverse impacts downstream and, therefore, the process will not likely require notices to many downstream landowners. Sean and Chris Gross advised the Applicants to err more on the side of caution to avoid a situation where downstream parties oppose the application and submit comments to the State Engineer. Mr. Erickson will work with his engineer to get the information back to this board for the process to continue.

RS#1: Mike Bassingthwaite, Interstate Engineering, Inc. met with the board to provide another update on the status of the RS#1 project. The contractor has put in an open records request for information from the engineer. Mike suggested that before the frost comes out of the ground this spring that the seeding should be completed. There were also some rumors of a complaint filed regarding wetland issues and according to Tom Jones, NRCS, there has been none at this point. Three bills for RS# 1 were reviewed by the board and authorized payment by the secretary – 1) \$872.50-Ohnstad Twichell; 2) \$140.00-Ohnstad Twichell and 3) \$2380.00-Interstate Engineering, Inc.

HALL TOWNSHIP BRIDGE PROJECT: The county commission sent a letter to the water board asking for additional financial assistance on the replacement of Bridges 135.05 & 135-05.1 over the Wild Rice River and also the removal of five bridges and replacement of the two listed above with box culverts at their current location on 149th Ave SE, a graveled township roadway. Over half a mile of this township roadbed is to be raised 5 feet as part of the project to reduce flood potential. Actual project length is approximately .70 miles. As part of the funding agreement with NDDOT, the county will be removing Bridge No. 135-05.2 and Bridge No. 135-06.0 as a participating part of this project and Bridge No. 136-05.1 with their own funds. Estimated cost of this project is 1.35 million dollars. Previously the water board had agreed to participate with 50% of the 20% local share. (\$135,000) Mike Bassingthwaite informed the county commission on February 2nd that federal monies will only reimburse for 1000 feet of roadwork for each bridge which would leave 1600 feet that the county would be totally responsible for. The local share would increase \$590,000. The Board of Commissioners asked if the water board would increase the \$135,000 commitment from this board to \$295,000 an increase of \$160,000. After further discussion the water board by motion agreed to participate 50% of the local share not to exceed \$295,000. Manager Zetocha made the motion; seconded by Manager Martinson. Upon roll call vote, the motion carried unanimously.

DRAIN NO. 4/RICK HOISTAD LITIGATION: Chris McShane, Ohnstad Twichell, joined the meeting by conference call, and reported that the parties to the litigation had reached a draft settlement under which Mr. Hoistad will accept \$28,000 plus conveyance of 1.49 acres owned by the City of Forman near the lagoons in exchange for the land where the open portion of Drain No. 4 crosses Mr. Hoistad's property just east of the City of Forman and a dismissal of Mr. Hoistad's lawsuit. The parties that will be contributing to this settlement will be the Sargent County Water Resource Board, ND Insurance Reserve Fund, Ryan Contracting, City of Forman and possibly Hancock Concrete. Of this \$28,000 this board would be contributing \$8,000 and this is contingent of this board approving the settlement as well as the City of Forman. Motion to approve the settlement offer and authorize Chairman Siemieniewski to sign the documents. Manager Engst made the motion; seconded by Manager Martinson. Upon roll call vote, the motion carried unanimously.

NELSON DAM AND BRUMMOND/LUBKE DAM EAPS: The North Dakota State Water Commission has agreed to cost share the Nelson Dam and Brummond/Lubke Dam Emergency Action Plan studies at 35% or \$20,000 for each dam. Authorize the Chairman to sign the cost-share agreement with the State Water Commission. Manager Engst made the motion; seconded by Manager Martinson. Upon roll call vote, the motion carried unanimously. Chris Gross also asked the board to put together lists of equipment available in the county and also names, addresses and phone numbers of persons would could assist in the time of an emergency. The county emergency manager may have that information available.

DRAIN NO. 11: Engineer Gross had emailed a copy of the draft report for Drain No. 11 with much technical detail but he would like board members to review it and make comments, if any. Moore Engineering Inc. will then update the report and Chris will sign it. Board members will review the report and be prepared to discuss the contents at the March meeting. Manager Zetocha reported to the board that Dakota Improvement has found a huge obstruction on the south side of County # 3 between Sections 23 and 26 of Sargent Township. He felt that this could be a major concern for future flooding and should be rechecked in the future for any blockage. Roger also noted that the county put in a culvert one foot too high on County Road No. 4 where Drain No. 11 crosses south of Jim Bosse's. Question was raised if this board can ask the county road department to redo it to the correct level? A letter was received from Interstate Engineering, Inc. regarding a culvert crossing on County Road No. 1 and Drain No. 11 between Section 4 and 9 of Harlem Township. This board replaced the culvert in the fall of 2015 and the board of commissioners allege that the existing culvert does not meet the County Design standards and is therefore creating an unsafe condition to the county roadway due to inslopes that are steeper than the 4:1 standard. The commissioners stated that in order to meet the design standards adopted by the county, the culvert should be increased in length from the current length of 50 feet to 94 feet. Authorize

Engineer Gross to work with Tru North Steel (culvert company) and get back to this board in March. Manager Zetocha made the motion; seconded by Manager Engst. Upon roll call vote, the motion carried unanimously.

PAUL MATHEWS RIGHT OF WAY ON DRAIN NO. 11: Authorize Attorney Fredricks to prepare a letter to send to the Sargent County Commission informing them of the findings on the easement area of Drain No. 11 and the process to bill the Mathews family for real estate taxes on these acres. Manager Zetocha made the motion; seconded by Manager Engst. Upon roll call vote, the motion carried unanimously.

DALE ASCHE APPLICATION NO. 2479 TO CONSTRUCT A DIVERSION STRUCTURE: The State Water Commission has determined that the diversion structure required this board to review the application. The Office of State Engineer has determined that the diversion structure requires a permit to construct but has determined that the dike does not require a permit. The Sargent County Water Resource Board had no comments on this application.

SUMMER YOUTH: Tom Jones, NRCS inquired whether the board is interested in pursuing summer interns for the soil conservation district. Board members asked Mr. Jones to present a proposal to the board at an upcoming meeting.

Meeting adjourned at 12:45 p.m.

LUCAS SIEMIENIEWSKI – CHAIRMAN

ATTEST:

SHERRY HOSFORD – SECRETARY-TREASURER