

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD HELD ON THURSDAY, JANUARY 16, 2020 AT 8:15 A.M. IN THE COMMISSIONERS ROOM AT THE SARGENT COUNTY COURTHOUSE, FORMAN, NORTH DAKOTA.

Managers present: Todd Stein, Lucas Siemieniewski, Bruce Speich and Roger Zetocha. Absent: None. Also present: Sherry Hosford, Secretary-Treasurer, Robert Banderet, Cogswell; Sargent County Commissioner Richard Ruch and Bryan Murphy, President, H2Over Viewers LLC, East Grand Forks, MN. Sean Fredricks, the Board's attorney; Chris Gross, the Board's engineer and Michael Wyum, Manager, were present via conference call.

Manager Speich moved to approve the Board's December 19, 2019 minutes and the December 2019 financial statement. Manager Stein seconded the motion. Upon roll call vote, the motion carried unanimously.

Manager Stein moved to approve payment of the following bills:

79868	Moore Eng. Inc.	General meetings-\$595.00; Permits and complaints - \$70.00; Silver Lake Feasibility Study - \$980.00; Shortfoot Creek-\$10,855.10; Dr#11 Imp.-\$11,004.61; Dr#11-Design Engineering-\$13,400.00; Dr#16 & Brampton Project-\$440.00; Dr#12-SWC cost share-\$870.00; Brummond-Lubke Dam		
	Imp .		close	out -
				\$ 8 7 7 . 5 0
				T O T A L
39,092.21				
79869	NDWRD Ass'n	2020 Dues		675.00
79870	ND Water User's	2020 Dues		300.00
79871	Ohnstad Twichell	General-\$711.67-meetings; \$4,792.62- Dr#11 Imp. Project -		
TOTAL				5,504.29
79872	Quill.com	Office supplies		70.77
79873	The Teller	Dr#11 Meeting Notice		49.16
79874	Sargent Co. Treasurer	Dr#4 Special Assessment tax		651.80
79875	Lucas Siemieniewski	Travel		148.20
79876	Bruce Speich	Travel		54.32
79877	Todd Stein	Travel		10.94
79878	Roger Zetocha	Travel		42.67
17343	Sherry Hosford	Salary less taxes	557.65	1,642.35
17344	Roger Zetocha	3 PD less	31.87 taxes	328.13
17345	Lucas Siemieniewski	4 PD less	36.72 taxes	443.28
17346	Todd Stein	4 PD less	36.72 taxes	443.28
17347	Bruce Speich	3 PD less	27.54 taxes	332.46
17348	Michael Wyum	4 PD less	36.72 taxes	443.28
DD	Sargent County Bank	Withholding taxes		1,059.90

Manager Zetocha seconded the motion. Upon roll call vote, the motion carried unanimously.

DRAIN NO. 11: Chris reported that meetings have been held with about one-half of the landowners regarding right of way and Purchase Agreements and felt they were good meetings with great feedback. His hope is to have most agreements signed within 3-4 weeks and to present to the Board for final approval. There was a question whether hunting rights would stay with the land that is used for right of way and Sean agreed to look into the logistics of this request. Also some discussion on filling in the old drain where the board is proposing to straighten it out and how good the top soil will be after this is completed. Board members felt the landowners are being fairly compensated for these areas. Moore Engineering Inc. will continue moving forward with landowner meetings and presenting purchase agreements to landowners. Chris will report back in February.

DRAIN NO. 12 AND SILVER LAKE: Chris Gross will be attending a State Water Commission subcommittee meeting in Bismarck this afternoon on behalf of the Board to answer any questions on these two projects regarding the Board's cost-share requests.

RICHLAND-SARGENT NO. 1: Monica Zentgraf, Secretary-Treasurer RS #1 provided the following RS #1 bill for consideration and approval as follows:

1. Interstate Eng., Inc. \$410.00 (Const. Eng. through 12-21-19)

Manager Zetocha moved to approve the Richland-Sargent No. 1 bill. Manager Stein seconded the motion. Upon roll call vote, the motion carried unanimously. A full board meeting of RS#1 is scheduled for February 11, 2020 in Wahpeton.

DICKEY-SARGENT JOINT WATER RESOURCE DISTRICT: Sherry Hosford, Secretary-Treasurer for DSJWRD provided DSJWRD bills for consideration and approval as follows:

1. DVEC \$130.00 (Electricity)
2. Moore Eng. Inc. \$170.00 (Budget & Expenditure Analysis)
3. Dakota Improvement \$2,000.00 (Clean between Mile Markers 113 and 114 and south ½ mile)

Manager Wyum moved to approve the DSJWRD bills. Manager Zetocha seconded the motion. Upon roll call vote, the motion carried unanimously.

H2OVER VIEWERS-DRAIN NO. 11: Bryan Murphy presented a Summary of Project Options and Estimated Costs for the Board to review. A copy of the options are attached to the official minutes of this Board. To summarize the options – Standard package - \$1.25 per acre with a completion date before year end 2020. Additional Options included 1) Parcel Level Detail - \$0.35 per acre; 2) 20 Agricultural Land Classifications (versus 4) \$.35 per acre; 3) Additional Land Use Type Consideration - \$0.35 per acre and 4) Economic Evaluation - \$0.50 per acre. These prices are estimated ‘not to exceed’ prices and the Viewers are confident that their best in class process and deliverables will exceed the Boards expectations and provide Sargent County with the high quality, fair and equitable, and defensible product that this Board and the landowners represented by this Board should expect and require from any company. Estimated acres in the drain are 204,160. Estimated time for completion is 9 months. The Sargent County Commission has a contract with Sidwell to provide more detailed GIS information on all parcels in the county. Their project will take about 18 months to complete but would be beneficial for the Water Board to obtain those results for Drain No. 11 property. Mr. Murphy also has been in contact with the State Water Commission (SWC) and there is talk of a Pilot Project of third party, disinterested drain viewers in North Dakota and Sargent County possibly could be the county to pursue this project and may have cost share funds available. Mr. Murphy will continue dialogue with the SWC and keep in touch with Board members on any progress. There is still concern on the cost of this reassessment project and funding.

BOYD BRUMMOND – GRAZING BRUMMOND-LUBKE DAM: The Board invited Boyd to the meeting to discuss options on whether or not the Board should allow his cattle to graze the dam. Boyd does not feel that grazing is causing any problem to the dam but instead the high water levels are destroying the fence and washes them away. He does not feel that grazing affects the structure of the dam – the sandy areas are where washed out areas occur and there is nothing to graze in the sand. It was suggested that a rod fence could be installed across the channel but Boyd replied that the water gets 15’ deep and the cattle have to cross the dam safely. Other suggestions were made and the Board agreed that they would inspect the area and make a decision following the inspection.

JERRY MEADE – WILDLIFE HABITAT PRESERVE: Mr. Meade has been meeting with US Fish and Wildlife on land in the Drain No. 11 assessment district, namely in Section 29 and 30 of Sargent Township – which is a part of the Southwest Branch of Drain No. 11. There is interest in establishing a wildlife habitat preserve but a project of that nature would require relocation of a portion of the drain through Mr. Meade’s land in order for Fish and Wildlife to participate. He proposes moving the drain to the east and then flowing southerly through Section 29 and then westerly to flow back into Drain No. 11 in the SE1/4 of Section 30. U.S. Fish & Wildlife would construct the improvements, at no cost to the Board or the Drain 11 assessment district. The Board would have to consider the request to ensure the relocation would not impede benefits Drain 11 provides to landowners in the Drain 11 assessment district who rely on Drain 11 for drainage benefits. Mr. Meade noted that he would pay all costs and there would be no local costs – he would like to discuss this project with the Board engineer to see if a project of this nature would even be feasible from the Board’s perspective. Mr. Meade will make an appointment with Chris Gross to discuss further.

Application to Install a Subsurface Water Management System No. 2019-10 for Steve Kasowski in the Northwest Quarter of Section 29 in Jackson Township

The Board reviewed an *Application to Install a Subsurface Water Management System No. 2019-10* dated August 8, 2019, and filed August 9, 2019, for Steve Kasowski. Under the application, Applicant seeks to install a 94-acre drain tile system in the Northwest Quarter of Section 29 in Jackson Township, Sargent County, North Dakota. The project will include an underground pipeline under the Southwest Quarter of Section 29 that will discharge via a pump outlet along the south boundary of the Southwest Quarter of Section 29; the pump outlet will discharge directly into the Lovell Improvement Project, a private surface drain permitted under Surface Permit No. 4757 for Lovell Improvement Project, LLC.

The District provided THIRTY-DAY NOTICES to all downstream landowners within one mile of the outlet of the proposed project, as required under N.D. Cent. Code § 61-32-03.1. Lovell Improvement Project, LLC, is in the process of acquiring the requisite right of way to accommodate the Lovell Project; however, the LLC has not completed right of way acquisition and, with that in mind, the Board provided THIRTY-DAY NOTICES to the underlying and adjacent landowners within one mile of the pump outlet. None of those landowners submitted “technical evidence” regarding any potential adverse effects from the project. With that in mind, in accordance with Section 61-32-03.1, the District cannot require Applicant to obtain any flowage easements or other consent from downstream landowners as a condition to the Board’s approval of the permit.

According to records submitted by Applicant, Kasowski Russet LLP, a North Dakota limited liability partnership, owns the West Half of Section 29 of Jackson Township. With regard to downstream properties, Kasowski Russet also owns the Southeast Quarter of Section 30; and the Philip A. Hansen Revocable Living Trust and the Dianna M. Hansen Revocable Living Trust own the Northwest Quarter of Section 31.

Manager Speich moved, and Manager Zetocha seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2019-10* dated August 8, 2019, and filed August 9, 2019, for Steve Kasowski in the Northwest Quarter of Section 29 in Jackson Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2019-10, subject to the following conditions:

- 1) That Applicant notify the Sargent County Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;
- 2) That Applicant provide, install, and maintain riprap or other ditch stabilization materials satisfactory to Jackson Township at any and all outlets into Jackson Township’s road right of way; and
- 3) That Applicant must turn off any pump outlets and otherwise close all outlets during “critical flood periods,” as determined by the District.

Upon roll call vote, the motion carried unanimously.

Under Section 61-32-03.1, the District cannot attach any additional conditions to Applicant’s permit. However, for Applicant’s protection, and to ensure protection of Applicant’s tile system, the District will recommend that Applicant consider complying with the following:

- 1) That Applicant obtain written permission from the Jackson Township Board of Township Supervisors to discharge into, or otherwise utilize, any of its township road ditches;
- 2) That Applicant notify the Sargent County Water Resource District in advance of any proposed improvements to the tile system, or any proposed increase in the capacity or drainage area of the tile system and, if necessary, submitting an additional permit application; and
- 3) That Applicant obtain all other necessary and requisite licenses, permits, registrations, and/or approvals from all applicable federal, state, county, and municipal governments, and any other applicable governmental entities.

Application to Install a Subsurface Water Management System No. 2019-11 for Steve Kasowski in the Southeast Quarter of Section 19 in Jackson Township

The Board reviewed an *Application to Install a Subsurface Water Management System No. 2019-11* dated August 8, 2019, and filed August 9, 2019, for Steve Kasowski. Under the application, Applicant seeks to install a 142-acre drain tile system in the Southeast Quarter of Section 19 in Jackson Township, Sargent County, North Dakota. The project will include a pump outlet located near the northeast corner of the Southeast Quarter of Section 19, along 115th Avenue SE; the tile discharge will flow north through the west road ditch along 115th Avenue; at the northeast corner of the Northeast Quarter of Section 19, the tile discharge will then turn and flow west through the south road ditch along 93rd Street SE.

The District provided a THIRTY-DAY NOTICE to downstream landowners within one mile of the outlet of the proposed project, as required under N.D. Cent. Code § 61-32-03.1; more specifically, the District provided a THIRTY-DAY NOTICE to the owners of the Northeast Quarter of Section 19, as well as to Jackson Township. Neither the downstream landowner nor the township submitted any “technical evidence” to object to the project.

With that in mind, under Section 61-32-03.1, the District cannot require Applicant to obtain any consent from downstream landowners as a condition to the final permit.

According to records submitted by Applicant, Kasowski Russet LLP owns the Southeast Quarter of Section 19. Justin Quandt owns the Northeast Quarter of Section 19 of Jackson Township.

Manager Speich moved, and Manager Zetocha seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2019-11* dated August 8, 2019, and filed August 9, 2019, for Steve Kasowski in the Southeast Quarter of Section 19 in Jackson Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2019-11, subject to the following conditions:

- 1) That Applicant notify the Sargent County Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;
- 2) That Applicant provide, install, and maintain riprap or other ditch stabilization materials satisfactory to Jackson Township at any and all outlets into Jackson Township's road right of way; and
- 3) That Applicant must turn off any pump outlets and otherwise close all outlets during "critical flood periods," as determined by the District.

Upon roll call vote, the motion carried unanimously.

Under Section 61-32-03.1, the District cannot attach any additional conditions to Applicant's permit. However, for Applicant's protection, and to ensure protection of Applicant's tile system, the District will recommend that Applicant consider complying with the following:

- 1) That Applicant obtain written permission from the Jackson Township Board of Township Supervisors to discharge into, or otherwise utilize, any of its township road ditches;
- 2) That Applicant notify the Sargent County Water Resource District in advance of any proposed improvements to the tile system, or any proposed increase in the capacity or drainage area of the tile system and, if necessary, submitting an additional permit application; and
- 3) That Applicant obtain all other necessary and requisite licenses, permits, registrations, and/or approvals from all applicable federal, state, county, and municipal governments, and any other applicable governmental entities.

With no further business to discuss, the Board adjourned the meeting at 10:45 a.m.

LUCAS SIEMIENIEWSKI - CHAIRMAN

ATTEST:

SHERRY HOSFORD, SECRETARY-TREASURER