

MINUTES OF THE SPECIAL MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD HELD ON MONDAY, AUGUST 31, 2020, AT 8:00 A.M. AT THE SARGENT COUNTY COURTHOUSE, FORMAN ND

Managers present via phone conference: Lucas Siemieniewski, Todd Stein, Roger Zetocha Michael Wyum and Bruce Speich. Others present via phone conference were Sean Fredricks, the board's attorney; Chris Gross, the board's engineer; Lukas Andrud, Christopher McShane, Christie Axness, and Bo Gruchala from Ohnstad Twichell and Pat Downs, Land Agent, Moore Engineering, Inc. Present at the courthouse were Bob Banderet, landowner, Richard Ruch, county commissioner and Sherry Hosford, Secretary-Treasurer.

Chairman Siemieniewski called the meeting to order at 8:08 a.m.

The purpose of the meeting was to discuss appraisals for Drain No. 11 right of way. A desktop appraisal was conducted by Farmers National Company and this Board approved right of way values at their meeting on December 19, 2019; some of the values approved by the Board were higher than the values recommended in the desktop appraisal. The highest land values for channel acres in the desktop appraisal were \$4,250, and the berm easement values were 15-30% of that amount. The Board set values higher; more specifically, at the December 2019 meeting, the Board approved the following right of way values:

1. Fee Simple/Channel Acres:
  - a. Cropland and CRP: \$4,500/acre
  - b. Pasture: \$1,800/acre
  - c. Non-cropland: \$400/acre
  
2. Berm Acres
  - a. Cropland and CRP: \$2,250/acre
  - b. Pasture: \$900/acre
  - c. Non-cropland: \$200/acre
  
3. Temporary Construction Easement
  - a. Cropland and CRP: \$750/acre
  - b. Pasture: \$300/acre
  - c. Non-cropland: \$75/acre

Ohnstad Twichell later requested an appraisal specific to the Mathews/Delahoyde property in anticipation of potential issues in negotiations, in light of Mr. Mathews' opposition to the project for a number of years. Sean Fredricks explained that ordering a specific appraisal when negotiations fail often takes up to three months and can delay a project, and a delay can also result in additional project costs. Typically, the specific appraisal values determined by Farmers National match the values provided in their original desktop appraisal. In this case, however, the

values recommended by Farmers National for the Mathews/Delahoyde differ. Overall, the appraisal amount (\$18,320) is less than the amount the Board has already offered regarding the Mathews/Delahoyde right of way (\$21,780 offered). The channel/fee values came back at \$5,000 per acre, higher than the \$4,250 value for channel acres in the desktop appraisal, and higher than the \$4,500 price the Board set for channel acres. The berm acres value in the Mathews/Delahoyde appraisal came back at \$1,500 per acre, less than the \$2,250 price the Board set for berm acres. Finally, the Mathews/Delahoyde appraisal came back at \$150 per acre for a one-year temporary construction easement, less than the \$750 per acre price for a three-year temporary construction easement set by the Board.

The Board discussed the fact that the channel acre value came in higher than the desktop, but the berm and temporary easement acre values came in lower; the total offer to the Mathews/Delahoyde owners was actually higher than the appraisal price. In addition, the Board strongly disagreed with the channel acre value rationale provided by the appraiser, and felt confident the \$4,500 per acre price previously set by the Board was absolutely accurate, and more than fair.

Manager Wyum moved to modify the right of way offers for channel acres from \$4,500 to \$5,000 per acre for all landowners; to leave the previous values set by the Board for berm acres at \$2,250 per acre; and to leave the previous values set by the Board for temporary easement acres at \$750 per acre for a three-year easement. Manager Zetocha seconded the motion. Manager Wyum indicated he offered the motion for discussion purposes. On roll call vote, the following Managers voted aye: Zetocha and Speich. The following Managers voted nay: Siemieniewski, Wyum and Stein. Motion failed.

Christopher McShane gave a brief outline of the process going forward regarding negotiations.

**CHRIS MATHIAS AND ROBERT ORN REQUEST FOR DRAINAGE ON HIGHWAY RIGHT OF WAY:** Chris Mathias and Robert Orn applied to NDDOT for approval to 1) Replace a culvert in an approach in Section 28-132-57 with a 24” arch pipe. The current pipe is rusted and holds water back and overflows into the fields and 2) Clean sediment in the highway road ditch in Section 21-132-57 which has filled in over time and now seems to be holding moisture back in the road ditch making the ditch soggy. It is approximately 125’-150’ in length by 30 feet wide maybe 6-8 inches deep at most. Sean Fredricks explained NDDOT requires WRD approval to comply with federal DOT rules, and that the Board’s “approval” should be a qualified approval that includes a cover letter to NDDOT and Chris Mathias and Robert Orn that explains they may also need to obtain a surface drainage permit if their activities meet the criteria under N.D. Cent. Code §61-32-03, the state surface drainage permitting statute. Manager Wyum moved to approve the request and to direct the Secretary-Treasurer to send a cover letter to NDDOT and Chris and Robert that outlines their obligation to also obtain a surface permit if their activities meet the permitting criteria. The motion was seconded by Manager Zetocha. Upon roll call vote, the motion carried unanimously.

The meeting adjourned at 8:56 a.m.

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LUCAS SIEMIENIEWSKI, CHAIRMAN

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SHERRY HOSFORD, SECRETARY-TREASURER