

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD HELD ON THURSDAY, APRIL 20, 2017 AT 8:00 A.M., IN THE COMMISSIONERS ROOM, SARGENT COUNTY COURTHOUSE, FORMAN, NORTH DAKOTA

Managers present: Roger Zetocha, Korey Martinson, Lucas Siemieniewski, Bruce Speich and Todd Stein. Absent: None. Also present: Sean Fredricks, Board Attorney; Chris Gross, Board Engineer, Paul Mathews, Cogswell; and Bob Banderet, Cogswell.

Approve March 16, 23, and April 6, 2017 minutes and March financial statement. Manager Martinson moved to approve. Manager Stein seconded the motion. Upon roll call vote, the motion carried unanimously.

Manager Zetocha moved to approve payment of the following bills. Manager Martinson seconded the motion. Upon roll call vote, the motion carried unanimously.

75096	Cross Family	Dr#7 permanent easement	30,112.50
75097	Glen & Barbara Koeppe	Dr#7 permanent easement	2,394.50
75098	Korey Martinson	Travel	171.74
75099	Moore Eng. Inc.	General-\$355.60; Shortfoot Creek Study-\$28,536.45; Dr#11-\$952.75; Dr#11-Reassessment-\$7,992.35; Dr#7 I&S-\$19,227.95; Dr#7 - \$745.55 Gwinner Dam - \$6,236.10; Heimbuch permit-\$185.60; Rust permit-\$205.00; Jackson/Quandt complaint-\$92.80 = TOTAL	64,530.15
75100	Ohnstad Twichell	General-\$1,312.38; Dr#11 project-\$277.50; Heimbuch permit--\$459.00; Delahoyde/Quandt complaint-\$92.50; Dr#7project-148.00; Dr#7I&S-\$3,251.38 =TOTAL	5,540.76
75101	Reardon Office Equip.	Furniture	472.89
75102	Richland Co. WRB	RS# 1 Administrative expenses	762.26
75103	Luke Siemieniewski	Travel	417.30
75104	Bruce Speich	Travel	59.92
75105	Todd Stein	Travel	113.96
75107	Roger Zetocha	Travel	107.00
75106	Dale & Luanna Torreson	Dr#7 permanent easement	6,850.00
13440	Bruce Speich	3 PD less 27.54 taxes	332.46
13441	Sherry Hosford	Salary less taxes 493.92	1506.08
13442	Roger Zetocha	7 PD less 134.09 taxes	705.91
13443	Luke Siemieniewski	10 PD less 143.72 taxes	1056.28
13444	Korey Martinson	7 PD less 134.09 taxes	705.91
13445	Todd Stein	6 PD less 55.08 taxes	664.92
DD	Sargent County Bank	Withholding Taxes	1476.38

TEXAS CROSSING LOCATED BETWEEN SECTION 31-131-54 LTL AND 36-130-55 LTL IN TEWAUKON TOWNSHIP ON THE WILD RICE RIVER: Jeff Breker, Tewaukon Township Board member met with the board to see if the Board could provide assistance regarding this crossing. Sherry provided some history on this crossing, dating back to 1988 when a petition was filed with the county commissioners to provide an adequate crossing at this location. There have been culverts and rock placed at the crossing throughout the years but still is not a working crossing. The township is concerned about the safety of the public. Sean Fredricks indicated the water board has no jurisdiction over this crossing since it is not along the course of a legal assessment drain, nor is it adjacent to a legal assessment drain; the Sargent County Water Resource District does not own this crossing and is not legally responsible for it. By law, crossings of these nature are the jurisdiction and responsibility of townships, and Tewaukon Township should therefore take the lead regarding this crossing. Jeff agreed to visit with the township board and the landowners, and to then set up a meeting with the county commissioners to discuss this further. A member of the water board will be invited to attend the commission meeting.

DRAIN NO. 7 CHANNEL IMPROVEMENT PROJECT: Brent and Blake from Landmark Drainage LLC arrived at the meeting and reported they have been back at the project on Drain No. 7 for 2-3 weeks. They are installing culverts, fixing some washouts with clay and will begin further work to the west as weather allows. They felt that the project should be completed in one month. Manager Zetocha voiced some concerns from landowners and the traveling public that were unable to pass through this roadway due to equipment left parked on the road. The contractor will make sure the roadway is open for the public to pass through. Brent asked about the contractor delay charges that were approved today to Moore Engineering, Inc. (\$18,042.90) Chris Gross explained Moore's contract for this project ended on December 1, 2016. As a result of the contractor's failure to meet the contractual completion date, Moore has been billing hourly regarding any time spent on the project since December 1. Brent requested a copy of the bill and Sherry provided Brent with a copy.

GWINNER DAM BREACH: Chris Gross updated board members and provided a rough plan and profile to breach the dam. The survey was completed last week and additional topographic information received so the plans will be updated. A set of plans will be provided by Moore Engineering, Inc. at the regular May meeting for review. A timeline was discussed with possible completion of the breach by August.

GWINNER DAM IMPROVEMENT STUDY: Chris informed board members that following a meeting with landowners, himself, Manager Martinson and Manager Siemieniewski, landowners were in favor of pursuing a possible dam retention study. Site 6 is being pursued and access agreements have been mailed to the three landowners – Stephan Hogness, Todd Larson and Gerald Sletmoe to sign date and return. The goal is to have geotechnical work done no later than May 31 to minimize impacts to cropland. The agreements allow the District permission to undertake soil borings, geotechnical analysis and surveys, cultural resource inventories, wetland delineations, parcel review and survey, parcel staking, visual observations, and data collection for environmental assessment and surveys. The agreements note that the district will pay for and repair any damages caused by access to conduct the geotechnical work. Manager Martinson made a motion to authorize Chairman Siemieniewski to sign the Access Agreements once they are signed and returned by the landowners. Manager Speich seconded the motion. Upon roll call vote voting Yes – Martinson, Speich, Zetocha and Siemieniewski. Voting No – Stein. Motion carried.

DRAIN NO. 11 IMPROVEMENT PROJECT: Chris Gross reported that the Corps of Engineers responded regarding a preliminary jurisdictional determination. Some areas may be self-mitigated but the project may have to mitigate other lands. The Board directed Chris to investigate moving the channel in Section 23 closer to the road on land where the board has right of way and to remove the crossing under the township road between Sections 22 and 23 and put the crossing diagonally through the county road, which would eliminate one crossing but put in a small culvert to allow the water to flow east and into the drain. The other parts of the drain alignment are to remain unchanged.

WILD RICE SOIL CONSERVATION SUMMER YOUTH: Raina Ruch, Supervisor of the summer youth met with the board to inquire if the board is interested in continuing with the summer youth program. The board agreed that they would like to continue with this program but until they have conducted the annual inspection of drains and dams, they did not have a list of areas requiring work. The board agreed to contact Raina after the inspection with a list of projects for the summer youth. Raina also introduced the new District Conservationist, Bob Guetter, who has replaced the position held by Tom Jones. Mr. Guetter informed the board that this is the last year that NRCS will be involved in Wild Rice Channel # 9 inspection as the life span of the agreement has expired. The board still has the responsibility of maintaining the duck ponds and no farming signs and Mr. Guetter would like to accompany the board on the annual dam inspection to view this channel. The board will coordinate the date for the inspection with Mr. Guetter.

DRAIN NO. 11 REASSESSMENT: Chris provided a map to the board using the 80% proximity and 20% productivity index modified formula as discussed on April 6th. Benefit percentages on the map range from 10%-95%. Dickey County Water Board has indicated their willingness to participate regarding Dickey County parcels that benefit from Drain 11; the boards will have to enter into a joint powers agreement for that purpose. With that in mind Chris recommended to the board that they delay the public hearing that was scheduled for May 18th. This would give him another month to look over and cleanup the assessment list; get written approval from Dickey County Water Board; make changes at the May 18th WRD meeting and finalize the list; get the mailing out by May 31st and have the public hearing on June 16th. Chris continued with a timeline that would provide a list of assessments to the auditor by September 22nd. A lengthy discussion followed with comments on whether everyone is comfortable with the percentage assessments and Mr. Mathews presented his proposed reassessment process that he would like the board to review. The Board members objected to the suggestion they have not spent time and effort reviewing and improving their reassessment methodology. The managers have each spent hours driving the drain and flying the drain to determine benefits. Further, the Board directed their engineer, Chris Gross, to review benefits and to provide recommendations to the Board based on his expertise. Chris reviewed LiDAR to determine benefits based on elevation and proximity to the drain, land use and productivity indexes among other factors. Sean Fredricks commented that landowners frequently contend that properties “on the hill” should not have to contribute since their drainage flows naturally downstream anyway; however, Sean pointed out that, by law, landowners in the watershed have to participate. Specifically, Sean pointed out that state statutes require upstream and downstream landowners to share responsibility for legal assessment drains since they all benefit. -

Bruce Speich exited the meeting at 10:00 a.m.

Discussion continued on the Drain No. 11 Reassessment benefit of the land and if the weight of the Productivity Index (PI) needs to be adjusted. After much discussion board members agreed to make an adjustment from: More than 80% = 100% benefit for PI; 60-80% = 80% PI; 40-60% = 60% PI; 20-40% = 40% PI and less than 20% = 20% PI. Chris will test the previous 20 locations throughout the drain and redo the numbers, recalculate the percentage based on this PI change, prepare a new map and the board will call a special meeting within the next week or so to discuss the findings from these changes.

SHORTFOOT CREEK WATERSHED PLANNING PROJECT/NRCS: Chris updated board members on the project and reviewed all alternatives which are left on the table. There were 34 total alternatives and after three selection meetings it has been reduced to 3 impoundment site alternatives (7, 10, 12); a channelization alternative (with local landowners driving that) (22) and 1 diversion channel alternative (29). Chris explained

the modeling results and maps with the proposed projects. Project Team meetings will be on hold until initial design information, geotech analysis, detailed environmental review, economic analysis, final watershed plan and permits and funding are further reviewed. Another meeting will be held sometime in November or December 2017.

DRAIN NO. 7 EXTENSION: No information available at this meeting. Chris will hold off on further studying the culverts located under County Road # 12 until the board knows if there is interest by landowners in an extension to the drain.

RUST FAMILY LP SUBSURFACE DRAIN APPLICATION – SECTION 10/11-129-57: The Board reviewed an *Application to Install a Subsurface Drain* dated March 23, 2017, for Rust Family LP. Under the application, Applicant seeks to install a drain tile system in the East Half of Section 10 in Brampton Township, Sargent County, North Dakota. The project will include a single pump outlet in the northeast corner of the Northeast Quarter of Section 10; from there the tile discharge will outlet via an underground pipeline to the east approximately 1,000 feet that will run through or across the north-south township road between Sections 10 and 11, also known as 124th Avenue SE; from there the pipeline will continue to run east along the north boundary of the Northwest Quarter of Section 11 of Brampton Township, in the south road ditch of 97th Street SE; the pipeline will daylight in the ditch and the tile discharge will continue to flow east for approximately 1,450 feet until turning north through an existing culvert through 97th Street; once the tile discharge flows through the culvert to the north side of the road, the tile discharge will continue to flow east through the north road ditch of 97th Street for an additional 2,900 feet until intersecting 125th Avenue SE.

Because the project will discharge over property owned by Applicant, no THIRTY-DAY NOTICE was necessary to downstream landowners under N.D. Cent. Code § 61-32-03.1.

According to records on file with the Sargent County Recorder's Office, the Rust Family LP owns the East Half of Section 10 of Brampton Township; Don Rust owns the Northwest Quarter of Section 11; and Leo Rust owns the Southeast Quarter of Section 2.

It was moved by Manager Stein and seconded by Manager Zetocha to approve *Application to Install a Subsurface Drain* dated March 23, 2017, for Rust Family LP in the East Half of Section 10 in Brampton Township, subject to the following conditions:

- 1) 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 easements from the owner of any land, besides land owned by Applicant, on which Applicant will construct the tile system;
- 2) That Applicant obtain written permission from the Brampton Township Board of Township Supervisors to discharge into, or otherwise utilize, any of its township road ditches; to install, operate, and maintain buried pipe in any of its township road ditches;
- 3) 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
- 4) 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.

BRIDGE WITH FEDERAL FUNDS AND DRAIN NO. 12: Lucas reported that he attended the county commission meeting with Kent Sundseth, Manager, Tewaukon Refuge on April 4. Luke explained to board members that the county commission approved allocating \$15,000 towards the two bridge projects and the motion carried. Mr. Sundseth had indicated to Luke and the commissioners that he might find funding for most of the local share and had suggested \$5,000 from each board. Based on the \$15,000 contribution from the county commission motion by Manager Zetocha to contribute \$0- towards the bridge projects with the understanding that the federal government will pay the majority of the local share. If the local share is not all covered, the county commission can come to this board to request funding. Manager Martinson seconded the motion. Upon roll call vote, the motion carried unanimously.

RS # 1: Board members reviewed bills presented by the RS # 1 secretary for payment. Authorize payment of a bill for \$20,360.54 to Interstate Engineering, Inc. for services through April 8, 2017; Ohnstad Twichell for 2 bills totaling \$1,627.66 for work on SDDOT agreements and \$1,404.00 to Heartland Insurance for the annual premium.

CULVERT POLICY AND COST SHARE ON CULVERTS: Sean prepared a memo for the board to review and consider to send to townships on culvert policy and cost share. Some additional information was suggested be added to the memo, including the Board's cost-share policy. Sean will review the existing policy and present at the May meeting for further review and discussion.

OTHER BUSINESS: Manager Martinson updated the board on the ditch in north Milnor City and that the Utility Permit is for that area but the contractor has not completed the work and will be completed by another contractor.

ATTORNEY GENERAL'S LETTER ON ALLEGED VIOLATION OF OPEN MEETINGS LAW: A letter has been received from the Attorney General's office regarding notification and posting of a special meeting held by the board on April 6th. Manager Zetocha moved to authorize Attorney Fredricks to prepare a response on behalf of the Board. Manager Martinson seconded the motion. Upon roll call vote, the motion carried unanimously.

Meeting adjourned at 11:45 a.m.

LUCAS SIEMIENIEWSKI - CHAIRMAN

ATTEST:

SHERRY HOSFORD – SECRETARY-TREASURER