

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD HELD ON THURSDAY, APRIL 21st, 2022 AT 8:00 A.M. IN THE WATER BOARD CONFERENCE ROOM AT THE SARGENT COUNTY COURTHOUSE, FORMAN NORTH DAKOTA

Managers present: Chairman Luke Siemieniewski, Roger Zetocha, Todd Stein, Bruce Speich and Michael Wyum. Also, in attendance were Josh Hassell and Nathan Trosen, Moore Engineering; Sherry Hosford Substitute Secretary/Treasurer, landowners Jon Anderson, and Sargent County Commissioner Richard Ruch. Others present via video conference were Sean Fredricks of Ohnstad Twichell, P.C., the Board's Attorney; Attorney Charles Carvell, Pearce Durick PLLC; landowners Bob Banderet and Leon Mallberg.

Manager Wyum moved to approve the March 17th, 2022 regular meeting minutes, the April 4th, 2022 special meeting minutes and the March 31st, 2022 financial statement. Manager Zetocha seconded the motion. Upon roll call vote, the motion carried unanimously.

Manager Speich moved to approve the following bills:

- 83536 Ohnstad Twichell-** Mahrer/Ellefson Complaint/Asche App./Mtg. \$1683.90; Drain No. 7-Review report/appraisal \$516.00; Delahoyde/Quandt Complaint \$129
Total: \$2,199.90
- 83537 Ohnstad Twichell-** Correspondence
Total: \$833.72
- 83544 Ohnstad Twichell-** Drain No. 11 Project costs-\$7,150.81/Eminent Domain \$14,065.71
Total: \$21,216.52
- 83534 Richard Bosse-** Warranty Deed \$20,340/Permanent Easement \$11,655/Temporary Easement \$1,372.50
Total: \$33,367.50
- 83442 Starion Bond Services-** Drain No. 7 (Bond of 2016) \$111,530/Drain No. 12 I & S (2020B) \$51,688.75/(2020A) \$66,972.50
Total: \$230,191.25
- 83538 Pearce Durick, PLLC-** Drain No. 11 research/phone convos/mtgs.
Total: \$3,730.50
- 83396 Sargent County Clerk of Court-** Drain No. 11 ROW/Litigation
Total: \$208,274.00
- 83535 Moore Engineering:** Meetings/complaint \$4509.30; SF Creek Task 6 \$2975.00; Drain No. 4-Reassessment \$2152.50' Drain No. 11-Utility relocation/ROW/Reassessment \$34,714.16; Drain No. 7-ROW/Design Construction/Reassessment \$4895.00; Crooked Creek Task 3-\$25,100.00
Total: \$74,345.96

83539	Lucas Siemieniewski	Travel	\$65.52
83541	Todd Stein	Travel	\$28.08
83542	Michael Wyum	Travel	\$26.91
83543	Roger Zetocha	Travel	\$58.50
83540	Bruce Speich	Travel	\$52.65
DD	Lucas Siemieniewski	PD	\$332.46
DD	Todd Stein	PD	\$110.82
DD	Michael Wyum	PD	\$110.82
DD	Roger Zetocha	PD	\$110.82
DD	Bruce Speich	PD	\$221.64
DD	Wendy Willprecht	Sec-Treas -Salary less taxes	\$457.17 \$2042.83
DD	Stock Grower's Bank	Withholding Taxes	\$626.42
DD	ND State Tax Commission	State Tax	\$22.00
DD	Job Service ND	Unemployment Comp.	\$2.50

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

DRAIN NO. 7:

Kyle Nelson (Farmers National) previously completed an appraisal report for the project. Kyle's recommended values were \$2,000 to \$2,5000 per acre for channel acres; \$200 to 250 per acre for berm easement acres; and \$75 to \$100 for

temporary construction easement acres. At the Board's March meeting, the Board discussed those proposed values and agreed to discuss with area landowners before approving the values as just compensation for the project. After considering the report, comparing to other acquisitions, and discussing with landowners, the Board agreed to increase the valuations as follows: \$4,750 per acre for channel acres; \$2,375 per acre for berm easement acres; and \$200 per acre for temporary construction easement acres. Manager Wyum moved to approve those values as just compensation for right of way for the Drain 7 project. Manager Zetocha seconded the motion. Upon roll call the motion carried unanimously. Following additional discussion, Manager Wyum moved to clarify the temporary easement valuation of \$200 per acre is per year. Manager Zetocha seconded the motion. Upon roll call the motion carried unanimously. MEI will provide legal descriptions to Ohnstad Twichell; Ohnstad will prepare purchase agreements; and MEI will provide the purchase agreements to landowners and will otherwise commence right of way negotiations.

USF&W Service provided a proposed special use permit regarding Drain 7 project work within the Gainor Waterfowl Production Area in Section 13 of Milnor Township. Under the permit, USF&W will allow work within their right of way, with the caveat that the project cannot expand the Drain 7 footprint within USF&W's right of way and the Board's contractor must "smooth" and "level" the berms. Further, the Board must purchase seed mixture from USF&W's preferred vendor for seeding. Manager Speich moved to approve USF&W's permit for the Drain 7 project. Manger Stein seconded the motion. Upon roll call vote, the motion carried unanimously.

Trosen reported the box culvert for this project under CR-12 would not be available before 2023. If metal pipes were utilized they could be obtained within 2-3 months. The county put in temporary culverts last year that will need to be removed.

Trosen will visit with Damon at Interstate Engineering to decide what type of pipe (metal or concrete) the County will allow for the project. The county may be aggregable with using metal pipes as they have a paving project and might not want to hold up the project waiting for concrete pipes. Manager Wyum made a motion to get bids for both metal and concrete pipes for the Board's consideration. Manager Speich seconded the motion. Upon roll call vote, the motion carried unanimously.

The Board directed MEI to contact landowners to seek permission to stake the right of way limits for the project, and to ultimately stake the project right of way.

Manager Speich moved to approve a Task Order for MEI regarding Drain No. 7 reassessment, up to a maximum of \$110,000; and to approve a Task Order for MEI regarding Drain No. 4 reassessment, up to a maximum of \$80,000. Manager Zetocha seconded the motion. Upon roll call vote, the motion carried unanimously.

Engineer Trosen provided maps of Drain No. 7 for the Board to review including:

1. Existing benefit assessment
2. Crop productivity index
3. Drain buffer distance
4. Hydrologic soil group
5. Indicated land use
6. USFWS easement

Jon Anderson: Mr. Anderson filed "Notification" for his project under 80 acres; the project will not impact any legal drains or drain benefits and, therefore, no Board action is required. The county road ditch will need to be cleaned out. Jon will stop by the auditor's office to get the necessary forms he needs from the county.

Drain No. 4: Nathan Trosen presented preliminary assessment maps for Drain No. 4 that includes the same six factors contemplated under the Drain 7 map. Manager Speich moved to direct MEI to conduct preliminary benefit and reassessment analysis utilizing the weighted method, and to direct MEI to prepare and provide the Board with a draft of the proposed reassessment map and list, for both Drain 4 and Drain 7. Manager Stein seconded the motion. Upon roll call vote, the motion carried unanimously.

Drain No. 11 Reassessment:

Sean Fredricks indicated that, by law, he would have to read a script regarding the Board's potential Executive Session to discuss the Drain No. 11 reassessment, and would have to record his reading of the script, and the Board would have to record the Executive Session (since Mr. Fredricks would not participate in the Executive Session). Mr. Fredricks read the requisite script regarding the Executive Session and he recorded this portion of the WebEx.

Manager Wyum moved, and Manager Zetocha seconded the motion, to close the meeting, and to participate in an executive session, at 9:09 a.m., for purposes of attorney consultation regarding reasonably predictable litigation or administrative proceedings related to the Drain 11 reassessment, in accordance with N.D. Cent. Code § 44-04-19.1(2), (5), and (9). Upon roll call vote, the motion carried unanimously.

The executive session was attended by Chairman Luke Siemieniewski; Board members Roger Zetocha, Todd Stein, Bruce Speich, Michael Wyum; Sherry Hosford; the Board's conflict counsel for the Drain 11 reassessment, Charles Carvell; and the Board's project engineers from Moore Engineering, Nathan Trosen and Josh Hassell.

The executive session adjourned at approximately 9:42 a.m., and the Board returned to the public WebEx meeting, open to the public.

DRAIN NO. 8:

Manager Wyum said that he met with Rutland area residents and the city indicated they are interested in laying a tile in the bottom of Drain No. 8, but not a very large tile. Before the Drain opened, the water sat stagnant for 3 weeks to a month. The tile would go south of Rutland as residents are not concerned about water from the west. The city wants to keep the project simple and not have a lot of money spent on engineering. There was a proposal sometime around 2011 or 2012 of putting a 30” pipe in and filling in the channel. At the time it was anticipated this would cost around a million dollars, so instead, it was decided to pursue a project to flatten the slope.

Manager Wyum said that the city wants a much smaller pipe. Engineer Trosen said that there is a risk of a smaller pipe being plugged. The smallest pipe MEI would recommend is an 18” pipe. Trosen said that if the city uses the channel as a storm water outlet, there may be municipality funding available. Trosen will check into this.

Attorney Fredricks indicated that if landowners (including the City) wished to abandon the drain, they could submit a petition to request abandonment. Alternatively, if the members of the assessment district want to modify the nature of the project, they could submit a petition to request a vote.

Manager Wyum said he felt landowners would vote in favor of abandoning the Drain and returning the maintenance funds to the individual taxpayers.

SHORT FOOT CREEK:

No update.

DRAIN NO. 9:

No update.

CROOKED CREEK WATERSHED PLAN:

The calibrated model is finished and currently being reviewed. MEI is currently working on drafting the environmental assessment. The plan is to have another project meeting with the project team this summer.

Perfected Water Permit No. 6610/Transmittal of Perfected Water Permit:

A letter was sent by Michaela Halvorson, Hydrologist for the Water Appropriations Division, stating the developed portion of Conditional Water Permit No. 6610 has been inspected and the requirements stipulated on the conditional water permit for the appropriation of water to a beneficial use have been satisfied. Mr. Halvorson also forwarded the final Perfected Water Permit No. 6610. Manager Wyum moved to direct attorney Fredricks to prepare an affidavit for Chairman Siemieniewski to sign for purposes of recording the Perfected Permit with the County Recorder’s Office. Manager Speich seconded the motion. Upon roll call vote, the motion carried unanimously. Once Chairman Siemieniewski signs the affidavit, it will need to be recorded in the recorder’s office.

DRAIN NO. 11 PROJECT:

MEI has arranged for publication of bids for the project, with a bid opening scheduled for Thursday, May 12th, 2022. MEI and Fredricks will conduct the bid opening and MEI will provide the results to the Board for consideration.

DRAIN NO. 11 REASSESSMENT:

An informational landowner meeting will be held June 28th, 2022. Engineer Trosen said the mailing letter will include a request for private easement documentation. The deadline to provide documentation will be 1 week after the information meeting.

The Board directed Moore to update the proposed assessment district with the proposed changes to the watershed boundary, proximity analysis, and consideration of the 100-year non-contributing areas. **Glen and Mavis Thompson:**

Manager Stein moved to approve the purchase agreement signed by Glen and Mavis Thompson for Drain 11. Manager Zetocha seconded the motion. Upon roll call vote, the motion carried unanimously.

RS #1:

1) Revenue :	Richland Taxes	\$5,455.14
	Sargent Taxes	\$18,013.85
	Total :	\$23,468.99

Expenditures :

RS #1 Maintenance Checking Acct. Balance	\$.28
RS #1 Maintenance Savings Acct. Balance	\$	434,245.64
Total Maintenance fund balance as of January 31st, 2022-		\$434,245.92

DICKEY-SARGENT JOINT BOARD:

The following bills were presented for approval and payment:

1. Bills:		
	Dakota Valley Electric – Electricity	\$131.00
	Starion Bod Services-	\$183,391.25

Manager Siemieniewski moved to approve the Dickey-Sargent Joint WRD bills. Manager Zetocha seconded the motion. Upon roll call vote, the motion carried unanimously.

The motion approving these bills was handled during the Dickey-Sargent Joint Board meeting.

Meeting adjourned at 10:52 a.m.

LUCAS SIEMIENIEWSKI, CHAIRMAN

ATTEST:

SHERRY HOSFORD- SUBSTITUTE SECRETARY-TREASURER