

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD HELD ON THURSDAY, MAY 18, 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; Bob Banderet, Cogswell, Gerald Bosse, Cogswell and Dan Delahoyde, Cogswell

Approve April 20, 2017 minutes and April financial statement. Manager Martinson moved to approve. Manager Zetocha seconded the motion. Upon roll call vote, the motion carried unanimously.

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

75246	Randy Gibbon	Dr#7 WD/Fence/Perm. Easement	17,607.00
75247	Jerry's Backhoe Service	Dr#11 clean culvert/beaver dam removal	187.50
75248	Landmark Drainage LLC	Dr#7 payment #4	42,830.18
75249	Korey Martinson	Travel	27.82
75250	Moore Eng. Inc.	General-\$357.55; Dr#11-\$35,318.45 Dr#11-Reassessment-\$9371.00; Dr#7 I&S-\$4,566.10; Dr#7 - \$187.55 Gwinner Dam - \$10,146.10; = TOTAL	59,946.75
75251	Ohnstad Twichell	General-\$1,056.00; Dr#11 reassessment-\$714.50; Gwinner Dam-\$1110.50; Dr#4-\$55.50; Dr#7 project-\$2171.20	=TOTAL 5,107.70
75252	Luke Siemieniewski	Travel	29.96
75253	Bruce Speich	Travel	26.75
75254	Todd Stein	Travel	8.56
75255	Roger Zetocha	Travel	26.75
13560	Bruce Speich	1 PD less 9.18 taxes	110.82
13561	Sherry Hosford	Salary less taxes 493.92	1506.08
13562	Roger Zetocha	1 PD less 9.18 taxes	110.82
13563	Luke Siemieniewski	1 PD less 9.18 taxes	110.82
13564	Korey Martinson	2 PD less 23.19 taxes	216.81
13565	Todd Stein	1 PD less 9.18 taxes	110.82
	DD Sargent County Bank	Withholding Taxes	793.91

APRIL 20, 2017 MINUTES: Following approval of the April 20, 2017, minutes there was discussion on incorrect verbiage regarding the Drain No. 11 Channel Improvement Project. The statement made of land owned by the board should read "right of way the Board owns or over which the Board has easement or other right of way rights." Manager Stein made a motion to approve the minutes as corrected. Manager Speich seconded the motion. Upon roll call vote, the motion carried unanimously.

DRAIN NO. 7 CHANNEL IMPROVEMENT PROJECT: Brent with Landmark Drainage LLC was present at the meeting and reported that all the work is completed up to the second crossing and all the riprap is in place to said crossing. There has been some high water issues that are slowing down the work. According to Brent, there are some miscellaneous culverts which need adjustments but he feels the work should be completed within 2 ½ to 3 weeks. When approving bills, the board authorized Payment # 4 to Landmark Drainage LLC for \$42,830.18.

JACKSON TOWNSHIP/QUANDT BROTHERS COMPLAINT: Dan Delahoyde asked the Board for clarification on the complaint filed by Jackson Township against Quandt Brothers. Dan stated that the road ditches are not included in a permit which has been approved in Section 18 and 20 and he asked if the township can make a condition that the ditches must be restored. Attorney Fredricks explained the Dickey-Sargent Joint WRD approved a permit for the south lateral project, with the condition that the Applicants obtain permission from Jackson Township. Sean explained the Township's approval is the Township's jurisdiction and concern and the Board has no control or jurisdiction over that. Dan informed the Board that he has worked with John Quandt and they will place the spoil on the section line, make the slopes a minimum of 3:1 and seed grass. The Board indicated to Dan that they will wait until the Township has acted before the Board takes any action regarding the outstanding complaint.

GWINNER DAM BREACH: Chris Gross updated board members on the Gwinner Dam breach and suggested that bids be opened on June 14th at 3:00 p.m. at his office in West Fargo. Board members will plan to call in for the bid opening and authorize Moore Engineering, Inc., to review, confirm and recommend awarding a bid at the regular June 15th meeting.

GWINNER DAM RELOCATION: Following the April board meeting, Luke, Korey and Chris met with 3 landowners regarding relocation of the Gwinner Dam. Access Agreements were mailed out for signatures and since then an email was received from Todd Larson that upon talking with neighbors and family members, he is

not interested in the project. Board members would still like to pursue this and at least get permission to schedule soil borings on the land.

DRAIN NO. 7 EXTENSION: Luke reported that Emeric Erickson plans to organize a landowner meeting in June to explain the project and see if there is landowner interest. Chris will hold off on further studying the culverts located under County Road # 12 until the board knows if there is interest by landowners for an extension to the drain. Bruce Speich received a call from Matt Bogart; Matt indicated water is backing up in Sections 11 and 14 of Milnor Township, as the spoil bank was not leveled. Bruce and Korey will determine what work is necessary. Motion by Manager Zetocha to authorize Manager Bruce Speich and Manager Korey Martinson to procure a contractor for up to \$5,000 to remove the spoil bank and level three spots on the south side and possibly one spot on the north side, cleanout the silt, and install an 18" interceptor culvert on the north side if necessary. Manager Stein seconded the motion. Upon roll call vote, the motion carried unanimously.

EAPs: Chris Gross reported the EAPs are done and he needs to schedule a meeting with all the stakeholders and will send out a survey to obtain some dates from those who will participate in the two hour activity.

CULVERT RESPONSIBILITIES, JURISDICTION AND OTHER DRAINAGE ISSUES: Sean Fredricks provided a handout that outlines the various culvert categories, applicable and relevant culvert statutes, and culvert cost-share, as well as drainage in township road right of way and obstructions in township road ditches. Manager Martinson made a motion to authorize the secretary to send this memo to all township chairs as well as the city auditors and county commissioners. Manager Speich seconded the motion. Upon roll call vote, the motion carried unanimously.

ANNUAL DAM AND DRAIN INSPECTION: Board members approved and authorized June 14th at 8:00 a.m. as the date and time of the annual dam and drain inspection. Board members will meet with Brady from Moore Engineering, Inc. and Bob Guetter, District Conservationist with NRSC at the Wild Rice Soil Conservation Office and commence the inspection throughout the county. At 3:00 p.m. board members will meet in the commission room at the Sargent County Courthouse for a conference call to open bids on the Gwinner Dam Breach. A Special Meeting Notice shall be posted for these meetings.

RS # 1: Board members reviewed bills presented by the RS # 1 secretary for payment. Manager Speich made a motion to authorize payment of a bill for \$2,671.00 to Interstate Engineering, Inc. for services through May 6, 2017, and a bill to Ohnstad Twichell for \$270.00 for work on SDDOT agreements. Manager Martinson seconded the motion. Upon roll call vote, the motion carried unanimously. Also discussed spraying RS# 1 in areas determined by the board by Larson Helicopters.

MAHRER/ELLEFSON COMPLAINT: Scott Mahrer was present at the meeting to ask what has taken place on the illegal pumping on this complaint. Manager Siemieniewski explained that one ball has been put in place at one location and no pumping has taken place by Paul Ellefson or Shuman Township and the second one will be installed once the water goes down and conditions allow placement of the ball.

TILE DRAINAGE – HB 1390: House Bill 1390 was adopted by the ND Legislature with an emergency clause which puts the bill in affect immediately. Sean Fredricks explained what will be required of water boards with the new law and that sample documents are being prepared for WRDs to use to reflect the new bill. One of the obligations of WRDs under the new bill is a 30-day notice to downstream landowners within one mile of the tile outlets, or until the tile discharge outlets into a legal assessment drain, natural watercourse, slough or lake, whichever occurs first. Also, the 30-day notice is not necessary if the applicants present "notarized letters of approval" from the downstream landowners. There are plans to conduct seminars to explain the process of detail and board members were encouraged to attend the Annual Summer Meeting scheduled at the Holiday Inn Riverside in Minot on July 13 and 14 to learn this new process. Motion by Manager Speich to adopt a \$150 permit fee policy for future subsurface (tile) drain applications. Manager Stein seconded the motion. Upon roll call vote, the motion carried unanimously. Sean noted the process for surface drainage applications did not change.

Application to Install a Subsurface Drain for Rust Family LP in the East Half of Section 10 in Brampton Township

Don and Will Rust were present to request amendment to the tile permit previously approved by the Board. At the Board's meeting on April 20, 2017, the Board approved *Application to Install a Subsurface Drain* dated March 23, 2017, for Rust Family LP, regarding the Rusts' drain tile system in the East Half of Section 10 in Brampton Township. Mr. Rust requested an amendment to increase the drainage coefficient from 3/8" to 1/2" coefficient. Manager Martinson moved to amend the Board's previous approval of *Application to Install a Subsurface Drain* dated March 23, 2017, for Rust Family LP, to modify and increase the drainage coefficient. Manager Speich seconded the motion. Upon roll call vote, the motion carried unanimously.

APPLICATION FOR SURFACE DRAIN NO. 4720 for Bernard Vculek in the South Half and the Northeast Quarter of Section 13 of Denver Township. The Board previously approved APPLICATION FOR SURFACE DRAIN NO. 4720 for Bernard Vculek on July 16, 2015. In accordance with North Dakota law, surface drainage

permits require applicants to complete construction of their drainage projects within two years. In this case, the applicant submitted a request to the Board for a one-year extension, in accordance with Section 89-02-01-09.12 of the North Dakota Administrative Code. Manager Speich moved to approve a one year extension regarding APPLICATION FOR SURFACE DRAIN NO. 4720. Manager Zetocha seconded the motion. Upon roll call vote, the motion carried unanimously. Applicant has until July 15, 2018, to complete the project. Under Section 89-02-01-09.12, the applicant can only request one more one-year extension.

OTHER BUSINESS: Luke asked board members if the county road department could remove fill along Drain No. 12 to use on County Road 14 south of the Tewaukon Refuge. Manager Stein made a motion to allow the county road department to remove fill off the backside of Drain No. 12 near Robert E, Lee's residence in the S1/2 of Section 8 in Marboe Township. Manager Zetocha seconded the motion. Upon roll call vote, the motion carried unanimously.

EXECUTIVE SESSION: Upon motion made by Manager Martinson, seconded by Manager Zetocha and upon the roll call vote and all members voting in favor of the motion, at 10:00 a.m. the Sargent County Water Resource District convened in an executive session as provided by NDCC 44-04-19.2 for attorney consultation to consider and discuss pending civil litigation of Banderet et al. vs Sargent County Water Resource District et al, Sargent County District Court Case No. 41-2017-CV-00014 and to consider closed or confidential records and information, attorney's advice, litigation strategy, and/or litigation instructions regarding this pending case as provided by NDCC 44-04-19.1, 44-04-19.2 and 44-04-18.4. Those present included: Water Board members- Luke Siemieniewski, Roger Zetocha, Todd Stein, Bruce Speich and Korey Martinson; Attorney Daniel Gaustad and Secretary Sherry Hosford. The Executive Session adjourned at 11:18 a.m.

DRAIN NO. 11 CHANNEL IMPROVEMENT PROJECT AND DRAIN NO. 11 REASSESSMENT: Chris Gross rejoined the meeting as well as Robert Banderet. Motion by Manager Speich to table the reassessment of Drain No. 11 and the Project and Design of Drain No. 11 due to pending litigation from Robert Banderet, et al. Manager Zetocha seconded the motion. Upon roll call vote, the motion carried unanimously. Chris Gross noted that the cost-share from the ND State Water Commission will be frozen during the litigation.

Meeting adjourned at 11:26 a.m.

LUCAS SIEMIENIEWSKI - CHAIRMAN

ATTEST:

SHERRY HOSFORD – SECRETARY-TREASURER