

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD HELD ON THURSDAY, MAY 19, 2016 AT 8:00 A.M., IN THE COMMISSIONERS ROOM, SARGENT COUNTY COURTHOUSE, FORMAN, NORTH DAKOTA

Managers present: Luke Siemieniewski, Todd Stein, and Richard Engst. Absent: Roger Zetocha and Korey Martinson. Also present: Sean Fredricks, Board Attorney and Chris Gross, Board Engineer.

Approve the April 21, 2016 minutes and April financial statement. (Stein/Engst, unanimous)

Motion to approve payment of the following bills: (Engst/Stein, unanimous)

73171	Matthew Bosse	Beaver removal – Dr # 11	50.00
73172	Dakota Improvement, Inc.	Dr # 11-Mezarous Slough spoil bank level	3590.00
73173	Dunbar Township	Culvert cost share/Asche waterway	2082.53
73174	Richard Engst	Travel	33.48
73175	Jerry’s Backhoe Service	Tewaukon Watershed beaver dam removal	90.00
73176	Ohnstad Twichell	General - \$640.50; Jackson Township/Quandt - \$346.86	Dr # 4 – Rick
	Hoistad - \$537.00; Dr # 7 – Impr. Project 2016-01 - \$1067.50; Dr # 8-\$108.00; = TOTAL		2699.86
73177	Sargent County	123-20 Hoistad Bridge cost share	38467.41
73178	Lucas Siemieniewski	Travel	31.19
73179	Todd Stein	Travel	96.12
12181	Sherry Hosford	Salary less taxes 494.75	1505.25
12182	Richard Engst	6 PD less 55.83 taxes	664.17
12183	Roger Zetocha	2 PD less 23.61 taxes	216.39
12184	Lucas Siemieniewski	6 PD less 55.83 taxes	664.17
12185	Korey Martinson	1 PD less 9.18 taxes	110.82
12186	Todd Stein	9 PD less 82.62 taxes	997.38
DD	Sargent County Bank	Withholding Taxes	1113.14

**DRAIN NO. 2:** Manger Engst expressed his concern on the placement of the culverts in Drain No. 2 by Comstock Construction Inc. and the fact that the culverts are almost full of water now. He asked the board to consider hiring Moore Engineering, Inc. (MEI) to check the culvert depth between Sections 10/11 in Herman Township. Manager Engst moved to authorize MEI, upon contact from the board when the project cleanout is completed, to survey this area for culvert placement. Second by Manager Stein. Upon roll call vote, the motion carried unanimously.

**GWINNER DAM:** Chris Gross reported that they had made contact with Dennis and Sharon Peterson with regard to the Gwinner Dam Study. Moore Engineering, Inc. explained to the Peterson’s the benefits of retention projects and that only geotechnical tests would be done at this time but in the end the Peterson’s did not want to sign their access agreements. The next step was to invite the Peterson’s into a water board meeting to talk one-on-one with them. Sherry stated that she had invited them to both the May and June board meetings and they had conflicts with those dates. The board recommended that a letter be sent to the Peterson’s asking if the July 21, 2016 meeting would work for them to come in and discuss the benefits of a retention project and what is involved with right-of-way, cost share and explain the history surrounding the project.

**UPPER WILD RICE RIVER WATERSHED STUDY/DRAIN NO. 11:** Chris Gross informed board members that his firm has completed a grade line from the outlet north and west to Meszaros Slough and one mile to the north of there. They are in the process of trying to determine the cost of wetland mitigation and right of way and hoping to have prepared a cost share request to the State Water Commission before their June meeting. This board will call a special meeting in late May if needed to review the cost estimates prior to submitting a cost-share request to the ND SWC.

**SHORTFOOT CREEK WATERSHED PLANNING PROJECT/NRCS:** Chris Gross explained the need to make a request to both the US Fish and Wildlife Service and the US Corps of Engineers to be a cooperating agency with the watershed plans and EA/EIS Development in the Shortfoot Creek Watershed project. Also the chairman’s signature is needed on the Agreement for Cost Share Reimbursement between the State Water Commission (SWC) and this board stating that the SWC will provide the Sargent County WRD with cost-share not to exceed \$154,000 to proceed with the study. Manager Engst moved to authorize the chairman to sign both letters and the Cost-Share Agreement. Second by Manager Stein. Upon roll call vote, the motion carried unanimously.

**STORM LAKE OUTLET PROJECT:** Terry Dusek, Carol Peterson and Ryan Smith from the City of Milnor arrived at the meeting to discuss the proposal from this board to develop a federal maintenance district for purposes of improving, maintaining and operating the Storm Lake Outlet Project. Chris Gross and Manager Engst attended the Milnor City Council meeting on May 9<sup>th</sup> to discuss this proposal. Chris prepared and presented to those present at the water board meeting a Storm Lake Watershed Delineation map and a water surface profile comparison along Drain No. 7. There was a lengthy discussion on who received the greatest

benefit and if there is flood and drainage benefit to the upstream landowners. The purpose of this federal maintenance district is so future maintenance or improvement projects on Storm Lake can be paid for from a specific fund and not left to the city or the Drain No. 7 maintenance levy fund. City folks feel that there is no water flowing from Drain 7 to Storm Lake, but when the drain is full, it will not allow water from the lake until the drain recedes. A question was asked if a lateral can be made from the lake to the drain but this would create more water problems for the landowners along the lake. Manager Engst provided a document that states Storm Lake outlet was built in the 1930's for recreation purposes and not for retention or flood control. He feels the water comes from the south and west and is not restricted. Attorney Fredricks stated that legally Storm Lake cannot be included in the Drain No. 7 assessment district without a successful assessment district vote; he explained that, legally, the Board cannot include Storm Lake as a "lateral" of Drain 7 by resolution or order (without an assessment vote). Sean further explained that, while the Board has the legal authority to extend drains or add laterals, the retention benefits from Storm Lake differ greatly from the benefits provided by Drain 7 and, by law, require separate benefit analysis.

Chris Gross explained the profile map and stated if the existing control structure was removed it would increase the water surface elevation in Milnor City by three feet. The present structure is lowering the water surface profile by about two to two and half feet of water within the city. The water board has control and ownership of the control structure and the question was asked if the water board can give the control structure to the city. The Board could do that by agreement, but any transfer of ownership would require NRCS approval and a new permit or modification of the existing Storm Lake permit by the State Engineer. In addition, the City could not access the same cost-share from the SWC and Red River Joint Board for flood control if the water board did not own the control structure. Other options were discussed and it appears the best option is to set up a federal maintenance district where all benefited landowners would pay and not just the city. The federal maintenance district process requires a public hearing and two-thirds votes by Sargent County and the Sargent County Water Resource District. This board does not want to proceed with creation of an assessment district and a hearing if city officials and landowners object to the entire proposal. A decision was made to have the board engineer and this board conduct a benefit analysis to determine the boundaries of a probable maintenance district, to send the draft district proposal to the City of Milnor for comments, conduct a hearing, and proceed with votes by this board and the county commissioners. City representatives asked that the water board confer with the city to any proposed project or work that would be proposed. The City requested that the Board refrain from removing the dike at the Milnor Golf Course; Chris Gross assured the city representatives that he would not design a project to remove the dike but rather it would remain in place.

Kent Thoreson, Interstate Engineering, Inc., stopped at the meeting to request a Utility Permit on behalf of Milnor City to install a culvert to discharge into Drain No. 7 as per attached plans and subject to the terms contained in the permit. Manager Engst made a motion to approve the Utility Permit. Second by Manager Stein. Upon roll call vote, the motion carried unanimously.

**RS # 1:** Board members reviewed a bill presented by the RS # 1 secretary for payment. Authorize payment of the bill for \$7,151.92 to Interstate Engineering, Inc. for services from April 10 to May 7, 2016 and acknowledge date of upcoming meeting as May 24<sup>th</sup> at 9:30 a.m. in Wahpeton.

**DRAIN NO. 4/RICK HOISTAD:** The Board received and read a letter from the City of Forman regarding a Purchase Agreement dated September 11, 2012. According to the city attorney, the transaction described in the Purchase Agreement was to close on or before October 15, 2012 and because that did not take place and any modification was to be in writing pursuant to paragraph 19, the city has chosen not to honor the expired Purchase Agreement and instead has committed to placing the described property into CRP. The check approved by this board at the April meeting to the City of Forman for \$2,400 was returned to the board. Attorney Fredricks explained the Board and the City both signed and approved the Purchase Agreement; he indicated Attorney McShane from his office who is handling the Rick Hoistad settlement will contact the City's attorney regarding the agreement. Sean further requested that the board approve a check for \$8,000 payable to Rick Hoistad as the amount agreed upon in the Settlement Agreement and Mutual Release on the Rick Hoistad lawsuit. Manager Stein moved to approve payment of the \$8,000. Second by Manager Engst. Upon roll call vote, the motion carried unanimously.

Meeting adjourned at 11:10 a.m.

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LUCAS SIEMIENIEWSKI – CHAIRMAN

ATTEST:

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SHERRY HOSFORD – SECRETARY-TREASURER