

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD
HELD ON THURSDAY, AUGUST 16, 2012 AT 7:00 P.M., IN THE COMMISSIONERS ROOM,
SARGENT COUNTY COURTHOUSE, FORMAN, NORTH DAKOTA

Managers present: Jim Bosse, Mark Breker, Richard Engst, Chris McFarland and Roger White.
Absent: None. Also present: Chad Engels, Moore Engineering, Inc.; Sean Fredricks,
Ohnstad Twichell, P.C.; Trish Pearson, Forman City Auditor; Roger Zetocha, Stirum and Al Carton,
Forman.

Approve July 19, 2012 minutes and July financial statement. (Bosse/Engst, unanimous).

Approve payment of the following bills: (Breker/White, unanimous)

66325	Brian and Lisa Bergh	Drain No. 4 right of way	6879.00
66326	Harlan G Isensee Trustee	Drain No. 4 right of way	967.50
66327	Kathleen A Isensee Trustee	Drain No. 4 right of way	967.50
66354	Forman City	NDSWC cost share on Dr # 4 project	316,598.00
66355	Ryan Contracting Co.	Final Payment on Dr # 4	55,553.96
66501	Mary Beth Anderson	Tile drain refund	215.20
66502	Bohnenkamp Construction	Cleaning Section 22-129-54-Tewaukon Watershed	765.00
66503	James Bosse	Travel	38.85
66504	Delores Breker	Tile drain refund	43.80
66505	Mark Breker	Travel	31.08
66506	Dakota Improvement, Inc.	Dr # 11-Cleaning from N Meszaros to Co # 1	25,000.00
66507	Loren David	Tile drain refund	3.10
66508	Richard Engst	Travel	27.75
66509	Miles Johnson	Tile drain refund	108.80
66510	Lake Agassiz Dev. Group	Drain 7 Mitigation project	2,375.00
66511	Moore Engineering, Inc.	Banish dike complaint-\$532.50; Shortfoot Creek Study-	\$20,030.45 and Dr # 4 \$3,102.50 = \$23,665.45
66512	VOID		
66513	Ohnstad Twichell	Attorney fees-\$1,279; Quandt tile project-\$899.20; Joe	
	Breker-\$255.60; Paul Mathews-\$188; Dr # 4-\$1195.60; Dr # 7-\$736.00 =	\$4,553.40	
66515	The Sargent County Teller	Drain # 4 publication	231.02
66516	SGC Horizon LLC	Dr # 7 bid advertising	434.00
66517	Roger White	Travel	47.73
66518	S & T Mund Farms	Tile drain refund	75.60
7391	Mark Breker	2 PD less 13.56 taxes	226.44
7392	Sherry Hosford	Salary less 17.89 taxes	298.78
7393	Richard Engst	1 PD less 6.78 taxes	113.22
7394	Roger White	3 PD less 20.34 taxes	339.66
7395	Jim Bosse	4 PD less 27.12 taxes	452.88
7396	Chris McFarland	1 PD less 6.78 taxes	113.22
DD	Sargent County Bank	Withholding taxes	218.94

Roger Zetocha met with the Board to inquire about cleaning out a section of Drain No. 11 in the NW1/4-36-132-58 and east through Section 8 and 9-131-57. Roger White has looked at this area and has spoken to Dakota Improvement and they will clean out some of this area when their equipment is repaired.

Mike Campbell, Supt., Sargent Central School District arrived at the meeting and later also Arlen Hanson and Steve McLaen both of Forman. Mr. Campbell is concerned about a slough west of the school and a ditch in the back of the slough. There has been flooding of this school property in the past and this summer an \$81,000 new playground was installed and they would like to see some permanent berm around the slough. He has contacted the Corps of Engineers, US Fish and Wildlife and North Dakota Dept. of Transportation and everyone is fine with a project as long as there is no easement invasion. Both Arlen and Steve have looked at the area and feel that in order to drain properly they would have to go down six feet to drain the slough. There is concern about an open ditch in light of the proximity to the football field, and they think tiling may be the best option. Al Carton, Forman City Council, expressed concern with the additional draining and possibly using a retention dam to control the water to avoid stressing the city system. The school would like to know if the Water Board would be agreeable to work on this project with both the landowners and the school. Sean Fredricks, Attorney for the Board, explained that this could be a separate assessment district for the school only or others who benefit such as the landowners, golf course and school. The parties could reach an arrangement under which the Board constructs the project and creates an assessment district to finance the improvements. There was also a suggestion that Red River Joint Water Board

may contribute if it is a flood control project. After a lengthy discussion both Arlen Hanson and Steve McLaen agreed that it would be cheaper to do the project themselves and install poly pipe. The Board informed Mr. Campbell that a surface drain permit is required and forms must be completed and sent to the ND State Water Commission for their consideration.

Mike Manstrom, Dougherty & Company LLC, Bismarck arrived at the meeting to discuss the issuance of bonds for Drain No. 4 channel improvements. Richard Engst introduced a Resolution Authorizing the Issuance of \$370,000 Limited Tax Improvement Bonds of 2012, prescribing the terms and covenants thereof, and creating a fund for payment thereof. Mark Breker duly seconded the motion for adoption of the foregoing resolution and upon roll call vote, the following voted in favor thereof: McFarland, Bosse, Breker, Engst and White; the following were absent and not voting: None; and the following voted against the same: None, whereupon the resolution was duly passed and adopted, and was signed by the Chairman and attested by the Secretary. A complete copy of the resolution is placed in the Drain No. 4 bond file.

Loren Ellefson, Milnor stopped at the meeting to discuss a tile project located in Section 7, Shuman Township. According to Mr. Ellefson, Shuman Township approved the placement of tile in the road ditch and the drainage area is less than 80 acres therefore this Board does not have any jurisdiction on this project. Mr. Ellefson will get permission from the township for work in the road ditch and he plans to do the project himself.

Trish Pearson and Al Carton representing the Forman City Council informed the Board that they have been billed \$12,000 for fees on the Rick Hoistad litigation on Drain No. 4. Sean Fredricks reminded them that the city held a special meeting in the fall, with the water board, where the parties specifically discussed Mr. Hoistad's right of way dispute. At the meeting, the City agreed with the Board's approach regarding the right of way; they agreed the Board should proceed; and they agreed that Mr. Hoistad was not entitled to any additional compensation. Mr. Fredricks referred to the parties' Joint Powers Agreement, and the City's sole responsibility for all costs associated with the outlet project. Ms. Pearson acknowledged the meeting and recognized the City's responsibility for all outlet-related costs; however, she did inquire into whether or not the Board would agree to some cost-share, despite the City's responsibility. Ms. Pearson asked if all of this can be turned over to NDIRF, the city and Water Board's insurance, and Mr. Fredricks explained the parties' policies contain certain limitations regarding NDIRF's responsibility to provide defense for litigation. Mark Breker stated that he feels Ryan Contracting Co., the contractor is responsible. Mr. Fredricks indicated the Board's contract with Ryan requires Ryan to indemnify the Board, including for liability that arises after close of Ryan's contract. Further, the final pay request contained a provision that required Ryan to acknowledge their continuing indemnity obligations. Chairman McFarland said that the Water Board has a drain and cannot do any maintenance so there is no other alternative but to proceed with condemnation. Chad Engels, Moore Engineering, Inc. presented an Easement Exhibit of the area in question with acreage shown and feels there is about 4 acres that must be purchased for the Board to have access to the drain. Sean Fredricks asked that a special meeting be held in a couple weeks with this Board and the Forman City Council to discuss this project. Sean will set up the meeting and let Sherry know so she can contact both Forman City and Board members.

Sean Fredricks reported that the Paul Mathews complaint is proceeding.

Chad Engels is working on a new map for the Drain No. 9 reassessment area. The Board will discuss, and will likely proceed with reassessment proceedings, at their next meeting.

Chad Engels reported on Drain No. 4 Channel Improvement project. The contractor JAV Construction, Inc., Walcott, ND is scheduled to begin the project on August 22, 2012. Motion to authorize the Chairman to sign the contract. (Engst/Bosse, unanimous) There will be a pre-construction meeting in Fargo next week at Moore Engineering's, Inc. Office and the contractor plans to begin working on the west end of the project closest to Forman and then do the channel work.

Approve and sign purchase agreements for Drain No. 4 to Brian and Lisa Bergh, Forman (\$6879.00); Harlan G Isensee Trustee (\$967.50); Kathleen A Isensee Trustee (967.50); Forman City (\$0) and Rosalie M Nelson and Clint R McLaughlin (\$6,420.00). (Engst/Breker, unanimous)

Chad Engels had the results of the Drain No. 7 Crossing Improvements bid opening held on August 15, 2012. Bids were received from Johnson Excavation, Ottertail, MN (\$174,929); R.L. Larson Excavating, Inc., St. Cloud, MN (\$183,151.50); Sellin Brothers, Inc., Hawley, MN (\$192,363.75) and Comstock Construction, Inc. Wahpeton (\$255,183.75) Motion to award the contract to the low bidder Johnson Excavation. (Breker/Engst, unanimous) The box culvert will not be available until the first week of October and the project completion date is October 15, 2012. Chad also explained the total funding allocation and amount due from Milnor City, Sargent County Commission and this Board of approximately \$25,040.37 each.

Motion to authorize Chairman McFarland to sign the Certification of Completion of Small Project Worksheets for the 2009 spring flood. (Engst/Breker, unanimous)

The Board reviewed the 2013 budget and moved to approve \$260,600 for the General Fund and the following for the individual drains: #2-\$4,500, #4-\$20,000, #8-\$15,000, #9-\$15,000, #11-\$40,000, #12-\$30,000, Water Channel # 1-\$56,000 and Tewaukon Watershed-\$80,000. (Breker/Engst, unanimous)

Approve the following maintenance assessment amounts for each drain for 2012 taxes: Drain No. 2 - \$1.00; Drain No. 4 - \$2.00; Drain No. 8 - \$2.00; Drain No. 9 - \$2.00; Drain No. 11 - \$1.00; Drain No. 12 - \$2.00; SC Water Channel Imp. District No. 1 – \$2.00; Tewaukon Watershed - \$2.00. (Breker/Engst, unanimous)

Motion to authorize Chairman McFarland to sign Amendment 1 to the Agreement for Cost Participation for Shortfoot Creek Watershed 2011 Feasibility Retention Site Identification Study. The intent of the amendment is to increase the amount paid from the ND State Water Commission to this Board for additional study costs. In paragraph 2 replace \$7,500 with \$8,390 and in paragraph 4 replace \$15,000 with \$16,779. (Engst/Bosse, unanimous)

Other drainage concerns were discussed by Board members.

Meeting adjourned at 10:25 p.m.

CHRIS MCFARLAND – CHAIRMAN

ATTEST:

SHERRY HOSFORD - SECRETARY