

MINUTES OF THE MEETING OF THE SARGENT COUNTY WATER RESOURCE BOARD HELD ON THURSDAY, SEPTEMBER 15, 2011 AT 7:00 P.M. IN THE COMMISSIONERS ROOM, SARGENT COUNTY COURTHOUSE, FORMAN, ND

Managers present: Jim Bosse, Mark Breker, Richard Engst and Chris McFarland. Absent: Roger White. Also present: Chad Engels, Moore Engineering, Inc.; Sean Fredricks, Attorney, Onstad, Twichell; Tom Jones, NRCS; and Al Carton, Cogswell.

Delores Breker, Cayuga met with the Board to discuss a proposed tile project in Section 4 and 5-129-54 LTL (Tewaukon Township). Following discussion Ms. Breker took Applications to Drain to complete for the projects and this Board's approval.

Approve August 18, 2011 minutes and August financial statement. (Engst/ McFarland, unanimous)

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

64786 James Bosse	Travel	313.65	
64787 Mark Breker	Travel	205.02	
64788 Richard Engst	Travel	258.57	
64789 Sherry Hosford	Flowers	39.78	
64790 Johnston Fargo Culvert Inc.	Flap Gates – Drain # 9	500.00	
64791 Chris McFarland	Travel	10.20	
64792 Moore Engineering, Inc.	Dr # 4 Preliminary Eng.	28280.55	
64793 Ohnstad, Twichell, P.C.	Schutt/Erickson-\$135; Mahrer/Erickson-\$153;		Paul
Mathews-\$308.84; General-\$1082.45		1679.29	
64794 Sargent County	Culvert cost share-Dunbar Township	859.15	
64795 SGC Horizon LLC	Bid publication – Dr # 4	526.75	
6236 Mark Breker	8 PD plus \$33.00 meals less 93.58 taxes	899.42	
6237 Sherry Hosford	Sec. salary less 17.89 taxes	298.78	
6238 Richard Engst	10 PD less 129.97 taxes	1070.03	
6239 James Bosse	8 PD plus \$27.00 meals less 92.63 taxes	894.37	
6240 Chris McFarland	1 PD less 6.78 taxes	113.22	
DD Sargent County Bank	Withholding taxes	619.42	

Discussed right of way dispute between the Board and Paul Mathews, Cogswell. Motion to instruct Attorney Fredricks to obtain a title opinion from a title examiner on this right of way. (McFarland/Engst, unanimous)

Emeric Erickson met with the Board to inform them that he has sent an Application to Drain to the State Engineer. The form has not been returned to this Board. The Board will act on the Application upon receipt from the State Engineer. Mr. Erickson also stated that he has followed the order from the Board and has closed the drain and shut off the pumps in the SE1/4-2-131-55.

Joe Breker, Havana has provided to the Board a survey of the land he agreed to purchase from the Board for road access to the lodge Mr. Breker is building. Attorney Fredricks will prepare a purchase agreement. Discussion followed on a request from Joe Breker to obtain some dirt for his road project. The Board agreed to sell him the clay and include this in the purchase agreement. Also discussed the fence line that is located along this property and Sean Fredricks will prepare some language for the fence line.

Chad Engels presented a Lidar map for the Brampton Township landowners who made a request to extend Drain No. 9. Jim Bosse will contact the interested land owners and review the map with them.

Chad Engels also presented some preliminary work on the survey and plans for the reconstruction project on Drain No. 8, south of Rutland. Information was acquired from the Board that Chad will use to continue with the plans.

**Kevin Willprecht**

**Application to Install a Subsurface Drain for Kevin Willprecht in the N½ of the NW¼ of Section 13 in Ransom Township**

The Board reviewed an *Application to Install a Subsurface Drain* dated August 15, 2011, for Kevin Willprecht. The Board concluded the application does not propose drainage of statewide significance, so the Board has jurisdiction to approve the permit (without forwarding to the State Engineer's Office to consider and approve). Under the application, Applicant seeks to install a drain tile system in the North Half of the Northwest Quarter of Section 13 of Ransom Township, Sargent County, North Dakota. The project will include a gravity outlet that will discharge directly into a natural watercourse on the Applicant's property.

Chad Engels reviewed the application and indicated that the project will discharge directly into a natural watercourse, and therefore the application did not require a *Thirty-Day Notice* under N.D. Cent. Code Section 61-32-03.1, and the Board cannot require Applicant to obtain any flowage easements from downstream landowners.

According to records on file with the Sargent County Recorder's office, Arlen and Janet Willprecht are the record owners of the North Half of the Northwest Quarter of Section 13, and Kevin Willprecht is purchasing the property from Arlen and Janet Willprecht under a Contract for Deed.

It was moved by Manager Engst and seconded by Manager McFarland to approve *Application to Install a Subsurface Drain* dated August 15, 2011, for Kevin Willprecht in the North Half of the Northwest Quarter of Section 13 in Ransom Township, subject to the following conditions:

- 1) That Applicant obtain written permission from Arlen and Janet Willprecht to construct the tile system on the North Half of the Northwest Quarter of Section 13;
- 2) That Applicant obtain easements from the owner of any land, besides land owned by Applicant, on which Applicant will construct the tile system;
- 3) That Applicant notify the Sargent County Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets; 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.

Upon roll call vote, the motion carried unanimously.

#### **City of Forman Floodwater Outlet Drain No. 4 Reconstruction**

The Board previously directed Moore Engineering to advertise for bids regarding the City of Forman Floodwater Outlet/Drain No. 4 Reconstruction Project. Chad Engels reported Moore Engineering is currently advertising as required by North Dakota law, and Moore Engineering will conduct two bid openings on September 27 regarding the two separate segments (the Urban Flood Control Project for the City of Forman, and the Drain No. 4 Reconstruction Project). Moore Engineering previously submitted cost-share requests to the North Dakota State Water Commission, and Chad anticipates the State Water Commission will consider those requests at its meeting on September 21. In addition, Moore Engineering submitted two permit applications to the State Engineer's office. The Board reviewed information provided by the State Engineer's office regarding APPLICATION TO DRAIN NOS. 3858 AND 3859, including the applications submitted by the Sargent County Water Resource District regarding these projects.

The District owns, operates, and maintains Sargent County Drain No. 4, a legal assessment drain in Sargent County, North Dakota. Under Application No. 3858, the District has determined certain improvements are necessary to Drain No. 4, including installation of a concrete pipe from a lake on the west side of the City of Forman that will convey water to an open channel outside of the city lagoon and will convey water by open channel downstream via the reconstructed portion of Drain No. 4. The District previously submitted these permit applications regarding the two improvements. The State Engineer concluded that neither of the projects are "of either statewide or interdistrict significance."

The Board reviewed and adopted Moore Engineering's proposed responses to the eight elements under Section 89-02-01-09.2 of the North Dakota Administrative Code. The Board further determined no hearing was necessary under Section 89-02-01-09.1(2) of the North Dakota Administrative Code because the Board owns Drain No. 4 right of way and will acquire additional right of way to accommodate the reconstruction project, and the right of way acquisition will eliminate adverse impacts to private landowners.

It was moved by Manager Engst and seconded by Manager Breker to approve Application to Drain Nos. 3858 and 3859 for the Sargent County Water Resource District, subject to any conditions attached by the State Engineer's office. Upon roll call vote, the motion carried unanimously.

Following bid openings on September 27, the Board will be in a position to pass a Resolution of Necessity that Sean Fredricks will prepare that will include authorization to enter into a Joint Powers Agreement with the City of Forman and will include the authority to award a contract to the lowest responsible bidder for either or both projects. Chad Engels indicated that Moore Engineering provided

two potential completion dates for both portions of the project, one this fall and one next fall, so the Board has an opportunity to compare prices based on the proposed project deadlines.

The City of Forman plans to submit a request for an SRF loan regarding the floodwater outlet improvements through town. Moore Engineering is working with the City of Forman to prepare that SRF application. The initial estimate for that portion is \$400,000. The parties will meet to discuss how the City will finance that \$400,000 share.

With regard to the downstream reconstruction portion of the project, the Sargent County Water Resource District currently levies a \$2 per acre annual maintenance levy which yields \$36,000 annually. However, in consideration for the City's willingness to pay for the portion of the project through town, the City has requested that the Board refrain from assessing the City until the City's bonds issued to finance the City portion are retired. The City currently pays \$5,376 per year (at a \$2 maintenance levy), and so the Board's annual maintenance levy would be reduced to approximately \$31,000 annually if the Board removed the City from the maintenance roll. The Board will consider that option when they discuss the financing options with the City.

Randy Ptacek, Cogswell and Gene Gerdon, Chairman of Harlem Township met with the Board to discuss draining water through Section 33-131-57 into Drain No. 11 by using the road ditch. The township would like to run water down the township road ditch, which is parallel to the railroad, into Drain No. 11 located in the east half of Section 33 of said township. According to Attorney Fredricks, Harlem Township is the road authority and if the township does not file a permit, the Water Board has no jurisdiction over this project. The township will contact the railroad to seek permission and also discuss issues with Southeast Rural Water Users.

Two Applications to Install a Subsurface Drain (1) Arlen Willprecht, Lidgerwood and (2) Jim Nickeson, Veblen, SD were reviewed by the Board. Board members had questions on both applications and agreed to table until the October meeting.

Fred Strege, a Richland County landowner has contacted both Attorney Fredricks and Chad Engels regarding some lateral drains of sloughs and developing a legal drain beginning in Section 7-132-52 (Wyndmere Township of Richland County) and flowing northwesterly into Herman and Hall Township of Sargent County. Board members feel this should be addressed with the Richland/Sargent # 1 Board, who will be meeting on September 19<sup>th</sup> in Wahpeton. No action taken.

Discussed request from Dickey-Sargent Joint Board for approval of Application to Drain Nos. 3827, 3828 and 3849. Attorney Fredricks and Chad Engels updated the Board on what has transpired since the last joint meeting. The Sargent County Board felt uncomfortable approving these applications until they have more information and possibly a joint board meeting to discuss these applications. Table until Joint Meeting is conducted. (McFarland/Engst, unanimous)

Jim Bosse reported on drains in the Cogswell area and how to handle areas where roadways are washed out. Attorney Fredricks advised the Board that whenever a washout is brought to their attention, they should immediately contact the township that has authority of that roadway and Secretary for the Water Board so documentation can be placed in the appropriate file.

Upcoming drain projects were discussed and a list is being prepared of work to be completed this fall. Board members are still waiting to hear from FEMA on 2011 projects as no project reports have been received on any FEMA projects.

The Board received notification from the State Engineer that Emergency Drain Permit #3850 has been approved for Miles Johnson, Gwinner for the SE1/4-1-131-56 and is good for six months.

Tom Jones reviewed a project that is being considered for Bruce Speich in Herman Township involving installing a dike on top of a ridge. According to Chad Engels, they would need to complete a state diking application to proceed with this project.

Meeting adjourned at 11:05 p.m.

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JIM BOSSE – CHAIRMAN

ATTEST:

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SHERRY HOSFORD - SECRETARY