

Barnes County Water Resource District  
PO Box 306  
Valley City, ND. 58072  
701-845-8508  
08/13/2012

### Minutes

Present: Chairman- Jeff McMillan, Vice Chairman- Pat Hurley, Manager- Hieb, Manager- John Kohler, District Engineer- Mike Opat, District Lawyer- Sean Fredricks.

Also present: See attached.

The meeting was called to order at 8:00 AM by Chairman McMillan.

Manager Kohler moved to approve the minutes of the July meeting with corrections. Vice Chairman Hurley seconded. All were in favor. The motion carried.

Manager Hurley moved to approve the Revenue and Expenditure Reports. Manger Hieb seconded. All were in favor, the motion carried.

#### **Thordenskjold Drain: reassessment of benefit**

Manager Kohler and Mike Opat finalized the assessment list and presented a map to the board and the audience. Fredricks presented the following resolution:

Discussion was held regarding possible conflicts of interest. Fredricks concluded that Manager Kohler may have a conflict as his land will benefit from the reassessment. Vice Chairman Hurley moved to allow Manager Kohler be able to participate in discussions but to abstain from voting due to a possible conflict of interest. Manager Hieb seconded the motion. A roll call vote was held. The results are as follows: Members present and voting yes- Hieb, Hurley & McMillan. Member present and not voting: Kohler. All were in favor, the motion carried.

Vice Chairman Hurley moved to approve the resolution as presented. Manager Hieb seconded the motion. A roll call vote was held. The results are as follows: Members present and voting yes- Hieb, Hurley & McMillan. Member present and not voting: Kohler. All were in favor the motion carried.

Fredricks explained the process of extending the current drain to include the watercourse that flows through the SE ¼ of section 24, Thordenskjold Township. Vice Chairman Hurley moved to have Mike Opat review Right Of Way needs for the extension and to prepare a list of any other additional work to extend the drain. Manager Hieb seconded the motion. All were in favor. The motion carried. Chairman McMillan stressed that no work will be completed on the extension until all right of way and permitting

has been obtained. Discussion was held on maintenance of the existing drain in the SW ¼ of section 24, Thordenskjold Township. This cleanout work was approved in 2010 and 2011. It was decided that this work could be completed as approved in 2010 & 2011 with a total price limit of \$7,500.00.

**Clausen Springs Dam- unauthorized crossing**

Park Manager Bev Anderson reported to the office that several off road vehicles have been seen driving across the top of the dam. There are currently signs specifically stating “No Trespassing”. Discussion was held on liability issues and possible fines for unauthorized use. Fredricks suggested that the Park Board has the authority to apply fines. Commissioner John Froelich volunteered to have a discussion as a park board meeting regarding possible fines. Commissioner Froelich will report back to the board in September.

**Drain permit: Fee’s**

Discussion was held on the actual cost of processing drainage permits. Some permits are exceeding the current \$500.00 application fee. It was decided to charge \$500.00 plus any additional costs beyond the \$500.00 application fee. Fredricks will prepare a resolution and present it for approval at the September meeting.

**2013 Budget Request**

Manager Hieb and the Secretary will prepare this.

It was decided to request 4 full mills and an additional 2 mills for Red River Joint Dues.

**Griggs County Complaint**

Correspondence was received from Stutsman County indicating that they had received a similar complaint from Griggs County. Stutsman County Water Resource District requested that Griggs County be more specific in their complaint and that they were not willing to spend their own money or engage their NRCS agent to conduct a wild-goose-chase looking at many, many quarters without a more clearly-defined drainage complaint.

**Application to Drain No. 3810 for Warren Van Bruggen in the Southeast Quarter of the Southeast Quarter of Section 35 in Meadow Lake Township**

The Board reviewed *Application to Install a Subsurface Drain No. 3810* dated April 7, 2011, for Warren Van Bruggen. Under the application, Applicant seeks to construct and install a 6-inch gravity pipe with a surface inlet in the Southeast Quarter of the Southeast Quarter of Section 35 of Meadow Lake Township, Barnes County, North Dakota. The objective of the proposed drain is to remove approximately 2 feet of surface water from a wetland on property farmed by Applicant. The pipe will run to the west on the south boundary of the Southwest Quarter of Section 35; the pipe will outlet through an existing culvert through the east-west township road that acts as the boundary between the Southwest Quarter of Section 35 of Meadow Lake Township and the Northwest Quarter of Section 2 of Greenland Township. The discharge will flow into an unnamed natural drain in the Northwest Quarter of Section 2 of Greenland Township.

The Board previously reviewed this Application at its May, June, and July meetings, and the Board expressed concern regarding potential impacts to the downstream landowner in the Northwest Quarter of Section 2, Tom and Adam Johnson (Tom and Adam own the North Half of the Northwest Quarter of Section 2). The Board concluded at previous meetings that the project would either require Applicant to obtain a flowage easement from the owner of the North Half of the Northwest Quarter of Section 2, or the project would require Applicant to install a gate on the project with a reasonable operation and maintenance plan that would prevent adverse impacts downstream. The Board recognized the need to identify a reference point or elevation regarding operation of the gate and requirements regarding closure of the gate. The Board considered this issue at all four meetings. Ultimately, the Board concluded that if they require Applicant to close the gate between October 15 through May 15 and when the Board otherwise orders closure of the gate during significant flooding downstream, the project will not have adverse impacts on downstream landowners.

The Board adopted Mike Opat'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 89-02-01-09.1(2) because the Board determined that, with the O&M plan the Board will require, the project will not have adverse impacts on downstream landowners.

According to records on file with the Barnes County Recorder's office, Janet Van Bruggen owns all of Section 35 of Meadow Lake Township. In addition, Tom and Adam Johnson own the North Half of the Northwest Quarter of Section 2; and Mark Johnson owns the South Half of the Northwest Quarter of Section 2.

It was moved by Manager Kohler and seconded by Manager Hurley to approve Application to Drain No. 3810 dated April 7, 2011, for Warren Van Bruggen in the South Half of Section 35 of Meadow Lake Township, subject to the conditions attached by the State Engineer's office, and subject to the following conditions:

- 1) That Applicant obtain easements from the owner of any land, besides land owned by Applicant, on which Applicant will construct the tile system;
- 2) That Applicant obtain written permission from the Meadow Lake Township Board of Township Supervisors, or the Greenland Township Board of Township Supervisors, whichever entity is responsible for operation and maintenance of the Meadow Lake/Greenland Township road, to discharge into, or otherwise utilize, any of its township road ditches;
- 3) That Applicant install a gate on the outlet, and that Applicant close the gate between October 15 through May 15 every year, and any other time as ordered by the Barnes County Water Resource District during significant flooding downstream of the outlet and when necessary to avoid adverse impacts to downstream properties;
- 4) That Applicant notify the Barnes County Water Resource District in advance of any proposed alterations to the drain; and
- 5) 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.

**Application for Surface Drain No. 4050 for Melvin Wendel in the South Half of Section 32 in Potter Township**

The Board reviewed *Application for Surface Drain No. 4050* dated June 10, 2012, for Melvin Wendel. Under the application, Applicant seeks to construct and install a 4-inch buried pipe with a surface inlet, approximately 600 feet in length, beginning in the Southeast Quarter of Section 32 and crossing over into the Southwest Quarter of Section 32, near the south boundary of the section; from there, the pipe will discharge into the north township road ditch where the discharge will flow west in the north road ditch along the east-west township road along the southern boundary of Section 32. The discharge will ultimately flow through existing culverts and will discharge into Eckelson Lake. The objective of the project is to provide an outlet for a slough in the Southeast Quarter of Section 32 and to protect the township road along the southern boundary of Section 32.

The Board concluded the project will not result in adverse impacts to downstream landowners since the project only includes a 4-inch pipe, a pipe that will not discharge significant amounts of water.

The Board adopted Mike Opat'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 89-02-01-09.1(2) because the Board determined there are no adverse impacts to downstream landowners.

According to records on file with the Barnes County Recorder's Office, Jacob Wendel owns the Southwest Quarter of Section 32, subject to a life estate in Beatrice Wendel. Further, Melvin and Donna Wendel own the Southeast Quarter of Section 32.

It was moved by Manager Hurley and seconded by Manager Kohler to approve *Application for Surface Drain No. 4050* dated June 10, 2012, for Melvin Wendel in the South Half of Section 32 in Potter Township, subject to the following conditions:

- 1) That Applicant obtains easements from the owner of any land, besides land owned by Applicant, on which Applicant will construct the tile system;
- 2) That Applicant obtains written permission from the Potter Township Board of Township Supervisors to discharge into, or otherwise utilize, any of its township road ditches;
- 3) That Applicant notify the Barnes County Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets in advance of any proposed alterations to the project; 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.

### **Sanborn Lake Outlet**

According to the Joint Powers agreement between the Red River Joint Water Resource District and its member Districts, The Red River Joint will process permits that are of statewide or interstate significance. Vice Chairman Hurley moved to forward the Sanborn Lake Outlet permit on to the Red River Joint Water Resource District. Manager Hieb seconded the motion. The motion carried. The Secretary was requested to send a letter of formal request to the Red River Joint Water Resource District.

Discussion was held on legal issues with obtaining flow easements. Manager Kohler has attempted to speak to the Jorrison Trust regarding the proposed field access. He will contact them again and ask that they attend the next regular meeting. Vice Chairman Hurley and Manager Kohler will try to visit both the Jorrison's and the Offner's to try to resolve any issue's that may be remaining.

### **Engineer's Report**

Mr. Opat reported that Steele County residents and the Steele County Water Resource District are working on a possible assessment district that may involve Barnes County. A Joint District may need to be formed.

### **State Highway #9**

John Thompson, NDDOT District Engineer, has extended the contract that allows the 24" corrugated metal culvert to remain in place until 2013. Mr. Thompson indicated that the District can ask again next year for an extension.

### **10 Mile Lake**

Paul Abrahamson was in attendance regarding bonding. Mr. Abrahamson stated that there is landowner interest in the project. Discussion was held on the required bond amount. Mr. Fredricks determined that Chairman McMillan may have a conflict of interest as he has land in the vicinity of the proposed assessment district. Vice Chairman moved to have Chairman McMillan abstain from voting but to participate in factual items/discussions for the project. Manager Kohler seconded. All were in favor. The motion carried. Vice Chairman Hurley moved to require a \$75,000.00 bond and to have Mr. Fredricks draft the petition documents. Manager Kohler seconded the motion. The results are as follows: Mangers present and voting yes: Kohler, Hieb and Hurley. Mangers present and not voting due to conflict: McMillan. All were in favor. The motion carried.

### **Lower Sheyenne River Joint Water Resource District**

Vice Chairman Hurley moved to appoint Manager Hieb to the Lower Sheyenne River Joint Water Resource District portfolio. Manager Kohler seconded the motion. All were in favor. The motion carried.

### **Legal Drain #2**

Discussion was held on the Barnes County commission's removal of Manager Lettenmaier. All remaining bills are now a civil matter between Mr. Lettenmaier and the contractor. The Secretary was asked to notify the contractor. Discussion was held on the closure of the extension as per the USFWS and NRCS requirements. The District will coordinate the elevations with NRCS and the USFWS . The USFWS will extend the temporary permit if needed. In other drain business, the Secretary presented a notarized document giving Power of Attorney to Todd Wendell for voting purposes on the Legal Drain #2 advisory board from Gerald Wendell. This document will be placed on file.

### **Bills**

Vice Chairman Hurley moved to approve the bills as presented. Manager Hieb seconded the motion. All were in favor. The motion carried.

Being no further business, Vice Chairman Hurley moved to adjourn the meeting, seconded by Manager Kohler. All were in favor. The motion carried.

The next regular meeting will be held on September 10<sup>th</sup>, 2012.

Respectfully submitted,

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Jamie Smith, Secretary  
Barnes County Water Resource District