

Barnes County Water Resource District

PO Box 306

Valley City, ND 58072

701-845-8508

October 8, 2018

MEETING MINUTES

MEMBERS PRESENT: Chairman Jerry Hieb, Managers – Bruce Anderson, Shawn Olauson, Bret Fehr, Scott Legge, Mike Opat & Josh Hassell -Moore Engineering, Sean Fredricks -Ohnstad Twichell

Also Present: See attached List

Chairman Hieb called the meeting to order at 9:40 a.m.

Manager Fehr made a motion to approve the September 10, 2018 minutes with the corrections that were discussed, and the September 19, 2018 Hobart Special Meeting minutes as presented. Seconded by Manager Legge. Motion carried, both minutes were approved.

OLD BUSINESS

Hobart Lake: Mr. Opat reported that we are pretty much at the end of the project, there are a few things to take care of today. We have a Pay Application, a Final Balancing Change Order, as well as a Certificate of Substantial Completion. He also stated that we have been given the go ahead to open the system up and Manager Anderson has been operating the system for about five days now, there is water moving. Mr. Opat then talked about the Certificate of Substantial Completion, that is typically everything but the seeding and there is more time allotted for that usually. He explained that Excavation Services and Aggregate (ESA) has done everything on the punch list, it was brought up that ESA has recently just seeded and what happens if that washes out? Mr. Opat stated it was left on the CSC with the understanding it is basically part of their (ESA) one-year warranty, and they will come back to address the seeding if it does wash out within that time. Otherwise, we have listed the Substantial Completion date as Sept. 19, 2018.

He went on to explain that the Final Balancing Change Order is an accounting measure that looks at the under-runs and over-runs on quantities, the pipe quantities were a little less than what was estimated. Then Pay Application #7, which is currently being called the Final Pay Application was discussed. The total payment amount presented to the board was \$106,961.29, Mr. Opat stated as in the past we look at it from the standpoint of the work that is being done in accordance with the contract. Mr. Hassell put together a total calculation sheet of the liquidated damages, at this

point it totals \$60,500. Mr. Opat stated the board can assess all of that or you could assess some number less than that if there was a desire to do so. Chairman Hieb asked if ESA has looked at what was presented, Mr. Opat replied yes. Manager Anderson asked before the board gets into that, he has some concerns from Greg and Ann Lewis. He brought pictures for review and stated that the Lewis' have some erosion concerns in some areas, there are some issues with straw mats, and there are areas that have not been seeded. Mr. Lewis would like a few more straw waddles put out also. Mr. Cook with ESA stated that he knows exactly where Mr. Lewis's concerns are, he also stated that he will seed the area discussed and put down the straw mat also fix the other mat. He has some extra straw waddles he will put out where requested. Mr. Lewis asked about rock removal and expressed his concerns about bank erosion. The board stated it is too wet to do the work now, they suggested doing the work next spring. Mr. Lewis is fine with the work being done then, as long as the WRD will address the erosion in the future.

Mr. Opat suggested to the board to continue the Liquidated Damages discussion. ESA presented material for the board to review, Mr. Cook stated the permit renewal delay and excessive rainfall played a huge role in not being able to finish the project in time. After lengthy discussion, Manager Legge made the motion to assess the LD's and pay ESA a balance of \$46,461.29. Seconded by Manager Olauson. Manager Legge stated that ESA has done a good job, but they also signed up for the job. Manager Olauson stated a contract is a contract, Chairman Hieb stated he is leaning towards protecting the county. Also, Manager Anderson wanted to go on record saying that ESA has been good to work with and they do good quality work – then thanked them for being willing to fix the Lewis concerns. With that being said the roll call vote went Managers Fehr-no, Olauson-yes, Anderson-no, Legge-yes, with Chairman Hieb-yes. The motion carried with three yes votes to pay ESA \$46,461.29.

Lastly, Mr. Opat discussed the Certificate of Substantial Completion. Manager Fehr made the motion to issue out the Certificate of Substantial Completion. Seconded by Manager Anderson. Upon roll call vote, the motion carried unanimously.

Next Mr. Fredricks handed out material for the boards review on the Colville easement. He gave a history and presented Colville's counter proposal, there was discussion on the attorney's fees. Concern for future projects and acquiring easements was brought up and discussed. After lengthy discussion Manager Legge made the motion to accept the offer from Colville's attorney. Seconded by Manager Olauson. After more discussion the roll call went Managers Fehr-no, Olauson-yes, Anderson-yes, Legge-yes, and Chairman Hieb-no. The motion carried with three votes yes to accept the offer.

Mr. Hassell relayed because the Hobart Project is closed out, the board needs to submit a Compliance form to the COE in regard to the 404 permit. Manager Anderson made the motion to have Secretary Manson sign and submit the Compliance form to the COE. Seconded by Manager Legge. Upon roll call vote, the motion carried unanimously.

Barry Borg brought up some concerns to the board of plugged culvert, after discussion it was decided that the WRD has no jurisdiction with that. He also brought up an erosion concern along the ditch on Old 10, Mr. Opat suggested to the board let the water run a while and go down in Hobart, and we can come back and address these issues. The board agreed. Mr. Borg brought up that gravel needs to be added to the road where culverts were put in, Manager Anderson

agreed and stated he has been working on that. He reported to the board what was needed and a quote. Manager Fehr made the motion to approve gravel to repair the roads Manager Anderson had discussed, that dealt with the Hobart Project. The township will handle this, then send the bill to the WRD. Seconded by Manager Legge. Upon roll call vote, the motion carried unanimously.

Kathryn Dam: Mike Opat stated he had nothing new to report, they are moving forward with the design now.

Griggs/Barnes Joint Board: Manager Fehr reported that Dahl Consultants is going to put together a scope of work for a master plan. There are some concerns about the engineers leading the board through the project development phase.

10 Mile Lake: Manager Anderson read the email from Paul Abrahamson....
2018 October 5

These are the latest elevations for 10 Mile. **10/5/2018** from direct observation of the Moore Engineering Elevation Marker was **1430.8** msl. The new reading represents **NO CHANGE** from 9/8 and represents **5403.49** acre feet. The NDSWC Observation Well 142-060-10CCC-2, 9/11/2018 reading of **1433.93 msl.** is an **INCREASE** of **0.11 ft** from the 8/14/2018 of **1433.84 msl.**

VC Little Dam: Chairman Hieb had nothing new to report from the last meeting.

Dams owned by BCWRD: Mr. Opat handed out maps of the dams the WRD owns, the map showed the locations and who the landowners are. There was discussion if the WRD needs to have ownership of all these dams. Chairman Hieb asked what the right procedure with this task is, it was decided to send a letter to each landowner and to go from there. Manager Anderson made the motion to have Secretary Manson draft a letter to each landowner discussing the transfer of ownership of the dams. Seconded by Manager Legge. Upon roll call vote, the motion carried unanimously.

NEW BUSINESS

Bonde Drain Tile Application:

Application to Install a Subsurface Water Management System No. 2018-02 for Arlen Bonde in the Southeast Quarter of Section 10 in Spring Creek Township

The Board reviewed an *Application to Install a Subsurface Water Management System No. 2018-02* dated September 15, 2017, filed September 10, 2018, for Arlen Bonde. Under the application, Applicant seeks to install a 120-acre drain tile system in the Southeast Quarter of Section 10 in Spring Creek Township, Barnes County, North Dakota. The project will include a single gravity outlet that will discharge directly into a natural watercourse near the north boundary of the Southeast Quarter of Section 10. Applicant originally submitted the application in October of 2017, but did not submit all of the requisite documentation and materials until September of 2018.

Because the project will discharge directly into a natural watercourse, no THIRTY-DAY NOTICE was necessary to downstream landowners under N.D. Cent. Code § 61-32-03.1. Under the tile law passed during the 2017 Legislative session, because the project discharges directly into a natural watercourse, the Board cannot require Applicant to obtain any easements or consents from any downstream landowners, nor can the Board require Applicant to install erosion protection in the natural watercourse.

According to records submitted by Applicant, Arlen and Michelle Bonde own that portion of the Southeast Quarter of Section 10 Applicant intends to tile.

Manager Anderson moved, and Manager Fehr seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2018-02* dated September 15, 2017, filed September 10, 2018, for Arlen Bonde in the Southeast Quarter of Section 10 in Spring Creek Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2018-02, subject to the following condition:

- 1) That Applicant notify the Barnes County Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets.

Upon roll call vote, the motion carried unanimously.

Under Section 61-32-03.1, the District cannot attach any additional conditions to Applicant's permit. However, for Applicant's protection, and to ensure protection of Applicant's tile system, the District will recommend that Applicant consider complying with the following:

- 1) That Applicant install and maintain erosion protection at any and all outlets into the natural watercourse in the Southeast Quarter of Section 10;
- 2) That Applicant notify the Barnes County Water Resource District in advance of any proposed improvements to the tile system, or any proposed increase in the capacity or drainage area of the tile system and, if necessary, submitting an additional permit application; and
- 3) 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.

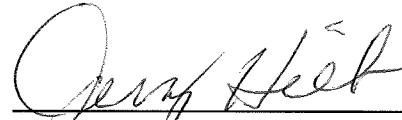
Archived minutes on Website: There was discussion about putting past years of WRD minutes on the website, this will help with open record requests. Manager Legge made the motion to put the past years WRD minutes on the website. Seconded by Manager Olauson. Upon roll call vote, the motion carried unanimously.

Engineer Report and Legal Report: Neither Mr. Opat nor Mr. Fredricks had any additional items to report.

Bills: Manager Fehr made the motion to pay the bills as presented with the addition of ESA. Seconded by Manager Olauson. Upon roll call vote, the motion carried unanimously.

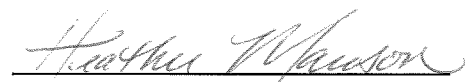
There being no further business to discuss, the meeting was adjourned at 12:15 p.m.

APPROVE:



Jerry Hieb, Chairman

ATTEST:



Heather Manson
Secretary-Treasurer

Barnes County Water Resource District
PO Box 306
Valley City, ND 58072

October 8th, 2018
Meeting Attendance

PLEASE SIGN IN BELOW

David Winkler

Jason Bjornson

Bob Cooley ESA

Dean Hagner ESA

Darryl Borg

Bob Cook ESA

Gregory J. Lewis

Ann Lewis