

Barnes County Water Resource District

Po Box 306

Valley City, ND 58072

701-845-8508

July 13, 2020

MEETING MINUTES

MEMBERS PRESENT: Chairman Jerry Hieb, Managers – Bruce Anderson, Bret Fehr, Daniel Buttke, Chris Gross - Moore Eng., Sean Fredricks – Ohnstad Twichell, Commissioner Shawn Olauson

ABSENT: Manager Scott Legge

Also Present: See attached list

Chairman Hieb called the meeting to order at 9:00 a.m.

Paul Abrahamson requested the board to consider adding to the June 8, 2020 minutes statements from his 10 Mile Lake Report. Manager Anderson explained the report is on hand at the WRD office for anyone who wants a copy of it, the abbreviated minutes are the ones approved. After discussion, Manager Anderson made the motion to approve the June 8, 2020 minutes with the corrections discussed. Seconded by Manager Buttke. Motion carried; minutes approved with corrections stated.

OLD BUSINESS

Hobart Lake: Manager Anderson reported that everything is still running, water quality tests are coming back favorable to keep the drain open full bore. There has not been much gain on it, but water is slowly moving out.

Kathryn Dam: Mr. Gross reported they are still working with the COE and SWC with the last permits. One of the mitigation efforts the COE is proposing is that there is a sign placed at the dam site to specifically describe water rights on the river. The board will review the draft Memorandum of Agreement the COE has drafted. Mr. Gross has discussed this type of signage with Bob Koeplin (BC Parks) he estimated the historical signage to cost around \$15,000. Mr. Gross explained that this is a project expense and would be cost shared through the OHF. Discussion was held it was recommended to approve Bob K. to do the historical research on the water rights and to develop a draft of what the sign would be, get a quote for products and provide it all to the board in an amount not to exceed \$15,000. Manager Anderson made the motion to authorize Bob Koeplin to do historical research on water rights and draft a product for the board to review not to exceed \$15,000, also to approve the draft Memorandum of Agreement on Bob's final approval. Along with that authorize Moore Eng. to

work with Bob K. to get the historical research completed and get final quotes for the sign. Seconded by Manager Buttke. Upon roll call vote, the motion carried unanimously. Mr. Gross explained this will be submitted to the COE for approval and this should move us forward.

Mr. Fredricks suggested with all parties available now to review and discuss the Tile Application submitted by Fred Schroeder. The board agreed to do this.

Drain Tile Application-Fred Schroeder: Mr. Fredricks began discussion by presenting the Thirty-Day Notices he sent out to downstream landowners, Fred Schroeder's permit application, and a copy of the "technical evidence" report submitted by Burian & Assoc. on behalf of the Satrom LLLP, a downstream landowner. Mr. Fredricks explained the issue for the Board to determine is whether or not the "technical evidence" report submitted establishes enough evidence for the Board to conclude that the project will result in adverse hydraulic impacts to the downstream landowners' property. If so, the Board can require the Applicant to obtain a "Notarized Letter of Approval" from the Satrom LLLP as a condition to the permit. More specifically, Sean indicated the tile permitting statute, N.D. Cent. Code § 61-32-03.1, provides, in relevant part:

If the board finds, based on technical evidence, the proposed subsurface water management system will flood or unreasonably harm lands of a landowner notified under subsection 2, the board may require the applicant to obtain a notarized letter of approval before issuing a permit for the system.

However, if the Board finds the "technical evidence" does not prove the project will adversely impact the Satrom property, the Board cannot require the Applicant to obtain any consent from the Satrom LLLP as a condition to the permit.

Chris Gross explained the proposed project based on the information submitted in the permit application. The project proposed under the application is a 165-acre tile project in the South Half of Section 36 of Noltimier Township. Applicant proposes two gravity outlets; the northern outlet would include a pipe that would go under 126th Avenue SE, and would daylight and discharge across a portion of the Southwest Quarter of Section 31 of Weimer Township for a short distance before discharging into a natural watercourse in the Northwest Quarter of the Southwest Quarter of Section 31. The south outlet would similarly include a pipe that would go under 126th Avenue SE in the southeast corner of the Southeast Quarter of Section 36, and would daylight and discharge near the southwest corner of the Southwest Quarter of Section 31, into the north road ditch along 30th Street SE; the discharge would flow to the east through the north road ditch, along the south boundary of the Southwest Quarter of Section 31, until ultimately discharging into the same natural watercourse as the discharge from the north outlet. The natural watercourse crosses under 30th Street SE, into Section 6 of Alta Township.

Sean Fredricks explained he provided the Thirty-Day Notice to the Maynard and Jeanette Satrom LLLP, as the owner of the Southwest Quarter of Section 31 of Weimer Township. In addition, Mr. Fredricks noted he provided the Thirty-Day Notice to Weimer Township as a

courtesy. Mr. Fredricks provided the language from Section 61-32-03.1 regarding downstream notices:

Upon submission of a completed application for a permit, the water resource district board immediately shall give notice and a copy of the submission via certified mail to each owner of land within one mile [1.61 kilometers] downstream of the proposed subsurface water management system outlet unless the distance to the nearest waterway depicted as a perennial or intermittent stream or river on a United States geological survey topography map, assessment drain, natural watercourse, slough, or lake is less than one mile [1.61 kilometers], in which case notice and a copy of the submission must be given immediately to each owner of land between the outlet and the nearest assessment drain, natural watercourse, slough, or lake....

Mr. Fredricks noted that, in this case, Mr. Gross identified the watercourse in the Southwest Quarter of Section 31 of Weimer Township as a USGS natural. With that in mind, in accordance with Section 61-32-03.1(2)(b), the Board was only required to provide Thirty-Day Notices to the owners of the Southwest Quarter of Section 31 since the discharge from both outlets ultimately outlets into the USGS natural in the Southwest Quarter of Section 31.

Mr. Bruns, who is installing the tile for Mr. Schroeder, indicated he has surveyed the area and that, in his opinion, consolidating the outlets is not an option.

Steve Burian, engineer for the Satrom LLLP, discussed the "technical evidence" report, and suggested flow rate provided in the application was incomplete. Mr. Bruns indicated the discharge rate is 7.06 gallons per minute per acre.

Bill Brudvik, attorney for the Satrom LLLP and the Richmans, stressed that if the Schroeders install any outlets or infrastructure on the Satrom property, that would be a trespass. Mr. Fredricks explained multiple times throughout the lengthy discussion that trespass is a civil matter between the parties, outside the purview of the water resource district, and, under Section 61-32-03.1, the Board has no jurisdiction to dictate outlet locations as they relate to private parties. Mr. Fredricks stressed the issue before the Board to determine was whether or not the "technical evidence" report demonstrated the project would result in adverse impacts to the Satrom LLLP; that decision would determine whether or not the Board can require the Applicant to obtain any consent from the Satrom LLLP.

The Board agreed they could not make a decision regarding impacts based on the "technical evidence" report without some review by the Board's engineer, Mr. Gross. After more discussion, Manager Anderson made the motion to direct Moore Eng. to review the "technical evidence" report and to prepare a written recommendation for the board regarding impacts of the project to the Satrom LLLP property. Seconded by Manager Buttke. Upon roll call vote, the motion carried unanimously.

A Special Meeting is scheduled for Monday July 27, 2020, to consider Mr. Gross' report, and to ultimately make a decision on the application.

10 Mile Lake: Manager Anderson read the report from Paul A. and mentioned that the report is on file at the WRD office. Mr. Gross gave an update that they have collected a lot of data since the last meeting, then handed out the Informational Packet for the board to review. He explained that the next most beneficial step is to meet with the landowners to establish a route, and to discuss what is most beneficial for the landowners. He went on to explain the project will most likely be a combination of buried pipe and an open channel outlet, he encouraged that one or two board members attend. Eric Broten asked if he could share the Informational Packet with the landowners that have contributed to the project, Chairman Hieb answered yes and suggested to share it with all landowners in the project area. Moore Eng. will coordinate with Eric Broten on dates and time for the landowner meeting, he suggested having Kurt T. attend as well his input is critical.

Griggs-Barnes-Stutsman Joint WRD Report: Chairman Hieb reported that the Silver Creek Project will now possibly include Gunderson Creek. There is a landowner meeting scheduled for July 20th @ Valley City Eagles at 10:00 a.m.

VC Little Dam: Nothing new to report from last meeting.

Eckelson Lake: Mr. Gross reported they are continuing to coordinate with NRCS to determine the draw down elevation.

Sanborn Lake: Mr. Gross explained to the board the permanent permit has been submitted, we are waiting on correspondence. In discussions Peter Wax mentioned all three projects will need to operate concurrently, Mr. Gross agreed and explained we are working on that in more detail. Manager Anderson reported that Scott C. completed the work on the Texas Crossing and everything looks good, he also reported that water is flowing well.

Clausen Springs Dam: Mr. Gross handed out the Final EAP, he will also be completing the final inspection on the dam repairs. There was discussion on the bill submitted by Industrial Builders, Mr. Gross mentioned that they did do some additional work on the spillway portion that was not charged for. The board discussed holding a percentage to cover if the seeding does not take. Manager Anderson made the motion to hold 5% of the bill until we get the final inspection report, then pay that portion out. Seconded by Manager Buttke. Upon roll call vote, the motion carried unanimously.

Thordenskjold Drain: Manager Buttke showed the board pictures of the wing wall and cattail situation on 49th St., there was discussion on culverts and clean out. After discussion, it was agreed to have Manager Anderson get in touch with Scott C. to take a look and submit a bid on culverts and see when he can do a clean out.

Meadow Lake: Mr. Gross reported they are coordinating with NRCS to determine a draw down elevation. This is further along than Eckelson due to the previous engineering that has been done. He stated that there is more of an idea of where the landowners want the water to go,

then discussed some preliminary indications. Mr. Gross mentioned a funding program where we might get 85% cost share for preliminary engineering and survey through DES, the board encouraged Mr. Gross to apply and see if this project qualifies.

Commissioner Olauson mentioned the benefits of Legal Drains, and his hopes for future projects to all be Legal Drains.

Smith – Drainage Complaint: No action was taken by the board, Connie Smith rescinded her complaint via email on June 17th, 2020.

New Business

Drain Tile Application – Matthew Legge: Mr. Fredricks explained that the application submitted was complete, 30-day notices were sent out to downstream landowners. The board will decide at the August meeting.

Drain Tile Application – Winter Farms / Devin Webber: Mr. Fredricks explained that the application submitted was complete, 30-day notices were sent out to downstream landowners. The board will decide at the August meeting.

Cattail Spraying: The board discussed continuing with the Fall Cattail Spraying. Manager Fehr made the motion to authorize Larson Helicopters to do the fall cattail spray also authorize Chairman Hieb & Secretary Manson to sign the Agreement. Seconded by Manager Buttke. Upon roll call vote, the motion carried unanimously. The board mentioned to spread the word that landowners can bring maps of areas to be sprayed along with contact information to the office, Secretary Manson will get that information to Mike Larson.

Engineer Report: Mr. Gross asked for clarification if they should continue to work through this process regarding Meadow Lake and Eckelson Lake or wait to see if these qualify for the cost share. And in the meantime, Manager Legge and Del Ray Enger can work with the landowners on seed money. The board wants to see if these projects qualify for cost share.

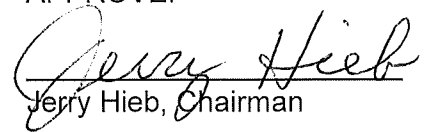
Legal Report: Mr. Fredricks discussed the training session he is conducting on August 7th, 2020.

Manager Anderson received a call from Gerrit Van Bruggen, he is receiving water from the Emergency Drain that was approved for Bruce and Connie Smith. He mentioned to Manager Anderson that he will also be applying for an Emergency Drain Application.

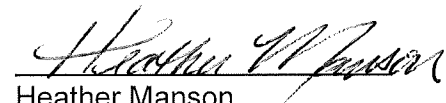
Bills: Manager Fehr made the motion to pay bills presented, minus the 5% holding from the IBI bill. Seconded by Manager Anderson. Upon roll call vote, the motion carried unanimously.

With nothing further to discuss the meeting was adjourned at 11:02 a.m.

APPROVE:


Jerry Hieb, Chairman

ATTEST:


Heather Manson
Secretary - Treasurer

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

July 13th, 2020

PLEASE SIGN IN BELOW

Alvan Olson

Andrea Rickman

Jan Rickman

Jessica Jennich Pt 2