

**Barnes County Water Resource District
PO Box 306
Valley City, ND 58072
#845-8508**

Meeting Minutes

June 12, 2023 – 9:00 a.m.

MEMBERS PRESENT: Chairman Jerry Hieb, Managers Bruce Anderson, Bret Fehr, Dan Buttke, Mike Opat Houston Engineering, Sean Fredricks (via WebEx), Shawn Olauson Barnes County Commissioner

ABSENT: Manager Scott Legge

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

Manager Anderson moved to approve the minutes from the Board's meeting on May 8, 2023. Manager Fehr seconded the motion. Motion carried; minutes approved as printed.

Chairman Hieb mentioned moving two items listed in New Business up first on the agenda, due to scheduling, once they are done then start with the Old Business. The Board agreed.

NEW BUSINESS

Cornell Twp. Improvement District No. 80 – Maple River WRD

Kurt Lysne (Moore Eng.) presented a map along with preliminary plans for a petitioned legal assessment drain located in the western half of Cass County, north of Tower City. He explained that there have been numerous informational landowner meetings, a tributary to this potential project is in Barnes County, located in the west sides of sections 13, 24, 25 & 36 in Weimer Twp. Kurt mentioned that the Maple River WRD has not advanced with this petition yet, they wanted to discuss the project with the Barnes County Board before moving forward. With some landowners in Barnes Co. potentially benefiting from this project, Sean explained the Barnes County WRD would have to participate in some capacity. He further explained that both Boards could enter into a Joint Powers Agreement where the Barnes Co. Board participates in the assessment process and approves assessments in Barnes Co., or the WRDs could opt to create an entirely new joint WRD. After discussion, the Board felt comfortable with a JPA. Sean then explained that, because he represents both the Barnes County WRD and the Maple River WRD, the two WRDs would have to consent to his joint representation. Sean presented a consent letter prepared for both WRDs' signature; under the proposed letter, both WRDs recognize and approve of his representation of both Boards, but the consent letter also notes that in the unlikely even any type of dispute arose between the two WRDs in the future over this project or the Boards' JPA, Sean would not represent either of the Boards. After more discussion, Manager Buttke moved to approve the consent letter and authorize

Chairman Hieb and Heather to sign the Consent Letter. Manager Anderson seconded the motion. Upon roll call vote, the motion carried unanimously. Sean will draft and circulate a Joint Powers Agreement between the Maple River WRD and the Barnes County WRD for the Boards' review and consideration.

Upper Maple River RCPP Update – Cass County Joint WRD

Josh Hassell (Moore Eng.) was present to update the Board on the status of this watershed planning effort that started back in 2015. He presented a map showing the planning area, with potential retention areas in the watershed in Barnes County. Josh discussed the map showing Alternative 2A with the additions of the biomass harvesting areas and how they should work. He stressed the fact that this effort is not moving forward towards final design or construction at this point, they are still in the process of trying to finalize that plan from the effort that started back in 2015. Lengthy discussion was held on this planning effort, Marilyn Henderson was present to express her concerns. Josh mentioned they are currently working through schedules with NRCS for their availability to have an onsite landowner meeting in July or August, to review the map and discuss the different features for landowner input. No action was taken by the Board.

OLD BUSINESS

VC Little Dam

Mike reported we are still waiting on approval of permits. Sean, Mike, and Heather worked on getting the notices together and mailed out regarding the Conditional Water Permit, and the Affidavit has been sent to the state for publishing notice in the paper, as required by law. Mike explained it's his understanding that all the state permits will be issued together, and the COE is finalizing exactly what they are requiring in terms of mitigation (which could be similar to Kathryn Dam regarding signage), we are waiting on that as well. He reminded the Board that we need permits in hand to be able to apply for the cost share for construction. As part of the project the USGS gauge that was at the dam was going to be impacted by construction, Chairman Hieb noticed a water survey crew in the area, the new gauge has been relocated to the bridge downstream of the dam.

NRCS-RCPP: Ten Mile Lake

Still waiting for NRCS to issue the final approval of the application. This is expected June/July, with field work and report to be completed this fall. In the meantime, all the cost share is in place with the DWR and RRJWRD to cover a good portion of the local cost.

Thordenskjold Drain

Mike handed out a reassessment map showing some proposed revisions regarding sect 5 and sect 8 in Ransom Co., along with an adjustment in sect 36 in Barnes Co. Mike has sent a note to Ransom Co. informing them of the revisions, he recommended moving forward with the proposed map and a JPA with the Ransom Co. Water Resource District. Sean mentioned to the Board that he does represent the Ransom Co. WRD, though typically only to the extent the Ransom County WRD has questions for him (he does not participate in their meetings). After more discussion, Manager Fehr moved to approve the Consent Letter and authorize Sean to draft and circulate a Joint Powers Agreement between the Ransom Co. Water

Resource District and the Barnes County Water Resource District. Manager Buttke seconded the motion. Upon roll call vote, the motion carried unanimously.

Bank Stabilization Study

Mike reported that the field review is scheduled for this month, he should have a report for the July meeting.

Clausen Springs Dam

Mike received an email from Torrey with Trademark Tooling on the trash rack modifications, he is unable to get their service truck close enough to complete the work, he indicated that it is either going to cost a lot more or he is not going to do it at all. There is an option of putting together a portable welding system on a side by side and possibly repairing the existing trash rack, we haven't received a cost on that yet. Mike has reached out to Tom M. with Strata about filling the void with some flowable grout, the quote for this repair is higher than anticipated, due to access reasons. Mike passed out aerial maps of the dam showing the access road. Discussion was held on potentially improving the access road keeping in mind the continuous need for future maintenance. Mike did mention that one reason we do not have a lot of access is because we don't want to encourage people to go up and down the spillway; that type of public access presents a significant safety concern. Manager Buttke is going to reach out to the landowner to the north about potential access for this repair and get back to Mike. Mike will continue to work with Tom M. to make sure everyone is on the same page with the access road for now and have an update at the July meeting. Discussion was held on the tree/brush spraying and removal off the man-made earthen embankment, Heather will talk with Jamen Windish, and get back to Mike.

Stewart – Anderson Drain (Legal Drain 2)

Mike did a site visit after the May meeting, there is some erosion between the two drop structures, downstream between the lower drop structure and 112th Ave is the worst area. He recommended doing a survey to identify exactly how much has been washed, then put a plan together for properly fixing it. Mike also noticed the culverts through 112th Ave seem to be either short or not centered in the road, on the east side there is a vertical drop where it's eroding as well. The Board agreed to discuss with the twp. first if any changes need to be made with these culverts, whether it's adding extensions or flared end sections. After more discussion, Manager Anderson moved to authorize Houston Eng. to do a survey from the drop structures to the culverts on 112th Ave. Manager Buttke seconded the motion. Upon roll call vote, the motion carried unanimously. Manager Legge has talked with Wade Klubben, he sounded willing to resolve the issues. Discussion was held on having contracts in place for smaller projects, like this one and future projects. The Board agreed. The last discussion point was on the Advisory Board. Barnes County is the only county that has this type of Advisory Board. Mike and Sean reminded the Board has sole jurisdiction to approve activities with the drain, to hire contractors, or to approve any bills for drain activities. Discussion was held on the Advisory Board meetings. Mike suggested considering incorporating the advisory meeting in the WRD regular February meeting, it was agreed that this will be good way to have landowners present to discuss and give their input to factor in on the Board's actions. Manager Fehr moved to incorporate the Legal Drain 2 Advisory Board Meeting in the WRD regular February meeting. Manager Anderson seconded the motion. Upon roll call vote, the motion carried. The Board also agreed when the time comes that a notice should be sent to all landowners involved.

Hansen/Hurley Complaint:

Mike recapped that all parties agreed to this complaint being held in abeyance last fall until this spring. Mike did a site visit with Pat Hurley after the May meeting. Pat mentioned this ditch was constructed back in the 60s originally by his dad and brother, he isn't aware if there was a permit at that time, they do not have a permit on file in the state database. Pat has submitted a state surface permit application for this drain to DWR, they are working on processing his permit application. Mike and Sean explained the process for processing surface drainage applications, including the 8-point analysis required under the Administrative Code. That review will require the Board to determine if the project results in adverse impacts. Les Hanson brought more photos showing the high water backed up on his property for the Board to review and had questions about a plugged culvert. The Board questioned if all the water in the photos was from the ditch in the complaint, Mike noted that there is a lot of water in this area, Meadow Lake is overflowing, and that flooding does not necessarily mean that Pat's project is the sole cause of the issue in this case. The Board will await the permit application from DWR.

Tomahawk Dam - Update:

Mike updated the Board that the contractor is scheduled to start mobilizing on June 26, 2023 it sounds like they will begin construction after July 4, 2023.

NEW BUSINESS**Under 80-acre Notification – Allen Skogen:**

Sean reported the Board does not have any legal obligation to take any action on these "Under 80" notifications; they are mandated by statute. Manager Anderson received calls from Rory Gable questioning the proposed project and potential impacts to his land. Mr. Gable asked that Manager Anderson read his text message "into the record": "I can't make water board meeting today and I didn't get the form sent in objecting to Skogan's dumping his water on me. So I'm texting in my objection to Allen Skogan's tiling project that will dump his water directly on to our property to you as a member of the water board. Please enter my objection into the record." Sean reminded the Board that, by statute, the Board has no jurisdiction over the notice or the project. Because the project is under 80 acres, if Mr. Gable files a drainage complaint, the Board will have no choice but to dismiss the complaint. No action was taken by the Board.

Drain Tile Application – Brad McKay**Application to Install a Subsurface Water Management System No. 2023-11 for Brad McKay in the Northwest Quarter of Section 26 and the North Half of Section 27 in Grand Prairie Township**

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2023-11*, filed by Applicant Brad McKay on June 6, 2023. Under the Application, Applicant seeks to install a 120-acre drain tile system in the Northwest Quarter of Section 26 and the North Half of Section 27 in Grand Prairie Township, Barnes County, North Dakota. The project will include a gravity outlet that will discharge via an underground pipeline that will commence along the north boundary of the Northwest Quarter of Section 26; the pipeline will run north under 22nd Street SE, across a portion of the Southwest Quarter of Section 23; the pipeline will daylight and discharge into a USGS blue line natural waterway in the Southwest Quarter of Section 23.

According to County tax roll information supplied by Applicant, William and Kimberly McKay own the North Half of Section 27, and Bradley and Megan McKay own the Northwest Quarter of Section 26. With regard to the property where Applicant will install the project pipeline and outlet, William and Kimberly McKay own the Southwest Quarter of Section 23. Once the project discharges into the USGS blue line waterway in the Southwest Quarter of Section 23, the Barnes County Water Resource District no longer has jurisdiction over the tile discharge.

Manager Fehr moved, and Manager Buttke seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2023-11*, filed June 6, 2023, for Brad McKay in the Northwest Quarter of Section 26 and the North Half of Section 27 in Grand Prairie Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2023-11, subject to the following conditions:

1. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.
2. Applicant will install and maintain erosion protection at any and all project outlets into the natural waterway in the Southwest Quarter of Section 23 in Grand Prairie Township.
3. Applicant will not install Applicant's tile system within 20 feet, on either side, of any rural water lines Barnes Rural Water District has in the Northwest Quarter of Section 26 or in the North Half of Section 27 in Grand Prairie Township under any blanket easements, or otherwise beyond Barnes Rural Water District's existing easement.
4. Applicant must apply for an amendment to SUBSURFACE WATER MANAGEMENT PERMIT NO. 2023-11 in advance of any proposed alterations to outlet locations, the addition of any outlets, or improvements or modifications to the tile system that could increase the capacity or drainage area of the tile system.

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 Board will recommend that Applicant comply with the following:

1. The Board recommends that Applicant obtain written consent from the owners of the North Half of Section 27 in Grand Prairie Township to install tile components.
2. The Board recommends that Applicant obtain and record a pipeline easement from the owners of the Southwest Quarter of Section 23 in Grand Prairie Township.
3. The Board recommends 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.

Sean Fredricks will provide copies of the Board's NOTICE OF DECISION, SUBSURFACE WATER MANAGEMENT PERMIT No. 2023-11, Applicant's downstream flow map, and the Barnes County Permit Form to the Department of Water Resources, Barnes Rural Water District, Grand Prairie Township, William and Kimberly McKay,

and Jessica Jenrich. Under North Dakota law, Applicant's detailed project design map is an exempt record, and the Board will not provide copies to any third parties.

2024 Budget Request

The Board discussed upcoming projects for the next budget year along with modifications to the budget request. Jamie Smith (BC Highway Supt.) proposed a salary increase for Heather Manson to the Board. Jamie explained that Heather's position is shared 50/50 Highway and Water Resource, but also noted that Heather spends far more than 50% of her time on water matters. After discussion Manager Anderson moved to increase Heather's salary by \$2.64 bringing her to \$25.35 and changing her to an Admin III. Manager Buttke seconded the motion. Upon roll call vote, motion carried unanimously.

Engineer Report

Mike mentioned the 2023 Summer Water Tour of the Sheyenne River is this Thursday June 15th in Valley City.

Legal Report

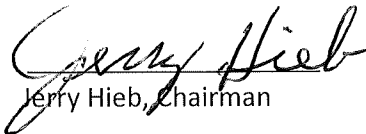
Sean mentioned still working on recommendations on some legislative items, he also reminded the Board that beginning August 1, 2023, draft meeting minutes must be posted on the County website within 10 days after a meeting.

BILLS

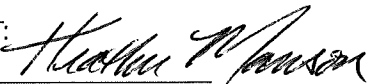
Manager Fehr moved to approve the bills presented with the addition of the Wade Klubben bill for Stewart-Anderson Drain. Manager Anderson seconded the motion. Upon roll call vote, the motion carried unanimously.

With nothing further to discuss, the meeting was adjourned at 12:01 p.m.

APPROVED:


Jerry Hieb, Chairman

ATTEST:


Heather Manson, Secretary-Treasurer

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

June 12th, 2023

PLEASE SIGN IN BELOW

Donald Jorissen
Marilyn Henderson

Les Ann

Shawn Olouse

BCC

Kit Lynn
Kirt Lyshe

Moore Engineering 9

Josh Hassell

↓

Barry & Cheryl Borg

Jason Zistran

Jamie Smith