

## **DRAFT**

**These are DRAFT minutes, subject to amendment before final approval by the Barnes County Water Resource District.**

### **Meeting Minutes**

July 10, 2023 – 9:00 a.m.

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

ABSENT: Manager Dan Buttke

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

The Board agreed to move the Spring Creek watershed discussion first on the agenda, then proceed with the Old Business.

Manager Anderson moved to approve the minutes from the Board's meeting on June 12, 2023 as printed. Manager Legge seconded the motion. Motion carried; minutes approved as printed.

### **NEW BUSINESS**

#### **Rodney Latt - Spring Creek watershed**

Mr. Latt presented a map showing the Spring Creek waterway from Kee Lake in Hemen Twp. down to Clausen Springs Dam in Oak Hill Twp. He stated over the last 25-30 years the creek has been getting more plugged with cattails and sediment which is not allowing the water to flow freely, along with that every spring the township roads get flooded or washed out. Representatives from townships affected by Spring Creek were in attendance, they explained that there have been many acres of pasture along with ag land lost to cattails and backed up water. Mr. Latt stated he hopes there can be a cooperative effort to spray, clean, or study this major waterway.

#### **Jack Olson – Spring Creek watershed**

Mr. Olson is an organic farmer who lives on the Spring Creek/Skandia twp. line, he explained that he is constantly getting water dumped on him, water containing chemicals which is illegal for his farm operation. He presented photos of his area and of a structure that Ducks Unlimited built in the Stoney Slough area. Discussion was held on this structure, culverts, Trager Dam, and cattails. The Board mentioned that the landowners can get together on their own and hire someone to spray cattails, Mike and Sean explained the formal process of creating a potential snagging/clearing assessment district.

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Mike noted that with a snagging and clearing district the Board can only address vegetation and cannot remove sediment or dig a wider ditch. Lengthy discussion was held on the structures that are owned by the USFWS, Trager Dam, and culverts in the twp. road. Kurt T. (USFWS) was in attendance for discussion he stated that he has a permit that covers all three structures, he will send a copy of the permit along with the design report to Mike. To keep things moving, Mike reiterated to those in attendance that the WRD does not have jurisdiction over culverts in twp. roads, and that this seems to be an issue between USFWS and other parties. Chairman Hieb thanked all who participated in the discussion, there were several options/routes discussed the landowners could pursue.

### **OLD BUSINESS**

#### **VC Little Dam**

Mike reported that we are still navigating through the permitting process, the Conditional Water Permit comment period ended on June 23<sup>rd</sup>. It is now being reviewed by the DWR hydrologist; they are uncertain as to how long this review will take. Mike explained if delays continue through July the cost share request for construction will have to be submitted at the December DWR meeting, with potential bidding in January 2024. The Board agreed that if permit approvals come in this month a special meeting can be held to take action on items, to keep things moving forward. Mike also discussed the Memorandum of Agreement between the COE, State Historic Preservation Officer (SHPO) and the WRD. Sean has reviewed the Agreement; he has no concerns. Mike explained the MOA requires photographic and video documentation of the site. That documentation needs to be housed in the local library, the WRD office, along with the COE and SHPO offices. After more discussion Manager Legge moved to authorize Chairman Hieb to sign the Memorandum of Agreement. Manager Anderson seconded the motion. Upon roll call vote, the motion carried unanimously.

#### **NRCS-RCPP: Ten Mile Lake**

Mike reached out to Christi Fisher (NRCS), she indicated internally the national office won't sign anymore new projects until older projects are completed. She expects our paperwork to come back signed shortly, Mike reminded the Board that the original plan was to start field work in September. His preference is to wait to get the official paperwork, hopefully in August, then start field work in September. The Board agreed with this.

Manager Fehr left the meeting at this time.

#### **Thordenskjold Drain**

Mike passed out an updated map, he along with Chairman Hieb will be attending the Ransom Co. WRD meeting on Friday July 14<sup>th</sup> in Lisbon. They will present the updated map and will talk with the Ransom Co. Board about the discussions they have had with the landowners in the area. Sean explained the draft JPA he circulated for the Board to review.

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After discussion Manager Legge moved to authorize Chairman Hieb and Heather to sign the Joint Powers Agreement. Manager Anderson seconded the motion. Upon roll call vote, the motion carried unanimously. Mike also mentioned there is a possibility this won't get approved in time to be listed on the upcoming certified tax rolls for next year, the Board agreed to not rush things to ensure the Board conducts the process properly.

### **Sheyenne River Bank Stabilization Study**

Mike reported the field work is being done today, that information will be processed, a report will be complete for the August meeting.

### **Clausen Springs Dam**

Mike reported on the trash rack repair. Trademark Tooling is unable to get a service truck on site. Mike has contacted Bayshore to see about potentially hiring them to use their barge to transport the trash rack to the site, he has not heard back from them, there are challenges with this idea. He mentioned one alternative is that Trademark Tooling could possibly make up a welding rig on a side by side, take some material to the site and patch the existing trash rack. The Board agreed this is less than ideal and would rather have a new one in place. This is still a work in progress. Mike then discussed the void repair under the concrete blocks, at the last meeting Mike wasn't sure everyone was on the same page. A video of the lower path was sent to Tom M., he indicated that wasn't the route they were thinking, he lowered Strata's quote to around \$15,000 for the repair using the lower access. Tom M. requested that the brush be cut back on the lower access, Manager Anderson suggested John Borg for the brush removal, Mike will give him a call. Mike then mentioned that the BC Weed Board is unable to help with spraying, he will follow up with Cory Palm on the drone spraying. Mike will keep in touch with Strata to let them know we are working on the brush removal first, in hopes of them beginning work August/September after approval of the quote. The Board also discussed a potential access from the south, Mike explained that it would be accessible a majority of the time; only when there is a chance of high water will it not be available. This could potentially be used for bigger equipment like service trucks and excavators for future maintenance and repairs, one concern was public safety, fencing and a gate can be considered with keeping the public off this potential access. Mike mentioned this could possibly be considered a dam safety project with potential cost share. Mike will have a report at the August meeting.

### **Stewart – Anderson Drain**

Mike reported that the Board directed him to do a survey and to come up with some repair options for the erosion that happened this spring. He explained the survey reports showed the culverts under 112<sup>th</sup> Ave SE are significantly lower than what they originally were, he confirmed that the culverts in the 1970s plan set match the survey that was done in 2015. Mike then passed out copies of the original plan set and presented three options for repairs, along with preliminary construction costs for each option. Discussion was held on each repair option, along with ROW of the whole drain, timeline for repairs and funding avenues. The Board discussed the current status of the drain if it can withstand the upcoming winter and spring melt, Mike noted that the culverts seem to be holding, the big concern is the slope by the downstream end of the drop structure.

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Mike also explained that the repairs are not eligible for state cost share. Sean discussed the bond issue process, that Board can borrow ahead six years against the drain assessment district. During discussion the Board recognized that the township has limited funds, and more than likely will not want to contribute to potentially resetting these culverts. It was also noted when the culverts in the township road were removed, that area being open for a month with water running through continuing to cut the grade, and then culverts being installed on top of what material was there at that time, was not the most ideal situation. After more discussion, the Board asked to Mike work on a new plan and estimate for them to consider that can potentially leave the culverts where they are at. The Board agreed with the timeline being a potential issue to hold a special meeting if needed to keep this project moving forward.

### **Hansen/Hurley Complaint**

Mike gave an update that Mr. Hurley submitted a surface drain application for the area subject to the complaint. The Board will continue to hold the complaint in abeyance until the permit came, then the Board would take action to address both the permit application and the complaint. Mike has been in contact with the DWR, Mr. Hurley's drainage application was being held up while the state was reviewing a dike application he submitted earlier, Mr. Hurley has recently withdrawn his dike application to help expedite the review of the drainage application. After more discussion, the Board agreed to wait for the drain application from DWR, to review the situation through the 8-point process required for the permit under North Dakota law, then to address the complaint. No action was taken by the Board today.

### **Tomahawk Dam – update**

Mike reported that the contractors are mobilized to the site, more than likely construction will begin this week.

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

Sean discussed the draft Joint Powers Agreement he circulated for the Board to review, after discussion Manager Anderson moved to authorize Chairman Hieb and Heather to sign the JPA. Manager Legge seconded the motion. Upon roll call vote, the motion carried unanimously. Mike mentioned the landowner meeting at the retention site in Minnie Lake Twp. on August 2<sup>nd</sup>, the invite should be sent out shortly.

## **NEW BUSINESS**

### **Snagging/Clearing 2023-24**

Discussion was held on this coming winter project, the Board agreed to pick up from where it stopped last winter and finish the south end, with the remaining funds, go where the need is and address the north end. Manager Legge moved to authorize Mike and Heather to submit the cost share application on behalf of the Board. Manager Anderson seconded the motion. Upon roll call vote, the motion carried unanimously.

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### Fall Cattail Spraying

Sean circulated a draft agreement with Larson Helicopters for the Board to consider; the agreement contains indemnity protection for the Board and insurance requirements for the contractor. Heather mentioned that Mr. Larson will be doing private spraying, landowners can bring maps of their areas to be sprayed along with their contact information to the WRD office; however the WRD is responsible for spraying the Legal Drains only. Manager Anderson moved to hire Larson Helicopters for the 2023 fall spray, approve and authorize Chairman Hieb and Heather to sign the agreement. Manager Legge seconded the motion. Upon roll call vote, the motion carried unanimously.

### Application to Install a Subsurface Water Management System No. 2023-12 for Derek Bruns in the West Half and the Southeast Quarter of Section 2 and the Northeast Quarter of Section 11 in Valley Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 2023-12*, filed by Applicant Derek Bruns on June 27, 2023. Under the Application, Applicant seeks to install a 181-acre drain tile system in the West Half and the Southeast Quarter of Section 2 and the Northeast Quarter of Section 11 in Valley Township, Barnes County, North Dakota. The project will include a gravity outlet that will discharge via an underground pipeline that will commence along the south boundary of the Southeast Quarter of Section 2; the pipeline will run south, under 31st Street SE, and will continue south across a portion of the Northeast Quarter of Section 11; the pipeline will daylight and discharge into a USGS blue line natural waterway in the Northeast Quarter of Section 11.

According to County tax roll information supplied by Applicant, Derek and Laura Bruns own the West Half of Section 2 where Applicant intends to install the tile system, and Jack Bruns owns the Southeast Quarter of Section 2. With regard to the property where Applicant will install the project pipeline and outlet, the Bruns Family Revocable Living Trust owns the Northeast Quarter of Section 11. Once the project discharges into the USGS blue line waterway in the Northeast Quarter of Section 11, the Barnes County Water Resource District no longer has jurisdiction over the tile discharge.

Manager Legge moved, and Manager Anderson seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 2023-12*, filed June 27, 2023, for Derek Bruns in the West Half and the Southeast Quarter of Section 2 and the Northeast Quarter of Section 11 in Valley Township, and to authorize the Secretary-Treasurer to sign SUBSURFACE WATER MANAGEMENT PERMIT NO. 2023-12, 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 Northeast Quarter of Section 11 in Valley Township.

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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 West Half of Section 2, the Southeast Quarter of Section 2, or the Northeast Quarter of Section 11 in Valley 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. 2023-12 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 owner of the Southeast Quarter of Section 2 in Valley Township to install tile components.
2. The Board recommends that Applicant obtain and record a pipeline easement from the owners of the Northeast Quarter of Section 11 in Valley Township.
3. The Board recommends that Applicant obtain written consent from the Valley Township Board of Township Supervisors to install any tile pipeline or other project components in the Township's road right of way.
4. 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. 2023-12, Applicant's downstream flow map, and the Barnes County Permit Form to the Department of Water Resources, Barnes Rural Water District, Valley Township, Jack Bruns, the Bruns Family Revocable Living Trust, 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.

### **Engineer Report**

Mike discussed the Upper Maple River watershed plan landowner meeting at the retention site up north in Minni Lake Twp. that has been scheduled for August 2<sup>nd</sup> the formal invitation will be coming out shortly. Mike mentioned that he was unable to get a recent gage reading for Hobart Lake for today's meeting, Manager Anderson has emailed Clay C. with the DWR about this. Mike also mentioned that Sanborn Lake is at 1426.2, Manager Anderson closed the drain on July 9<sup>th</sup>.

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### Legal Report

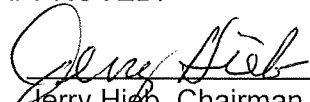
Sean discussed the new minutes requirement that begins August 1, 2023. He also mentioned that the ND Legislature increased their per diem per day to \$205; by law, WRDs can increase their per diems to match legislative pay. The Board agreed to discuss this more in detail when all Managers are present.

### Bills

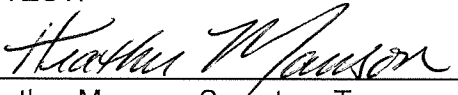
Manager Legge moved to approve the bills as presented. Manager Anderson seconded the motion. Upon roll call vote, the motion carried unanimously.

With nothing more to discuss the meeting adjourned at 12:09 p.m.

APPROVED:

  
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Jerry Hieb, Chairman

ATTEST:

  
\_\_\_\_\_  
Heather Manson, Secretary-Treasurer

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

July 10<sup>th</sup>, 2023

PLEASE SIGN IN BELOW

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Jack & Helen Olson, LITCHVILLE

BRIAN FUDER

RRRA

FARGO

Shawn Olanson

BCC

Marilyn Peterson

Oriskany

Dan Latt

Litchville ND

Rodney Latt

Valley City

Kurt Nelson

Fetting

Dennis Nelson

Litchville

Bob Latt

Litchville

KURT TOMPKINS

USFWS

Dwight Olson

Litchville