

Barnes County Water Resource District

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Valley City, ND 58072

701-845-8508

April 14, 2014

MEETING MINUTES

PRESENT MEMBERS: Chairperson Jerry Hieb; Manager Ken Evenson; Manager Bruce Anderson; Manager Shawn Olauson; Commissioner John Froelich; Mike Opat – Moore Engineering.

Absent: Manager Bret Fehr and Sean Fredricks – Ohnstad Twichell, P.C.

Also Present: See Attached List

Chairperson Hieb called the meeting to order at 9:02 a.m.

Manager Anderson made a motion to accept the March 10, 2014 minutes, with corrections, Manager Olauson seconded motion. Motion approved.

Chairman Hieb would like to change the format for the water district minutes, starting with reports and old business first and then go into new business.

OLD BUSINESS

Burchill Retention - Nyle Burchill came forward and addressed the district. Original plan would put water back onto Burchill's property, which was never what Nyle intended. Nyle showed a map showing area further to the east and discussed this area for possible part of Maple River project. Discussion of the Federal Farm program and how it would possibly help with funding. Manager

Anderson made a motion for Mike Opat to do a preliminary study for retention in the Burchill Retention area. Manager Evenson seconded motion. Motion approved.

Obstruction to Drain Complaint Filed by David Yanish Against Arvid Winkler

The Board next considered Mr. David Yanish's Obstruction to Drain Complaint against Arvid Winkler dated January 12, 2014. The Board previously discussed this matter but tabled the issue due to winter conditions. More recently as conditions have improved, Manager Olauson conducted a site visit in the Southwest Quarter of Section 29 of Cuba Township. More specifically, Mr. Yanish alleges Mr. Winkler obstructed a culvert that runs through 40th Street SE.

Manager Olauson conducted a site visit and found that there are no obstructions blocking or otherwise obstructing the culvert through 40th Street. Under N.D. Cent. Code § 61-16.1-51, the elements to determine whether or not an obstruction exists include whether or not a party constructed a "barrier" to a watercourse or artificial drain; if the landowner caused the "barrier" by negligent act or omission; whether or not the barrier "materially affects the free flow of waters"; and whether or not the alleged obstruction is within a watercourse as defined under N.D. Cent. Code § 61-01-06, or if the obstruction obstructs any artificial drain, including road ditches. In this case, Manager Olauson found that there are no obstructions to the culvert; therefore, the Board concluded there is no "barrier" to any watercourse or drain.

With that in mind, the Board had no choice but to dismiss the Complaint since there is no "barrier" or obstruction under Section 61-16.1-51.

Manager Olauson, seconded by Manager Fehr, moved to dismiss the Obstruction to Drain Complaint filed by David Yanish against Arvid Winkler dated January 12, 2014. Upon roll call vote, the motion carried unanimously.

Nelson/Buchholz – Mary Nelson addressed the district to withdraw their complaint with the water district. Manager Anderson made a motion to accept the withdrawal of the Nelson/Buchholz complaint. Manager Olauson seconded. Motion approved.

Deb Kantrud – South Central Dakota Regional Council, Executive Director - Hired by Barnes County Commission to update the counties Multi Hazard Mitigation Plan and this includes the Water Resource District. Mitigation is anything to permanently stop destruction of property or loss of life. Burchill retention project could qualify for this plan. All cities in the county belong to this plan also. FEMA & State Rules say this program needs to be up dated every 5 years to make it eligible for their projects. Hobart Lake is a mitigation project. Payout is 75% Federal, 10 % State and 15 % local. They are a financing tool for projects we may have. This Council would like to be involved in the planning of projects the water district is working on, because of funding that is available. The Council would like to use it here on North Dakota projects and not send back to DC (August is the deadline month). Their next meeting will be May 19, 2014 here at BC Highway Dept. from 6:30 to 8:30 pm. Water issues will be discussed, speakers at the meeting will be Baldhill Dam Director, National Guard and also John Thompson from NDDOT. Water District is invited to come and bring issues you are concerned with, so we can all work together. Other topics that may be discussed under Multi Hazard Mitigation plan are wind storms, winter and summer storms, droughts, communicable deceases, dam failures, homeland security issues, wild fires, urban fires, and transportation accidents. The Council is planning approximately six other meetings in the cities, of the county, to go over information in their areas.

Water district managers should try and be at these city meetings. Deb will get schedules out to all managers. This program will pay for plans, which is usually engineering costs for projects. **Two Funds:** Pre Disaster Mitigation Fund – not sure if this fund will be a go, it is a National competition fund. Second is Hazardous Mitigation Grant Program which is every time we have a disaster in ND, 15% of all moneys spent is set aside for future disasters. (More disasters more funds.) Deb is concern that all projects get recorded through her program. Deb handed out some surveys that she would like everyone to fill out and hand back in to Kim Franklin.

Tim Berntson Tile App. – Mike Opat updated district on the question of draining into a natural water way. USGS maps show quarter mile away is natural drainage. Howard and Olive Rasmusson sent a letter with objections, to where Tim Berntson was draining. Tim Berntson is to change design so drainage will go into a slough on Tim Berntson's property. District can require an easement downstream. Tim Berntson would like to start project in August. District will request a revised map from Tim Berntson and then we can approve application.

Commission Dike Complaint – Mike Opat reported on this complaint. Two issue area. First issue is that a levy was constructed in FEMA floodplain and because the water district is the Flood Plain Administrator, in this county, this must be addressed by the water district. Second issue is the complaint filed from the county commission through dike complaint process through the state code. Mike handed out Lidar and FEMA floodplain mapping information. Yellow color is the floodway and you cannot build in the floodway. Blue is the floodplain. Total area is what could get flooded out in a 100 year flood. Regulations say you can build in blue area (floodplain) up to the yellow boundary. Looking at the map it shows that 2.0 acres, NW corner of this dike, is out into floodway. As Flood Plain Administrator, this part of the dike must be removed as it will affect any FEMA Flood Insurance program we would be eligible for. Chairperson Hieb has talked with Mr. Mundal regarding this dike (levy) complaint and Mr. Mundal would like elevation readings where the floodway and floodplain meet, for 100 year and 500 year plan, for this is tied into his flood insurance. Water District will get this information for him and then Mike Opat and Chairperson Heib could meet with Mr. Mundal and take care of this process.

Second issue that Mike Opat addressed, is the dike complaint obstruction filed against Mr. Mundal. Mr. Mundal only has 2.0 acres involved, which puts him well under the 50 acres needed for a permit. It seems that everyone in this area constructed dikes, to protect sections of their properties in the floodplain and this caused certain roads, in the area, to also be raised, total of 10.6 acres. Total number of acres involved is 12.6 (not 50 acres needed for a permit). Mike looked at the 100 year detailed modeling plan and also the amount of water backed up in this area and that would be about 40 acre feet. Mike Opat and Sean Fredricks found, according to the ordinance, the landowners were fine in what they were

doing in the floodplain. Sean Fredricks was handling permit questions and also if complaint should be readdressed, for all property owners in area. This will have to wait for Sean to address. Chairperson Heib and Mike Opat will continue with their plan to go visit with Mr. Mundal. Discussion of Flood Plain Administrator position and duties of this position.

Thordenskjold Drain Resolution - Weather is getting better so Moore Engineering will soon be able to get the surveying done that the water district authorized. Manager Anderson had some landowners, at the north end of Throdenskjold Drain, ask about adding ditches so water can flow into drain. Mike Opat said they would have to go through the permit process with the water district. That means they would have to comply with **all** aspects associated with a permit request.

Sanborn Lake - Commissioner Froelich informed district this subject and Hobart Lake Project was on the Commission Meeting agenda for Tuesday April 15. Change in estimated property market value from \$374,586.00 to \$375,256.93. Also CP Rail Road has .02 of an acre on the top side of the railroad that water has to go across. Railroad does not sell property or give easements, but sometimes they will give a license. You can use emanate domain on the railroad to get an easement.

10 Mile Lake - Paul Abrahamson informed the district they have mailings set up for a town meeting. Finding the Hydric Soil line has been approved through the State Conservationist and Soil Scientist - Jeff Woodland from Fargo, will work with Keith Weston to do the testing. Area was too wet to do testing last week, rescheduled for April 23rd. Paul has a couple of changes to add to the state forms Mike Opat sent out. Mike Opat then explained the cost request forms for the State Water Commission. To keep closer watch on changes in future policies and legislative sessions, the SWC sent new cost share forms for the 2015-2017 biennium. Mike sent BCWRD the requests for 10 Mile Lake and Kathryn Dam. After district managers go over forms Linda will send off to SWC. SWC has different forms for projects like retention, rural drainage, flood control, etc. If

your project is over \$500,000 there is a separate set for benefits. These new forms are for better tracking and allocating of funds. Forms are due into the SWC by April 18th. 10 Mile Lake forms will be sent when changes are made. Discussion followed on Eckelson Watershed, and Spring Creek and maybe getting these projects into SWC for cost share and Mike Opat will get these done.

Kathryn Dam – Waiting to hear about cost share from SWC.

Hobart Lake – Mike Opat will give update at commission meeting tomorrow, April 15th. We have the rest of the year to get through the design phase of this project. We should set up Kick Off Meeting and bring in local landowners. Maybe set up the same day we have the regular water district meeting in May. Mike will get Linda a list of landowners and mail out invitations to them. Also get notice for the newspaper, etc. to Linda.

Maple River Dam Project – Mike Opat reported that the meeting on April 2nd went real good. Vote is ongoing till May 2nd. Lots of positive feedback and talk about other project interests.

Bills – Manager Evenson made a motion to approve the bills of \$8,047.95. Manager Anderson seconded motion. Motion approved with a roll call vote.

Respectfully submitted,

Linda McKenna
Secretary /Treasurer
Barnes County Water Resource District