

Barnes County Water Resource District

PO Box 306

Valley City, ND 58072

701-845-8508

May 8, 2017

**MEETING MINUTES**

MEMBERS PRESENT: Managers- Bret Fehr, Shaun Olauson, Bruce Anderson, Dale Jorissen, Chairman Jerry Hieb, Mike Opat-Moore Engineering, Sean Fredricks-Ohnstad Twichell

Also Present: See attached List

Chairman Hieb called the meeting to order at 9:02am.

Manager Anderson made a motion to approve the minutes from April 10, 2017 with the correction stated. Manager Olauson seconded the motion. Motion carried, minutes approved.

**OLD BUSINESS**

**Kathryn Dam:** The cost share application for the Outdoor Heritage Fund has been submitted. BCWRD will be notified the time of the meeting, and will be given ten minutes to make a presentation regarding the application.

**Hobart Lake:** Mr. Opat reported on the easement progress. He stated that they are close to getting them completed, however there are still some issues with NRCS that need to be worked out. This could take up to two months and puts pressure on the construction and FEMA deadline. Upon this discussion Manager Anderson made a motion to file a complaint with NRCS, seconded by Manager Fehr. Upon roll call vote the motion carried unanimously. Manager Anderson stated that he would notify the landowner involved about the complaint, and the purpose before it is filed. Discussion on authorizing the project for bids. Upon discussion Manager Fehr made a motion to proceed bid letting contingent on execution of purchase agreements, seconded by Manager Olauson. Upon roll call vote the motion carried unanimously.

**Legal Drain II-Hwy 1 Ditch Block:** Chairman Hieb talked with Jay Praska and John Thompson. DOT will be mailing a ditch block application. Mr. Praska is awaiting hydrology results for appropriate culvert size. Tabled until the next meeting.

**Snagging/Clearing Report:** Secretary Manson, presented the project financials. Discussion on cost share. The SWC (State Water Commission) previously approved \$49,000.00 and is currently reviewing our application for additional overage funding. Discussion on county cost share. Mr. Froelich stated that if the SWC does not approve the \$25,000 overage request, that the county commission will still follow through with their \$25,000. The board instructed Secretary Manson to review previous commission meeting minutes for documentation regarding 2016/2017 cost share.

**Barnes/Griggs Joint Board:** There was no April meeting, Manager Fehr stated that there WILL BE a meeting on Monday May 15, 2017 at 10:00 a.m. in Valley City.

**Application to Install a Subsurface Drain for Brad and William Noeske in the Southwest Quarter of Section 7 in Weimer Township**

The Board reviewed an *Application to Install a Subsurface Drain* originally dated March 14, 2017, for Brad and William Noeske. Applicants subsequently submitted a modified tile plan and amended application dated April 26, 2017. Under the application, as modified, Applicants seek to install a drain tile system in the Southwest Quarter of Section 7 in Weimer Township, Barnes County, North Dakota. The project will include a gravity outlet that will discharge via an underground pipeline that will run from the southeast corner of the Southwest Quarter of Section 7; from there, the underground pipeline will run south and east across portions of the East Half of Section 18; the underground pipeline daylights and discharges into a natural watercourse in the Southeast Quarter of Section 18. Applicants' original plan was for a pump system that would have required Applicants to cut through township roads under the authority of Noltimier and Weimer Townships and would have connected to a system permitted by the District in 2012. The District previously provided THIRTY-DAY NOTICES to Noltimier and Weimer Townships but, in light of the amended plan submitted by Applicants in April, the application does not require THIRTY-DAY NOTICES.

Because the project will ultimately 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, the Board cannot attach any conditions regarding erosion protection in the natural watercourse, cannot require Applicants to obtain pipeline easements from the owners of the East Half of Section 18, and cannot require Applicants to obtain permission from Weimer Township to install an underground pipeline in and through its highway right of way.

According to records on file with the Barnes County Recorder's Office, Brad and William Noeske own the Southwest Quarter of Section 7 of Weimer Township; Dorothy Orts owns the Northeast Quarter of Section 18; and Aaron and Stacie Larson own the Southeast Quarter of Section 18.

It was moved by Manager Olauson and seconded by Manager Anderson to approve *Application to Install a Subsurface Drain* dated March 14, 2017 (and amended April 26, 2017), for Brad and William Noeske in the Southwest Quarter of Section 7 in Weimer Township, subject to the following conditions:

- 1) That Applicants must install and maintain a control structure at any and all outlets, and must close all outlets during "critical flood periods," as determined by the District.

Upon roll call vote, the motion carried unanimously.

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

- 1) That Applicants obtain easements from the owner of any land, besides land owned by Applicants, on which Applicants will construct the tile system;
- 2) That Applicants obtain written permission from the Weimer Township Board of Township Supervisors to install, operate, and maintain buried pipe in any of its township road ditches; or to bore through its township road to accommodate Applicants' underground pipeline;

3) That Applicants 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

4) That Applicants 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.

**Hwy 32 Drainage-Oriska Twp:** Mr. John Triebold was present for discussion. He has filled out appropriate applications and is awaiting response from SWC.

**Hovde-Storhoff:** The board received the findings from the Office of the State Engineer, the State Engineer dismissed this matter, therefore the matter is concluded. Mr. Storhoff was present, he thanked everyone for their efforts and stated there was still some wash out issues. Mr. Fredricks stated he should file for permits with the State Engineer Office and Corps of Engineers.

## **NEW BUSINESS**

**Village of Eckelson-Joe Pesek:** Mr. Pesek requested the board to go look at the dike on Darrel and Lois Bjornson's property, SE corner of the SE1/4 Eckelson Township Village of Eckelson. Property owners are concerned with legality of the dike. They also expressed concerns on its impact on the county road systems. Mr. Bjornson stated that he has been maintaining the dike for years, he has opened it once for drainage and closed it back up when needed. Both Mr. Pesek and Mr. Bjornson recall the WRD installing the dike sometime in the early 90's. The Bjornson's are in the process of selling the property that the dike is on, and want to clarify that it can remain legally in place. A verbal complaint was issued during the County Commission meeting on May 2<sup>nd</sup>, 2017. Discussion was held on who is responsible, direction of water flow, and does it affect county roads? In addressing the concern for the dike being legal Mr. Fredrick's suggested they apply for a dike permit. After more discussion, it was the consensus of the board that the property owners can continue to maintain the dike until a formal complaint is issued to the BCWRD, otherwise the board had no jurisdiction over the issue.

**Upper Sheyenne Joint:** Chairman Hieb reported on the 04/19 meeting. Upper Sheyenne has \$33,442.00 available for the Kathryn Dam Project. Discussion on membership dues. Manager Fehr made a motion to keep the existing formula figuration for the dues which is (13.6% x the mill levy), seconded by Manager Jorissen. Upon roll call vote the motion carried unanimously. The Valley City Little Dam was also discussed during this meeting. Tearing it out, cost of repair, or redoing the whole thing, the consensus is should the city own the dam beings it is within city limits?

**10 Mile Lake:** Manager Jorissen read aloud the email sent from Paul Abrahamson stating that the water elevations are 1432.4 MSL (mean sea level) as of 5/5/17

## **Edna Township: REQUEST FOR DRAINAGE ON HIGHWAY RIGHT OF WAY -- Matt Jorissen**

The Board reviewed a REQUEST FOR DRAINAGE ON HIGHWAY RIGHT OF WAY submitted by Matt Jorissen regarding a tile project he is installing in the northeast corner of the Northwest Quarter of Section 28 of Edna Township, Barnes County, North Dakota. Sean Fredricks explained the REQUEST FOR DRAINAGE ON HIGHWAY RIGHT OF WAY form is an NDDOT form required by NDDOT for purposes of any drainage in their highway right of way. Sean previously worked with NDDOT regarding this form, and he has explained to them water resource districts lack jurisdiction over surface drainage projects with watersheds less than 80 acres, and lack jurisdiction over tile projects less than 80 acres. With that in mind, Sean previously expressed to NDDOT his concerns that NDDOT was requiring water resource districts to “approve” drainage over which water resource districts lack any jurisdiction. NDDOT developed this form with understanding of the limited jurisdiction of water resource districts over projects less than 80 acres, and Sean Fredricks developed a cover letter for the Barnes County Water Resource District to submit to NDDOT regarding these forms in which WRDs “approve” drainage, with the caveats identified in the cover letter.

In this case, Chairman Hieb expressed concern that the project will ultimately result in adverse impacts to downstream landowners. This tile project will only be 30 acres, far less than the 80-acre tile permitting threshold under N.D. Cent. Code § 61-32-03.1. Despite the Board’s lack of jurisdiction in terms of tile permitting, consensus among the Board was that “approving” this NDDOT form would allow Matt Jorissen to discharge over downstream landowners in a manner that would result in adverse impacts to those landowners.

Bruce Anderson suggested the possibility of requiring Matt to submit an alternative plan. Ultimately, Bruce Anderson moved to table the REQUEST FOR DRAINAGE ON HIGHWAY RIGHT OF WAY submitted by Matt Jorissen regarding the Northwest Quarter of Section 28 of Edna Township until Mr. Jorissen submits an alternative plan that will not result in adverse impacts to downstream landowners. Manager Fehr seconded the motion. Upon roll call vote, the motion carried unanimously.

Sean Fredricks indicated the Board should provide a NOTICE OF DECISION or some type of other notice to NDDOT and to Matt Jorissen to apprise the parties of the Board’s decision, and to notify Mr. Jorissen of his appeal rights in light of the Board’s action. The Board directed Sean to prepare a notice.

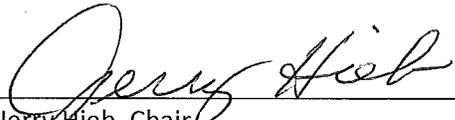
**Drain Tile Permit Process-Clarification:** Manager Fehr brought up a concern with water board reporting to NRCS the tile permits they receive. Mr. Fredricks stated that the board had directed him to do so, as of today the board instructed legal to NOT send notifications to NRCS and Corps of Engineers. If the case should arise that they are required to, then legal will do so. Kurt Tompkins USFWS requested to continue to get reports for easement cases.

Manager Anderson presented information about adding additional tile to an existing system that is less than 80 acres. After lengthy discussion, Manager Anderson was advised by both engineering and legal that the district does not have jurisdiction therefore approval is not needed by the board.

**Bills:** Manager Olauson made a motion to pay bills as they are stated in report, seconded by Manager Jorissen. Upon roll call vote motion carried unanimously.

Meeting adjourned at 12:01 P.M.

APPROVED:

  
\_\_\_\_\_  
Jerry Hieb, Chair

ATTEST:

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

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

May 8<sup>th</sup>, 2017  
Meeting Attendance

PLEASE SIGN IN BELOW

---

Donald Jorissen  
Doreen Loeb Bjornson  
Joan Frueh

John Tresek

Jim Steinhoff  
KURT TOMPKINS

JPard

Glenn A Koebert  
Dave Mutschkat