

**TRAILL COUNTY WATER RESOURCE DISTRICT
RESCHEDULED SPECIAL MEETING
FEBRUARY 7, 2017 ~ HILLSBORO, ND**

The District Board convened on this date and came to order at 8:00am at the office of the Traill County Water Resource District in Hillsboro, ND. Managers present were: Joel Halvorson and Gary Thompson, with Vice-Chairman Jason Lovas presiding. Also present were: Sean Fredricks, Attorney for the Board (by phone).

Manager Halvorson moved to approve the January 17, 2017 meeting minutes as presented. Manager Thompson seconded the motion. Upon roll call vote, the motion carried unanimously.

Manager Halvorson moved to accept the agenda as amended. Manager Thompson seconded the motion. Upon roll call vote, the motion carried unanimously.

Bills: It was moved by Manager Thompson and seconded by Manager Halvorson to approve payment of January 18, 2017 – February 7, 2017 bills and the electronic funds transfers, as presented. Upon roll call vote, the motion carried unanimously.

Conversation was held again regarding accessing the Elm River on **private land** for the purpose of **removing a beaver dam that is causing flooding problems**. There is a landowner in the NE ¼ who does not want the dam removed due to environmental reasons. The Board directed Chris Gross of Moore Engineering, Inc. to obtain plans from the DOT which shows survey points of that area. The plans would help the WRD determine whose land to access in order to remove the dam. Jason Lovas stated that he has spoken to Pam Lawrence who owns the land in the NE ¼ who has given the Board permission to remove said dam if indeed the dam is on her land. Mr. Lovas has contacted Chad Hanson to remove the dam as soon as he is able. Pete Kritzberger and Russell Waters are also in agreement that this dam should be removed.

Manager Halvorson moved to allow Secretary Johnson to have her name added to the **company credit card** for the purpose of conducting transactions, and to have Gary Peterson's name removed. Manager Thompson seconded the motion. Upon roll call vote, the motion carried unanimously.

Attorney Sean Fredricks gave updates on the status of the **delinquent payment scenario** involving Adelman Concrete & Excavating (main contractor for the **Buxton Drain No. 68** project) and their subcontractors. He told the Board that Adelman's Sureties are investigating the situation at this time. Mr. Fredricks will report back to the Board when he hears more from the Bond Company.

Attorney Fredricks stated that his office continues to work on obtaining **abstracts** from the landowners for the **Thoreson Drain No. 64 project**. Apparently the banking institution for Candice and Robert Metzger are asking for a partial release and mortgage fee of up to \$600.00 for the abstract. Mr. Fredrick's office is negotiating the cost of the fee at this time. Manager Halvorson stated that it shouldn't be the Metzger's responsibility to pay for the fee since it is a WRD project and moved to have the WRD pay for the fee if the banking institution does not

agree to waive it. Manager Thompson seconded the motion. Upon roll call vote, the motion carried unanimously.

Discussion was held on the current bills that have been or are being presented through the North Dakota Legislation recently. Below is a summary of bills that have WRD involvement:

Drain Improvements and Reconstructions

HB 1416: The House Ag Committee hearing on this bill was last Friday morning at 9 a.m. Recall of this bill would be devastating in terms of WRDs' ability to maintain legal assessment drains; the intent of the sponsors of this bill is to limit WRDs' use of maintenance district dollars so WRDs cannot do legal drain reconstructions or improvements without a new assessment district vote. There was a great deal of effective testimony in opposition to this bill. ***The House Ag Committee unanimously recommended a 'do not pass' on 1416 following the hearing.*** If the House rejects this bill on the floor this week, that will be significant for WRDs.

Assessment Districts

HB 1393: The House Political Subdivisions Committee hearing on this bill was Friday at 10:30 (in fact, many had to leave the 1416 hearing to get to this hearing on time). This would alter the assessment project for all new WRD assessment projects, including drains and flood protection projects. The bill would require County Commission approval before proceeding with an assessment vote; would require WRDs to procure a second consultant engineer for an assessment project, after completion of design, to conduct the benefit analysis; would require WRDs to prepare a ***written, separate report for every single parcel*** within the proposed assessment district; and would basically prohibit WRDs from assessing anyone for drains unless the party constructs their own drainage improvements to get their water to the assessment drain (that provision would basically mean the end of new legal assessment drains). Sean Fredricks and others again offered effective testimony in opposition. The Committee has not yet voted on this bill.

HB 1339: The House Government and Veterans Affairs Committee hearing on this bill was Thursday at 2:30. This bill adds additional notice and publication requirements for new assessment district votes and reassessments. In addition, the bill would open up additional appeal rights for landowners to appeal an entire project to the State Engineer for anything or any reason. The current law allows 25% of the benefitting landowners to file this type of appeal with the State Engineer. We pointed out that landowners already have the ability to appeal to the State Engineer to determine if they will benefit from a project, and to appeal to District Court. Sean Fredricks and others further pointed out this bill would encourage many more frivolous appeals to the State Engineer's Office following successful assessment votes, and how this expensive and incredibly time-consuming process would unfairly delay projects at the expense of the other landowners in a district. The Committee has not yet voted on this bill.

Tile Bills

SB 2263: The contentious hearing on the tile bill last week led to additional negotiations between the bill advocates (Ellingson Companies), the State Engineer's Office, and WRD's side. Mike Dwyer, Josh Heuchert, Rob Fleming, and Sean Fredricks met with SWC reps and conducted a phone conference with Ellingson's attorney Thursday night. Attached is the revised

bill they negotiated. This is not a perfect bill, but they were successful obtaining some concessions on items identified as significant to WRDs. Here are some highlights:

1. WRDs will have a right to attach conditions to tile permits to protect downstream drains, roads, and landowners (See paragraph 5).
2. The obligation to prove downstream impacts will no longer be solely on downstream landowners (see paragraph 3).
3. Applicants must supply a full application before any time limit triggers; a full application will include a completed application; a detailed project plan (identifying outlets, etc.); payment of permit fee; and certified mail receipts as evidence of notice to downstream landowners (see paragraph 2).
4. Permit fees are permissible up to \$650 (the original bill set a \$100 ceiling).
5. WRDs have 60 days to make a decision on a permit, triggered upon filing of all of the items necessary for a completed application (so 60 days after notice to downstream landowners, payment of permit fee, etc.).

This is not a final draft and is subject to additional modifications, but progress was made. The State Engineer's Office would also like to see tile subject to "statewide significance" procedures; Mr. Fredricks stated that our side did not take a position on that issue and will let the State and Ellingson/bill advocates negotiate that issue.

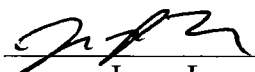
HB 1390: This tile bill would exempt all properties that "qualify" for prevent planting from tile permitting requirements (a significant permit exemption); this is being worked on and hope the 2263 negotiations will obviate the need for 1390 to proceed, but we are not certain yet.

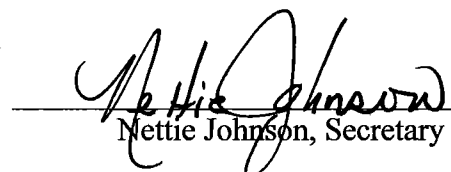
Attorney Fredricks informed the Board that Moore Engineering, Inc. has investigated the alleged **unpermitted dike structure** in the SE ¼ of Section 7 of Bohnsack Township. This was in a response to the submittal of a **complaint filed by Ray Zajac against the Florence MacMillian Trust**. Moore Engineering's updated report findings do not meet the 50-acre foot threshold, therefore the complaint is deemed impermissible. The Board will discuss this further at our next meeting and most likely move to dismiss the complaint at that time.

Corey Martin, Traill County Highway Superintendent, met with the Board to go over county road and bridge issues with the Board. He stated that **bridge # 312 in the Miller Drain** is in need of replacement because of the poor condition it is in. This will be discussed further at the next Board meeting.

Mr. Martin presented photos of **multiple bridges** throughout the county that are **in need of repair** or replacement. He will keep us updated on the WRD's involvement with these bridges in the future.

The meeting adjourned at 10:00am without objection.


Jason Lovas, Vice-Chairman


Nettie Johnson, Secretary