

**TRAILL COUNTY WATER RESOURCE DISTRICT  
RESCHEDULED SPECIAL MEETING  
FEBRUARY 21, 2017 ~ HILLSBORO, ND**

The District Board convened on this date and came to order at 8:00am at the office of the Trill County Water Resource District in Hillsboro, ND. Managers present were: Andy Neset, Joel Halvorson, Gary Thompson and Jason Lovas, with Chairman Jason Siegert presiding. Also present were: Chris Gross, Moore Engineering, Inc., Attorney Sean Fredricks (by phone), and Gary Peterson.

Manager Thompson moved to approve the February 7, 2017 meeting minutes as presented. Manager Lovas seconded the motion. Upon roll call vote, the motion carried unanimously.

Manager Lovas moved to accept the agenda as presented. Manager Neset seconded the motion. Upon roll call vote, the motion carried unanimously.

**Bills:** It was moved by Manager Neset and seconded by Manager Lovas to approve payment of the February 8, 2017 – February 21, 2017 bills and the electronic funds transfers, as presented. Upon roll call vote, the motion carried unanimously.

Jason Lovas informed the Board that the **beaver dam** on the Elm River in Section 26 of the NE ¼ of **Bloomfield Township** has been removed by Chad Hanson. (See February 7<sup>th</sup> minutes for more information).

Updates were given on the **snagging & clearing of the Goose and Elm Rivers**. American Enterprises has begun work on the Goose River and is currently near the Steele County line. Chris Gross and Brady Woodard of Moore Engineering will keep the Board updated on the status of both rivers as they progress.

The Board, Attorney Fredricks, and Chris Gross revisited a **complaint filed by Ray Zajac against the Florence MacMillian Trust**. It was found that Moore Engineering's updated report does not meet the 50-acre foot threshold; therefore the complaint is deemed impermissible. After further discussion, Manager Lovas moved to dismiss said complaint. Manager Neset seconded the motion. Upon roll call vote the motion carried unanimously. (See page 3 for rescinded minutes).

Attorney Fredricks gave the Board updates on the status of several Senate and House bills that have been or are being presented through the North Dakota Legislation:

**HB 1393 Assessment District:** The committee reviewed an amendment offered by the sponsor, but still recommended a 'do not pass' with an 8-4-3 vote on Monday, February 13.

**HB 1416 Drain Improvements and Reconstructions:** Sean previously reported that the House Ag Committee *unanimously recommended a 'do not pass' on 1416 following the hearing*. The intent 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. Despite the

overwhelming ‘do not pass’ recommendation from the Committee, the bill is back at Committee so the primary bill sponsor can propose amendments. We expect Rep. Ertelt to propose an amendment that would allow “small” improvements (replacing culverts here-and-there, etc.), but that would require a vote of the assessment district before a WRD can do a reconstruction or improvement project. ***This bill is still a significant threat to WRDs’ abilities to properly operate and maintain their drains.*** We will circulate any amendments when we get them.

**HB 1244 Quick-Take:** This was the House version of the quick-take bill that similarly required County Commission approval. The hearing was fairly uneventful. Unfortunately, shortly before the bill went to the House floor, Rep. Robin Weisz introduced an amendment that would limit WRD quick-take to situations where a WRD project has a specific and direct appropriation from Congress or the Legislature; we all know that’s not how WRD cost-share works. The Legislature provides a pot of general water management dollars to the Water Commission, and we apply to the Water Commission. In other words, 1244 would effectively eliminate our quick-take authority.

**SB 2263 Tile Bill:** The Senate Agriculture Committee worked on this bill last week. On Friday, February 17, Sen. Jerry Klein presented a new set of amendments. The committee adopted the amendments and recommended a do pass as amended with a 5-1 vote. The committee is in high hopes that the bill can be further amended on the House side. Sen. Klein’s amendments are attached.

**HB 1390 Tile Bill:** The House Agriculture Committee worked on this bill last week. On Friday, February 17, Rep. Craig Headland introduced a new set of amendments. The committee adopted the amendments and recommended a do pass as amended with an 11-3 vote. Rep. Headland’s amendments are attached.

Chris Gross 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 there are currently 4 formal claims against the contractor. This issue will be discussed further at our next meeting.

The **Stavanger-Belmont Drain No. 52 project** was discussed. Chris Gross told the Board that the survey, modeling, preliminary drawings, etc. for the project is 65% complete along with right-of-way plans being ready go. He added that he should know in 2 weeks if a bid opening date will be ready to be set.

The design stages for the **Murray Drain No. 17** project are 95% complete. Right-of-way is set and parcels have been surveyed.

Right-of-way issues regarding the **Carson Drain No. 10** were talked about. Mr. Gross indicated that contacting landowners involved in this project has been difficult. Manager Lovas moved to set the bid date for April 4<sup>th</sup> at 9:00am. Manager Thompson seconded the motion. Upon roll call vote, the motion carried unanimously.

At 9:00am, landowners met with the Board to discuss a **possible improvement project** for the **Hillsboro Drain No. 26**. Those in attendance were: Bill Schumacher, Sandy Johnson, Keith Henka, Ken Henka, Darrell Rotvold, Roger Anderson, Mike Anderson, and Jim Engel. Chairman Siegert relayed to the group that the purpose of the meeting is for the Board to gauge interest from landowners on a possible improvement project to be done on this drain. The Traill County Highway Department will be improving the county road that the legal drain intersects in the next 1-2 years and it would be advantageous to have the drain/culvert crossing improved before the road improvement or at the very least, concurrently. Mr. Gross handed out a map showing the existing assessment district which showed the sections that the project would affect. He then described the options of improving the drains. He also explained the voting process and State Water Commission involvement. Several questions and comments were made. Roger Anderson would like to see a culvert lowered at the corner of the drain in Section 3. The meeting adjourned at 10:00am.

**Corey Martin, Traill County Highway Superintendent**, met with the Board to go over county road and bridge issues with the Board. Previously, Mr. Martin asked Chris Gross for a culvert sizing **recommendation for Bridge # 122** on the Hillsboro Drain No. 26. Mr. Gross gave his recommendation of a 6 x 4 box culvert.

The meeting adjourned at 10:30am without objection.

At 10:45am, the **Board reconvened to discuss the Zajac-McMillian complaint**. Those present were: Attorney Sean Fredricks (by phone), Managers: Siegert, Thompson, Halvorson and Neset, and Chris Gross. Attorney Fredricks stated that he was just beginning to put together documents to dismiss the Zajac complaint based on Moore Engineering's report, but then noticed the report indicated the likely date of construction of this structure was sometime between 1961 and 1981. The N.D. Supreme Court has held the permitting law in effect at the time of construction of a device controls. *Douville v. Pembina County WRD*, 612 N.W.2d 270 (ND 2000). In this case, we initially applied the 50-acre feet standard; however, if the structure was constructed sometime before 1981, the 50-acre feet standard does not apply. Mr. Fredricks stated that it will be necessary to re-analyze this structure. Manager Thompson moved to direct Moore Engineering to perform more research on the date of construction and then modify their report to include the permitting threshold in effect at the time of the construction. Manager Halvorson seconded the motion. Upon roll call vote, the motion carried unanimously.

The meeting adjourned at 10:55am without objection.



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Jason Siegert, Chairman



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Nettie Johnson, Secretary