

**TRAILL COUNTY WATER RESOURCE DISTRICT
REGULAR MEETING
MAY 2, 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: Andy Neset, Joel Halvorson, Gary Thompson and Jason Lovas, with Chairman Jason Siegert presiding. Also present were: Robert Boone, Chris Gross, Moore Engineering, Inc. and Attorney Sean Fredricks.

Manager Neset moved to approve the April 18th, 2017 **meeting minutes** as presented. Manager Thompson seconded the motion. Upon roll call vote, the motion carried unanimously.

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

Bills: It was moved by Manager Neset and seconded by Manager Thompson to approve payment of the April 19, 2017 – May 2, 2017 bills and the electronic funds transfers, as presented. Upon roll call vote, the motion carried unanimously.

Manager Thompson told the Board that Andy Krogstad would like a **culvert installed** in the **SE ¼ of Section 13 of Garfield Township**. It was determined to be less than 80 acres; therefore no permit through our office is required although township approval would be. No action taken.

Manager Lovas mentioned that Randy Lemm would like a **culvert installed** in **Sections 3 & 4 of Kelso Township** on the north side (to access a pipe for irrigation). It was determined that no permit is required through our office although township approval is required. No action taken.

John Shockley, Bond Counsel for Ohnstad Twichell, P.C. met with the Board this morning to **describe the duties** of his position. Mr. Shockley explained that during an offering of municipal bonds, the issuer will retain legal counsel to represent them in the transaction, confirm that the issuer is legally allowed to issue the bonds and, confirm the debt is a legally binding obligation of the issuer. Mr. Shockley, Attorney Sean Fredricks, and Engineer Chris Gross will be working closely together on the bond amounts for our upcoming Carson Drain 10, Murray Drain 17, and Stavanger-Belmont Drain 52 Improvement Projects. Discussion was held on the financial status of the Rust Drain 24. They will also look at adjusting the bond scenario for this drain.

Sean Fredricks presented the ***Resolutions to Set the Hearings*** for the **Elm River and Goose River Snagging & Clearing Districts**. Project maps and preliminary assessment lists were also reviewed by the Board. Manager Lovas moved to approve the *Resolutions* and to set the dates for the public hearings with the public and the County Commissioners for June 20th commencing at 9:00am at the County Courthouse. Manager Thompson seconded the motion. Upon roll call vote, the motion carried unanimously.

Chris Gross relayed updates and **final punch-list items** for the **Buxton 68 Drain project**.

Discussion was held on the status of the **Thoreson Drain 64 Project**. Bob Boone stated that culvert, dirt work and a few other items remain to be completed on the drain. He's hopeful the drain will be completed by the end of May. Attorney Fredricks told the Board that the US Bank is being arduous regarding the partial release for the **Metsger transaction**. They are demanding \$800.00 in fees for the release. The Board can either pay the \$800.00 or proceed without obtaining the partial release from US Bank. The danger of not obtaining a **partial release** is US Bank could commence a foreclosure which is not likely, but could happen. After discussion, Manager Halvorson moved to pay the \$800.00 to US Bank for the partial release. Manager Lovas seconded the motion. Upon roll call vote, the motion carried unanimously.

The status of the **Stavanger-Belmont Drain 52 Improvement Project** was discussed. Chris Gross provided three "*Engineer's Statements of Costs*" for the Board's review to include 1) Base Bid; 2) Base Bid & Alternate One; and 3) Base Bid, Alternate One & Alternate Two. The Board expressed that Option 1 (Base Bid), which would allow for the reconstruction of 3 miles, would be the most feasible. Mr. Gross gave a status of the right of way for the project and said that his office is still awaiting two parcels. The awarding of the contract will most likely be done in the next week or two.

The status of the **Carson Drain 10 Improvement Project** was discussed. Mr. Gross indicated that his office is awaiting one last right of way parcel. Eminent Domain issues were discussed. Attorney Fredricks explained the steps involved with this process. After further discussion, Manager Lovas moved to move ahead with the Erickson right of way eminent domain procedures and approve the *Resolution of Necessity, Resolution of Offer to Purchase, Written Statement and Summary of Just Compensation, and Right of Way Easement* documents. Manager Neset seconded the motion. Manager Lovas moved to compensate Mr. Erickson for the purchase of his land in the amount of \$51,000.00. Manager Halvorson seconded the motion. Upon roll call vote, the motion carried unanimously. The awarding of the contract will be on hold until the issue of eminent domain has been resolved.

Chris Gross provided an *Engineer's Statement of Costs* for the Board to review for the **Murray Drain 17 Improvement Project** channel from the outlet to County Road 11. Bonding issues for the project were discussed.

Mayville Airport easement and abstract issues were revisited. Sean Fredricks said that we can proceed with trying to clear title to the "Mayville Airport" property, and determine whether it intends to be the fee simple owner of the all of this property or just part of it (subject to easements and ROW of record). According to the County GIS, Arvid Michalis appears to be paying taxes on roughly the area shaded in brown on the attached map. Traill County WRD is listed on the GIS as the owner of the area shaded in blue. As noted in the title opinion, the whole area at one time was owned by Courtlan Hanson. Then he conveyed the area in blue to Traill County WRD by ROW Deed which likely only conveyed an easement, so Mr. Hanson retained the underlying ownership. He then died and the P.R. Deed from his estate conveyed the property less the blue area (i.e. the brown area) to Janice Fisher and Kirsten Scarborough subject to a ROFR in favor of Bruce and Courtlan Gary Hanson (different Courtlan). It seems most likely the P.R. did not believe Courtlan owned anything north and west of Highway 18, so the intent of the P.R. Deed was likely to exclude everything north and west of Highway 18 from the deed,

because there isn't much usable area in the brown area. In the meantime Traill WRD conveyed its interest in the green triangular area of the blue area (about the eastern three-fourths of the blue area) which also includes part of the brown area which the WRD did not have an interest in, to the Michalis family. This tract was eventually conveyed to Arvid Michalis which brings us to the present. If the intent is for Traill WRD to own the entire NW1/4 north and west of Highway 18, the easiest solution would be to obtain quit claim deeds from Janice Fisher, Kirsten Scarborough, Bruce Hanson, Courtlan Gary Hanson, the P.R. of the Estate of Courtlan Hanson and Arvid Michalis. If these parties are unwilling to provide a quit claim deed, a quiet title action, naming all of these parties would need to be commenced and judgment entered in favor of the WRD. As with all litigation there is no guarantee the judge would agree title should be in the name of the WRD. If some other ownership structure is desired, Sean's office can provide further comment on how to make that happen.

Discussion was held on **erosion issues** on the **Kelso Floodway Outlet** in the NE ¼ of Section 19 of Elm River Township. Several options were considered. The Board is awaiting several bids at this time and will make a decision as to what will be done and by whom, in the near future.

Manager Lovas informed the Board that a landowner would like an **extension added** to a culvert in an approach in the **NE ¼ of Section 29 in Elm River Township (McCoy-McCradie Drain 4-14)**. This will be revisited at a later date.

Manager Neset told the Board that Scott Rosevold would like to see **one mile cleaned in Section 14 of Mayville Township in the Hanson Drain 18** because dirt continues to wash into it. Manager Halvorson moved to hire Flaten Construction to do the cleaning, not to exceed \$10,000.00. Manager Thompson seconded the motion. Upon roll call vote, the motion carried unanimously. Manager Neset will contact Rod Flaten to do the work.

Manager Neset said that Kevin Braaten has contacted him about **dirt that is blocking a culvert in Section 6 of Blanchard Township** in the Blanchard-Norman Drain 23-40. Manager Halvorson moved to hire Flaten Construction to clean the fan at the culvert not to exceed \$2,000.00. Manager Neset seconded the motion. Upon roll call vote, the motion carried unanimously. Manager Neset will contact Rod Flaten to do the work.

The **Palace Drain 80 tax refund scenario** was revisited. Mr. Fredricks reported that apparently, the County's abatement documents all contained errors, so once they prepare new documents to include new fax refund forms, they will forward them to Sean's office, who will forward them to the landowners.

Application to Install a Subsurface Drain No. 2017-1 for Randy Kylo in the Northeast Quarter of Section 16 in Roseville Township

The Board reviewed an *Application to Install a Subsurface Drain No. 2017-1* dated April 15, 2017, for Randy Kylo. Under the application, Applicant seeks to install a drain tile system in the Northeast Quarter of Section 16 in Roseville Township, Traill County, North Dakota. The project will include a gravity outlet that will discharge via underground pipeline that will run along the east boundary of the Northeast Quarter of Section 16, in the west township road ditch along the Section 16/15 section line; the underground pipeline will continue north under the

east-west township road along the Section 16/9 section line; the underground pipeline will continue north in the west road ditch, along the east boundary of the Southeast Quarter of Section 9; the pipeline will then run under the north-south township road along the Section 9/10 section line and will daylight and discharge into Roseville Drain. The Traill County Water Resource District owns and operates the Roseville Drain.

Because the project will discharge directly into a legal assessment drain, 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 can attach conditions to protect its drain, including erosion protection requirements. Chris Gross recommended that the Board require Applicant to install and maintain erosion protection to protect the Roseville Drain.

According to records on file with the Traill County Recorder's Office, Pat and Tracy Hammes own the Northeast Quarter of Section 16 of Roseville Township. Further, Kory and Kaylee Domier own the Southeast Quarter of Section 9 of Roseville Township. Under the tile law passed during the 2017 Legislative session, the Board cannot require Applicant to obtain an easement from the Hammeses, the record owners of the Northeast Quarter of Section 16 which Applicant intends to tile, nor can the Board require Applicant to obtain a pipeline easement from the Domiers regarding the Southeast Quarter of Section 9.

It was moved by Manager Lovas and seconded by Manager Halvorson to approve *Application to Install a Subsurface Drain No. 2017-1* dated April 15, 2017, for Randy Kylo in the Northeast Quarter of Section 16 in Roseville Township, subject to the following conditions:

- 1) That Applicant provide, install, and maintain adequate erosion protection at any and all outlets into Roseville Drain;
- 2) That Applicant notify the Traill County Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets; and
- 3) That Applicant 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 Applicant's permit. However, for Applicant's protection, and to ensure protection of Applicant's tile system, the District will recommend that Applicant consider complying with the following:

- 1) That Applicant obtain easements from the owner of any land, besides land owned by Applicant, on which Applicant will construct the tile system;
- 2) That Applicant obtain written permission from the Roseville 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;
- 3) That Applicant notify the Traill 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 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 described the **new bill for subsurface tile permit applications**. One of the obligations of WRDs under the new bill is the 30-day notices to downstream landowners within one mile of the tile outlets, or until the tile discharge outlets into a legal assessment drain, natural watercourse, slough, or lake, whichever occurs first. Also, the 30-day notice is not necessary if the applicants present “notarized letters of approval” from the downstream landowners. Also, permit processing fees have been reduced to \$150.00, down from \$500.00. After further discussion, Manager Lovas moved to adopt the new policy for the subsurface drain tile. Manager Halvorson seconded the motion. Upon roll call vote, the motion carried unanimously.

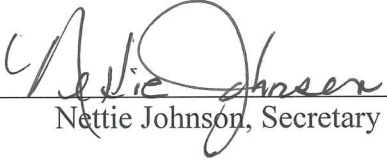
Manager Gary Thompson left the meeting at 11:25am.

Discussion was held on drainage complaints. No action was taken today.

Chris Gross provided **Proposed Assessment District Maps** for the **Murray Drain 17, Roseville Drain 19, Mayville-Blanchard Drain 39, and the S. Mayville Drain 9-18-29**. After review of the maps, the Board set the date for the Reassessment Hearings for July 18th. Mr. Gross will prepare the notices, etc. for said hearings.

The meeting adjourned at 12:00pm without objection.



Jason Siebert, Chairman

Nettie Johnson, Secretary