

**TRAILL COUNTY WATER RESOURCE DISTRICT
RECURRENT MEETING
JANUARY 5, 2021 ~ 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 Gary Thompson, Joel Halvorson, and Andy Neset with Jason Lovas presiding as Chairman. Also present was Chris Gross of Moore Engineering, Inc., and Attorney Sean Fredricks (virtually). Jason Siegert was absent.

AGENDA

Manager Halvorson moved to approve the order of the agenda as amended. Manager Neset seconded the motion. Upon roll call vote, the motion carried unanimously.

MINUTES

Manager Halvorson moved to approve the December 15th and the December 29, 2020 meeting minutes as presented. Manager Thompson seconded the motion. Upon roll call vote, the motion carried unanimously.

SECRETARY-TREASURER'S REPORT

It was moved by Manager Neset and seconded by Manager Halvorson to approve payment of the December 16, 2020 – January 5, 2021 bills and the electronic funds transfers as presented. Upon roll call vote, the motion carried unanimously.

The Board discussed an invoice submitted by Bohlman Trenching for work that was performed in the Buxton Drain No. 68 in the amount of \$25,000.00 which is \$2,380.00 over the agreed cost. After further discussion, Manager Halvorson moved to have the Board issue payment for the overage to Bohlman Trenching. Manager Thompson seconded the motion. Upon roll call vote, the motion carried unanimously.

GRAND FORKS-TRAILL JOINT WATER RESOURCE DISTRICT

(1-5-21) At 8:30am, the Grand Forks-Traill Joint WRD held a special meeting for the purpose of discussing right of way offers including appraisals specific to landowner properties according to the statutory 'formal negotiation' timelines required by statute. If the TCWRD cannot come to a mutual agreement with landowners, the TCWRD will have to approach the respective County Commissions to request permission to utilize our statutory authorities to acquire the right of way necessary to accommodate the project(s). By statute, the TCWRD will have to invite all landowners who have not signed purchase agreements to a meeting with the GF-Traill JWRD in the near future.

Having nothing further to discuss, the meeting adjourned at 8:50am.

SNAGGING & CLEARING

(12-15-20) Discussion was revisited on the snagging and clearing for both the Goose and Elm Rivers for the 2020 – 2021 season. The SWC has approved cost-share for both projects. After further discussion, Manager Thompson moved to approve the Resolution setting the public hearings for both the Elm River and Goose River for January 19, 2021 at 9:00am and to place the advertisement for said hearings in the legal newspaper. Manager Halvorson seconded the motion. Upon roll call vote, the motion carried unanimously.

DRAIN BUSINESS

Camrud Drain No. 79

(1-5-21) Chris Gross said that the second purchase agreement for the Ken & Mary Knutsvig property has been signed. Manager Halvorson moved to approve the purchase agreement as presented. Manager Thompson seconded the motion. Upon roll call vote, the motion carried unanimously. The Derider agreement has been signed but is currently going through the probate process. This process takes time.

Discussion was held on when construction of this drain will commence. Chris Gross told the Board that the plans and specs are almost complete and bid packets will be distributed shortly with the contract being awarded on February 16th.

Hong Drain No. 81

(12-15-20) Chris Gross informed the Board that the survey has been completed. The next step is to hold an informational meeting in the near future with the petition procedures following.

Norway Drain No. 38

(12-1-20) Chris Gross told the Board that he is currently working on right of way issues.

Stavanger-Belmont Drain No. 52

(11-17-20) The Board all agreed that the Project (below) will have to wait until next spring to completed by the contractor.

(8-4-20) Discussion was revisited on a culvert in Section 8 that is leaking and has caused a hole in the road on the west side of the north culvert. On the drain tour the Board discovered that the leaks are occurring due to inadequate bands. Mr. Siegert said that he has spoken to the contractor (JAV) who said he will dig back the dirt to get a better look at what can be done. It will most likely have to be filled in with CDF (flowable cement). The contractor was also asked to place 3 caps on culverts that are missing in the drain.

Buxton Drain No. 68

(1-5-21) Chris Gross told the Board that the contractor has completed all work on this drain.

Blanchard-Norman Drain 23-40

(1-5-21) Discussion was revisited on the possible reconstruction of this drain including costs of performing improvements from Section 10 & 11 of Blanchard Township through Section 15 of Norman Township. This will be discussed further at upcoming meetings. An informational meeting is being considered.

(12-15-20) Culvert has been installed in Section 14 & 15 of Norman Township. No seeding has been done.

Murray Drain No. 17

(11-17-20) This work will be performed in 2021.

(11-3-20) Discussion was held on a rusted culvert in the NE ¼ of Section 33 of Mayville Township through County Road 11. Manager Neset said that the culvert is 30" x 50' but thinks it should be longer. This will be investigated further.

Leirness-Steenerson Drain 34-20

(8-4-20) Jason Lovas and the Board held a discussion on a possible new tile lateral being built in Section 21 of Hillsboro Township under Highway 200. Mr. Lovas will obtain more information from the Department of Transportation and Ellingson Drainage.

PERMITS AND COMPLAINTS

The Traill County Water Resource District processed an "obstruction to drain" complaint under N.D. Cent. Code 61-16.1-51 back in 2017, filed by Curt Riemer against Laverne Koenig regarding drain obstructions installed by Mr. Koenig. The Board investigated and found Mr. Koenig had, in fact, obstructed a natural drain in the Northwest Quarter of Section 25 of Blanchard Township. The Board ordered Mr. Koenig to remove the obstructions, in accordance with Section 61-16.1-51 but, unfortunately, Mr. Koenig refused. The Board, once again under its authorities under Section 61-16.1-51, had no choice but to procure a contractor to remove the obstructions and did so on September 5, 2019. The Board then notified Mr. Koenig that the Board incurred \$12,746.89 throughout the ordeal and issued the attached Findings of Fact, Conclusions of Law, and Order, in which the Board directed Koenig to make payment or the Board would levy the costs against his property. Mr. Koenig again refused and, in fact, attempted to sue the Board in Federal District Court; he lost, then attempted to appeal to the 8th Circuit Court of Appeals and lost again. His appeal periods have all expired.

With all of this in mind, the TCWRD can assess Mr. Koenig's property to collect the Board's costs. In accordance with NDCC 61-16.1-51, a levy will be assessed against Parcel No. 03000000401010 in the NW ¼ of Section 25 of Blanchard Township, in the amount of \$12,746.89. It looks like Mr. Koenig is actually purchasing the property from Gerald and Sharon Radebaugh under a contract for deed (attached). Ms. Radebaugh called Attorney Fredricks a while back and indicated they had concluded their sale and that the Radebaughs no longer have any interest in the property. I let her know the property records do not indicate the Radebaughs have executed a final deed to complete their transaction and suggested to her that they resolve that with Mr. Koenig.

OTHER BUSINESS

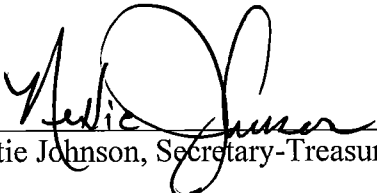
(1-5-21) Don Lockhart met with the Board this morning to request having a culvert installed in the NW ¼ of Section 23 of Kelso Township. After further discussion, Manager Neset moved to have a 30" culvert with a flap gate installed at said location. The length will be determined by the contractor who installs the culvert. Manager Halvorson seconded the motion. Upon roll call vote, the motion carried unanimously.

(1-5-21) Costs for the spraying of our legal drains by Dakota Helicopters was discussed. This matter has been tabled until the Chairman of the Board can be present.


(1-5-21) Highway Superintendent Cory Martin and Traill County Commissioner Ken Nesvig were present to discuss a possible joint powers agreement with the Board. Under North Dakota law, when a legal assessment drain intersects with a County or township road or highway, the County has a legal obligation to pay 40% of the costs of crossing improvements (culverts or bridges) necessary to accommodate the legal drain. Mr. Martin has worked on a draft legislative bill that would have eliminated the County's obligation to pay 40% of the costs of culvert improvements on a township road that intersect a legal drain. The actual draft bill would eliminate all county cost obligations on legal drains, though Mr. Martin has indicated the intent of the bill was only to eliminate the County's cost-share obligations on township culverts. Beyond the costs of the crossing improvements to legal assessment drains and their corresponding assessment districts, Sean Fredricks has identified a number of other legal issues and unintended consequences that could arise if the draft bill were to pass. Chairman Siegert, Manager Thompson, Chris Gross, and Mr. Fredricks conferred about other options that would address the Traill County Commission's concerns without the bill proceeding in the legislature. Manager Thompson spoke with Mr. Martin about the prospect of the Commission and the Board entering into a joint powers agreement in which the parties would agree the Commission would not have any cost obligation for township culverts along the course of new legal assessment drains; in exchange, the County would agree that the Legislature should not proceed with the draft bill. Mr. Martin indicated he had no problem with that concept. Mr. Fredricks spoke with the Traill County State's Attorney Charlie Stock about the concept and Mr. Stock had no problem with the joint power's agreement proposal from a legal perspective. Mr. Martin also agreed that the 60/40 cost split would continue for existing township/legal drain crossings where the existing crossing structures have Traill County crossing or bridge numbers. Commissioner Nesvig indicated he has no problem with the concept of a joint powers agreement as opposed to pursuing any legislative change. Mr. Fredricks will prepare the joint powers agreement accordingly.

ADJOURNMENT

Having no further topics to discuss, the meeting adjourned at 12:00pm without objection.



Nettie Johnson, Secretary-Treasurer



Jason Lovas, Vice-Chair