

**TRAILL COUNTY WATER RESOURCE DISTRICT
RECURRENT MEETING
JULY 3, 2018 ~ HILLSBORO, ND**

The District Board convened on this date and came to order at 7:00am at the office of the Traill County Water Resource District in Hillsboro, ND. Managers present were: Joel Halvorson, Gary Thompson, Andy Neset, and Jason Lovas with Chairman Jason Siegert presiding. Also present was: Sean Fredricks, Attorney for the Board.

AGENDA

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

MINUTES

Manager Thompson moved to approve the June 19, 2018 meeting minutes as presented. Manager Halvorson seconded the motion. Upon roll call vote, the motion carried unanimously.

FINANCIAL

It was moved by Manager Neset and seconded by Manager Lovas to approve payment of the June 20 – July 3, 2018 bills and the electronic funds transfers, as presented. Upon roll call vote, the motion carried unanimously.

DRAIN BUSINESS

Updates were given on the following drains:

Murray Drain No. 17 – Chad Hanson installed 4 culverts yesterday with sections 31 and 32 in Norman Township being done next week. The entire project should be complete by the end of July.

Stavanger-Belmont Drain No. 52 - Chris Gross is working with contractor JAV Construction on the installation of a **head wall** to protect the culverts from ice and snow.

Norway Drain No. 38 - Contractor Comstock Construction is wrapping up the project.

S. Mayville Drain No. 9 - Discussion was held on whether to grind the **trees** growing in the drain or have them sprayed. This will be revisited at our next meeting.

Hillsboro Drain No. 26 - The Board next discussed the Paul Fossum right of way acquisition regarding Drain 26. Manager Lovas met with Paul Fossum to discuss the two options but he has not yet made a decision between the 20:1 side slope option and the 4:1 option.

Before the Board could proceed with the substantive considerations regarding the acquisition, Chairman Siegert noted Mr. Fossum is his brother-in-law. Sean Fredricks explained the conflict analysis the Board should conduct regarding Chairman Siegert's likely conflict in this matter. Section 44-04-22 of the North Dakota Century Code provides the relevant standard. That statute provides:

A person acting in a legislative or quasi-legislative or judicial or quasi-judicial capacity for a political subdivision of the state who has a direct and substantial personal or pecuniary interest in a matter before that board, council, commission, or other body, must disclose the fact to the body of which that person is a member, and may not participate in or vote on that particular matter without the consent of a majority of the rest of the body.

Sean indicated the North Dakota Supreme Court and the Attorney General's Office have taken a narrow view of situations where a public official can abstain from participating in a matter. A public official must have a "direct and substantial personal or pecuniary interest" in the matter. The mere appearance of a conflict is not enough to allow the public official to refrain from participating. The North Dakota Supreme Court adopted a "rule of necessity" that requires public officials to participate in matters before their respective boards. The public policy rationale is that public officials have a duty to vote on issues before them, and cannot avoid participation simply to avoid the appearance of impropriety.

The Section 44-04-22 test requires a multi-step analysis. In this case, the Board will have to acquire drain right of way from Chairman Siegfert's brother-in-law. As a result, Chairman Siegfert has a personal interest in the matter, though he will not benefit financially and does not have a pecuniary interest in the matter. Sean indicated this could present a conflict situation in light of Chairman Siegfert's personal relationship with Mr. Fossum. Sean indicated the Board should determine if Chairman Siegfert's personal interest in the matter is a "direct and substantial personal or pecuniary interest" conflict under Section 44-04-22 that warrants abstention. Sean indicated that, with that in mind, the remainder of the Board should next vote on whether or not Chairman Siegfert should "participate in or vote on" issues related to Application No. 20187. The remainder of the Board voted unanimously to prohibit Chairman Siegfert from participating in any voting regarding the acquisition from Mr. Fossum. More specifically, Managers Lovas, Thompson, Halvorson, and Neset all voted in favor of prohibiting Chairman Siegfert from participating in or voting on any issues regarding the Board's acquisition from the Fossums. Chairman Siegfert can participate regarding other items related to the project and Drain 26 in general, but will not participate in discussions regarding acquisition from the Fossums.

The Board directed Sean Fredricks to send the Fossums two purchase agreements, one for each option (20:1 option and 4:1 option). For purposes of right of way values, Manager Halvorson moved to set values as follows:

1. Fee Simple/Permanent Channel Easement acres: \$5,500
2. Berm Easement acres: \$1,000/acre
3. Temporary Construction Easement acres: \$300

Manager Lovas seconded the motion. Upon roll call vote, Managers Lovas, Thompson, Halvorson, and Neset voted in favor of the motion. Chairman Siegfert abstained. Sean will obtain legal descriptions from Moore Engineering for purposes of preparing the purchase agreements.

Morgan Drain No. 36 - Contractor Comstock Construction is in the process of working on the cleanout north of County Road 21 and putting in a wider crossing in Section 26.

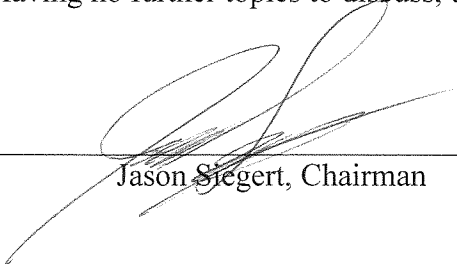
Blanchard-Norman Drain 23-40 - Reconstruction/drop structure work is still in the preliminary stages and will be discussed further at our next meeting.

The Board discussed the possibility of **taking over ownership** of a private drain near/on **Joel Halvorson's property**. Attorney Fredricks will provide a rough draft agreement for landowners in the vicinity of the drain that we could utilize to take over ownership, to obtain the right of way we need for O&M of the drain, and to add benefitting properties into a legal assessment district. Chris Gross has the survey prepared and will present to the Board at our next meeting.

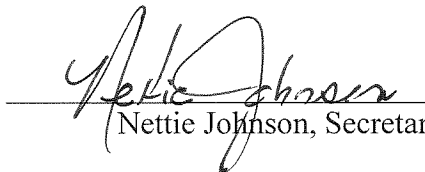
Corey Martin, Traill County Highway Superintendent, met with the Board to go over county road and bridge issues with the Board. Discussion was held on County Road 10 issues. He stated that this road is in desperate need of repair. Murray Drain No. 17 road crossings were talked about.

At 9:00am, **Marlin Stokke and Don McGinnis** met with the Board to talk about **cattail problems** that are negatively affecting drainage in Sections 16 and 21 of **Kelso Township**. Cattails and sediment is impeding drainage in the ditches north and south along I29 next to the Burlington Northern Railroad and to the **Kelso Floodway**. Manager Lovas moved to direct Moore Engineering to survey the Kelso Floodway in Section 21 where it crosses I29, the railroad, and County Road 21 and to draft a letter to the ND DOT to clean the cattails and sediment in order to maintain effective drainage. Manager Neset seconded the motion. Upon roll call vote, the motion carried unanimously.

Having no further topics to discuss, the meeting adjourned at 10:00am without objection.



Jason Siegert, Chairman



Nettie Johnson, Secretary