

RICHLAND COUNTY WATER RESOURCE DISTRICT  
Richland County Courthouse, Wahpeton, ND  
December 22, 2020

The Richland County Water Resource Board ("RCWRB") met December 22, 2020 at 9:00 AM at the Richland County Courthouse.

THOSE PRESENT: Managers Arv Burvee, Mark Fahsholz (via teleconference), Gary Friskop, James Haugen, Don Moffet, Engineering Technician Justin Johnson, and Secretary-Treasurer Monica Zentgraf.

THOSE ABSENT: None

### **Approval of Agenda**

A motion was made by Mgr. Moffet, seconded by Mgr. Burvee, and unanimously carried to approve the agenda as presented.

### **Minutes**

The November 24, 2020 minutes were presented. A motion was made by Mgr. Burvee and seconded by Mgr. Fahsholz to approve the November 24, 2020 minutes as presented. Upon roll call vote, the motion carried unanimously.

### **Financial Matters**

● **November 2020 Financial Reports-** A motion was made by Mgr. Haugen and seconded by Mgr. Moffet to accept the November 2020 financial reports as presented. Upon roll call vote, the motion carried unanimously.

● **Bremer Bank Letter of Credit-** 110% of the District's securities totaled \$6,979,026.90. Bremer Bank's Letter of Credit in the amount of \$7,800,000 adequately covers the District's funds.

● **Contractor Bills-** Comstock Construction's final bill for repairing the low water crossing on Proj #10, located in the SE1/4 Section 30, Sheyenne Township (Site #393), was reviewed by the Managers. This bill, in the amount of \$38,935.32 plus the November 2019 bill for partial repairs, in the amount of \$17,335.61, comes to a total contractor cost of \$56,270.93. The engineer's original cost estimate was \$16,000 but after receiving the bill for the work done in the fall of 2019, the engineer advised Office Staff the work still required in the spring could bring the total contractor cost to approximately \$35,000. Due to the extremely large bill for the remainder of the work compared to the engineer's estimate, Board consensus was not to pay the bill pending a meeting with the contractor and engineer. The Managers requested Mgr. Haugen attend the meeting (even though his term expires the end of this year) as he has been quite involved in this project. They also requested Ransom County Water Resource Board Member Scott Olerud attend due to Ransom County's responsibility to pay 50% of all costs associated with this project. (RCWRD Appl #19-020)

Kummer Construction's bill for cleaning Proj #19 was reviewed by the Managers. Consensus was to subtract 3 hours of excavator time and 1 hour of dozer time for making repairs because the ditch was over excavated as a result of the contractor's laser being improperly set (as reported at the November 24, 2020 meeting). The amount to be deducted is \$675. A letter will be sent to Mr. Kummer with the check to inform him of the Board's decision and to invite him to meet with the Board if he disputes the Board's decision. (Gunness & Group Appl #20-052)

● **Vouchers-** Vouchers for the month of December 2020 were presented for the Board's review and approval. A motion was made by Mgr. Moffet and seconded by Mgr. Fahsholz to approve Vouchers #18506 through #18529 and the electronic funds transfer for the IRS payment. Upon roll call vote, the motion carried unanimously.

● **2020 General Fund Budget Amendment-** Actual expenses totaled \$275,324.73. Actual expenses did not exceed budgeted expenses; no budget amendment was required for 2020.

●**2020 General Fund Year End Transfer-** The Managers discussed transferring money from the General Fund to Waterways Fund for on-going and future projects, including, but not limited to snagging and clearing projects on the Wild Rice and Sheyenne rivers, beaver dam removal, complaints, and other miscellaneous items. A motion was made by Mgr. Fahsholz and seconded by Mgr. Haugen authorizing a transfer of \$85,000 from the General Fund to Waterways Fund. Upon roll call vote, the motion carried unanimously.

●**Vacation Time-** Monica Zentgraf reported that she has 90.5 hours of unused vacation time over the 240 hour maximum carryover. A motion was made by Mgr. Burvee and seconded by Mgr. Moffet allowing Ms. Zentgraf to carry 90.5 hours of vacation time forward into 2021. Upon roll call vote, the motion carried unanimously.

### **Mail**

- 1) North Dakota Office of the State Auditor- Audit report for the year ended December 31, 2019.
- 2) Keith Weston, Red River Retention Authority- Request for a listing of non-NRCS watershed plans, studies, and reports completed by the District. Office staff will compile the requested information and forward it to Mr. Weston as requested.
- 3) Zach Herrmann, Houston Engineering- Notification that Christi Fischer, of the NRCS, has secured *Watershed Operations* funds. Mr. Herrmann indicated that if the District has any areas of known watershed issues, this may be an opportunity to investigate and establish a solution. Board consensus was to meet with Mr. Herrmann to learn more about the program.

### **Technician's Report**

**Proj #66A-** At the request of Mgr. Burvee, Mr. Johnson investigated and found the culvert through the county road in the NE1/4 Section 21, Brandenburg Township, which was plugged several years ago, has recently been opened. The culvert was plugged because it brings unassessed water into Proj #66A. When Office Staff discussed this matter with Jesse Sedler, Richland County Engineer, he reported the culvert through the county road in the NE1/4 Section 24, Belford Township, was also plugged for the same reason, however, water still seeps through. Mr. Sedler indicated he was willing to plug both culverts with concrete. A motion was made by Mgr. Burvee and seconded by Mgr. Fahsholz to request the Richland County Highway Department to plug the aforementioned culverts. Upon roll call vote, the motion carried unanimously. (RCWRD Appl #20-068)

**Contractor Updates-** Mr. Johnson reported work has concluded due to freezing weather conditions.

### **Selzer Farms Drain Tile Project**

Ron Selzer contacted Office Staff regarding a tile project they anticipate doing in 2021 in the SW1/4 Section 36, Viking Township. This land carries a 40% assessment to Proj #14 for protection purposes; the surface water off this quarter flows east and south to Antelope Creek. Mr. Selzer feels the best direction to take the tile water would be south into Section 1, Garborg Township, where it will flow east to the NECR Section 1 and south to Proj #12. Mr. Selzer is willing to accept an assessment to Proj #12 but before submitting the tile application he would like to know what that assessment will be and if the assessment to Proj #14 will be reduced or removed. Considerable discussion followed; no decision was made as the Managers need to know if the tile project will have a closed outlet or if a culvert will be installed and if the surface water will be redirected to Proj #12.

### **Report on the December 11, 2020 Meeting of the North Dakota State Water Commission**

Mgr. Burvee and Office Staff reported on the December 11<sup>th</sup> North Dakota State Water Commission ("Commission") meeting, particularly the

Commission's decision to table the request for a cost share extension for Sargent County Water Resource District's ("SCWRD") Drain #11 reconstruction project. The Commission is debating whether to simply approve the extension, approve it with conditions, or to deny it.

The following background information is provided on this matter: The Sargent County project received cost share assistance four years ago but litigation brought by a minority of the landowners caused a lengthy delay. The District was required to provide the Commission with a "Four Year Progress Report" for consideration of the cost share extension.

The lawsuit went to the North Dakota Supreme Court, where the Court ruled in favor of the SCWRD. Additionally, an Attorney General's opinion also indicated the Sargent County project is legal and the State Engineer recommended the cost share extension. The Commission, however, tabled the extension and argued that "while the project is legal, is it right?" There were no legal, technical, or policy reasons for the Commission to table the extension or to question how the District finances its local share of the project costs.

The Commission's decision on this matter is of great importance to Water Resource Districts. There are potential devastating precedents for future drainage projects if the Commission inserts itself in these matters. The North Dakota Water Resource Districts Association ("Association") will be sending a letter to the Commission to voice their objection to the Commission's recent decision. The Association has requested all Water Resource Districts send a letter to the Members of the Commission supporting the position of the Association.

After much discussion concerning this matter, a motion was made by Mgr. Fahsholz and seconded by Mgr. Burvee to send a letter to the Members of the State Water Commission in support of the North Dakota Water Resource Districts Association position. Upon roll call vote, the motion carried unanimously.

### **Snagging and Clearing Projects**

American Enterprises submitted a bid of \$131,500 for snagging and clearing on the Wild Rice River from just south of Abercrombie to Highway 13. They also submitted a bid for snagging and clearing on the Sheyenne River in the SW1/4 Section 5, Walcott West.

Appl #20-069 was completed and a motion was made by Mgr. Moffet and seconded by Mgr. Fahsholz to award the Wild Rice River snagging and clearing project to American Enterprises based on their bid of \$131,500. Upon roll call vote, the motion carried unanimously. Board consensus was to request cost share assistance from the North Dakota State Water Commission.

Appl #20-070 was completed and a motion was made by Mgr. Burvee and seconded by Mgr. Haugen to award the Sheyenne River snagging and clearing project to American Enterprises based on their bid of \$28,000. Upon roll call vote, the motion carried unanimously. Board consensus was not to request cost share assistance from the North Dakota State Water Commission.

### **Legislative Update**

Office Staff provided the Managers with a draft of the drain tile bill which Legislative Counsel prepared. Office Staff reported some changes/corrections are necessary and Representative Schreiber-Beck is submitting them to Legislative Council.

### **Adjournment**

There being no further business to come before the Board, Chr. Friskop adjourned the meeting at 11:25 AM.

Respectfully submitted,  
*Monica Zentgraf*  
Monica Zentgraf  
Secretary

*Gary Friskop*  
Gary Friskop  
Chairman of the Board