

RICHLAND COUNTY WATER RESOURCE DISTRICT  
Richland County Courthouse, Wahpeton, ND  
May 21, 2019

The Richland County Water Resource Board ("RCWRB") met May 21, 2019 at 8:00 AM at the Richland County Courthouse, Wahpeton, North Dakota.

THOSE PRESENT: Managers Arv Burvee, Gary Friskop, James Haugen, Don Moffet, Robert Rostad, Engineering Technician Justin Johnson, and Secretary-Treasurer Monica Zentgraf.

THOSE ABSENT: None

### **Minutes**

The April 30, 2019 minutes were presented. A motion was made by Mgr. Burvee and seconded by Mgr. Moffet to approve the April 30, 2019 minutes as corrected. The motion carried unanimously.

### **Financial Matters**

●April 2019 Financial Reports- A motion was made by Mgr. Moffet and seconded by Mgr. Burvee to accept the April 2019 financial reports as presented. The motion carried unanimously.

●Bremer Bank Letter of Credit- 110% of the District's securities totaled \$7,440,646.22 on April 30, 2019. Bremer Bank reduced the Letter of Credit to \$7,800,000 on April 22, 2019; this adequately covers the District's funds.

### **Mail:**

- 1.) Richland County Board of Commissioners- April 2019 meeting minutes.
- 2.) North Dakota Insurance Reserve Fund- 2018 annual report.
- 3.) North Dakota Water Resource Districts Assn- Final 2019 Legislative Report and agenda for the July summer meeting.
- 4.) North Dakota Water Education Foundation- Schedule of 2019 summer tours. (Mgrs. Moffet and Rostad reported on the River of Dreams canoe launch which they attended on May 10, 2019. This event was sponsored in part by the Red River Joint Water Resource District, of which the RCWRD is a member.)
- 5.) Dakota Helicopters- Rates for broadleaf and cattail spraying.
- 6.) North Dakota State Water Commission ("ND SWC")- Link to the Fargo-Moorhead Area Flood Risk Reduction Project application for a construction permit for the "Wild Rice Control Structure" dam. This information was forwarded to Richland County Commissioner Nathan Berseth. No further action was taken by the RCWRB.
- 7.) North Dakota State Engineer- Notice of the conditional approval of Surface Drain Permit #4390 for Helendale Private Drain. (#13-088)
- 8.) Cam Leedahl- Copy of email correspondence with the ND SWC regarding the status of an easement from Gary Hoffman for work on his land associated with the Helendale Private Drain project. (#13-088)
- 9.) Lies, Bullis, & Hatting, PLLP- Copy of a letter to the Brightwood Township Board of Supervisors regarding the north-south roadway between the NECR Section 20 and NWCR Section 21. No action required by the RCWRB.

### **Applications**

Appl #19-019, Agrinomics, LP: Section 15, West End Township A motion was made by Mgr. Burvee and seconded by Mgr. Rostad to defer Appl #19-019 for the installation of drain tile pending the 30 day notice to downstream landowners. The motion carried unanimously.

### **Proj #1 Reconstruction Bid Opening**

Bid opening was held for the reconstruction of a portion of Proj #1. Engineer Mike Bassingthwaite, contractors, and guests Kelly Miller, Naomi Braaten, and Darin Prochnow were present. The following bids were received:

<u>Contractor</u>	<u>Base Bid</u>	<u>Alternate #1</u>
Burski Excavating, Inc	\$313,274.50	\$60,268.00
Comstock Construction, Inc	\$180,231.00	\$28,169.00
Gladen Construction, Inc	\$236,647.95	\$42,907.90
JAV Construction, Inc	\$170,920.00	\$30,138.00

Upon conclusion of the bid opening, a motion was made by Mgr. Moffet and seconded by Mgr. Haugen to refer the bids to Interstate Engineering for verification and tabulation. The motion carried unanimously.

The Managers reviewed comp sales figures provided by the Richland County Tax Assessor for the right-of-way needed for the project. A meeting will be held with the landowner in June to discuss the purchase. (RCWRD #17-017)

### Proj #2

It was reported a small area of the berm along Proj #2, located in the NW1/4 Section 28, Colfax East, needs to be built up in addition to the other berm raises approved by the Board on April 23, 2019. This work and seeding of all areas of the berm which have been raised will need to be done after harvest, as the fields have been planted. (Continued later in the meeting.) (Gylland/Hage #19-013)

### Proj #10

Mgr. Haugen reported a low water crossing, located in the NE1/4 Section 31, Sheyenne Township, washed out during the spring flood event. Appl #19-020 was completed and a motion was made by Mgr. Haugen, seconded by Mgr. Moffet, and unanimously carried authorizing Interstate Engineering to provide a recommendation for repairs.

Mr. Bassingthwaite left the meeting.

A conference call was held with Sean Fredricks, Legal Counsel for the District. The following matters were discussed with Mr. Fredricks:

- Proj #41- The Board previously authorized installation of a 16 foot permanent buffer strip along Proj #41 in Sections 13, 24, 25, and 36, Mooreton Township. It has been determined that "*Right-of-Way Deeds*" rather than "*Warranty Deeds*" were secured when the drain was constructed. Chr. Friskop asked what jurisdiction the District has under a "*Right-of-Way Deed*". Mr. Fredricks explained this type of deed is basically an easement and the District would need to acquire "*Warranty Deeds*" in order to install the 16 foot buffer strip, unless the landowners volunteer to participate. Mr. Fredricks also explained that if the drain sustains damages (i.e. sediment deposits) due to adjacent landowners farming practices, the District would have to sue for damages as they cannot assess the landowners for the damages. (Discussion continued later in the meeting.) (Berndt #18-027)

- Proj #31- Discussion was held regarding Myron Holthusen's driveway, which is located on Proj #31, in the NW1/4 Section 20, Summit West. Mgr. Burvee reported that he visited with Mr. Holthusen during his recent inspection of the spring flood damage to the driveway. He further reported that Mr. Holthusen requested an additional 6 foot diameter culvert be installed through the driveway when repairs are made. Much discussion with Legal Counsel followed regarding repairs. Darin Prochnow stated Mr. Holthusen's driveway included a bridge over the legal drain at the time of the 1997 flood; water from Drain #31 overtopped it. (The bridge has since been replaced with culverts.) Discussion was held regarding the RCWRB's liability exposure during flooding events if/when Mr. Holthusen's driveway over tops. Alternative access to the property, via an existing driveway to the west of the yard, was considered. Mr. Prochnow stated the driveway was never built to accommodate regular usage and would have to be completely rebuilt to provide adequate access.

The conference call with Mr. Fredricks concluded. A motion was made by Mgr. Burvee and seconded by Mgr. Rostad authorizing JBX to complete preliminary driveway repairs to provide Mr. Holthusen adequate access for the time being. Mgrs. Burvee, Rostad, Friskop, and Moffet voted in favor of said motion; Mgr. Haugen voted against said motion. The motion carried. Additional repairs will be discussed at a later date. (RCWRD #19-011)

**SWCR SE1/4 Section 6, Summit West- Bridge over Wild Rice River**

Mr. Prochnow asked if the District is required to provide Keith Borchert access to his farmstead during flooding events. Mr. Prochnow was informed that the District does not have an obligation in Mr. Borchert's case because he lives off of Drain #31. It was explained that Mr. Holthusen's driveway crosses Drain #31 which requires the RCWRD to provide Mr. Holthusen with access into his farmstead.

**Brandenburg Township Natural Channel**

Darin Prochnow, a Member of the Brandenburg Township Board of Supervisors, wished to speak on the matter of a natural channel in Brandenburg Township. Mr. Prochnow explained multiple concerns regarding a township road which washed out during the spring flooding event. (The road is described as 170<sup>th</sup> Ave SE and specifically located between Sections 32 and 33). Mr. Prochnow indicated the washing was caused by water coming from the west through the natural channel. He further explained the history of the natural channel being redirected from flowing through the township road and running across the NW1/4 Section 33 to flowing north along the township road in Section 32. The water tends to slow down in Sections 32 and 33 and drop sediment, which has blocked the natural waterway. Naomi Braaten also voiced her concern of the water flowing over the road causing gravel to be deposited in the road ditch along the Braaten property in the SW1/4 Section 33 and eroding their field ditch which is meant to drain their land. She stated this field ditch was not meant to take water from the west. Mr. Prochnow asked if the Brandenburg Township Board has the right to clean a ditch to save their road if it is not in their right-of-way. It was recommended that the Township Board contact their attorney for legal advice regarding Mr. Prochnow's question. The Managers explained that they met with area landowners several years ago and proposed construction of a legal drain as a way to resolve the issues associated with this natural channel, but the people were strongly opposed. The RCWRD has no funding mechanism other than a legal assessment drain. A study of the natural channel was completed prior to the meeting with the landowners. Mr. Prochnow was told he was welcome to the report.

Mr. Prochnow and Ms. Braaten left the meeting.

**Applications Continued**

A motion was made by Mgr. Burvee and seconded by Mgr. Rostad to defer Appls #19-021 and #19-022 pending inspection by Mr. Johnson. The motion carried unanimously.

Appl #19-021	Jeff Bolme	NW1/4 Sec 29, Eagle South
Appl #19-022	Jeff Bolme	NW1/4 Sec 32, Eagle South

Appl #19-023, Gowan Construction, Inc: N1/2 Sec 27, Colfax East A motion was made by Mgr. Rostad and seconded by Mgr. Haugen to approve Appl #19-023 at no cost to Proj #2. The motion carried unanimously.

**Proj #2 Continued**

A motion was made by Mgr. Rostad and seconded by Mgr. Moffet authorizing JAV Construction to build up a portion of the berm in the NW1/4 Section 28, Colfax East. The motion carried unanimously. (Gylland/Hage #19-013)

**Proj #41 Continued**

Board consensus was not to install the buffer strip in Sections 13, 24, 25, and 36, Mooreton Township. Chr. Friskop will talk to the parties involved in the SE1/4

Section 25 and SE1/4 Section 36 where the Board has concern of possible sediment deposits in the channel in the future due to current farming practices. A letter will be sent to the landowners in Sections 13, 24, 25, and 36, Mooreton Township, to inform them of the cleanout in Sections 25 and 36 and to ask for their cooperation in keeping their tillage equipment off the backside of the channel to prevent sediment from being deposited in the drain. (Berndt #18-027)

#### **Meetings with Legal Counsel**

Discussion was held relative to Legal Counsel's availability to attend the RCWRB's meetings. It is difficult for Legal Counsel to attend the RCWRD's meetings on Tuesdays due to prior commitments with other entities. The RCWRB will continue to hold their meetings on Tuesdays and utilize conference calling or hold a special meeting on an as need basis.

#### **Technician's Report**

•Proj #5(64)- Mr. Johnson reported during his annual inspection of the drain he found someone cleaned or possibly deepened approximately 500 feet of Drain 5(64) located in the NE1/4 Section 27, Walcott West. Mgr. Rostad and Mr. Johnson inspected the site last week and determined the excavation was done to accommodate a gravity drain tile outlet which comes from the SE1/4 Section 22. Appl #19-024 was completed and a motion was made by Mgr. Burvee and seconded by Mgr. Rostad directing Mr. Johnson to survey the ditch bottom in Section 27, Walcott West, to determine if the drain was lowered or only sediment was removed. The motion carried unanimously.

#### **Adjournment**

There being no further business to come before the Board, Chr. Friskop adjourned the meeting at 12:05 PM.

Respectfully submitted,

*Monica Zentgraf*  
Monica Zentgraf  
Secretary

*Gary Friskop*  
Gary Friskop  
Chairman of the Board