

MINUTES OF SPECIAL MEETING
RUSH RIVER WATER RESOURCE DISTRICT
ARTHUR COMMUNITY HALL
ARTHUR, NORTH DAKOTA
JUNE 1, 2012

The Rush River Water Resource District met on June 1, 2012, at 9:00 a.m. at the Arthur Community Hall, Arthur, North Dakota.

Present were Raymond Wolfer, Chairman; William A. Hejl, Manager; Dick Sundberg, Manager; Carol Harbeke Lewis, Secretary-Treasurer; Sean M. Fredricks, Attorney for the Board; Chad Engels and Chris Gross, Engineers for the Board; and those whose names appear on the attached roster.

Amenia Township Improvement District No. 74 – Project Hearing

Chairman Wolfer called the meeting to order and asked Chad Engels to present information on Amenia Township Improvement District No. 74. Mr. Engels reviewed the proposed project schedule and gave an overview of the project. He pointed out that this project does not have a lateral drain along Cass County Highway 4, like Amenia Township Improvement District No. 69 did. Other changes include:

- The addition of a second channel along the east side of Sections 7 and 18 in Amenia Township;
- A crossing through the township road in the southeast corner of Section 32 of Arthur Township into the northeast corner of Section 5 in Amenia Township; and
- A diagonal culvert will be installed through the railroad between Section 31 of Arthur Township and Section 5 of Amenia Township.

Mr. Engels said every section in the assessment district touches the project.

Right-of-way for the project was discussed. If the property owners choose to retain ownership of their property, the Board could purchase permanent easements, as opposed to purchasing the property in fee. Mr. Engels said the Board typically pays 10% of the full purchase price for temporary construction easements. Tami Norgard suggested that the number is arbitrary. Sean Fredricks said the Board has to come to an initial amount in order to develop a reasonable estimate to vote on and it is not an arbitrary number; the Board evaluated recent sales in the immediate vicinity and arrived at an estimated right-of-way value. The Board was questioned about payment for crop damage. Chris Gross said they usually try to work around that and if they cannot, they will pay for crop damage, according to their documented yield.

Chad Engels explained how the eastern boundary of the assessment district in Section 33 of Arthur Township and Section 4 of Amenia Township was determined. Property owners met with the Board and indicated they thought they could drain the west 80

acres of the quarter sections west to the drain. In addition, the Board concluded the western most 80 acres of those parcels will receive benefits as a result of diverting of drainage from the west, more easily than the eastern portions of those parcels.

Terry Gebeke expressed that he thought the west alignment was not needed if no improvements were made in Section 6 of Amenia Township. Mr. Engels said the change made in that area was to install a larger crossing at a lower elevation through Cass County Highway 4, to accommodate better drainage in Section 6 of Amenia Township.

The drainage from Section 30 in Arthur Township was discussed. Doug Anderson opined that the assessment district boundaries are not correct. Mr. Engels said Section 30 was not included in the assessment district based on LiDAR information and the watershed delineation contained in the Corps of Engineers HMS model of the Rush River and Elm River watersheds, but may also be based on existing culvert location. Manager Hejl said the section drains through a culvert through the road along the east side of the section. Mr. Fredricks pointed out that the Board does not conduct surveys of every culvert within a certain radius of a proposed project. Mr. Engels said they take the best information available, including input from property owners at public meetings, and input from the Board. Mr. Anderson disagreed with that determination.

A property owner asked if the drop structures are capable of handling more water. Chairman Wolfer said the drop structures were designed for that drainage area.

Mr. Anderson asked about the east boundary line through Sections 4, 9 and 10 in Amenia Township. Mr. Engels explained that there is also benefit from diverting water away from property. In this case, water is contained in the channel, which prevents flows from going east, that normally would have done so. Ms. Norgard asked about areas having to do additional work to utilize the proposed project. The Board said if the property outside the assessment district would like to have a tile outlet into the proposed project area, they would have to become part of the assessment district.

Ms. Norgard noted a large amount of siltation in the ditches and questioned if the project was a result of a previous drainage complaint. She added that with the additional cleaning being done, there is not a problem and the project may not be necessary. Mr. Engels said the current ditch along the east side of Sections 5, 8 and 17 does not take much water and the proposed project will have far more capacity. Maintenance of the two drop structures would also be included with the project.

There was a question regarding the determination of assessments. It was explained that the assessment boundaries are set for the vote, as per state law. If the project vote passes, an assessment hearing is held where property owners can voice their opinion with regard to assessments on their property. If the Board finds legitimate reason why a property should not be assessed for the project, or the assessment should be lowered, they can do so after the assessment hearing. On the other hand, if someone wants to install drain tile on property that is outside of the assessment district boundary, they

would have to be added to the assessment district and pay any remaining construction costs, along with the maintenance assessment.

Ms. Norgard stated that the project had been voted on before and it was voted down. She added that they were offended by this process. Sean Gaddie, Advanced Engineering and Environmental Services, Inc., said he looked at the same data used by the Water Resource District and identified two sections that should be included in the assessment district and voting on this project. Mr. Gaddie provided a copy of a map setting out his analysis of the project. Ms. Norgard said it appears there could be an arbitrary element to that. Mr. Fredricks pointed out that the Board is not forcing the project and that it was brought to them by property owners submitting a Petition and Bond. All property owners benefitting from the project are entitled to vote on the project and the object of the hearing today was to get information on the project to the property owners before they vote. Mr. Engels expressed that he took exception to Ms. Norgard saying the boundaries were arbitrary.

Major differences between this project and the Amenia Township Improvement District No. 69 Project were reviewed, as follows:

- The west alignment along the east side of Sections 7 and 18 in Amenia Township was not included with the previous project.
- The purchase of right-of-way along the railroad in the N 1/2 of Section 5 in Amenia Township was included so that channel can be maintained along with the project in the future.
- The current project does not include a lateral along Cass County Highway 4 along the south side of Section 5 in Amenia Township.
- The addition and subtraction of properties from the assessment list indicate the changes in benefit between the two projects.

Mr. Anderson again expressed that, in his opinion, Section 30 in Arthur Township was not included in the project because it was known he would not vote in favor of the project and property in Section 33 of Arthur Township and Section 4 in Amenia Township was added to the assessment district because they would vote in favor of the project. He said they will take the matter to the State Engineer and the boundaries and assessments will change. Mr. Engels explained the Board used the information available to them at the time they formulated the assessment district list, including information based on first-hand knowledge of the water managers. He further explained the Board did not exclude Section 30 in an effort to manipulate the vote; Section 30 was not in the assessment district for the Amenia Township Improvement District No. 69 project, and the Board similarly concluded Section 30 would not benefit from this project.

Mr. Gebeke again asked what the benefit would be to his property from the project. Mr. Engels pointed out water would be contained in the channel rather than flowing outside the ditch over their fields, as it currently does during certain events. Someone asked what would happen if they cleaned their ditches. Mr. Engels said nothing would change

because the road crossings would not be as deep as they would be with the project. The project also allows for maintenance of the drop structures.

Mr. Engels reviewed the information in the handout provided to those present.

There being no further questions, Chairman Wolfer closed the hearing.

Drain #29A – request for a culvert in Section 5 of Berlin Township

The Board discussed and had no objection to a request for a 36” culvert into Cass County Highway 4 in the southeast corner of Section 5 in Berlin Township to relieve excess water from Drain #29A.

Low water crossing on the Rush River in Section 15 of Raymond Township

It was moved by Manager Hejl and seconded by Manager Sundberg to place asphalt on both sides of the low water crossing on the Rush River in Section 15 of Raymond Township, at a cost not to exceed the quoted price of \$7,500. On roll call vote, the motion carried unanimously.

Minutes

It was moved by Manager Hejl, seconded by Manager Sundberg and unanimously carried to approve the minutes of the May 15, 2012, meeting, as presented.

Adjournment

There being no further business to be considered by the Board, it was moved by Manager Sundberg, seconded by Manager Hejl and unanimously carried to adjourn the meeting.

APPROVED:

Raymond Wolfer
Chairman

ATTEST:

Carol Harbeke Lewis
Secretary-Treasurer