

MINUTES OF MEETING  
RUSH RIVER WATER RESOURCE DISTRICT  
CASS COUNTY HIGHWAY DEPARTMENT  
WEST FARGO, NORTH DAKOTA  
JULY 16, 2013

The Rush River Water Resource District met on July 16, 2013, at 8:00 a.m. at the Cass County Highway Department, West Fargo, North Dakota.

Present were: Raymond Wolfer, Chairman; William A. Hejl, Manager; Dick Sundberg, Manager; Carol Harbeke Lewis, Secretary-Treasurer; Brittany C. Moen, Administrative Assistant; Sean M. Fredricks and Brian Neugebauer, Attorneys for the Board; Chad Engels and Mike Opat, Engineers for the Board; David G. Baumler, Lloyd Knight, and Kyle Stroh, property owners in Amenia Township; Terryl Williams and Aaron Buesing, Corps of Engineers (by telephone).

**Amenia Township Improvement District No. 74 – bond sale**

Brian Neugebauer met with the Board regarding the bond sale for Amenia Township Improvement District No. 74. Additional minutes relating to the Bond Sale for Amenia Township Improvement District No. 74 are attached hereto.

The status of right-of-way acquisition was discussed.

Amenia Township has signed the *Assignment Agreement* turning over operation and maintenance of the drop structures incorporated into the project that outlet into the Rush River.

Burlington Northern Santa Fe Railway Company is moving ahead with its responsibilities relating to the project.

**Applications to Drain Nos. 4211, 4212, and 4213 - Rush River Water Resource District – Amenia Township Improvement District No. 74**

The Board reviewed information from the State Engineer regarding *Applications to Drain Nos. 4211, 4212, and 4213*, previously submitted by the Rush River Water Resource District regarding the Amenia Township Improvement District No. 74 Project.

The District previously conducted successful proceedings under North Dakota law to create the Amenia Township Improvement District No. 74 Project as a legal drain and assessment district. The District previously determined and declared the necessity to construct Drain No. 74, and declared the Drain No. 74 Project will include the design and construction of two new legal drains in Amenia Township west of Amenia, North Dakota. The District will construct the first drain along the east section line of Sections

5, 8, 17, and 20 in Amenia Township. The District will construct the second drain along the east section line of Sections 7 and 18 in Amenia Township. Both channels will outlet into the Rush River through existing drop structures, previously maintained by Amenia Township but now owned and operated by the District for purposes of Drain No. 74. The project will include deepening and widening of the existing road ditches along the described section lines, culvert crossing improvements through existing township roads, county roadways, and field approaches along the described section lines. The project will include a culvert crossing improvement through the Burlington Northern Sante Fe Railway Company's track bed along the east line of Section 5 in Amenia Township. The project will also include the installation of a culvert immediately north of BNSF's facilities to allow water to flow from Section 31 in Arthur Township to Section 5 in Amenia Township. Further, the project will include the installation of intercept culverts with flap gates for adjacent field drainage, installation of riprap for erosion control, purchasing of right-of-way along the course of the two drain alignments, as well as purchasing right-of-way along the north side of BNSF's facilities of Section 5 in Amenia Township, and other related improvements as necessary to complete the project.

The District submitted drainage permit applications regarding the Drain No. 74 Project to the Office of the State Engineer, as required under North Dakota law. The State Engineer concluded the project is not "of either statewide or inter-district significance."

The Board adopted Moore Engineering, Inc.'s proposed responses to the eight elements under 89-02-01-09.2 of the North Dakota Administrative Code. The Board further determined no hearing was necessary under 89-02-01-09.1(2) of the North Dakota Administrative Code because the Board is acquiring the requisite right-of-way to accommodate the project, and the right-of-way acquisition will eliminate adverse impacts to private landowners.

It was moved by Manager Hejl and seconded by Manager Sundberg to approve *Applications to Drain Nos. 4211, 4212, and 4213* for the District, subject to any conditions attached by the State Engineer. Upon roll call vote, the motion carried unanimously.

The District will provide the original, signed permit and all supporting documents to the Office of the State Engineer.

### **Post-Issuance Debt Compliance Policy and Post-Issuance Debt Compliance Procedures**

It was moved by Manager Hejl and seconded by Manager Sundberg to approve the Post-Issuance Debt Compliance Policy and Post-Issuance Debt Compliance Procedures. Upon roll call vote, the motion carried unanimously. The policies are attached to these minutes.

## **Minutes**

It was moved by Manager Hejl, seconded by Manager Sundberg and unanimously carried to approve the minutes of June 18, 2013, meeting, as amended.

## **Amenia Township Improvement District No. 75**

Chad Engels presented a preliminary analysis of Amenia Township Improvement District No. 75 for the Board's review to determine the feasibility and estimated cost of the project.

Kyle Stroh expressed concerns to the Board about the safety issues that would be associated with an increase in the width and depth of the drain along his yard and requested the Board consider moving the project to the south side of the road. Mr. Engels said the cost of the project would remain about the same if moved to the south side of the road. The Board will take this into consideration and will discuss the matter again at the next Rush River Water Resource District meeting.

## **Drain #30 – discussion with Corps of Engineers about the invert into the Fargo-Moorhead Area Diversion**

Terryl Williams and Aaron Buesing discussed the proposed Drain #30 inlet into the Fargo-Moorhead Area Diversion. The Corps has concerns with the downcutting that has occurred on the drain, and also pointed out that the original design profile of the drain is above the 2011 survey data. The Corps is seeking to resolve the issues.

Manager Hejl expressed concern that the Water Resource District was notified and involved very late in the planning process for these potential improvements and wishes to see the Corps of Engineers contact the local Water Resource Districts sooner and work with project engineers for each of the Water Resource Districts in the future on matters such as this. Manager Hejl also discussed Rush River Water Resource District's disapproval of the proposal by the Corps of Engineers to have the invert elevation meet standards set by the 2011 survey. Manager Hejl explained that a slope of .05% is used as a standard throughout Cass County because it has been the most effective in preventing sediment buildup or erosion, and that the surveying from 2011 does not meet those standards.

Mr. Engels will email the survey profile to the Corps of Engineers for review and will continue working with them on the matter. Ms. Williams indicated she would forward the Board's concern about contacting the local Water Resource Districts sooner in the design process.

## **Drain #52 – hydraulic analysis**

The Board discussed the necessity of a hydraulic analysis on Drain #52. Manager Hejl said he would like to see a current analysis of the drainage area for Drain #52 and the lower Rush River, as well as cost estimates for potential improvements.

Mr. Engels will bring plans for Drain #52 and the Rush River to the next meeting to see if they can draw some conclusions to determine if further study is needed.

**Berlin Township Improvement District No. 70**

The Board discussed various funding options for repair of the washed out crossings on Berlin Township Improvement District No. 70. The Board authorized Moore Engineering, Inc. to contact the contractors for the project to further discuss the options.

**Berlin-Harwood Township Improvement District No. 72**

The North Dakota Department of Transportation (NDDOT) has approved plans for Berlin-Harwood Township Improvement District No. 72. Sean Fredricks is currently working on the cost share agreement to be approved by the NDDOT regarding the project. Mr. Fredricks reminded the Board if the NDDOT cannot agree to the proposed cost share agreement, bids cannot be awarded for the project.

It was moved by Manager Hejl and seconded by Manager Sundberg to authorize Moore Engineering, Inc. to advertise for bids on July 22, July 29, and August 5, 2013, regarding Berlin-Harwood Township Improvement District No. 72. Upon roll call vote, the motion carried unanimously. Bids will be opened on August 13, 2013.

**Drain #29 – cleanout in Section 36 of Gardner Township**

A landowner adjacent to Drain #29 requested that the Board look into possibly cleaning the drain in Section 36 of Gardner Township. Chairman Wolfer is familiar with the drain, and does not believe a cleanout is needed at this time.

**Utility Permit for CenturyLink to install buried telephone cable under Drain #74 south of 26th Street SE and south of 27th Street SE**

It was moved by Manager Hejl and seconded by Manager Sundberg to approve the *Utility Permit* for CenturyLink to install buried telephone cable under Drain #74 south of 26th Street SE and south of 27th Street SE, upon review by the Water Resource District Engineer. Upon roll call vote, the motion carried unanimously.

**2014 Budget and 2013 Maintenance Levy Assessments**

It was moved by Manager Hejl and seconded by Manager Sundberg to approve the 2014 Budget and 2013 Maintenance Levy Assessments. Upon roll call vote, the motion passed unanimously.

**Approve the Pledges of Assets**

It was moved by Manager Hejl to approve the following Pledges of Assets:

Alerus Financial (as per agreement of March 7, 1996)

Manager Sundberg seconded the motion. Upon roll call vote, the motion carried unanimously.

**Bills**

It was moved by Manager Sundberg and seconded by Manager Hejl to approve payment of Checks #3796 through #3803 and the electronic funds transfer, as presented. Upon roll call vote, the following Managers voted in favor: Wolfer, Hejl, and Sundberg. The Chairman declared the motion passed.

**Adjournment**

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

APPROVED:

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Raymond Wolfer  
Chairman

ATTEST:

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Carol Harbeke Lewis  
Secretary-Treasurer