

MINUTES OF MEETING  
RUSH RIVER WATER RESOURCE DISTRICT  
CASS COUNTY HIGHWAY DEPARTMENT  
WEST FARGO, NORTH DAKOTA  
AUGUST 20, 2013

The Rush River Water Resource District met on August 20, 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 Chris McShane, Attorneys for the Board; Chad Engels and Mike Opat, Engineers for the Board; Brady Woodard, Moore Engineering, Inc.; Ken Pawluk, Cass County Commissioner; David Baumler, Lloyd Knight and Arnold Knight, property owners in Amenia Township.

**Berlin Township Improvement District No. 70**

It was moved by Manager Hejl and seconded by Manager Sundberg to approve Contract Change Order #1 for Comstock Construction, Inc. in the amount of \$59,249.75 regarding Berlin Township Improvement District No. 70. Upon roll call vote, the motion carried unanimously. A copy of the Change Order is attached hereto.

Chad Engels informed the Board that the contractor agreed with splitting the cost for the crossing washout repairs on the project, proposed at the May 21, 2013, meeting. A check exchange will be coordinated with the contractor when final payment is made.

Moore Engineering, Inc. will prepare a cost estimate for erosion protection for Berlin Township Improvement District No. 70 for review at the next meeting.

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

The Board reviewed the tabulation of bids opened August 13, 2013, for Berlin-Harwood Township Improvement District No. 72. A copy of the bid tabulation is attached hereto.

It was moved by Manager Hejl and seconded by Manager Sundberg to award the contract for Berlin-Harwood Township Improvement District No. 72 to Industrial Builders, Inc. for the low bid of \$490,690, pending receipt of the signed *Engineering, Construction, and Maintenance Services Agreement* with the North Dakota Department of Transportation. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Hejl and seconded by Manager Sundberg to approve the *Engineering, Construction, and Maintenance Services Agreement* with the North Dakota

Department of Transportation regarding Berlin-Harwood Township Improvement District No. 72. Upon roll call vote, the motion carried unanimously.

Brady Woodard pointed out that the completion date of the project is this fall and the contractor will start work on the project as soon as possible.

#### **Amenia Township Improvement District No. 74**

Amenia Township Improvement District No. 74 right-of-way was discussed. Landowners are responsible to contact the project contractor about stripping topsoil on temporary construction easement areas relating to Amenia Township Improvement District No. 74.

It was moved by Manager Hejl and seconded by Manager Sundberg to spread assessments for Amenia Township Improvement District No. 74 over a period of 20 years at the interest rate of 4.25%. Upon roll call vote the motion carried unanimously.

#### **Executive Meeting – Attorney/client consultation**

It was moved by Manager Sundberg and seconded by Manager Hejl to close the meeting at 9:00 a.m. to discuss pending and anticipated civil litigation, based on North Dakota Century Code §44-04-19(2), the exception allowed for attorney consultation, with the following topic to be discussed: eminent domain litigation with Barbara Gebeke. Upon roll call vote, the motion carried unanimously.

The doors to the conference room were closed at this time. Those present in the room were Managers Wolfer, Hejl and Sundberg, Secretary-Treasurer Carol Harbeke Lewis, Administrative Assistant Brittany C. Moen, Attorneys Sean M. Fredricks and Chris McShane, Engineers Mike Opat and Chad Engels.

#### **Executive session adjourned**

It was moved by Manager Sundberg and seconded by Manager Hejl to adjourn the executive meeting at 9:25 a.m. and reconvene the regular meeting. Upon roll call vote, the motion carried unanimously.

Attorney Fredricks noted that the door to the conference room was opened at this time and the public was invited to return to the open meeting.

It was moved by Manager Hejl and seconded by Manager Sundberg to authorize Moore Engineering, Inc. and Ohnstad Twichell, P.C. to prepare a proposal to acquire the Gebeke property permanently, as opposed to temporarily, at the same price per acre paid for other permanent easement acres acquired for Amenia Township Improvement District No. 74. Upon roll call vote, the motion carried unanimously.

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

Amenia Township Improvement District No. 75 was discussed. Mike Opat will be in contact with David Baumler about the project. The Water Resource District Engineer will provide an estimate of cost to proceed with the next phase of the project at the September meeting.

### **Drain #52 – hydraulic study**

Mr. Engels recommended to the Board that the Drain #52 culverts be checked for size consistency along the length of the drain. The Board directed the Water Resource District Engineer to provide a cost estimate for a hydraulic study on Drain #52 for the next meeting.

### **Metro Flood Diversion Project – design of Rush River and Lower Rush River inlets**

Mike Opat said he is awaiting information from the Corps of Engineers regarding the design of the Drain #30, the Rush River and Lower Rush River inlets to the Metro Flood Diversion Project.

Manager Hejl suggested that the Cass County Joint Water Resource District discuss possible reimbursement of costs for services regarding Metro Flood Diversion Project related issues involving the Water Resource Districts.

### **Application for Ellingson Subdivision in the SE 1/4 of Section 5 in Raymond Township**

The Board directed the Secretary-Treasurer to send a letter to the Cass County Highway Department stating the Board has no comment regarding the application for Ellingson Subdivision in the SE 1/4 of Section 5 in Raymond Township.

### **Minutes**

It was moved by Manager Hejl, seconded by Manager Sundberg and unanimously carried to approve the minutes of the July 16, and August 1, 2013, meetings, as amended.

### **Bills**

It was moved by Manager Sundberg and seconded by Manager Hejl to approve payment of Checks #3811 through #3828 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.

### **Lower Rush River – request to spray trees in Section 2 of Raymond Township**

Clarence Krogh contacted Manager Sundberg about spraying the volunteer trees on the Lower Rush River in Section 2 of Raymond Township. Mr. Woodard will look into the matter and work with Stan Wolf, Cass County Weed Control.

### **Drain #30 – cleanout**

It was moved by Manager Hejl and seconded by Manager Sundberg to proceed with the cleanout of Drain #30 in Sections 8 and 9 of Harwood Township, not to exceed \$25,000. Upon roll call vote, the motion carried unanimously.

**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