

MINUTES OF MEETING
RUSH RIVER WATER RESOURCE DISTRICT
CASS COUNTY HIGHWAY DEPARTMENT
WEST FARGO, NORTH DAKOTA
OCTOBER 15, 2013

The Rush River Water Resource District met on October 15, 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; Mike Opat, Engineer for the Board; Brady Woodard, Moore Engineering, Inc.; Ken Pawluk, Cass County Commissioner; David Baumler, Arnold Knight and Lloyd Knight, property owners in Amenia Township; Greg Gebeke, property owner in Arthur Township; and Dane Larsen, property owner in Berlin Township.

Amenia Township Improvement District No. 74

Appraisal work for the project was discussed. Chris McShane stated that opinions of appraisals regarding Amenia Township Improvement District No. 74 need to be disclosed by December 1st.

It was moved by Manager Hejl and seconded by Manager Sundberg to authorize the Attorney for the Board to hire Gary Bach for appraisal work regarding Amenia Township Improvement District No. 74. Upon roll call vote, the motion carried unanimously.

Greg Gebeke met with the Board to discuss the request from the Gebekes to increase the size of the in-line culvert in the southeast corner of Section 32 in Arthur Township. Manager Hejl suggested comparing the square footage of the existing pipe to the square footage of the pipe coming in through the railroad in the southwest corner of the section. Brady Woodard will verify culvert sizes in the area.

Berlin Township Improvement District No. 70

The Board discussed erosion protection on Berlin Township Improvement District No. 70. Mike Opat suggested waiting to see how much grass has come in on the project over a week or two before anything is done.

Amenia Township Improvement District No. 75

Mr. Opat and David Baumler met with the Cass County Engineer to discuss Amenia Township Improvement District No. 75. A meeting will be held on Tuesday, November 26th, to discuss the proposed project with landowners. The Board will decide if they will move ahead with the project after the meeting.

Application to Install a Subsurface Drain #201315 for David Baumler in the SE 1/4 of Section 30 in Amenia Township

The Board reviewed *Application to Install a Subsurface Drain No. 201315* dated September 20, 2013, for David Baumler. The Board concluded the application does not propose drainage of statewide significance, so the Board has jurisdiction to approve the permit (without forwarding to the State Engineer's Office to consider and approve). Under the application, Applicant seeks to install a drain tile system in the SE 1/4 of Section 30 in Amenia Township, Cass County, North Dakota. The project will include a single gravity outlet that will discharge via underground pipeline in the northeast corner of the SE 1/4 of Section 30; the underground pipeline will run under the north-south township road along the Section 30/29 section line; the underground pipeline will run south in the township road ditch along the west boundary of the SW 1/4 of Section 29; the pipeline will continue south along the west boundary of the NW 1/4 of Section 32 in the township road ditch until the underground pipeline daylights and discharges into a natural watercourse in the NW 1/4 of Section 32; the natural watercourse runs through the N 1/2 of Section 32 and into the SE 1/4 of Section 32 until it discharges into Cass County Drain No. 52.

Because the proposed project will discharge into a natural watercourse, the Application did not require a *Thirty-Day Notice* under N.D. Cent. Code Section 61-32-03.1, and the Board cannot require Applicant to obtain any flowage easements from downstream landowners. However, the Board can require Applicant to obtain easements where Applicant will install underground pipeline.

According to records on file with the Cass County Recorder's Office, David Baumler owns the SE 1/4 of Section 30 in Amenia Township; Roland Priewe owns a 49-acre tract along the north boundary of the NW 1/4 of Section 32; and Dennis and Ryma Meier own the SE 1/4 of Section 29 and the remainder of the NW 1/4 of Section 32. Further, David Baumler owns the NE 1/4 of Section 32, and the Kieffer Trust owns the SE 1/4 of Section 32.

It was moved by Manager Hejl and seconded by Manager Sundberg to approve *Application to Install a Subsurface Drain No. 201315* dated September 20, 2013, for David Baumler in the SE 1/4 of Section 30 in Amenia Township, subject to the following conditions:

- 1) That Applicant obtain and record (with the Cass County Recorder's office) permanent easements (and not just written consents) that permit applicant to install, operate, and maintain a buried pipe from the owners of the SW 1/4 of Section 29 and the NW 1/4 of Section 32 in Amenia Township, Cass County, North Dakota;
- 2) That Applicant obtain easements from the owner of any land, besides land owned by Applicant, on which Applicant will construct the tile system;
- 3) That Applicant obtain written permission from the Amenia Township Board of Township Supervisors to install, operate, and maintain a buried pipe in any of its township road ditches;

- 4) That Applicant notify the Rush River Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;
- 5) That Applicant notify the Rush River Water Resource District in advance of any proposed improvements to the tile system, or any proposed increase in the capacity or drainage area of the tile system and, if necessary, submitting an additional permit application; and
- 6) That Applicant obtain all other necessary and requisite licenses, permits, registrations, and/or approvals from all applicable federal, state, county, and municipal governments, and any other applicable governmental entities.

Upon roll call vote, the motion carried unanimously.

Drain #29A – Lako property in the NW 1/4 of Section 1 in Amenia Township

Brady Woodard presented pictures of Drain #29A at the Lako property for the Board to review.

It was moved by Manager Hejl and seconded by Manager Sundberg to authorize Moore Engineering, Inc. to hire a contractor to install a rock check dam at the Lako property line in the NW 1/4 of Section 1 in Amenia Township and to fill the ditch to the west so it is at proper grade. Upon 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 September 17, 2013, meeting, as amended.

Bills

It was moved by Manager Sundberg and seconded by Manager Hejl to approve payment of Checks #3841 through #3856 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.

Executive Meeting – Attorney/client consultation

It was moved by Manager Hejl, seconded by Manager Sundberg and unanimously carried to close the meeting at 9:30 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.

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, Attorney Sean M. Fredricks, Engineers Chad Engels and Brady Woodard.

Executive session adjourned

It was moved by Manager Hejl and seconded by Manager Sundberg and unanimously carried to adjourn the executive meeting at 9:55 a.m. and reconvene the regular meeting.

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.

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:

Raymond Wolfer
Chairman

ATTEST:

Carol Harbeke Lewis
Secretary-Treasurer