

MINUTES OF MEETING  
RUSH RIVER WATER RESOURCE DISTRICT  
CASS COUNTY HIGHWAY DEPARTMENT  
WEST FARGO, NORTH DAKOTA  
MARCH 18, 2014

The Rush River Water Resource District met on March 18, 2014, at 9:00 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, Attorney for the Board; Mike Opat, Engineer for the Board; Lloyd Knight, property owner in Amenia Township; and Tim Iwen, Arthur resident.

**Amenia Township Improvement District No. 74**

Sean Fredricks gave an update on the Amenia Township Improvement District No. 74. A draft *Settlement Agreement* has been sent to the property owners regarding the eminent domain litigation issue.

Brady Woodard will meet with Lloyd Knight later in the spring to discuss any questions Mr. Knight has.

**Rush River Snagging and Clearing**

Mike Opat said work on the Rush River Snagging and Clearing Project is complete.

**Drain #30 Improvements – Application to Drain #4347**

The Board reviewed information from the State Engineer regarding *Application to Drain #4347*, previously submitted by the Rush River Water Resource District regarding the proposed improvements to Cass County Drain No. 30. The State Engineer's Office concluded the project is not "of either statewide or interdistrict significance."

Terry Williams previously met with the Board to discuss the Metro Flood Diversion Project and related issues specific to the Rush River Water Resource District's projects. The project will intersect Drain #30, and the District and the Corps are discussing proposals for a Drain #30 inlet into the project. The Corps indicated they will prepare a *Memorandum of Understanding* (MOU) for consideration by the Board regarding the inlet. The Board is also considering other improvements to the drain to correspond with the inlet project. The Board previously directed Moore Engineering, Inc. to commence design work for the project, to apply for cost-share from the North Dakota State Water Commission, to apply for a drainage permit for the project and to identify the requisite right-of-way to accommodate the project. The Board has not received the MOU from

the Corps and will not ultimately authorize the project until the parties enter into a satisfactory MOU. In the meantime, the Board directed Moore Engineering, Inc. to proceed.

The Board reviewed and 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 will acquire the requisite right-of-way to accommodate the project. Further, the project will ultimately discharge into the Metro Flood Diversion Project and, therefore, the project will not adversely impact downstream landowners. Therefore, the Board concluded, no hearing was necessary.

It was moved by Manager Hejl and seconded by Manager Sundberg to approve *Application to Drain #4347* for the Rush River Water Resource District regarding the Drain #30 Improvements, subject to any conditions attached by the State Engineer. Upon roll call vote, the motion carried unanimously.

The Secretary-Treasurer will provide the original, signed permit and all supporting documents to Dwight Comfort at the State Engineer's Office.

#### **Drain #30 extension**

The Board discussed the possibility of extending Drain #30, west to Cass County Highway 11. The assessment district may also need to be extended. Chairman Wolfer will discuss the proposed project with property owners in the area. Mr. Opat will verify the watershed for the next meeting.

#### **Drain #52 Improvements**

Mr. Opat updated the Board on Drain #52 Improvements, and said that the drain will be surveyed to establish a profile. The matter will be discussed at a future meeting.

#### **State Water Plan for the 2015-2017 biennium – projects / programs to submit**

Mr. Opat said Moore Engineering, Inc. has drafted a list of projects and programs for the State Water Plan 2015-2017 biennium and will send the forms to the Secretary-Treasurer to submit.

#### **Application to Install a Subsurface Drain #20141 for Skyline Partners, by Jim Wieland, located in Sections 35 and 36 of Rush River Township and in Sections 2 and 3 of Harmony Township**

The Board reviewed *Application to Install a Subsurface Drain #20141* dated February 27, 2014, for Skyline Partners (Jim Wieland). The Board reviewed the criteria in Section 89-02-01-09 of the North Dakota Administrative Code and concluded the project does not meet any of the "statewide" elements, and the Board concluded therefore 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 S 1/2 of Section 35 and the SW 1/4 of Section 36 in Rush River Township and the N 1/2 N 1/2 of Section 2 in Harmony Township, Cass County, North Dakota.

The drainage from the S 1/2 of Section 35 will discharge via an underground pipeline that will run under the east-west township road along the south boundary of Section 35; the underground pipeline will run along the east boundary of Section 3, in the township road ditch along the north-south township road between Sections 3 and 2, until discharging into the Rush River/Cass County Drain No. 12 in the SE 1/4 of Section 3. The tile discharge from the SW 1/4 of Section 36 and the N 1/2 N 1/2 of Section 2 will discharge via a buried pipeline that will run along the south boundary of the SW 1/4 of Section 36 in the township road ditch along the east-west township road between Section 36 in Rush River Township and Section 2 in Harmony Township; the underground pipeline will run under the township road and will then run east in the township road ditch along the north boundary of the NE 1/4 of Section 2 in Harmony Township; at the NE corner of Section 2, the underground pipeline will turn south along the east boundary of the NE 1/4 of Section 2, in the west township road ditch of the north-south township road along Sections 2 and 1 in Harmony Township; the pipeline will discharge into the Rush River/Cass County Drain No. 12.

Because the project will discharge directly into the Rush River/Cass County Drain No. 12, the project did not require any *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, because the project will include underground pipeline on property not owned by Applicant, the Board will require Applicant to obtain permanent easements from landowners to install and maintain pipeline on their property.

According to records on file with the Cass County Recorder's Office, Skyline Partners, LLP, owns the SW 1/4 of Section 36 in Rush River Township; the SE 1/4 of Section 35 in Rush River Township; and the N 1/2 N 1/2 of Section 2 in Harmony Township. Further, the Newman Family Partnership owns the SW 1/4 of Section 35 in Rush River Township. The James Melander Trust owns the E 1/2 of Section 3 in Harmony Township. Finally, the James Howe Trust owns the S 1/2 N 1/2 NE 1/4 of Section 2 in Harmony Township.

It was moved by Manager Hejl and seconded by Manager Sundberg to approve a *Utility Permit* to permit Applicant to discharge into the Rush River/Cass County Drain No. 12; and to approve *Application to Install a Subsurface Drain No. 20141* dated February 17, 2014, for Skyline Partners, LLP, regarding a tile project in the S 1/2 of Section 35 and the SW 1/4 of Section 36 in Rush River Township, and the N 1/2 N 1/2 of Section 2 in Harmony 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 buried pipelines from the owners of the following parcels:
  - a. The E 1/2 NE 1/4 of Section 3, Harmony Township, Cass County, North Dakota;
  - b. The N 1/2 E 1/2 SE 1/4 of Section 3 in Harmony Township, Cass County, North Dakota; and

- c. The E 1/2 S 1/2 N 1/2 NE 1/4 of Section 2, Harmony Township, Cass County, North Dakota.
- 2) That Applicant obtain and record (with the Cass County Recorder's office) a permanent easement (and not just a written consent) that permits Applicant to install, operate, and maintain a subsurface tile drainage system in the SW 1/4 of Section 35 in Rush River Township, Cass County, North Dakota.
- 3) That Applicant obtain easements from the owner of any land, besides land owned by Applicant, on which Applicant will construct the tile system;
- 4) That Applicant provide and maintain adequate erosion protection at any and all outlets into the Rush River/Cass County Drain No. 12 (Applicant is solely responsible for any damages to the Rush River/Cass County Drain No. 12 as a result of the tile project);
- 5) That Applicant obtain written permission from the Rush River and Harmony Township Boards of Township Supervisors to install, operate, and maintain buried pipelines in any of their township road ditches, and to bore under any of their township roads;
- 6) That Applicant notify the Rush River Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;
- 7) 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;
- 8) That applicant must close all outlets during flood occurrences or under conditions that may cause adverse impacts to downstream landowners, as determined by the Board;
- 9) That Applicant obtain an approved *Utility Permit* from the Rush River Water Resource District regarding any and all outlets into the Rush River/Cass County Drain No. 12; and
- 10) 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.

**Dissemination Agent Agreement with Dougherty & Company LLC**

It was moved by Manager Hejl and seconded by Manager Sundberg to approve the *Dissemination Agent Agreement with Dougherty & Company, LLC*. 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 February 18 and 24, 2014, meetings, as presented.

**Bills**

It was moved by Manager Hejl and seconded by Manager Sundberg to approve payment of Checks #3903 through #3909 and the electronic funds transfer, as presented. Upon roll call vote, the following Managers voted in favor: Wolfer and Hejl. Manager Sundberg was absent. The Chairman declared the motion passed.

**North Dakota Insurance Reserve Fund – proxy for annual meeting**

It was moved by Manager Hejl and seconded by Manager Sundberg to authorize the Secretary-Treasurer to sign the proxy relating to the North Dakota Reserve Fund annual meeting. 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 Manager 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