

MINUTES OF MEETING
RUSH RIVER WATER RESOURCE DISTRICT
CASS COUNTY HIGHWAY DEPARTMENT
WEST FARGO, NORTH DAKOTA
JULY 15, 2014

The Rush River Water Resource District met on July 15, 2014, at 8:00 a.m. at the Cass County Highway Department, West Fargo, North Dakota.

Present were Raymond Wolfer, Chairman; William A. Hejl, Manager (by phone); Carol Harbeke Lewis, Secretary-Treasurer; Brittany C. Moen, Administrative Assistant; Sean M. Fredricks, Attorney for the Board; Mike Opat, Engineer for the Board; Steve Faught, Empire Township Chairman; Bruce Brand, property owner in Berlin Township; and Lloyd Knight, property owner in Amenia Township. Manager Dick Sundberg was absent.

Minutes

It was moved by Manager Hejl, seconded by Manager Wolfer and unanimously carried to approve the minutes of the June 17, 2014, meeting, as amended.

Amenia Township Improvement District No. 74

Mike Opat updated the Board on Amenia Township Improvement District No. 74. He informed the Board that the project contractor has not completed some things on the project and has missed the final project deadline. The Water Resource District Attorney has filed a claim on behalf of the Rush River Water Resource District to reserve its rights to a claim for liquidated damages.

Brady Woodard has been on-site and met with area landowners to update them on the project. Lloyd Knight indicated there is one site remaining that still needs gravel. Mr. Opat said the project should be completed by the next meeting, and will follow up with Mr. Knight on the issue.

Drain #30 Reconstruction

Mr. Opat said bids will be opened next week for the Drain #30 Reconstruction Project. He informed the Board that contact has been made with the landowners along the drain where right-of-way will be required and feedback has been positive. The Board discussed the importance of keeping landowners along drains updated on all projects and improvements.

Right-of-way along Drain #30 overlaps Cass County Highway 81 right-of-way. It was moved by Manager Hejl and seconded by Manager Wolfer to authorize the Chairman to sign the *Cass County Highway Access Permit* for right-of-way regarding the Drain #30 Reconstruction Project. Upon roll call vote, the motion carried unanimously.

Drain #52 reassessment

Sean Fredricks said a notice will be sent to all landowners who are in the current and proposed Drain #52 assessment district for the reassessment hearing on August 19th. Additional minutes relating to the reassessment are attached hereto.

Extension of the lower branch of the Rush River

Mr. Opat has been working with the Corps of Engineers on a Section 408 Permit to extend the lower branch of the Rush River. He is also discussing options to install a drop structure with the Natural Resources Conservation Service. A local producer would need to be the applicant.

Application to Install a Subsurface Drain #20149 for Roger G. Nelson in the SW 1/4 NW 1/4 of Section 13 in Amenia Township

Mr. Opat reviewed *Application to Install a Subsurface Drain #20149* for Roger G. Nelson in the SW 1/4 NW 1/4 of Section 13 in Amenia Township. *Thirty-Day Notices* will be sent out to downstream landowners.

Application to Install a Subsurface Drain No. 201410 for Red River Trust c/o Los Arboles Management in Section 9 of Harwood Township

The Board reviewed *Application to Install a Subsurface Drain No. 201410* dated June 30, 2014, for Red River Trust, c/o Los Arboles Management. 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, 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 all of Section 9 in Harwood Township, Cass County, North Dakota. The project will include five gravity outlets that will discharge directly into Cass County Drain 13 and two gravity outlets that will discharge directly into Cass County Drain 30.

Because the proposed project will discharge directly into both Cass County Drain 13 and Cass County Drain 30, legal assessment drains, 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.

According to records on file with the Cass County Recorder’s Office, Red River Trust owns all of Section 9 of Harwood Township.

It was moved by Manager Hejl and seconded by Manager Wolfer to approve *Utility Permits* to discharge into Drain 13 and Drain 30, and to approve *Application to Install a Subsurface Drain No. 201410* dated June 30, 2014, for Red River Trust in Section 9 in Harwood Township, subject to the following conditions:

- 1) That Applicant obtain easements from the owner of any land, besides land owned by Applicant, on which Applicant will construct the tile system;

- 2) That Applicant provide and maintain adequate erosion protection at any and all outlets into Cass County Drain 13 and Cass County Drain 30 (Applicant is solely responsible for any damages to Drain 13 or Drain 30 as a result of the tile project);
- 3) That Applicant notify the Rush River Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;
- 4) 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;
- 5) That Applicant obtain an approved *Utility Permit* from the Rush River Water Resource District regarding any and all outlets into Cass County Drain 13;
- 6) That Applicant obtain an approved *Utility Permit* from the Rush River Water Resource District regarding any and all outlets into Cass County Drain 30; and
- 7) 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.

Application to Install a Subsurface Drain No. 201411 for Bruce Brand in the NE 1/4 of Section 24 in Berlin Township

The Board reviewed *Application to Install a Subsurface Drain No. 201411* dated July 8, 2014, for Bruce Brand. 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, 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 NE 1/4 of Section 24 in Berlin Township, Cass County, North Dakota. The project will include a single gravity outlet that will discharge directly into Cass County Drain 13.

Because the proposed project will discharge directly into Drain 13, 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.

According to records on file with the Cass County Recorder's Office, Bruce Brand owns all of the NE 1/4 of Section 24 of Berlin Township.

It was moved by Manager Hejl and seconded by Manager Wolfer to approve a *Utility Permit* to discharge into Drain 13, and to approve *Application to Install a Subsurface Drain No. 201411* dated July 8, 2014, for Bruce Brand in the NE 1/4 of Section 24 in Berlin Township, subject to the following conditions:

- 1) That Applicant obtain easements from the owner of any land, besides land owned by Applicant, on which Applicant will construct the tile system;
- 2) That Applicant provide and maintain adequate erosion protection at any and all outlets into Cass County Drain 13 (Applicant is solely responsible for any damages to Cass County Drain 13 as a result of the tile project);
- 3) That Applicant notify the Rush River Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;
- 4) 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;
- 5) That Applicant obtain an approved *Utility Permit* from the Rush River Water Resource District regarding any and all outlets into Cass County Drain 13; 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.

Tile Discharge Permit form for township use

It was moved by Manager Hejl and seconded by Manager Wolfer to direct Sean Fredricks to develop a Tile Discharge Permit form for township use as needed for *Applications to Install a Subsurface Drain*. Upon roll call vote, the motion carried unanimously.

Utility Permit for Northern States Power Company, a Minnesota corporation, d/b/a Xcel Energy for construction of the CapX20/20 transmission line over the lower branch of the Rush River (Drain #2) in the SE 1/4 and W 1/2 of Section 14 and the N 1/2 SW 1/4 of Section 26 in Harmony Township

It was moved by Manager Hejl and seconded by Manager Wolfer to approve the *Utility Permit* for Northern States Power Company, a Minnesota corporation, d/b/a Xcel

Energy for construction of the Capx20/20 transmission line over the lower branch of the Rush River (Drain #2) in the SE 1/4 and W 1/2 of Section 14 and the N 1/2 SW 1/4 of Section 26 in Harmony Township. Upon roll call vote, the motion carried unanimously.

2015 budget and 2014 maintenance levy assessments

It was moved by Manager Hejl and seconded by Manager Wolfer to approve the 2015 budget and 2014 maintenance levy assessments. Upon roll call vote, the motion carried unanimously.

Approve the Pledges of Assets

It was moved by Manager Hejl and seconded by Manager Wolfer to approve the following Pledge of Assets:

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

Upon roll call vote, the motion carried unanimously.

Bills

It was moved by Manager Hejl and seconded by Manager Wolfer to approve payment of Checks #3942 through #3951 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.

Culvert on the lower branch of the Rush River between Sections 9 and 10 in Harmony Township

It was moved by Manager Hejl and seconded by Manager Wolfer to authorize Moore Engineering, Inc. to look into a reported problem with sediment in a culvert on the lower branch of the Rush River between Sections 9 and 10 of Harmony Township and to report back to the Board at a future meeting. Upon roll call vote, the motion carried unanimously.

Adjournment

There being no further business to be considered by the Board, the meeting adjourned without objection.

APPROVED:

Raymond Wolfer
Chairman

ATTEST:

Carol Harbeke Lewis
Secretary-Treasurer