



BURLEIGH COUNTY WATER RESOURCE DISTRICT MINUTES

Tuesday, January 14, 2014

Tom Baker Meeting Room – City/County Building

Present: Chairman Terry Fleck, Kathleen Jones, Gordon Weixel, Dennis Reep, Cary Backstrand, Commissioner Doug Schonert, Burleigh County Commissioner; Dave Bliss, Bliss & Stebbins Law Firm; Craig Odenbach, Houston Engineering, Inc.; and Mona Livdahl, Personalized Management Services, Inc.

Chairman Fleck called the meeting to order at 8 a.m. noting a quorum was present.

Minutes 12-13-13: Kathleen moved to approve, Cary seconded. Motion Carried.

Minutes Conference call 12-19-13: Kathleen moved to approve, Cary seconded. Motion Carried.

Financial Reports: Kathleen reviewed noting we will have \$427,806.39 in the general account left after bills are approved. **Kathleen asked to take \$100,000 to set aside for a designated reserve account. Cary seconded. Motion Carried.**

Bills: Cary moved to approve the bills in the amount of \$42,319., Kathleen seconded. Motion Carried.

Chairman Fleck tabled the board reorganization and McDowell until Gordon arrives.

Drainage Complaints:

Spiers: Still on hold - leave on agenda until resolved. Cary and Michael still plan on meeting with NDDOT at some point.

Mark Swenson: Cary noted that the issue is resolved, as a detention area has been constructed. This item can be taken off the agenda. A letter still needs to be drafted and Michael is working on that.

River of Hope: Cary noted Linda Oster sent an email and the City has been dealing with the developer to get a contractor out to open up the area so spring runoff won't flood the property. Cary will follow up on as the overflow has been constructed.

Liechty Homes: Leave on the agenda, nothing has been done. Dave noted they do understand that the Board won't be acting on the complaint until one of the parties take action.

Tom DeKrey: Craig has been looking at and a natural drain way has been plugged. Action needs to be taken - we still don't know who the owner is. Pending a final report, we can issue an order if nothing is done. Cary noted that the first step will be to contact the owner. Craig noted he was out there and they were actively hauling dirt into the site. Mr. DeKrey was present and had prepared a written statement noting the



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conditions and that the person developing the lot has blocked the natural watercourse with fill. Mr. DeKrey also handed out copies of complaint letters from Mr. Shawn Bergan and Ms. Priscilla Sauer as well as pictures documenting spring runoff. Noted the owner is KBM and noted he has not spoken to him personally but some of his neighbors have. Marcus was present and noted that if we fix the culvert issue on Mr. DeKrey's approach there will still be damage. Mr. DeKrey noted that as it stands now, water will be coming into his yard as well as his neighbors. Cary felt that the first step is to contact the owner and see if he will remove the obstruction voluntarily as he is blocking a natural watercourse. Cary asked that we allow him to contact the owner and if he doesn't take care of the problem to issue a formal order without waiting for the next meeting. Consensus was to allow the order to be issued. Mr. DeKrey noted that on December 26th he stopped one of the truck drivers and informed them that they were hauling into a natural watercourse and they continued hauling.

Mark Swenson: Mr. Swenson arrived and Cary reviewed what was going on in the issue he brought forth originally. Mr. Swenson felt that the City is still not in compliance with their ordinance. Mr. Swenson expressed several concerns noting there was no review in the City's SWMP and doesn't understand why they are not required and wants feedback on their noncompliance. Mr. Swenson noted there is a difference between quantity of flow and volume noting they significantly increased the volume. Cary noted that is not the U of Mary's issue but rather the North Dakota State Highway Department. The University of Mary's detention pond is collecting and controlling the waters. Cary noted south of that area there is a pond to be built but that area has not been developed yet. Mr. Swenson noted he did not file a formal complaint on this but is trying to understand and see if he should file a formal complaint. Mr. Swenson felt that the rate of flow has been brought down but the volume wasn't. Mr. Swenson also felt that Swenson Hagen did not study the downstream impacts and states that he has complained to the City. Chairman Fleck noted that this is a jurisdictional issue and we need a definition of the jurisdiction as his issues are under the City's jurisdiction. Mr. Swenson noted the City has taken over the authority of this area but seems to wash their hands of the decisions and asked for a legal opinion. Mr. Swenson also questioned the south end of this project noting the University of Mary blocks off the access to the Swenson properties noting no storm water detention has been set aside. Mr. Swenson noted the University of Mary hired an attorney asking Mr. Swenson not to contact the University of Mary any more. Chairman Fleck asked if this is an ordinance question noting that we work with blockage and asked him to go back to the City Commission noting this is outside our jurisdiction. Mr. Swenson noted the University of Mary is in the City's jurisdiction, but the quarter line is in Burleigh County. Noted the plat is in the City of Bismarck, but the drainage is in the County.



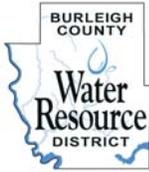
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Mr. Swenson asked that the downstream capacity be addressed. Chairman Fleck noted at this time it is a jurisdictional issue. Cary noted our jurisdiction lies with the drainage of water and unfortunately we can't do anything at this time. Mr. Swenson noted he does not agree with the philosophy that the Board doesn't have the authority to influence the City. Noted Tom Baer in Mandan is the University of Mary's attorney. Kathleen suggested getting Planning and Zoning Commission involved. Cary noted we are a political subdivision and work with state statutes and are charged with statutes under NDCC 61 and that is what we operate under. Mr. Swenson discussed the City of Bismarck zoning ordinance Title 14 which states they need the approval of the County. Marcus Hall, County Engineer was present and stated that this is a City issue, the County Highway Department is concerned principally with roads. Marcus also felt that as for the plat to the south, there is no building going on and until then that happens he cannot proceed. Mark noted the road they have is an open section line road and was going to ask the County to make it public as it is heavily used by the board. Mr. Swenson felt the Board has the authority and he will email the Title 14 portion to us and asked our attorney to comment on this when he has time.

Country Creek: Craig noted that Michael indicated he provided information to Marcus as a potential solution and Marcus was reviewing. Michael has suggested a meeting with Marcus as a solution. Commissioner Schonert met with Bitner and Mariners who are developing on this. Noted something has to be done either go ahead with a solution or deny approval of the new subdivision and he does not want to do this. After visiting with Marcus noting the drainage ditch needs to be maintained and the snow should be removed prior to spring runoff. Commissioner Schonert suggested that the neighbors effected between the ditch and the road should all be contacted and let them know that ditch is their responsibility and they need to hire a contractor to clear out that ditch - this is not the County's responsibility After visiting with Michael, it was noted the corner that is high on the west side where it turns needs something done before spring, but this is a ditch located on a public easement and should be done at the cost of the neighbors. If we allow the development, the perception is that this will flood them out. Noted if there is a possibility to get rid of the water in a reasonable way, it is the responsibility of the landowners but the perception of the people there is that it needs to be taken care of. Chairman Fleck asked if we have the authority to tell them to blow snow – Commissioner Schonert noted we don't but should tell them that we should contact them and let them know it would protect them. If they elect not to - our authority is on the north ditch of the road and it should be done but it won't help the people on the other side.



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Cary noted it is a private ditch and talked to Michael who noted that Marcus could do work on the roadway and that may help somewhat. Noted that this is a private ditch and we need to let the landowners know as far as the development upstream, that water will come through here and we need some type of a solution. The developer is implementing a detention pond, but that is not adequate. As of now those subdivisions should not be approved until something is done. Discussed the holding ponds, and that mathematically we need to prove that it can hold the water and then we can allow the further development. Right now it is a perception that they are getting the waters. Cary stated that if the landowners petition to set up an assessment district to allow us to clean it that would be a solution. The landowners need to be willing to petition or request this from the BCWRD. Cary noted if we receive the petition we need to act on it. Commissioner Schonert felt that if we ask the landowners to maintain the ditch they will feel they are only doing it to help the new development. Noted if they show mathematically they can handle the water with the drainage ditch then it could be approved. Schonert noted he can't approve the subdivision until the people below are taken care of. Cary felt we should possibly look at this as a legal drain. Commissioner Schonert noted that where the ditch goes to the south, it was to continue as that was the original plan but they wanted the dedicated roadway closed and petitioned to close it as they did not want all the traffic coming through and the roadway was vacated. Nothing at this time nothing was said about drainage - the Mariners felt that if the original plan was kept they would not have had issues with drainage. On the North side they could put a ditch which will solve about 30% of the problem and questioned if spending all that money is worth it. Marcus noted for a short term solution he and Michael can come up with a letter to the landowners and laying out the process for a long term solution for the legal drain and the process. Chairman Fleck noted that the 30% could show action on our part that we are doing something. Marcus felt that would be okay as long as they understand that the ditch on the North side won't solve their problems. Chairman Fleck noted that we need to have the meeting and work on getting this resolved. Dennis Reep questioned if we establish an assessment drain who manages it and are we setting precedent. Cary noted that it is but it is what we as a water resource district are charged with. Noted that we could set up a bond for the surveying and engineering costs to implement this district. Commissioner Schonert noted in the County's new jurisdiction they are going to be strict on water plans and they will have to have easements and drainage set aside, the problem is the old subdivisions to contend with as well as with the City as they approve them. Marcus noted setting precedence, and asked about Brookfield Estates. Kathleen noted we have a meeting set up to set up regular maintenance.



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Election of Officers:

Chairman: Cary nominated Terry Fleck as Chairman, Kathleen seconded. Motion Carried.

Vice Chair: Kathleen nominated Cary as Vice Chairman, Dennis seconded. Motion carried.

Secretary/Treasurer: Cary moved that the Board Secretary be Kathleen Jones, Gordon seconded. Motion carried.

Reappointment of Administrative Secretary, Engineer and Legal Counsel: Kathleen moved to approve, Cary seconded. A roll call vote was taken:

Dennis: Yes

Kathleen: Yes

Gordon: Yes

Cary: Yes

Chairman Fleck: Yes

Motion carried.

Review and approve 2014 Portfolios and schedules: Chairman Fleck asked that Dennis review and we can finalize the portfolio assignments at the February meeting. Cary asked Dennis to take Burnt Creek Floodway and Soil Conservation District. Mona will update and send out and we will finalize at February meeting.

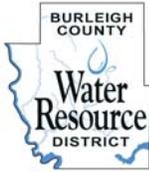
Meeting schedule: Need alternate dates for March and April meeting April 1st and March 4th will be the new dates. Cary will not be here for the February 11th meeting. Mona will email the meeting schedule to the Board.

McDowell Dam:

Gordon noted that he made the presentation this morning on behalf of McDowell Dam. Felt it went well.

McDowell Dam Budget: Gordon moved to approve the budget, Kathleen seconded. Noted it is about a 5.3% increase. **Motion carried.**

Expenses: No report.



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Tractor Warrantee Issue: Noted BCWRD purchases it and gives to Forrest to use. Chairman Fleck asked if there were other Bobcat issues - Greg noted one of the big issues is the length of time that it takes to repair the tractor. Discussed having a meeting with Bobcat and Forrest recommended an extended warrantee period as well as a 3 year extension with a 75/25 split. Discussed having this addressed in advance of our February meeting. Dave, Gordon, Forrest and Greg will set this up a meeting with Bobcat.

Harmon Lake Report: Kathleen went to the Morton county WRD in January noting they are doing lots of things at Harmon Lake.

Inventory: Kathleen asked that in April or May she would like to go out to McDowell to look at the inventory of equipment on site.

RV Park: Gordon noted they discussed installing 10 pads and it would be \$6,000 to \$7,000 per pad. Kathleen noted there would be Grant monies - noted in Harmon Lake instead of sewer lines they installed a dump station. In Grand Forks, they have 150 pads - 100 are leased annually to the people in Grand Forks. This will be addressed further at the April or May meeting.

Visitor Data: Gordon noted we received an email for the last 10 years on visitor data. Forrest noted the system they use is to take the traffic and divide it by half - noted the traffic counter counts the traffic coming in and out and they use 3 people per vehicle as a minimum. In 2011 we had 99,000; in 2012 it was 81,000, 2013 - 79,000. Chairman Fleck asked if we advertise winter activities i.e., snow shoes, hiking, walking trails for pets, etc. Greg stated that they can put something together to let the public know.

Water Permit Applications: The review is completed and has been moved on to Dan Ferrell. This is the flashboard permit. From Dan it goes to the State Engineer for approval.

Paddle Boat Purchases: On hold pending approval of grant application. Gordon did the presentation this a.m.

Missouri River Flood Hazard Mitigation:

SWC Cost Share: SWC Cost Share Reimbursement request was mailed 11-14-13 for Sibley and MRCC feasibility studies.

Ward and Ash Coulee: AE2S sent information to Michael on flows.



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MRCC:

Deadline for submitting ballots was 5 p.m. yesterday - noted a few issues need to be addressed i.e., new split lots, etc. If the vote does not pass we need to prepare a notice letting the residents the project is dead, if it is positive, we need to prepare for a public hearing and appeal of assessments. Intent is to have this in the 2014 construction season, if approved.

Bonnie Sanders: Sent a letter letting the BCWRD know she will be combining parcels.

Fox Island:

Project close out letter: Craig noted a draft notice will be sent to the residents noting we are closing out the project and placing on hold per the Fox Island Homeowners Association recommendation.

Hogue Island:

Bank Stabilization: Request for cost share review will be submitted, Craig noted that the intent is to make sure all costs are in order and meet with the SWC to make sure it does not jeopardize the cost share for the work to be completed.

Perpetual Restrictive Language: Dave noted that prior to the public information meeting, at that time Dave will give a talk to the Board so the language can be addressed at the public information meeting.

Burnt Creek Flood Control Repair:

SWC Cost Share Agreement: Still waiting for cost share for 2011 repairs. It has been approved, we have not received the agreement as yet.

Assessment Letters: Informational only. Kathleen noted she has received several phone calls on this letter and project noting there is confusion on full and true versus taxable value. We need a quorum on February 3rd for the meeting. Mona does not need to attend as the County will be doing the minutes. Michael will be in attendance as well to make a presentation on history and background.

Sunny View:

Summary letter to Richter's: Craig noted the summary letter has been sent to the Richter's, Kathleen and Dave will meet with Casey Chapman to try to get an answer to the request for an easement. The meeting will be this Thursday.



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Apple Valley:

Loan Draw Request: Information is complete and has been submitted.

Missouri River Snagging and Clearing:

Proposal joint meeting: Will be a formal meeting to discuss with Joe and Katie with the USGS on hydraulic analysis using the new geomorphological model.

COE Permit: Holding to determine direction on the modeling effort. Kathleen noted that once we get the information from Katie, we can possibly submit for a permit. Noted the larger question is funding the project. Cary noted that some of the other agencies who have started this project, but we will carry this to the COE and if we get a positive response, we will need to get together with the other shareholders. The Board has agreed to move forward on this to the permit process, the rest will depend on the other shareholders funding.

County Planning Meeting Coordination with Marcus Hall:

Cary and Kathleen will attend - meeting is not scheduled yet. Make sure to let Mona know if anyone else is attending. Michael will let everyone know on the date, which is anticipated to be the 30th or 31st.

Other Old Business:

Harris letter: Letter was mailed.

Records Retention: In process.

Apple Creek Industrial Park: On hold.

New Business:

Tile Application Procedures: Dave Bliss spoke on this and noted that Sean Fredericks put these together and has substantial experience in tiling. **Cary moved to accept these as our policies. Kathleen seconded. Motion Carried.**

Water Quality Certification: Informational only.

ND Public Finance re: audit procedures: Informational only.



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Correspondence:

Missouri River Coordinator Position: Chairman Fleck noted they received two applicants for this position.

Other: Kathleen asked about direct deposit - and asked if the Board wants to do this. Noted it would cost approximately \$2 per check. Consensus to leave as is.

With no further business the meeting adjourned at 10:50 a.m.

Respectfully Submitted,

Mona Livdahl

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