



BURLEIGH COUNTY WATER RESOURCE DISTRICT MINUTES

Tuesday, March 6, 2014

Tom Baker Meeting Room – City/County Building

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

Absent: Cary Backstrand

Chairman Fleck called the meeting to order at 8:00 a.m. noting a quorum was present.

Minutes 2-7-14: Kathleen moved to approve the minutes from the 2-7-14 meeting, Gordon seconded. Motion carried.

Financial Reports: Kathleen reviewed noting we have \$419,441 in the bank and moved to move another \$50,000 into the reserve account. Dennis seconded. Kathleen noted that next month we will be designating the monies out within the reserve. Motion carried.

Bills: Kathleen reviewed noting bills for this month totaled \$51,904.77 and that we need to have discussion with Dave, Bliss & Stebbins and Michael from Houston Engineering, Inc. regarding where the dollars get assigned and moved that we approve the bills. Dennis seconded. Motion carried.

McDowell Dam:

Warranty Issue: Greg noted a 3-year internal component warranty was \$871.00 with no deductible - there was an option of a 3-year with a deductible. Verbally he was told this was a 50% deduct on the premium. Noted Forrest has been using the tractor this fall and it seems to be working fine. Noted they would be comfortable with the 3 year extended warranty. Kathleen moved to go with the extended warranty, Gordon seconded. Motion carried.

Kathleen asked if we had any major capital expenditures for McDowell for 2014? Forrest noted he wanted to reroof the main bath house which would be under \$5,000.

Paddleboats: Gordon noted the paddleboats are the only other issue. Kathleen noted it is in the budget and should be good to go. Greg noted he had a quote from Paddle Boat Inc., and stated that we could get competitive bids. They are the manufacturer and felt that their prices are competitive. Greg will send another email and ask if this is their best price or if they had a retailer who wishes to unload older stock.

Water Permit: Chairman Fleck noted that Cary had called and we have both permits - the flashboard and supplemental water supply. The final paperwork is pending.

Inventory: Kathleen is still trying to do this when the weather warms up.



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Supplemental Water Supply: Michael noted the alignment options – there are three alignments that were considered, and will get together with Gordon and Kathleen as to the diversion from Apple Creek. Will want to look at the landowners and if the current ownership has changed. Michael will get these options set up and bring it back to the Board.

Drainage Complaints:

Eldin Spier: still on hold. Michael will call Swenson Hagen to see where they are at.

River of Hope and Mark Swenson: Michael noted the letters are drafted but needs to get Cary's review and approval prior to finalizing and sending.

DeKrey Issue: Marcus was present and noted that due to the cold weather they did not get the stakes in yet for the earthwork setback. With the warm up, they will get something going. Discussed ditch block removal - noted it can eventually be removed.

Country Creek Third: Michael noted he had discussions with Gibbs Township and they are amenable to having the work done in their easements. Michael noted the developer is willing to make improvements to the channel and as part of a developer's agreement in consideration of approval of Country Ridge 1st and 2nd subdivisions. Michael noted a notice was sent to the residents as to where that is going. There are timing issues that need to be worked into the developer's agreement - the plat approval needs to be finalized in order to assess the costs. The timing is another issue as the contractor wants to get out by spring thaw and needs an agreement as to what he is actually to be doing. No construction permits can be issued for the building of homes within the new subdivisions, and can be held to ensure follow through happens. All of the lots within Country Ridge 1st and 2nd that contribute runoff to the channel are included in the assessment district, as well as those to the east to Runnel Road. The assessments that go on the property would be the Board's expense to complete the design and establish the assessment district - legal and administrative costs, and the maintenance fund. Michael will prepare the preliminary documents. Timeline is laid out on Page 25. Noted most of this is set up by statute. Michael reviewed the timeline. The Board questioned if we want a public meeting or special meeting with the landowners. Michael felt that by the first part of June the work that the developer needs to get done will be completed. Kathleen felt that the one thing missing is the actual date to present to County Planning and Zoning. Marcus stated the preliminary plat review is coming up this month. Should have developer's agreement signed prior to final plat. Chairman Fleck asked if we have precedent as it has not been platted - Dave Bliss noted he has reservations on the agreement and asked if Richard Riha, State's Attorney was involved - noted not at this time. Dave felt that Mr. Riha should be involved and if our Board is reviewing content - noted that there is a precedent set for future development to be allowed



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based on this issue. Dave felt that whatever is done here will be used down the road as a precedent. Noted the solution is correct, but what sort of precedent does it set for Marcus and the county and the Board. Dave felt it was important for the States Attorney to look at this agreement first. Commissioner Schonert felt that we would contact Richard Riha but felt that this agreement is what we need for this project to move forward. Michael also noted we need something to refer to for the assessment district. Procedurally we will step through to make sure the protocols are taken care of and the assessments can be made. The Public Hearing will be the May 13th, which is the Board meeting date, and we can work through the details as we go. Dave walked us through the resolution (page 26 and 27). Dave reviewed and noted that in paragraph one Michael said all that needs to be said. **Kathleen moved to accept the resolution as written and pass it. Gordon seconded.** Dennis asked about the drainage area as described - Michael noted this is the actual project location, per statute, which is described in the resolution the assessment district will be the preliminary engineering report. Noted the people on the south side need to be in the assessment district to tie this piece together from Country Ridge to Runnel Road. **Motion Carried.**

Missouri River Flood Hazard Mitigation:

Cost Share: Michael noted they submitted a cost share for the Sibley Island an Missouri River Correctional Center but have not heard back from SWC.

Ash Ward: Dennis noted a good presentation was given by the consultant engineer. Felt it went well, Dave Pierce got up and asked for continual dialogue as this moves forward. Meeting lasted about a half hour. Generally setbacks should be 100 feet away, this one could be grand fathered in at 40 feet away - noted Mr. Demke wasn't firm on the setbacks, but felt this may be addressed at the next meeting. The setback being discussed is from the coulee rather than the ridge line.

MRCC:

Michael noted a number of individuals felt they voted wrong, he met with the SWC on their policy changes and if the residents or the Board wanted to you could waive for consideration of cost share. Michael noted that the Board's stated position is that the residents need to bring it back and when the policy changes. The implementation date could be January 2015 but the SWC wants the policy in place sooner. Kathleen felt that we need a petition with 50% or more and they post a bond. Kathleen felt at this time the issue is dead and once the policy changes it is up to the residents to petition the Board for a project.

Comments and Discussion from the Public: No one present.



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Fox Island Flood Control Project:

Cost share reimbursement request has been submitted to the SWC. The Preliminary Engineering Report has been completed - 3 copies were provided to the board. The report has been finalized. A close out letter will be sent to the residents - a copy was included in the packet for approval. The report will be put online. Consensus to approve letter and we will close out project with the exception that the SWC has requested project updates. Michael noted we are listing all projects and will have a draft at the next meeting, and Fox Island will be on that list. Discussion was held as to whether we submit Fox Island at this time. Consensus of the Board is if you have it on the list you do not have to proceed, but it needs to be on the list to go forward in the event we have funding.

Michael felt the Fox Island Homeowners would be willing to do a bond to move forward when the time came. It was the consensus to send the residents the close out letter. Due to the Final Report being handed out today, it will be placed on next month's agenda for the Board to formally receive the report.

Hogue Island:

Travis Johnson was present regarding the Hogue Island pay request. Michael reviewed noted clean up and demolition ongoing was on hold until spring. Travis noted the debris removal load count matched what Bohlman had projected. Change Order #2 covers sandbag removal and bank shaping and general finishing of the slope but does not include rip rap.

Change Order #2: We will hold on directing or completing the work until the discussion is held with the SWC. The amount eligible is \$181,334.67 - pay request for today is \$47,096.80.

Kathleen moved to approve the pay request in the amount of \$47,096.80, Dennis seconded. The Magnus house is now gone. **Motion Carried.**

Public Information Meeting: Kathleen noted she has had lots of interest in the lots and asked David to get information to how the restricted deeds will read. Kathleen noted she would like the public hearing next month and believes we will be able to rip rap but felt we will have lots of questions from the public as to what they can do with the lots and would also like to see an auction with a reserve of \$5,000 each. It was the Board's consensus that Dave and Kathleen work this out and possibly do a public hearing in April or May. Michael felt that a few Board members should sit down and debate on how this will happen - the Board needs to decide exactly what we want to do with it and we need to be clear on it.



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Kathleen noted the constituents are clear that they do not want a project. Michael noted we need a specific process as to what the Board has done and when the public hearing is recorded to note where they are at. Need to discuss the roadway, additional building they want to do on the island and we need to put this information and the Board's positions on the table. Kathleen noted the unknown is will there ever be a second access road out there. At this time they can't plat any more land until they have another access road. Michael noted his concern that even if you put a second access road out, during the flood there were things that occurred that haven't occurred elsewhere and these items need to be discussed. Kathleen, Michael David and Gordon will meet to discuss.

Dave felt that there should be a time where the full board gets together just to discuss Hogue Island - noting the policy issues are very important. Noted this is an important public meeting, Michael and Dave should put together a policy list of the issues on an agenda list and then set up our positions on them. Kathleen noted that whatever we do now is setting precedence for future development on the island. Consensus was it is important to disclose the precedence and there is a sense of urgency on this. We need to put all issues on the table and deal with them as soon as practical.

Kathleen noted she would like to put together a policy book for all the board members. Michael discussed policy and positions and both need to be set forth. It was the consensus to let her proceed and to work with Michael and David on this.

Burnt Creek Flood Control Repair:

The previously approved cost share agreement was forwarded to State Engineer for signature. Still working on scope and budget for design - Michael will have by next meeting.

Sunnyview:

The project is done and closed out. Michael noted about eight notice letters came back due to moving, new ownership, etc. Kathleen felt we should get the new addresses and notify the new owners to be transparent in this process. It was the Board's consensus to proceed with sending the letters to new owner.

Missouri River Snagging and Clearing:

Michael updated noting Larry has been in contact with Katie - has not had an update. Michael will contact Larry.

Chairman Fleck asked about the status of the meeting with Linda Oster on Whispering Bay - Michael will get a hold of her.



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County Planning:

Michael noted Marcus was to get back to us on the draft of the MOU. Marcus is working with the City on issues with the ET as well. Michael will visit with Marcus to see where he is at with it.

GIS - still need to visit with Ray - this is an ongoing process.

Formalize SWMP Review. Chairman Fleck asked about the timeline - Michael will discuss and get back to us on that.

Records Retentions: No update this is an ongoing issue **New Business:**

Missouri River Coordinator: Ongoing, had interviews with three applicants - the ND Water Users put together a management and staffing to take this process forward as a committee they felt it did not have the expertise to address everything. Lance Yohe was available as a consultant - the leadership noted they would accept the ND Water Users as long as Lance was a key part to carry it forward, and they are setting up an agreement to have this done. They are a contract and Lance will be the consultant - the draft contract will be reviewed in the next week or so and a work plan will be drafted for implementation. Keep this on the agenda for addressing in the future.

SWC Project Summaries: Michael noted the summaries are not finalized and will get them next meeting - they are due April 16th.

HB1338 - Chairman Fleck reviewed felt the public meetings lacked substance, clarity and direction. Noted we need to let them know that the weed problem needs to be taken care of. Mike Brandenburg who is a legislator was present and felt he was trying to form public opinions. Noted most felt the land should be left alone, some believed it should go back to the original owners. Noted they talked about if the land went back to the original owners, they should pay for the transfer costs - Chairman Fleck noted that Tex Hall did not want to discuss recreation - if they decide these are excess lands, they don't have to go to congress to return these lands to the tribe. Chairman Fleck asked board members to give careful consideration and then decide if we want to weigh in on the June meeting that will be held in Bismarck. Commissioner Schonert felt that rather than the local producers, we should have the county weed boards take care of the weed issue.

Missouri River Flooding /lawsuit: Kathleen will forward the email she had received to all the Board members on the lawsuit.



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Budget Numbers: Kathleen discussed the accounting system - noted the state auditor will be in the middle of this month and we will clarify the tax filing situation. The following have been added: Currently 960 will be Drainage Complaints and will be broken down further by name. We will be using code 970 for SWMP (Storm Water Management Plans).

With no further business, the meeting adjourned at 9:48 a.m.

Mona Livdahl

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