BURLEIGH COUNTY WATER RESOURCE DISTRICT MINUTES
Friday, September 27, 2013
Houston Engineering Inc., 3710 Lockport St., Bismarck
Special Meeting

Chairman Fleck called the meeting to order at 9:00 a.m. noting a quorum was present.

Present: Chairman Terry Fleck, Cary Backstrand, Kathleen Jones, Gordon Weixel, Dave Bliss, Michael Gunsch, and Mona Livdahl. LeAnn Eckroth, Bismarck Tribune arrived just after the meeting started.

Absent: Ken Royse

Emery Drainage Complaint Update: Michael drafted a letter pursuant to a conversation the contractor, Mr. Brandon Enervold, had with Mr. Emery. There was also discussion as to the fence. Mr. Emery has asked that we leave it down, as he will be doing some rock landscaping. Mr. Emery also asked that some areas not be seeded, it was noted that the seeding will occur and it will not be considered an option. Michael prepared a letter, at Chairman Fleck's recommendation, requesting Mr. Emery to acknowledge that these understandings are correct. It was noted if he does not contact our legal counsel, the Board will take this as a notice he concurs with the statements. Chairman Fleck asked that we include in the letter that we appreciate his cooperation. Consensus was to approve the letter with the noted changes.

Hogue Island Flood Control:

Bid Tabs: Michael sent out in an email regarding the bid package. Five contractors submitted bids. Bohlman Trenching Services, Inc. of Thompson, ND was the low bid. Recommendation was to provide Notice of Award to Bohlman Trenching.

Notice of Award: Kathleen moved to award the bid in the amount of $164,092.50 to Bohlman Trenching Services, Inc. Cary seconded. Motion Carried.

Notice to Proceed with documents: Gordon moved to provide the notice to proceed subject to legal review of the required documentation. Kathleen seconded. Kathleen asked if we know the dates and if we will notify the immediate landowners around the work to be done and time frame. Michael noted this notice would be provided. **Motion carried.**

Notice to SWC on costs: Michael reported that the Board needs to submit all cleanup costs and other cost documentation to the SWC. Information on the costs related to the homes was submitted, not related items. Consensus to proceed.

Bank Stablilization:

SWC Cost Share: Michael noted the BCWRD submitted a separate cost share request for the bank stabilization work, as according to the SWC this was not part of the cleanup costs, but part of the project. The State Water Commission denied the costs share request stating that such projects are intended to stabilize the banks of lakes and watercourses with the purpose of protecting public facilities. It was determined that the proposed project is protecting public land, and not public facilities, therefore it was not eligible for cost-share assistance.

Michael noted that if a project is developed or facilities are protected, it is possible that the SWC would reconsider and it would be covered. Michael recommended proceeding with the sovereign lands and COE permits that are in process so as to secure these permits. Questioned if the project would qualify as a special assessment district – noting the BCWRD is the landowner. The discussion needs to continue on this issue as the COE has determined the sand bags can't be used as fill under the riprap as they are considered debris. The concern is the existing rap sandbags along the bank from the Boll residence, and if the COE requests or requires that they be removed. While we could include in the current cleanup project it would be a considerable expense. Michael noted he sent an email to the COE requesting an onsite visit so we know what to expect for requirements. Prior to the 2011 flood this area of the bankline was stabilized, and the approach is to put it back the way it was. Cary asked to have a few of us meet with Michael and the SWC regarding this issue, as it is a unique project. If the land erodes away because the bank is not stabilized, we will not be able build a project here. Michael noted the 60/40 cost share request was submitted as Bruce Engelhard noted this work was not part of the cleanup work. Chairman Fleck felt we will lose more bank line with the cleanup especially with the contractor removing the house from the river. The contractor will put a ramp in which will potentially create more damage to the bank. Michael will email Bruce, Todd and Melissa at the SWC to set up a meeting. Cary and Kathleen need to attend the meeting, which Michael noted should be on site as there are issues that everyone needs to see to make specific determinations. Terry asked that we have the COE there also.

Project Development Options: The Board noted the need to discuss the project development as there is a need to decide where it is going. Discussed having another Public Informational meeting, to inform the residents where the Board is at regarding the project and put the known alternatives on the table. Kathleen noted she has been approached by three residents of Hogue Island, and noted if an open meeting is held we can hear them out. The Board discussed the covenants currently on the acquired properties including restrictions related to boat ramps, noise and nuisance issues. After considerable discussion, it was the consensus of the Board was to hold another public meeting, to present the various flood control project alternatives and let the residents decide if they want a project – this meeting would not be do determine what we are doing with the properties. Consensus was to use the public meeting to provide the alternatives, then mail out information on the alternatives to everyone. This could be used as a straw poll to determine more direct public sentiment on the project. It was noted this won't be done until December. It was the Board's consensus to have Kathleen work with Michael on the public information meeting and what we need to make it happen. Noted the existing covenants have been recorded against the properties and we don't need to rerecord. Dave will start work on the easement language in the event the project is approved or the land is sold.

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Apple Valley Cooperative:

Final Payment to Weisz and Sons: Final payment inclusive of seeding and finished product is $140,043.17. **Cary moved to pay the final amount of $140,043.17. Kathleen seconded. Motion Carried.**

New Loan Documents: The Board is requesting a new loan in a new amount of $275,281.00, to cover all increased costs. There will be some additional fees from Scott Wagner completing the additional loan documents. The Apple Valley Cooperative intends to buy down the loan amount with some of their funds, so the full assessments going to the County Auditor will actually be less. The County Auditor will then set up the schedule based on what is needed for the special assessments. It was noted there is a question related to the fees that are inherent for the Bank of ND to administer the loan. These are part of the loan amortization. Then there are fees that the County Auditor can charge to administer the loan, which he needs to add on to the loan collection through a higher percentage rate on the loan. The maximum allowable is 1.5%. It was noted the BCWRD is recovering all the construction costs as well as engineering and legal. The Board thus would recover everything invested with the exception of Board time. Cary felt that any costs we incurred outside of board time should be included in this loan. Dave will check on his amounts. **Kathleen moved we proceed with the new loan adding all professional expenditures with the exception of the board members time. Cary seconded. Motion carried.**

McDowell Dam Lease Agreement:

Lease Agreement: Dave noted he has oral approval from Mr. Wolf to allow Mr. Braun to access the land earlier, but felt we should also have this documented formally. **Gordon moved to approve the Chairman signing the third lease amendment with Mr. Wolf as well as the lease agreement with Mr. Braun. Kathleen seconded.** Dave noted the addition of the language put in regarding all existing trails left as is as well as the BCWRD's right to create new tree rows, walkways or other structures for the public's benefit. For any new uses that impact the agricultural use the applicable amount would be deducted from the acreage Mr. Braun is currently paying on. **Motion Carried.**

New Business:

Budget: Chairman Fleck asked that we look at closer look at the budget and projected expenses for 2014 year, as we were cut half a mill last night by the Burleigh County Commissioners. This occurred despite a meeting held with Commissioner Schonert documenting the need for the funds that were not allocated. Chairman Fleck noted we will be losing Ken as a Board member in December and need to get together with him prior to that to discuss project prioritization. He suggested Kathleen work with Ken and Michael to review the current budget, including all project expenses to decide what projects can be delayed, postponed or halted all together.

Next Meeting: October 8th - With no further business, the meeting adjourned at 10:35 a.m.

Respectfully Submitted,

Mona Livdahl

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BCWRD Secretary