

LaMoure County Water Resource District Meeting Wednesday, March 23, 2022

At approximately 10:33 a.m. Chairman Kerry Ketterling called the meeting to order with the following board members present in person: Bobby Frauenberg, Jason Gross, Nathan Nitsche, Co-Secretary/Treasurer Jan Hamlin and Shanel Bohnenstingl. Allen Swiontek and Eric Larson were present. Water Resource District Attorney Kim Radermacher attended virtually. Also attending virtually was Patty Wood Bartle with the Edgeley Mail. Board member Glenn Haugen was absent.

Chairman Ketterling asked for any additions to the agenda, there was, Boom Lake was added. Mr. Frauenberg motioned to approve the agenda with the addition, seconded by Mr. Nitsche. Motion carried.

Mr. Frauenberg motioned to approve the minutes from the January 12 meeting and February 25th special meeting minutes, seconded by Mr. Gross. Motion carried.

The board members met at the site of the Syversen complaint. No discussions were had on-site. At the meeting, the board reported that the drain is draining normally, and it appears the issue has been resolved. Mr. Nitsche motioned to dismiss the complaint because the issue has been resolved satisfactorily to the complaint, seconded by Mr. Gross. Motion carried.

Prior to the meeting, the board members visited the site of the Swiontek complaint as well, no discussions were had on-site. At the meeting, Mr. Frauenberg stated that there needs to be a culvert installed on 92nd avenue because there is no water flowing west to east. It is believed that 92nd Avenue is a township road for which Badger township will need to be notified.

Allen Swiontek presented additional photos taken on March 17 showing water coming across from section 8. Chairman Ketterling stated that section 8 is not part of the complaint. Mr. Swiontek pointed out how much water is involved by explaining that Mr. Larson's ditches run along the north side and frost isn't out of the ground yet. The board explained that it is a natural waterway. Swiontek agreed it is a natural waterway but has been altered with ditches. He goes on to explain that he believes that if Mr. Larson's ditches weren't there the water would just sit there giving it time to evaporate and soak into the ground, but because of the ditches the water is coming down faster and doesn't have the chance to soak in like it normally would. He states that the ditches are channeling the water down whereas before it used to spread out and soak up into the land and that there is a reason Mr. Larson spent the time and money to get rid of the water. He believes it will be more than an 80-acre watershed. He went on to say that he originally started out with 44 acres of CRP land in the early 1990s and added 32 acres in the late 1990s and another 27 acres after that. He showed the board maps the ditching pre-1985 and post-1985. Mr. Frauenberg asked if the south quarter is being maintained but Mr. Swiontek doesn't own the south quarter.

Mr. Larson referenced 1980 FSA maps previously provided to the board, explaining that it is a natural waterway, and asked the board to dismiss the complaint.

Mr. Frauenberg made a motion to recommend Badger township to install a culvert on 92nd avenue, seconded by Mr. Gross. Motion carried.

Mrs. Radermacher explains that under N.D.C.C. 61.32.07, the board needs to determine if the drain is a non-complying drain. As subsection 6132.03 describes draining. It appears to be a natural watercourse; it is unknown if it was ever determined to be a natural watercourse but the drain has been in existence for over 30 years. In order for the board to determine if it is a non-compliant drain, the board would need to look back to see if a permit was required in order to create that drain back in the 1980s and it is believed that there was no permit required there for Mr. Larson didn't require a permit to further open the drain. Mrs. Radermacher pointed out that since it is a natural waterway, Mr. Larson has an obligation to keep the drain clean, according to N.D.C.C. 61-16.1-51 which describes the removal or obstruction of a drain. If it is determined that there has been an obstruction to a drain caused by negligence or omission of a landowner or tenant. This means any barrier to a watercourse that materially affects the free flow of water in the watercourse drain. With that, it is believed that Mr. Larson's actions were actions taken to maintain compliance with N.D.C.C 61-16.1-51 by ensuring that there was not an obstruction to the drain and by continuing to clean it out per the requirements under the law. Mr. Frauenberg made a motion to dismiss the complaint, seconded by Mr. Nitschke. Motion carried.

Mrs. Radermacher will be sending certified letters to all parties involved indicating what rights are.

Chairman Ketterling reported that the city of Marion would like to install a permanent drain on Boom Lake. Chairman Ketterling and Mr. Frauenberg attended the meeting. Mr. Frauenberg stated there is a land owner downstream that is willing to let the water run through his land but would request money for excavation. They were given all the paperwork to file a permanent drain. The emergency drain expired in 2019 and extended another six months, which that timeframe has closed. Boom Lake is approximately two feet from going over. The state is behind about a year on permit applications. Mrs. Radermacher stated that this issue will have state-wide significance so there is no way the board can assist in expediting the application. As for assisting the city of Marion in financing the project, 6016.6106 states it is the discretion of the board to finance in whole or in part by special assessments against property benefitted by such projects or from revenues realized from general tax collections or from net revenue to be derived from service charges to be imposed on a combination of such sources. There is no limitation, just as long as it is within the budget.

Jan Hamlin reported the financials. There have been deposits of mill money, bank interest, and payments to employees. The current balance in the checking account is \$57,621.94. The only bills are payroll and quarterlies the U.S. Treasury for taxes. Mr. Frauenberg motioned to approve financials and pay bills, seconded by Mr. Gross.

There being no other business, the meeting adjourned at 11:08 a.m.

Approved this 6th day of July, 2022

X

Kerry Ketterling
Chairman

ATTEST:

X

Karin Boom
Co-Secretary