

PROCEEDINGS OF THE FOSTER COUNTY BOARD OF COMMISSIONERS

August 20th, 2024

At 3:30 pm, Chairman Utke called the Foster County Commission Special Meeting to order. Roll call included Commissioner Scott Beumer, Commissioner Becky Hagel, Commissioner David Utke, and Commissioner Pat Copenhaver. Also present was State’s Attorney Kara Brinster, Auditor/Treasurer Ellen Roundy, Thomas Demke and Jennifer Malloy with Apex Engineering, Foster County Independent reporter Nathan Price, Paul Straley, Doug Zink, Trevor Vande Hoven, Brent Bachmeier, Nick Delaney and Kale Van Bruggen with Rinke Noonan via Teams and Foster County Water Board Secretary Danielle Koeplin via phone.

Nick Delaney with Rinke Noonan discussed the quick take process and outlined the steps that the Foster County Water Board has taken to get to this point. Foster County State’s Attorney agreed with Delaney that the steps taken were correct and thorough. Commissioner Hagel noted that she reviewed the legal documents provided by Rinke Noonan and there was a requirement that eminent domain could not be mentioned and that was followed. Brinster noted that the FCWRD followed the procedural steps, it is the BOCC decision to ensure those steps were followed, not whether they agree with the appraisal amounts or the process.

Auditor/Treasurer Roundy presented the BOCC with a resolution: Authorizing the Foster County Water Resource District to Pursue Quick Take Proceedings for Foster County Assessment Drain No. 1:

WHEREAS the Foster County Water Resource District (the “District”) desires to exercise its eminent domain power pursuant to N.D. Cent. Code § 61-16.1-09(2)(b) to acquire an easement for the establishment of Foster County Assessment Drain No. 1 (the “Project”);

WHEREAS a portion of the funding for the Project is from the North Dakota State Water Commissioner and the North Dakota State Department of Water Resources;

WHEREAS the District desires to initiate quick take proceedings against the following two properties:

Property Owner	Legal Description of Property
Roger & Ann Vande Hoven, and Trevor Vande Hoven (collectively the “Vande Hovens”)	Township 146 North, Range 65 West, Section 9: SW¼
Paul Straley (“Straley”)	Township 146 North, Range 66 West, Section 11: E ½ excepting Auditor’s Lot One (1)

WHEREAS the District, through its attorney initiated informal negotiations with the Vande Hovens on December 21, 2023 which continued for at least 60 days;

WHEREAS the District, through its attorney began informal negotiations with Straley on December 20, 2023 which continued for at least 60 days;

WHEREAS the District, through its attorney began formal negotiations with the Vande Hovens, and Straley (collectively, the “Grantor Landowners”) on May 9, 2024, by sending each landowner an appraisal and written offer for just compensation, which included a specific description and location of the right of way;

WHEREAS on June 4, 2024, the District sent correspondence to the Grantor Landowners requesting attendance at the June 12, 2024 District meeting or a meeting to discuss and to continue formal negotiations;

WHEREAS no agreements for compensation were reached between any of the Grantor Landowners and the District within thirty (30) days of receipt of the District’s written request for a meeting;

WHEREAS on July 17, 2024, the District sent written notice to each of the Grantor Landowners of its intent to take possession of the right-of-way at the Foster County Board of Commissioners meeting on August 20, 2024 and the Foster County Auditor’s Office sent out notice of said meeting at least thirty (30) days in advance thereof to the Grantor Landowners; and

WHEREAS the Foster County Board of Commissioners finds the District complied with the procedural requirements of N.D. Cent. Code § 61-16.1-09(2)(b).

NOW, THEREFORE, be it resolved that the Foster County Board of Commissioners approves the Foster County Water Resource Board to proceed with the taking of the necessary easements for the Foster County Assessment Drain No. 1 by North Dakota’s statutory quick take procedure as set forth in N.D. Cent. Code § 61-16.1-09.

The resolution was made by Commissioner Beumer and seconded by Commissioner Hagel. Roll call vote included:

- Commissioner Beumer - aye
- Commissioner Hagel – aye
- Commissioner Utke – aye
- Commissioner Copenhaver – aye

motion passed.

With no further business, Chairman Utke adjourned the meeting at 4:07 pm.

Ellen Roundy
Foster County Auditor/Treasurer

David Utke, Chairman
Board of County Commissioners