

MINUTES OF VIRTUAL / CONFERENCE CALL MEETING
MAPLE RIVER WATER RESOURCE DISTRICT
ORIGINATING AT THE CASS COUNTY HIGHWAY DEPARTMENT
WEST FARGO, NORTH DAKOTA
AUGUST 4, 2022

A virtual / conference call meeting of the Maple River Water Resource District was held on August 4, 2022, at 8:00 a.m.

Present were Rodger Olson, Chairman; Gerald Melvin, Manager; Chad Miller, Manager; Carol Harbeke Lewis, Secretary-Treasurer; Nina Stone, Accountant; Melissa Hinkemeyer, Administrative Assistant; Sean Fredricks, Ohnstad Twichell, P.C.; Kurt Lysne, Alexa Ducioame and Brady Woodard, Moore Engineering, Inc.; Mike Opat, Houston Engineering, Inc.; Mary Scherling and Duane Breitling, Cass County Commissioners; Kyle Litchy, Cass County Highway Department; Doug VanMeter, North Dakota Soybean Processors, LLC; and Mike Anderson, Rich Township property owner.

Agenda

It was moved by Manager Melvin, seconded by Manager Miller and unanimously carried to approve the order of the agenda, as amended.

Minutes

It was moved by Manager Melvin and seconded by Manager Miller to approve the minutes of the June 7, 11 and 13, 2022, meetings. Upon roll call vote, the motion carried unanimously.

Upper Swan Creek Channel Improvement Project No. 2020-01

Brady Woodard reported the contractor for Upper Swan Creek Channel Improvement Project No. 2020-01 will be removing trees this week in preparation to begin work on the channel within the next week.

Swan Creek Diversion Repair Project 2022 – Access Agreement for the City of Casselton regarding repair of slope failures to protect the city lagoon

Kurt Lysne stated the City of Casselton is pursuing repairs of slope failures along the Swan Creek Diversion to protect the city lagoon. The project is currently out for bids. Sean Fredricks stated an *Access Agreement* was drafted to permit the City to complete the repairs on Water Resource District property.

It was moved by Manager Miller and seconded by Manager Melvin to approve and authorize the Chairman to sign the *Access Agreement* with the City of Casselton regarding slope failure repairs along the Swan Creek Diversion to protect the city lagoon. Upon roll call vote, the motion carried unanimously.

Drain #37 Improvement Project

Mr. Lysne noted an *Application for Surface Drain* has been submitted to the North Dakota Department of Water Resources (NDDWR) regarding the Drain #37 Improvement Project in Sections 28, 21 and 16 of Davenport Township.

A motion was made by Manager Melvin and seconded by Manager Miller to authorize the Secretary-Treasurer to respond to the NDDWR on the solicitation of views regarding *Application for Surface Drain No. 6070* regarding the Drain #37 Improvement Project in Sections 28, 21 and 16 of Davenport Township, with input from the Water Resource District Engineer. Upon roll call vote, the motion carried unanimously.

Drain #62 – Utility Permit for North Dakota Soybean Processors, LLC in Section 33 of Casselton Township

Doug VanMeter discussed proposed changes to the plans for improvements to 36th Street SE in Section 33 of Casselton Township regarding Drain #62 that were included in the *Utility Permit* for North Dakota Soybean Processors, LLC that was previously approved at the June 2, 2022, meeting. The minor changes reflect additional right of way for Cass County Highway 23.

It was moved by Manager Melvin and seconded by Manager Miller to approve the revised *Utility Permit* for North Dakota Soybean Processors, LLC for improvements to 36th Street SE in Section 33 of Casselton Township regarding Drain #62, with input from the Water Resource District Engineer. Upon roll call vote, the motion carried unanimously.

Discussion was held on modifications to Drain #62 to accommodate the soybean processing plant in Section 34 of Casselton Township. North Dakota Soybean Processors, LLC will be constructing a driveway across Drain #62 and improvements will be needed to 36th Street SE. Cass County may be constructing the improvements in that area, including the modifications to Drain #62. Mr. VanMeter explained that North Dakota Soybean Processors, LLC is ready to begin the design process for the improvements as there is a long lead time for delivery of box culverts. North Dakota Soybean Processors, LLC has executed a Purchase Order to reimburse up to \$10,000 in costs for the Water Resource District Engineer to review the plans and provide recommendations on the project on behalf of the Water Resource District. Mr. Fredricks noted a three-party Agreement with the North Dakota Soybean Processors, LLC and Cass County will be drafted later.

It was moved by Manager Miller and seconded by Manager Melvin to authorize Moore Engineering, Inc. to provide design review and recommendations to North Dakota Soybean Processors, LLC regarding a crossing, including a box culvert, on Drain #62 in Section 34 of Casselton Township, not to exceed a cost of \$10,000. Upon roll call vote, the motion carried unanimously.

2022 facility inspections

Alexa Ducioame discussed the slide approximately 100 feet in length that is situated in between two slides that were previously repaired on Drain #39 in Section 24 of Maple

River Township. The slide is approaching the adjacent road shoulder but has not impacted the road at this time. Ms. Ducioame stated the slide area has been surveyed and the Drain #39 channel has eroded up to two feet in areas. Ms. Ducioame discussed potentially flattening the Drain #39 side slopes to help avoid future slides.

A motion was made by Manager Melvin and seconded by Manager Miller to authorize Moore Engineering, Inc. to develop a proposal and investigate the right of way needed for improvements on Drain #39 regarding the slide in Section 24 of Maple River Township and bring the information to a future meeting for discussion. Upon roll call vote, the motion carried unanimously.

Cornell Township Improvement District No. 80

Mr. Lysne indicated Moore Engineering, Inc. has completed the preliminary design and cost estimate for the Cornell Township Improvement District No. 80 Project and plans to meet with the project petitioners to discuss and gather feedback on August 15, 2022. If petitioners are in agreement, the project could move forward to a vote.

Davenport Flood Risk Reduction Project

Ms. Ducioame updated the Board on the Davenport Flood Risk Reduction Project. Moore Engineering, Inc. has been trying to contact Red River Valley and Western Railway Company to have discussions regarding crossings for the project. Once the project alignment is finalized, the Conditional Letter of Map Revision will be submitted to FEMA and necessary permits and right of way will be acquired for the project.

Regional Conservation Partnership Program (RCPP) – Upper Maple River Watershed

Mr. Lysne reported the RCPP – Upper Maple River Watershed Plan may need modifications per feedback from the Natural Resources Conservation Service (NRCS) and the National Watershed Management Center. The NRCS will be invited to the next Cass County Joint Water Resource District meeting to further discuss the Plan.

Upper Maple River Dam – tree removal

Brady Woodard discussed the quote to remove the fallen trees in the shelterbelt on Water Resource District owned property in Section 35 of Carpenter Township for the Upper Maple River Dam. The contractor could begin the project right away and has obtained permission from the tenant to do the work.

It was moved by Manager Melvin and seconded by Manager Miller to approve and authorize the Chairman to sign the *Agreement* with KRB Gravel, LTD to remove the trees in the shelterbelt on Water Resource District owned property in Section 35 of Carpenter Township for the Upper Maple River Dam. Upon roll call vote, the motion carried unanimously.

Application to Install a Subsurface Water Management System No. 202215 for Mike Anderson in the E 1/2 of Section 32 in Rich Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 202215*, filed August 3, 2022, by Applicant Mike Anderson. Under the Application,

Applicant seeks to install a 130-acre drain tile system in the E 1/2 of Section 32 in Rich Township, Cass County, North Dakota. The project will include a single gravity outlet that will discharge via a pipeline that will run from the south boundary of the SE 1/4 of Section 32 and to the southwest a short distance, across the unimproved Section 32/Section 5 section line (24th Street SE), across a portion of the NE 1/4 of Section 5 in Ayr Township; the pipeline will daylight and discharge directly into a natural watercourse in the NE 1/4 of Section 5; the watercourse flows to the west.

According to County tax roll information supplied by Applicant, Wayne and Lorraine Anderson own the E 1/2 of Section 32 in Rich Township where Applicant intends to install the tile system, and Diane Nord owns the NE 1/4 of Section 5 in Ayr Township where Applicant intends to install and maintain a pipeline and outlet.

Manager Melvin moved, and Manager Miller seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 202215*, filed August 3, 2022, for Mike Anderson regarding a proposed tile system in the E 1/2 of Section 32 in Rich Township; and to authorize the Secretary-Treasurer to sign *Subsurface Water Management Permit No. 202215*, subject to the following conditions:

1. Applicant will install and maintain erosion protection at any and all outlets into the natural watercourse in the NE 1/4 of Section 5 in Ayr Township.
2. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.
3. Applicant will not install Applicant's tile system within 20 feet, on either side, of any rural water lines Cass Rural Water Users District has in the E 1/2 of Section 32 in Rich Township under any blanket easements, or otherwise beyond the Water Users District's existing easement(s).
4. Applicant must apply for an amendment to *Subsurface Water Management Permit No. 202215* in advance of any proposed alterations to outlet locations, the addition of any outlets, or improvements or modifications to the tile system that could increase the capacity or drainage area of the tile system.

Upon roll call vote, the motion carried unanimously.

Under Section 61-32-03.1, the Board cannot attach any additional conditions to Applicant's permit. However, for Applicant's protection, and to ensure protection of Applicant's tile system, the Board will recommend that Applicant comply with the following:

1. The Board recommends that Applicant obtain written consent from the Rich Township Board of Township Supervisors and the Ayr Township Board of Township Supervisors to install and maintain a pipeline across the Townships' respective right of way along the unimproved Section 32/Section 5 section line.

2. The Board recommends that Applicant obtain and record an easement from the owner of the NE 1/4 of Section 5 in Ayr Township to install and maintain a pipeline and tile outlet.
3. The Board recommends that Applicant obtain all other necessary and requisite licenses, permits, registrations, and/or approvals from all applicable federal, state, county, and municipal governments, and any other applicable governmental entities.

The Board will provide copies of the Board's *Notice of Decision, Subsurface Water Management Permit No. 202215*, and Applicant's downstream flow map to the North Dakota Department of Water Resources, Ayr Township, Rich Township, Wayne and Lorraine Anderson, Diane Nord, and Cass Rural Water Users District. Applicant's detailed project design map is an exempt record, and the Board will not provide copies to any third parties.

Utility Permit for Insight Technologies, Inc. dba ReadITech Fiber to install one new fiber optic cable under Drain #34 in the southeast corner of Section 31 in Normanna Township

A motion was made by Manager Melvin and seconded by Manager Miller to approve *Utility Permit* for Insight Technologies, Inc. dba ReadITech Fiber to install one new fiber optic cable under Drain #34 in the southeast corner of Section 31 in Normanna Township, with input from the Water Resource District Engineer. Upon roll call vote, the motion carried unanimously.

Utility Permit for Otter Tail Power Company to install an underground electric line on and under Drain #62 in the S 1/2 of Section 34 in Casselton Township

A motion was made by Manager Miller and seconded by Manager Melvin to approve the *Utility Permit* for Otter Tail Power Company to install an underground electric line on and under Drain #62 in the S 1/2 of Section 34 in Casselton Township, with input from the Water Resource District Engineer. Upon roll call vote, the motion carried unanimously.

Compensation for Water Resource District Managers in accordance with HB 1216

During the 2021 Legislative Session, the Legislature approved HB 1216, a bill that increased the maximum compensation for water managers to match compensation for legislators. In accordance with N.D. Cent. Code § 54-03-20, commencing on July 1, 2022, legislative compensation increased to \$193 per day. The Board agreed to set compensation at the amount permissible for legislators under North Dakota law, currently and as modified in the future by the Legislature, as opposed to requiring approvals each time the legislature modifies or increases legislative compensation.

Manager Miller moved to match legislative compensation for Maple River Water Resource District Managers in accordance with HB 1216 and applicable North Dakota law. Manager Melvin seconded the motion. Upon roll call vote, the motion carried unanimously.

Bills

It was moved by Manager Melvin and seconded by Manager Miller to approve payment of Checks #6124 and #6125, the wire transfers and electronic funds transfers, as presented. Upon roll call vote, the following Managers voted in favor: Olson, Melvin and Miller. The motion carried unanimously.

Drain #14 and the Maple River crossings – WBI Energy Transmission, Inc. Wahpeton Expansion Project

Mr. Fredricks stated WBI Energy Transmission, Inc. has now signed the *Access Agreements* for surveying activities regarding Drain #14 and the Maple River. WBI Energy Transmission, Inc. also understands they will need to apply for Utility Permits before commencing any construction activities on Water Resource District property. Mr. Fredricks indicated WBI Energy Transmission, Inc. is requesting the *Agreements* be extended to May 31, 2024, to complete their survey activities regarding Drain #14 and the Maple River.

It was moved by Manager Melvin and seconded by Manager Miller to approve the amended *Access Agreements* with WBI Energy Transmission, Inc., extending the *Agreements* through May 31, 2024, regarding surveying activities for the WBI Energy Transmission, Inc. Wahpeton Expansion Project regarding Drain #14 and the Maple River. Upon roll call vote, the motion carried unanimously.

Adjournment

There being no further business for the Board to consider, it was moved by Manager Melvin, seconded by Manager Miller and unanimously carried to adjourn the meeting.

APPROVED:

Rodger Olson
Chairman

ATTEST:

Carol Harbeke Lewis
Secretary-Treasurer