

MINUTES OF VIRTUAL / CONFERENCE CALL MEETING
MAPLE RIVER WATER RESOURCE DISTRICT
ORIGINATING AT THE CASS COUNTY HIGHWAY DEPARTMENT
WEST FARGO, NORTH DAKOTA
NOVEMBER 3, 2022

A virtual / conference call meeting of the Maple River Water Resource District was held on November 3, 2022, at 9:00 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 and Chris McShane, Ohnstad Twichell, P.C.; Kurt Lysne, Jim Guler and Brady Woodard, Moore Engineering, Inc.; Mike Opat, Houston Engineering, Inc.; Duane Breitling and Mary Scherling, Cass County Commissioners; Doug VanMeter, North Dakota Soybean Processors, LLC; and Darlene Miller, property owner in Everest Township.

Agenda

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

Minutes

It was moved by Manager Melvin and seconded by Manager Miller to approve the minutes of the October 6, 2022, meeting. Upon roll call vote, the motion carried unanimously.

Wheatland Channel - Grand Farm crossings in the NE 1/4 of Section 8 in Everest Township

Kurt Lysne reported Grand Farm has signed and returned the *Reimbursement Agreement* regarding reimbursement of expenses incurred by the Water Resource District related to crossings on the Wheatland Channel in the NE 1/4 of Section 8 in Everest Township. Moore Engineering, Inc. has begun working on the hydraulic study for the crossings.

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

Sean Fredricks and Doug VanMeter briefly discussed a three-party Agreement with North Dakota Soybean Processors, LLC and Cass County that is currently being reviewed by North Dakota Soybean Processors, LLC. The Agreement will be brought to a future meeting for consideration by the Board. An Easement is also being drafted regarding Drain #62 crossings. Mr. VanMeter noted North Dakota Soybean Processors, LLC plans to bid the project this winter with construction in 2023. Mr. Lysne has provided the recommended culvert size for the driveway over Drain #62 to North Dakota Soybean Processors, LLC.

Upper Swan Creek Channel Improvement Project No. 2020-01

Mr. Lysne updated the Board on Upper Swan Creek Channel Improvement Project No. 2020-01. The contractor has completed the project and has done great work. Mr. Lysne noted the project was completed under budget.

It was moved by Manager Melvin and seconded by Manager Miller to approve *Contractor's Application for Payment No. 2* for R.J. Zavoral and Sons, Inc. in the amount of \$359,962.68 regarding Upper Swan Creek Channel Improvement Project No. 2020-01. Upon roll call vote, the motion carried unanimously.

Mr. Fredricks briefly updated the Board regarding right of way for Upper Swan Creek Channel Improvement Project No. 2020-01.

Swan Creek Diversion Repair Project 2002

Mr. Fredricks stated the *Access Agreement* regarding Swan Creek Diversion Repair Project 2002 has been updated to include language regarding the one-time reimbursement to the City of Casselton for 50% of the remaining local share of the project, not to exceed \$175,000, that was approved at the last Water Resource District meeting.

It was moved by Manager Miller and seconded by Manager Melvin to approve and authorize the Chairman to sign the *Access and Cost-Share Agreement* regarding Swan Creek Diversion Repair Project 2002. Upon roll call vote, the motion carried unanimously.

Mr. Lysne displayed drone photos of the project construction and stated the contractor has since completed the project, including seeding.

Drain #37 Improvement Project

Mr. Lysne reported on the Drain #37 Improvement Project. The fieldwork related to the Section 404 Permit application to submit to the Corps of Engineers is complete. The Section 404 Permit application will be submitted once cost-share for final design and construction is secured for the project. Moore Engineering, Inc. is currently conducting the economic analysis and working on the cost-share request to submit to the North Dakota Department of Water Resources. Mr. Fredricks briefly reported on the status of right of way acquisition regarding the Drain #37 Improvement Project.

2022 facility inspections – Drain #39 slide in Section 24 of Maple River Township

Mr. Lysne discussed the preliminary plans to repair the slide on Drain #39 in Section 24 of Maple River Township and indicated the adjacent property owners are in favor of the proposed project. Moore Engineering, Inc. is determining right of way needs and refining the cost estimate for the project to bring to a future meeting for discussion. Discussion was held on funding for the project in relation to the Drain #39 Master Plan. The Board directed the Secretary-Treasurer to invite Maple River Township officials to a future Water Resource District meeting to discuss the proposed project when more information is available relating to utility costs and the project is ready to move forward.

Cornell Township Drainage Improvement District No. 80

Brief discussion was held on the design of Cornell Township Improvement District No. 80.

Executive Session for purposes of discussing contract negotiation strategies, litigation strategies, and attorney consultation regarding ongoing litigation and ongoing contract negotiations related to right of way and property acquisitions necessary to accommodate Lynchburg-Buffalo Project No. 2016-01, in accordance with N.D. Cent. Code §§ 44-04-19.1(2), (5), and (9)

It was moved by Manager Miller and seconded by Manager Melvin to close the meeting at 9:40 a.m. for the purposes of discussing contract negotiation strategies, litigation strategies, and attorney consultation regarding ongoing litigation and ongoing contract negotiations related to right of way and property acquisitions necessary to accommodate Lynchburg-Buffalo Project No. 2016-01, in accordance with N.D. Cent. Code §§ 44-04-19.1(2), (5), and (9), regarding the following matter and parties:

1. Maple River Water Resource District v. Carole G. Meyers as Trustee of the Ruth E. Buchholtz Testamentary Trust created the 22nd day of August, 2003, et al., Civ. No. 09-2021-CV-02321

Upon roll call vote, the following Managers voted in favor: Olson, Melvin and Miller. The motion passed.

The executive session was attended by Managers Olson, Melvin and Miller, Carol Harbeke Lewis, Melissa Hinkemeyer, Sean Fredricks, Chris McShane, Kurt Lysne, Jim Guler, Brady Woodard, Mary Scherling and Duane Breitling.

The executive session adjourned at 10:23 a.m. and the regular meeting was reconvened and opened to the public.

Davenport Flood Risk Reduction Project

Mr. Lysne updated the Board on the Davenport Flood Risk Reduction Project. Moore Engineering, Inc. has finalized the project alignment and is finishing the final project plans. A Conditional Letter of Map Revision is anticipated to be submitted to FEMA by the end of the year. Mr. Lysne will be present at the next Davenport City Council meeting to update them on the project. Moore Engineering, Inc. also remains in contact with utility companies regarding the project. Mr. Fredricks updated the Board on the status of right of way acquisition regarding the project. Now that the final alignment is complete, the *Consultation Report* from Farmers National Company regarding right of way for the project has been updated to reflect current values.

It was moved by Manager Melvin and seconded by Manager Miller to approve the updated *Consultation Report* from Farmers National Company and offer property owners \$8,500 per acre for permanent right of way on tillable agricultural land and \$300 per acre for temporary construction easements regarding the Davenport Flood Risk Reduction Project. Upon roll call vote, the motion carried unanimously.

Mr. Lysne stated Moore Engineering, Inc. will be updating the cost estimate for the project soon and will bring the updated estimate to a future meeting.

Upper Maple River Dam – maintenance

Brady Woodard reported the contractor has completed the maintenance work at the Upper Maple River Dam.

Notification to Install a Subsurface Water Management System provided by Aim Ag Drainage in the S 1/2 of Section 7 in Walburg Township

The board received and filed a *Notification to Install a Subsurface Water Management System* provided by Aim Ag Drainage in the S 1/2 of Section 7 in Walburg Township.

Letter from the Cass County Commission regarding potential flood risk reduction projects for Cass County Flood Sales Tax funding consideration

Mr. Lysne indicated he is not aware of any Maple River Water Resource District projects to submit for Cass County Flood Sales Tax funding consideration at this time. Mr. Lysne said he will be present at the Cass County Flood Sales Tax Committee meeting to provide updates on the Davenport Flood Risk Reduction Project and other Water Resource District projects that have been approved for funding through the Cass County Flood Sales Tax.

Bills

It was moved by Manager Melvin and seconded by Manager Miller to approve payment of the wire transfers and electronic funds transfers, as presented. Upon roll call vote, the following Managers voted in favor: Olson, Melvin and Miller. The Chairman declared the motion passed.

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