

MINUTES OF VIRTUAL / CONFERENCE CALL MEETING
MAPLE RIVER WATER RESOURCE DISTRICT
ORIGINATING AT THE CASS COUNTY HIGHWAY DEPARTMENT
WEST FARGO, NORTH DAKOTA
SEPTEMBER 7, 2023

A virtual / conference call meeting of the Maple River Water Resource District was held on September 7, 2023, 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 M. Fredricks, Ohnstad Twichell, P.C.; Kurt Lysne, Alexa Ducioame, Brady Woodard and Levi Hanson, Moore Engineering, Inc.; Mike Opat, Houston Engineering, Inc.; Duane Breitling, Cass County Commissioner; and Tom Soucy, Cass County Highway Department.

Agenda

It was moved by Manager Miller, seconded by Manager Melvin 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 August 3, 2023, meeting. Upon roll call vote, the motion carried unanimously.

Drain #34 Channel Improvement Project No. 2022-01

Kurt Lysne reported Moore Engineering, Inc. submitted information to the North Dakota Department of Water Resources (NDDWR) Economist regarding an update of the economic analysis for Drain #34 Channel Improvement Project No. 2022-01.

Levi Hanson updated the Board on right of way acquisition regarding Drain #34 Channel Improvement Project No. 2022-01.

A motion was made by Manager Melvin and seconded by Manager Miller to approve *Purchase Agreements* with the following regarding Drain #34 Channel Improvement Project No. 2022-01:

- Deborah L. Berg, et al.
- Dora Hayes
- Kevin Kellerman
- Maxine K. Otis Revocable Living Trust
- John R. Otis, et al.

Upon roll call vote, the motion carried unanimously.

Drain #37 Improvement Project No. 2022-01

Mr. Lysne reported Moore Engineering, Inc. also submitted information to the NDDWR Economist regarding an update of the economic analysis for Drain #37 Improvement Project No. 2022-01. Alexa Ducioame noted the *Surface Drain Permit* for the project was approved by the NDDWR in October 2022 and it may need to be extended next year depending on the status of project construction.

Drain #39 Improvement Project No. 2023-01

Mr. Lysne reported Moore Engineering, Inc. continues to work on the final design for Drain #39 Improvement Project No. 2023-01. Once the final design is complete and permits are received, the Board can proceed with construction of the project.

The Board discussed concerns from local property owners regarding the potential of increased traffic along the project related to a North Dakota Department of Transportation improvement on North Dakota Highway 18 scheduled for next year. The property owners are concerned traffic may not utilize the marked detour for the project. Sean Fredricks noted traffic control is the responsibility of the road authority. The Board directed Moore Engineering, Inc. to contact Maple River Township to discuss the matter.

Drain #46 – inspection and crossing in Section 28 of Rochester Township

Brady Woodard discussed improving the Drain #46 crossing in Section 28 of Rochester Township for improved access to adjacent properties for agricultural equipment. The estimated cost of the project is \$28,000; however, additional rock could be needed to complete the project than currently estimated.

A motion was made by Manager Miller and seconded by Manager Melvin to authorize Moore Engineering, Inc. to hire a contractor to stabilize the bottom of the Drain #46 crossing in Section 28 of Rochester Township, at a cost not to exceed \$30,000. Upon roll call vote, the motion carried unanimously.

Drain #62 – North Dakota Soybean Processors, LLC

Mr. Fredricks updated the Board on the status of an Easement that is being negotiated with North Dakota Soybean Processors, LLC regarding the relocation of Drain #62 in Section 33 of Casselton Township.

Mr. Lysne reported on future improvements to Cass County Highway #23 regarding Drain #62. The project is in relation to the road improvements needed to accommodate the North Dakota Soybean Processors, LLC in Section 33 of Casselton Township. An Agreement with Cass County will be drafted in the future regarding the project.

Drain #62 – channel cleanout in Section 32 of Casselton Township

Discussion was held on sediment impeding drainage in the Drain #62 channel in Section 32 of Casselton Township. Ms. Ducioame discussed the results of the Drain #62 channel survey in that area. Moore Engineering, Inc. will prepare the design for the Drain #62 channel cleanout in Section 32 of Casselton Township and bring the information to the Board at a future meeting.

Lynchburg-Buffalo Project No. 2023-01

Mr. Woodard discussed repair of a damaged 36” culvert in the SE 1/4 of Section 30 in Durbin Township regarding Lynchburg-Buffalo Project No. 2023-01. A motion was made by Manager Melvin and seconded by Manager Miller to authorize Moore Engineering, Inc. to hire a contractor to repair the damaged culvert in the SE 1/4 of Section 30 in Durbin Township regarding Lynchburg-Buffalo Project No. 2023-01. Upon roll call vote, the motion carried unanimously.

Cornell Township Drainage Improvement District No. 80

Mr. Lysne updated the Board on Cornell Township Drainage Improvement District No. 80. Mr. Lysne said the petitioners have requested several design alternatives which have put the project over budget. The Board discussed submitting a revised cost-share application to the NDDWR for additional funding for project development. The petitioners are near finalizing the preferred alternative.

It was moved by Manager Melvin and seconded by Manager Miller to authorize the Secretary-Treasurer to submit a revised request for cost-share to the NDDWR regarding preliminary engineering for Cornell Township Drainage Improvement District No. 80. Upon roll call vote, the motion carried unanimously.

Davenport Flood Risk Reduction Project

Mr. Fredricks and Mr. Hanson updated the Board on right of way acquisition regarding the Davenport Flood Risk Reduction Project.

A motion was made by Manager Miller and seconded by Manager Melvin to approve the *Purchase Agreement* with Andy Alsop regarding the Davenport Flood Risk Reduction Project. Upon roll call vote, the motion carried unanimously.

Ms. Ducioame reported the NDDWR is reviewing the *Application to Construct* that was submitted for the project. Feedback from FEMA regarding the Conditional Letter of Map Revision (CLOMR) submitted for the project has been received. Moore Engineering, Inc. will continue to work with the NDDWR and FEMA on the permits as needed for the project.

Mr. Fredricks briefly updated the Board on an Agreement needed with Burlington Northern Santa Fe Railway Company and Red River Valley and Western Railroad Company regarding the project. A draft Agreement has been sent to Red River Valley and Western Railroad Company for their review.

Regional Conservation Partnership Program – Upper Maple River Watershed

Mr. Lysne updated the Board on the RCPP – Upper Maple River Watershed Plan. The time period to submit comments on the Plan has now closed and comments received were provided to the Natural Resources Conservation Service (NRCS). Moore Engineering, Inc. is coordinating with the NRCS on completion of the Plan.

Upper Maple River Dam – maintenance

Mr. Woodard reported the fence repairs at the Upper Maple River Dam are complete and the trees planted earlier this spring are growing.

Complaint for Water-Related Issues from Harold Miller against Dobler Trust for unpermitted drainage in the NE 1/4 of Section 8 in Cornell Township

It was reported the *Complaint for Water-Related Issues* from Harold Miller against Dobler Trust for unpermitted drainage in the NE 1/4 of Section 8 in Cornell Township has been resolved between the parties. Mr. Miller intends to withdraw the *Complaint*.

Application to Install a Subsurface Water Management System No. 202321 for David and Teresa Braaten and Gerald Heuer in Section 12 of Leonard Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 202321*, filed August 28, 2023, by Applicants David and Teresa Braaten and Gerald Heuer. Under the Application, Applicants seek to install a 486-acre drain tile system in Section 12 of Leonard Township, Cass County, North Dakota. The project will include four gravity outlets, all along the east boundary of Section 12 that will all discharge directly into Cass County Drain No. 39, a legal assessment drain owned and operated by the Maple River Water Resource District.

According to records submitted by Applicants, David Braaten owns the property Applicants intend to tile in the S 1/2 of Section 12 in Leonard Township; Teresa Braaten owns the NW 1/4 of Section 12 less the N 1/2 of the N 1/2 in the NW 1/4; and Gerald Heuer owns the NE 1/4 of Section 12 and the N 1/2 of the N 1/2 in the NW 1/4.

Manager Melvin moved, and Manager Miller seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 202321*, filed August 28, 2023, for David and Teresa Braaten and Gerald Heuer regarding a proposed tile system in Section 12 in Leonard Township; and to authorize the Secretary-Treasurer to sign *Subsurface Water Management Permit No. 202321*, subject to the following conditions:

1. Applicants will install and maintain erosion protection at any and all outlets into Cass County Drain No. 39.
2. Applicants will re-establish any areas disturbed installing or maintaining Applicants' tile system.
3. Applicants will not install Applicants' tile system within 20 feet, on either side, of any rural water lines Cass Rural Water Users District has in Section 12 in Leonard Township under any blanket easements, or otherwise beyond the Water Users District's existing easement(s).
4. Applicants must apply for an amendment to *Subsurface Water Management Permit No. 202321* 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 Applicants' permit. However, for Applicants' protection, and to ensure protection of Applicants' tile system, the Board recommends that Applicants 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* and *Subsurface Water Management Permit No. 202321* to the North Dakota Department of Water Resources and Cass Rural Water Users District. Applicants' detailed project design map is an exempt record, and the Board will not provide copies to any third parties.

Application to Install a Subsurface Water Management System No. 202322 for Steven D. Johnson in the W 1/2 of Section 22 in Tower Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 202322*, filed September 1, 2023, by Applicant Steven D. Johnson. Under the Application, Applicant seeks to install a 190-acre drain tile system in the W 1/2 of Section 22 in Tower Township, Cass County, North Dakota. The project will include four gravity outlets that will all discharge directly into the Maple River.

According to records submitted by Applicant, Steven D. Johnson owns the W 1/2 of Section 22 in Tower Township, subject to a life estate in Howard and Lone Johnson.

Manager Miller moved, and Manager Melvin seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 202322*, filed September 1, 2023, for Steven D. Johnson regarding a proposed tile system in the W 1/2 of Section 22 in Tower Township; and to authorize the Secretary-Treasurer to sign *Subsurface Water Management Permit No. 202322*, subject to the following conditions:

1. Applicant will install and maintain erosion protection at any and all outlets into the Maple River in the W 1/2 of Section 22 in Tower 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 W 1/2 of Section 22 in Tower 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. 202322* 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 recommends that Applicant comply with the following:

1. The Board recommends that Applicant obtain written consent from BNSF Railway Company if Applicant's project will include installation of any project components within any of BNSF's right of way.
2. 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. 202322*, and Applicant's downstream flow map to the North Dakota Department of Water Resources, BNSF Railway Company, and Cass Rural Water Users District. Because the project discharges into the Maple River, the permit does not require notice to any downstream parties, in accordance with N.D. Cent. Code § 61-32-03.1. Applicant's detailed project design map is an exempt record, and the Board will not provide copies to any third parties.

Notifications to Install Subsurface Water Management Systems

The Board received and filed the following *Notifications to Install Subsurface Water Management Systems* from Aim Ag Drainage at the following locations:

- SE 1/4 of Section 34 in Buffalo Township
- NE 1/4 of Section 36 in Cornell Township
- NW 1/4 of Section 2 in Howes Township

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

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

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.

Animal Damage Control

The Board discussed animal damage control services regarding Maple River Water Resource District facilities. The Board directed Mr. Woodard to discuss transitioning to on-call services with the contractor for animal damage control services on Maple River Water Resource District facilities.

Wheatland Channel – tree removal and channel cleanout north of I-94

Mr. Woodard reported the tree removal project on the Wheatland Channel north of I-94 is complete. Mr. Woodard also obtained an estimate from a contractor of \$10,000 – \$15,000 for a channel cleanout on the Wheatland Channel north of I-94.

It was moved by Manager Miller and seconded by Manager Melvin to approve and authorize the Chairman to sign the *Agreement* with Maple River Excavating LLC to clean out the Wheatland Channel north of I-94. 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