

MINUTES OF VIRTUAL / CONFERENCE CALL SPECIAL MEETING
MAPLE RIVER WATER RESOURCE DISTRICT
ORIGINATING AT THE CASS COUNTY HIGHWAY DEPARTMENT
MARCH 7, 2024
9:00 A.M.

A virtual / conference call meeting of the Maple River Water Resource District was held on March 7, 2024, at 9:00 a.m.

Present were Rodger Olson, Chairman; Gerald Melvin, Manager; Chad Miller, Manager; Melissa Hinkemeyer, Secretary-Treasurer; Leilei Bao, Accountant; Carolyn Fiechtner, Administrative Assistant; Sean M. Fredricks and Christie Rust, Ohnstad Twichell, P.C.; Kurt Lysne, Alexa Ducioame, Josh Hassell, Brady Woodard and Levi Hanson, Moore Engineering, Inc.; Mike Opat, Houston Engineering, Inc.; Duane Breitling, Cass County Commissioner; Mark Weber, North Dakota District 22 Senator; Ron Geerdes, Gina Stanford and Sidney Steinweg, Davenport Township property owners; and Randy Coon, Buffalo.

Approval of 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 Miller, seconded by Manager Melvin, and unanimously carried to approve the minutes of the February 2 and 9, 2024, meetings.

Drain #14 – Drop structure at Cass County Highway 15 – Application for Surface Drain No. 6238

The Board reviewed information from the North Dakota Department of Water Resources regarding the *Application for Surface Drain No. 6238*, previously submitted by the Maple River Water Resource District regarding modifications to Cass County Drain No. 14 necessary to accommodate the FM Diversion Project. The Diversion Project will require reconstruction of a portion of Drain #14, including construction of the Drain #14C drop structure upstream of Cass County Highway 15. The project will include lowering Drain #14 in the vicinity of Cass County Highway 15 by approximately 5 feet. The Diversion project will include construction of “Drain #14B,” immediately downstream, at an elevation to accommodate the lower grade beneath the Highway 15 bridge. Drain #14B will route flow to the F-M Diversion channel. The Board submitted a surface drain application to the North Dakota Department of Water Resources (NDDWR). The NDDWR recently completed its review of the project and application and concluded the project is not “of statewide or interdistrict significance.” The NDDWR forwarded its *Record of Decision* to the Board and the Board must consider and ultimately approve the application.

The Board considered Kurt Lysne’s proposed responses to the eight elements under 89

02 01-09.2 of the North Dakota Administrative Code. In his draft responses, Mr. Lysne noted the project will improve conveyance within the existing Drain #14 channel and a reduction in ag land in the Drain #14 watershed. Mr. Lysne ultimately concluded the project will not increase the potential for erosion, flood durations, or sustained flows. The Board concurred with Mr. Lyne's responses. The Board further determined no hearing was necessary under 89-02-01-09.1(2) of the North Dakota Administrative Code; the Board does not anticipate adverse impacts to any landowners as a result of the project.

Manager Melvin moved to adopt Kurt Lysne's responses to the eight elements under 89 02 01-09.2 of the North Dakota Administrative Code; to approve *Application for Surface Drain No. 6238* regarding modifications to Cass County Drain No. 14 to accommodate the Metro Flood Diversion project, subject to any conditions attached by the NDDWR; and to authorize the Secretary-Treasurer to sign *Permit for Surface Drain No. 6238*. Manager Miller seconded the motion. Upon roll call vote, the motion carried unanimously.

Drain #39 Improvement Project No. 2023-01 – Application for Surface Drain No. 6239

The Board reviewed information from the NDDWR regarding *Application for Surface Drain No. 6239*, previously submitted by the Maple River Water Resource District regarding Cass County Drain No. 39 Improvement Project No. 2023-01. The project will include reconstruction and improvements of approximately two miles of Drain #39 in the east half of Sections 24 and 25 of Maple River Township, on the west side of 157th Avenue SE. The Board submitted a surface drain application to the NDDWR. The NDDWR recently completed its review of the project and application and concluded the project is not "of statewide or interdistrict significance." The NDDWR forwarded a *Record of Decision* to the Board and the Board must consider and process the application.

The Board considered Kurt Lysne's proposed responses to the eight elements under 89 02 01-09.2 of the North Dakota Administrative Code. In his draft responses, Mr. Lysne noted the project will not include road crossing increases and the existing concrete weir and an existing sheet pile weir will remain in place. Mr. Lysne ultimately concluded the project will not increase the potential for erosion, flood durations, or sustained flows. The Board concurred with Mr. Lyne's responses. The Board further determined no hearing was necessary under 89-02-01-09.1(2) of the North Dakota Administrative Code; the Board will acquire the requisite right of way to accommodate the project, and the Board does not anticipate adverse impacts to any landowners as a result of the project. In fact, the project will improve public safety along 157th Avenue, the project will improve drainage in the area, and the project will alleviate summer rainfall flooding issues in the project watershed.

Manager Miller moved to adopt Kurt Lysne's responses to the eight elements under 89 02 01-09.2 of the North Dakota Administrative Code; to approve *Application for Surface Drain No. 6239* regarding Cass County Drain No. 39 Improvement Project No. 2023-01, subject to any conditions attached by the NDDWR; and to authorize the Secretary-Treasurer to sign the *Permit for Surface Drain No. 6239*. Manager Melvin seconded the motion. Upon roll call vote, the motion carried unanimously.

Drain #34 Channel Improvement Project No. 2022-01

Levi Hanson reported on the status of right of way negotiations regarding the Drain #34 Channel Improvement Project No. 2022-01.

Following discussion, it was moved by Manager Melvin and seconded by Manager Miller to approve and authorize the Chairman to sign the *Purchase Agreement* with Dale and Trudy Torgerson regarding the Drain #34 Channel Improvement Project No. 2022-01. Upon roll call vote, the motion carried unanimously.

Drain #37 Improvement Project No. 2022-01

Mr. Hanson updated the Board on right of way acquisitions for the Drain #37 Improvement Project No. 2022-01.

Discussion was held on the cost estimate and financing of the project with estimated cost-share funding. Mr. Lysne stated that once the project costs are finalized, he recommends the Board contemplate a potential vote of the assessment district regarding the project.

Lynchburg-Buffalo Project No. 2023-01

Mr. Lysne stated Moore Engineering, Inc. is refining the cost estimate for final design and permitting for the Lynchburg-Buffalo Project No. 2023-01. A cost-share application will be submitted to the NDDWR soon for the engineering and final design of the project.

Cornell Township Drainage Improvement District No. 80

Mr. Lysne updated the Board on Cornell Township Drainage Improvement District No. 80. Moore Engineering, Inc. continues to work with the petitioners on finalizing the petitioner's preferred design alternative. Once the petitioners have finalized the preferred design alternative, work can begin on forming the assessment district for the project.

Davenport Flood Risk Reduction Project

Alexa Ducioame reported on the Davenport Flood Risk Reduction Project. Ms. Ducioame said Moore Engineering, Inc. is finalizing the Conditional Letter of Map Revision (CLOMR) submittal to FEMA for the project. There is no update on the construction permit from the NDDWR for the project. Brief discussion was held on the status of cost-share for the project. Sean Fredricks noted communications are ongoing with Burlington Northern Santa Fe Railway Company and Red River Valley and Western Railroad Company regarding Agreements needed for the project.

Mr. Hanson updated the Board on the status of right of way negotiations for the Davenport Flood Risk Reduction Project. Property owners Ron Geerdes, Gina Stanford (Geerdes), and Sidney Steinweg addressed the Board with their comments regarding right of way needed for the Davenport Flood Risk Reduction Project.

Upper Maple River Dam – Lease Agreement with Kyle Zerface

Brady Woodard reported the Upper Maple River Dam *Lease Agreement* with Kyle Zerface has no changes from the previous lease agreement and Mr. Zerface is looking to renew the lease. Mr. Lysne stated that he pulled the average rent amounts for Steele County

and the rental rate used in the *Lease Agreement* falls within the average rental rate range. The lease is not dependent on if crops are grown or not.

Following discussion, it was moved by Manager Melvin and seconded by Manager Miller to approve and authorize the Chairman to sign the *Lease Agreement* with Kyle Zerface regarding the Upper Maple River Dam. Upon roll call vote, the motion carried unanimously.

Regional Conservation Partnership Program – Upper Maple River Watershed

Josh Hassell updated the Board on the RCPP – Upper Maple River Watershed Plan. Moore Engineering, Inc. submitted the Plan to the Natural Resources Conservation Service (NRCS) and is awaiting their comments.

Mr. Lysne recommended that Moore Engineering, Inc. send a letter to property owners to update them on the RCPP – Upper Maple River Watershed Plan. The Board agreed and directed Moore Engineering, Inc. to update the property owners on the status of the Plan.

Cass County Weed Control Work Order

It was moved by Manager Melvin and seconded by Manager Miller to approve and authorize the Chairman to sign the Cass County Weed Control *Work Order* for spraying services regarding weed, cattail, tree and brush control for Maple River Water Resource District facilities. Upon roll call vote, the motion carried unanimously.

Complaint for Water-Related Issues from Randy Coon against Dennis Smith for unpermitted drainage in the S 1/2 of Section 7 in Tower Township

Mr. Lysne requested from the Board authorization for Moore Engineering Inc. to conduct a survey and investigation of the *Complaint for Water-Related Issues* filed from Randy Coon against Dennis Smith for unpermitted drainage in the S 1/2 of Section 7 in Tower Township. Moore Engineering Inc. will provide a summary report based on the investigational findings at a future meeting.

It was moved by Manager Miller and seconded by Manager Melvin to authorize Moore Engineering, Inc. to conduct a survey and investigation of the *Complaint for Water-Related Issues* from Randy Coon against Dennis Smith for unpermitted drainage in the S 1/2 of Section 7 in Tower Township. Upon roll call vote, the motion carried unanimously.

Utility Permit for WBI Energy Transmission to install a natural gas pipeline under Swan Creek in Section 28 of Casselton Township north of 35th Street SE

It was moved by Manager Melvin and seconded by Manager Miller to approve the *Utility Permit* for WBI Energy Transmission to install a natural gas pipeline under Swan Creek in Section 28 of Casselton Township north of 35th Street SE, with input from the Water Resource District Engineer. Upon roll call vote, the motion carried unanimously.

Cass County Planning – Rutten Subdivision

A motion was made by Manager Miller, seconded by Manager Melvin, and unanimously carried to authorize the Secretary-Treasurer to submit comment on the Rutten

Subdivision application to Cass County Planning, with input from the Water Resource District Engineer.

Application for Surface Drain No. 6270 for Sinner Bros. and Pat Bresnahan in Section 13 of Everest Township

Discussion was held on *Application for Surface Drain No. 6270* for Sinner Bros. and Pat Bresnahan in Section 13 of Everest Township. The project includes proposed surface drainage improvements, specifically construction of road ditch improvements along 39th Street SE and 157th Avenue in Section 13 in Everest Township.

The NDDWR recently completed its review of the project and application and concluded the project is not “of statewide or interdistrict significance.” The NDDWR then forwarded *Application No. 6270* to the Maple River Water Resource District to issue a final permit decision, in accordance with Section 89-02-01-09.1(2) of the North Dakota Administrative Code.

Under Section 89-02-01-09.1(2) of the North Dakota Administrative Code, once the Maple River Water Resource District received the *Record of Decision* regarding the application, the District’s first step is to determine if “public and private interests would be better served by a specific public meeting to consider the project.” The project footprint and downstream route cover a fairly small area with only one downstream landowner; Thomas S. Hull, as Trustee of the Thomas S. Hull Revocable Trust, owns the South Half of Section 18 in Durbin Township. With that in mind, as opposed to scheduling a formal hearing, the District concluded a less formal process to engage the Applicant and the downstream party, to allow the parties to submit comments or voice any concerns, would be more appropriate and cost-effective.

The Board directed the Secretary to send a letter to the Applicant and downstream party inviting them to share their comments or concerns regarding *Application for Surface Drain No. 6270* for Sinner Bros. and Pat Bresnahan in Section 13 of Everest Township at the April 4, 2024, Water Resource District meeting or in writing in advance of the April 4, 2024, meeting.

North Dakota Department of Water Resources 2025-2027 Water Development Plan

Mr. Lysne stated that the list of projects for the North Dakota Department of Water Resources 2025-2027 Water Development Plan is due by April 30th. Mr. Lysne shared a draft list of projects with the Board and noted the final list will be prepared and presented at the next meeting for consideration.

Bills

It was moved by Manager Melvin and seconded by Manager Miller to approve the payment of Checks #6167, #6168, #6170 and #6171, the wire transfers and electronic funds transfers, as presented. Upon roll call vote, the motion carried unanimously.

Request from Taylor Aliferis, NDSU graduate student, to conduct a blackbird / drone use study on Maple River Water Resource District properties

Taylor Aliferis, a graduate student at North Dakota State University, is seeking permission to conduct a blackbird / drone use study on properties owned by the Maple River Water Resource District this upcoming summer.

It was moved by Manager Miller and seconded by Manager Melvin to approve the request from Taylor Aliferis, NDSU graduate student, to conduct a blackbird / drone use study on properties owned by the Maple River Water Resource District. Upon roll call vote, the motion carried unanimously.

Adjournment

There being no further business to be considered by the Board, the meeting adjourned without objection.

APPROVED:

Rodger Olson
Chairman

ATTEST:

Melissa Hinkemeyer
Secretary-Treasurer