

MINUTES OF VIRTUAL / CONFERENCE CALL MEETING  
SOUTHEAST CASS WATER RESOURCE DISTRICT  
ORIGINATING AT THE CASS COUNTY HIGHWAY DEPARTMENT  
WEST FARGO, NORTH DAKOTA  
AUGUST 9, 2022

A virtual / conference call meeting of the Southeast Cass Water Resource District was held on August 9, 2022, at 8:30 a.m.

Present were Dan Jacobson, Chairman; Keith Weston, Manager; Dave Branson, Manager; Carol Harbeke Lewis, Secretary-Treasurer; Nina Stone, Accountant; Melissa Hinkemeyer, Administrative Assistant; Sean M. Fredricks, Ohnstad Twichell, P.C.; Kurt Lysne, Alexa Ducioame, Nathan Trosen, Brady Woodard and Matt Welle, Moore Engineering, Inc.; Mike Opat, Houston Engineering, Inc.; Jody Bertrand, Jim Hausauer and Donald Kress, City of Fargo; Tom Soucy, Cass County Highway Department; Andrew Thill, Lowry Engineering; Aaron Gladen and Bertel Jurgens, Gladen Construction, Inc.; Don Dabbert, Dabbert Custom Homes.

**Approval of agenda**

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

**Minutes**

It was moved by Manager Weston, seconded by Manager Branson and unanimously carried to approve the minutes of the July 12 and August 3, 2022, meetings.

**Sheyenne-Maple Flood Control District #2 – Jackson Alley Addition**

Andrew Thill updated the Board on the status of Jackson Alley Addition regarding Sheyenne-Maple Flood Control District #2. Mr. Thill indicated the developer is working with the City of Horace on items related to the development. The Corps of Engineers is currently out of funding to review Section 408 permit applications until the next fiscal year. Mr. Thill is hopeful the Section 408 permit can be reviewed by the Corps of Engineers this winter.

**Sheyenne-Maple Flood Control District #2 – pending special assessment regarding West Fargo Improvement District No. 02-2250**

Manager Weston updated the Board on the pending special assessment on Sheyenne-Maple Flood Control District #2 parcel 02-3000-01240-012 for West Fargo Improvement District No. 02-2250. Manager Weston attended a public meeting on the matter and provided comments on behalf of the Water Resource District. The City of West Fargo will review the comments received on the matter. The Secretary-Treasurer sent an email on

August 5, 2022, to the West Fargo Special Assessment Commission / West Fargo City Commission outlining concerns and appealing the proposed assessment. The matter will be before the West Fargo City Commission at its October 3, 2022, meeting.

### **Proposed sanitary sewer for Commerce on I-29**

Jim Hausauer updated the Board on the proposed sanitary sewer for Commerce on I-29. The City of Fargo has received a formal request for a sewer hookup from the developer of the Commerce on I-29 development as well as from other developers. The Fargo City Commission will be discussing how to proceed regarding the proposed sanitary sewer for Commerce on I-29 and other future development.

### **Reassessment of Drain SC-1 (Drains #3, #9 and #10)**

Discussion was held regarding the 2022 reassessment of Drain SC-1. Kurt Lysne stated he has prepared a presentation for the public hearing. Attendees of the public hearing will also have the opportunity to ask questions and provide comments on the reassessment.

### **Drain #21C – request from Jeff Phillip to clean the channel in the northwest corner**

Brady Woodard updated the Board on the Drain #21C channel cleanout in Sections 13, 23, 26 and 35 of Warren Township. The adjacent property owners wish to move forward with the clean out as soon as possible. The contractor has moved equipment on-site and will begin the project soon. Mr. Woodard said they will try to keep crop damage to a minimum.

### **Drain #27 – Stormwater design for Southdale Farms Addition**

Mr. Lysne reported final plans have not yet been submitted for review regarding the stormwater design for Southdale Farms Addition regarding Drain #27. The City of Horace will need an Easement from the Water Resource District for a gatewell structure and stormwater outfall north of 64th Avenue South regarding Drain #27.

### **Drain #27 – Cub Creek First and Second Additions**

Don Dabbert discussed maintenance and property owners' requests in the restricted use area along Drain #27 in the Cub Creek First Addition that was detailed in the *Permanent Easement Agreement* with Cub Creek Development LLC. Mr. Dabbert indicated he wishes to discuss a revision of terms prior to considering a *Permanent Easement Agreement* regarding Cub Creek Second Addition. Discussion was held on the future reconstruction of Drain #27 from 64th Avenue South to 100th Avenue South (Cass County Highway 14). Mr. Lysne indicated for easier maintenance of Drain #27 in this area a concrete channel liner could be installed or the Water Resource District may consider entering into a maintenance agreement with the City of Horace, similar to the Agreement the Water Resource District has with the City of Fargo. The Board indicated they would like to approach the City of Horace to discuss potentially entering into an Agreement regarding Drain #27 maintenance within the City of Horace. Mr. Dabbert noted LOMR

earthwork for Cub Creek Second Addition will be completed soon, thus it would be advantageous for the Water Resource District to complete the reconstruction of Drain #27 through Cub Creek First and Second Additions concurrently.

A motion was made by Manager Branson and seconded by Manager Weston to approve and authorize the Chairman to sign a *Permanent Easement Agreement* regarding Cub Creek Second Addition, with the same terms outlined in the existing *Permanent Easement Agreement* for Cub Creek First Addition. Upon roll call vote, the motion carried unanimously.

**Drain #27 – Utility Permit for the City of Horace to install permanent storm water discharge pipes at two locations on Drain #27 in Cub Creek Second Addition**

It was moved by Manager Branson and seconded by Manager Weston to approve the *Utility Permit* for the City of Horace to install permanent storm water discharge pipes at two locations on Drain #27 in Cub Creek Second Addition, with input from the Water Resource District Engineer. Upon roll call vote, the motion carried unanimously.

**Drain #40 Channel Improvements Project No. 2019-01 Phase II**

Mr. Woodard and Aaron Gladen updated the Board on construction of Drain #40 Channel Improvements Project No. 2019-01 Phase II. The slide has been repaired and the contractor is currently working on installing sheetpile. Mr. Gladen stated although they had put forward effort to begin the project this spring, the weather delayed the project. Mr. Gladen asked the Board for more time to complete the project and estimated the project would be complete in early September. Mr. Lysne stated another slide has occurred in the area and recommended including repair of the site as part of the project. Mr. Lysne discussed the cost to repair the slide and recommended extending the substantial completion date for the project as outlined in the proposed Change Order.

It was moved by Manager Weston and seconded by Manager Branson to approve and authorize the Chairman to sign *Change Order No. 1* with Gladen Construction, Inc. for repair of an additional slide in the amount of \$55,168, extension of the substantial completion date to October 14, 2022, and extension of the final completion date to November 1, 2022, regarding Drain #40 Channel Improvement Project No. 2019-01 Phase II. Upon roll call vote, the motion carried unanimously.

**Drain #40 – Laverne’s Second Addition**

Jody Bertrand discussed City of Fargo’s planned flood protection for Laverne’s Second Addition regarding Drain #40. An Easement will be needed to construct a levee on Water Resource District property on the east side of Drain #40. The project will also include construction of a lift station, access road, and other items. Mr. Bertrand said the project is scheduled to be bid in September with sanitary sewer installation this fall. Mr. Lysne indicated Moore Engineering, Inc. is providing culvert size recommendations to the City

of Fargo for the project. Sean Fredricks stated the requisite Easements with the City of Fargo are being drafted and will be brought to a future meeting for consideration. The Board indicated they have no objections to the project concept at this time.

**Drain #47 – slides in the NE 1/4 of Section 10 and the NW 1/4 of Section 11 in Pleasant Township**

Mr. Woodard reported Pleasant Township has inquired if the Water Resource District may be willing to repair the slides along Drain #47 in the NE 1/4 of Section 10 and the NW 1/4 of Section 11 in Pleasant Township as there will be road improvements in that area as part of the Metro Flood Diversion Project. Discussion was held on surveying the slide and determining if the Drain #47 side slopes could be flattened in that area since the Water Resource District owns property adjacent to Drain #47 for the Metro Flood Diversion Project.

A motion was made by Manager Weston and seconded by Manager Branson to authorize Moore Engineering, Inc. to survey and obtain a geotechnical opinion, if necessary, regarding the Drain #47 slides in the NE 1/4 of Section 10 and NW 1/4 of Section 11 in Pleasant Township and bring the information to a future meeting for further discussion on the matter. Upon roll call vote, the motion carried unanimously.

**WBI Energy Transmission, Inc. – amended Access Agreements to conduct preliminary surveys for the installation of a natural gas pipeline**

Mr. Fredricks stated WBI Energy Transmission, Inc. has now signed the *Access Agreements* for surveying activities regarding Drains #35 and #60. 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 Drains #35 and #60.

It was moved by Manager Branson and seconded by Manager Weston 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 Drains #35 and #60. Upon roll call vote, the motion carried unanimously.

**2022-2023 Sheyenne River and Wild Rice River Snagging and Clearing Projects**

Mr. Lysne indicated the 2022-2023 Sheyenne River and Wild Rice River Snagging and Clearing Projects cost-share request will be considered at the State Water Commission meeting this month. The State Water Commission has indicated they will allow utilization of remaining funds from the 2021-2022 Wild Rice River Snagging and Clearing *Agreement for Cost-Share Reimbursement* for the 2022-2023 Wild Rice River Snagging and Clearing Project.

Mr. Woodard reported Industrial Builders, Inc. (IBI) cleared trees and debris from bridges on the Sheyenne River near Cass County Highway 46. IBI also found a contractor that was willing to load and haul the trees away for their use for little to no cost compared to the cost of IBI hauling and grinding the trees. Mr. Woodard continues to coordinate with the adjacent property owner on the removal of the trees and debris from the area.

**Drain #3 – Bison Village Project – request allowing the Corps of Engineers access to collect samples**

It was moved by Manager Weston and seconded by Manager Branson to authorize the Secretary-Treasurer to sign an access approval document allowing the Corps of Engineers access to Drain #3 right of way in Section 19-T140-R48W (Fargo) to collect samples for a Jurisdiction Wetland Request regarding the Bison Village project shared use path connecting 32nd Avenue North and the intersection of 36th/37th Avenue North, east of University Drive. Upon roll call vote, the motion carried unanimously.

**Utility Permit for Insight Technologies, Inc. dba RediTech Fiber to install fiber optic cable under Drain #35 in the northwest corner of Section 9 in Normanna Township**

It was moved by Manager Branson and seconded by Manager Weston to approve the *Utility Permit* for Insight Technologies, Inc. dba RediTech Fiber to install fiber optic cable under Drain #35 in the northwest corner of Section 9 in Normanna Township, with input from the Water Resource District Engineer. Upon roll call vote, the motion carried unanimously.

**Temporary Water Permits for the City of Fargo to divert water from the Sheyenne River in the NW 1/4 of Section 5 in Stanley Township for municipal use**

The Board received and filed *Temporary Water Permits* for the City of Fargo to divert water from the Sheyenne River in the NW 1/4 of Section 5 in Stanley Township for municipal use.

**Items for review and comment, with input provided by the Water Resource District Engineer**

Donald Kress reviewed the Fargo Department of Planning and Development September Preliminary Packet. The Board directed the Secretary-Treasurer to submit comment on the Fargo Department of Planning and Development September Preliminary Packet, with input from the Water Resource District Engineer.

**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 Weston moved to match legislative compensation for Southeast Cass Water Resource District Managers in accordance with HB 1216 and applicable North Dakota law. Manager Branson seconded the motion. Upon roll call vote, the motion carried unanimously.

### **Bills**

It was moved by Manager Branson and seconded by Manager Weston to approve payment of the wire transfers and the electronic funds transfers, as presented. Upon roll call vote, the following Managers voted in favor: Jacobson, Weston and Branson. The motion carried unanimously.

### **Drain #3 – City of Fargo special assessment notice for sidewalk at 1st Avenue S**

The Secretary-Treasurer stated the City of Fargo has assessed the Water Resource District \$3,301.49 for construction of a sidewalk adjacent to Drain #3 at 1st Avenue South. The Water Resource District Engineer reviewed the plans regarding the sidewalk and the Board previously agreed at the March 9, 2021, meeting to have the City of Fargo complete the construction rather than the Water Resource District hiring a contractor to do the work.

It was moved by Manager Weston and seconded by Manager Branson to approve the payment to the City of Fargo for the sidewalk construction adjacent to Drain #3 at 1st Avenue South in the amount of \$3,301.49. Upon roll call vote, the motion carried unanimously.

### **Drain #10 Improvement Project No. 2022-01 – from approximately 45th Avenue N to just west of 25th Street N**

The Board discussed a counteroffer from a property owner regarding right of way needed for Drain #10 Improvement Project No. 2021-01. It was moved by Manager Branson and seconded by Manager Weston to decline the counteroffer from the property owner regarding right of way needed for Drain #10 Improvement Project No. 2021-01. Upon roll call vote, the motion carried unanimously.

### **Drain #27 – cleanout from 64th Avenue S to 100th Avenue South (Cass County Highway 14)**

It was moved by Manager Weston and seconded by Manager Branson to authorize Moore Engineering, Inc. to begin preliminary engineering regarding cleanout of Drain #27 from 64th Avenue South to 100th Avenue south (Cass County Highway 14) and to submit a cost-share request to the State Water Commission for the project. Upon roll call vote, the motion carried unanimously.

**Adjournment**

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

APPROVED:

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Dan Jacobson  
Chairman

ATTEST:

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Carol Harbeke Lewis  
Secretary-Treasurer