

MINUTES OF VIRTUAL / CONFERENCE CALL MEETING
SOUTHEAST CASS WATER RESOURCE DISTRICT
ORIGINATING AT THE CASS COUNTY HIGHWAY DEPARTMENT
WEST FARGO, NORTH DAKOTA
OCTOBER 11, 2022

A virtual / conference call meeting of the Southeast Cass Water Resource District was held on October 11, 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 and Brady Woodard, Moore Engineering, Inc.; Mike Opat, Houston Engineering, Inc.; Jody Bertrand, Roger Kluck and Donald Kress, City of Fargo; Mary Scherling and Duane Breitling, Cass County Commissioners; and Eric Larson, Interstate Engineering.

Approval of agenda

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

Minutes

It was moved by Manager Branson, seconded by Manager Weston and unanimously carried to approve the minutes of the September 13, 2022, meeting.

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 the West Fargo City Commission meeting on October 6, 2022, regarding the matter and indicated the City recognized receipt of the appeal submitted by the Secretary-Treasurer. The Board discussed the pending special assessment and agreed with Manager Weston's suggestion of meeting with City of West Fargo officials about the matter to determine the best use of the parcel going forward if the proposed assessment is not drastically reduced. Brady Woodard noted the property is currently being used for the Sheyenne-Maple Flood Control District #2 sediment removal project and saves the Water Resource District a significant amount of money on projects. The next West Fargo City Commission meeting will be held on October 13, 2022. Mary Scherling said the Cass County Highway Department is trying to preserve some of the right of way in the area for a bypass and suggested the Board discuss the matter with Jason Benson and Tom Soucy.

Sheyenne-Maple Flood Control Districts #1 and #2 – letter from the Corps of Engineers regarding possible eligibility for Public Law 84-99 post flood recovery assistance

Kurt Lysne discussed a letter from the Corps of Engineers regarding possible eligibility for Public Law 84-99 post flood recovery assistance regarding Sheyenne Maple Flood Control Districts #1 and #2. Mr. Lysne indicated there was no damage incurred this year on either project that would potentially qualify for the program. The Board received and filed the letter.

Sheyenne-Maple Flood Control District #2 – sediment removal

Mr. Woodard updated the Board on the Sheyenne-Maple Flood Control District #2 sediment removal project. The contractor has been working for a few weeks and is removing an estimated 100,000 cubic yards of sediment a week. Mr. Woodard said the weather has been optimal and the contractor is doing great work. The contractor will have utilized all available funds by the end of next week and will likely have sediment removed up to 32nd Avenue South. The Board indicated they would like to continue the project while the conditions are ideal.

It was moved by Manager Branson and seconded by Manager Weston to do the following:

- Authorize the contractor to continue removing sediment from the Sheyenne-Maple Flood Control District #2 channel from approximately 40th Avenue S to 21st Avenue S, not to exceed a cost of \$180,000;
- Direct Sean Fredricks to draft an *Agreement* with the contractor regarding Phase II of the project; and
- Authorize the Chairman to sign the *Agreement*.

Upon roll call vote, the motion carried unanimously

Mr. Woodard noted when the project is complete the contractor will seed the area with a dormant grass seed that had been used successfully last year.

Proposed sanitary sewer for Commerce on I-29

Mr. Fredricks updated the Board on the proposed sanitary sewer for Commerce on I-29. The Fargo City Commission is still discussing and working through its policy and negotiating with Commerce on I-29 representatives to discuss how to proceed.

Drain #3 – Encroachment Agreement with new property owner south of Main Avenue

Mr. Fredricks stated the new property owner of a car dealership south of Main Avenue that has vehicles parked on Drain #3 right of way has reached out to the Water Resource District regarding installation of a fence and continued utilization of the property for parked vehicles. The Board directed Mr. Fredricks to prepare an *Encroachment Agreement* regarding the matter and bring it to a future meeting for consideration if the property owner signs the Agreement. Mr. Lysne noted the property owner should also contact the owner of the adjacent bike path regarding any potential fencing setbacks from the bike path.

Drain #10 – slide repair north of 12th Avenue North

Mr. Lysne discussed the Drain #10 slide north of 12th Avenue North and indicated it may be prudent to replace a larger area of the concrete channel liner at one time rather than completing many smaller repairs. Mr. Lysne discussed the estimated cost of a larger concrete channel liner replacement project in relation to the Water Resource District Master Plan. Roger Kluck stated the City of Fargo is supportive of a larger channel liner replacement project to assist City staff in properly maintaining the facility. The Board further discussed the matter, including timing of the project.

It was moved by Manager Weston and seconded by Manager Branson to authorize Moore Engineering, Inc. to conduct a survey regarding the Drain #10 concrete channel liner reconstruction project north of 12th Avenue North. Upon roll call vote, the motion carried unanimously.

Drain #21 – slide south of 12th Avenue N

Mr. Lysne and Mr. Fredricks discussed the Drain #21 slide repair south of 12th Avenue N. Mr. Fredricks informed the Board of a technical conflict of interest under Rule 1.7 regarding the project. Ohnstad Twichell, P.C. represents both Southeast Cass Water Resource District and the City of West Fargo. Rule 1.7 allows Ohnstad Twichell, P.C. to represent both Southeast Cass Water Resource District and the City of West Fargo following consent by both parties.

It was moved by Manager Branson and seconded by Manager Weston to approve and authorize the Chairman to sign the *Consent Letter* regarding Ohnstad Twichell P.C.'s representation of Southeast Cass Water Resource District regarding the Drain #21 slide repair south of 12th Avenue N. Upon roll call vote, the motion carried unanimously.

Mr. Lysne indicated the City of West Fargo received the geotechnical report from Braun Intertec Corporation regarding the repair of the slide. The City plans to construct a new salt shed in a different location and remove the current salt shed from the property this year and repair the slide next year. Moore Engineering, Inc. will observe the repairs to ensure the construction follows the recommended repair from Braun Intertec Corporation.

It was moved by Manager Weston and seconded by Manager Branson to approve and authorize the Chairman to sign an *Access Agreement* with the City of West Fargo regarding the Drain #21 slide repair south of 12th Avenue N. Upon roll call vote, the motion carried unanimously.

Drain #21C – channel cleanout in Sections 13, 23, 26 and 35 of Warren Township

Brady Woodard updated the Board on the Drain #21C channel cleanout in Sections 13, 23, 26 and 35 of Warren Township. The contractor has completed approximately 2 miles of the project, starting at Cass County Highway 16 in Section 35 of Warren Township. Mr. Woodard indicated the contractor will complete the project this fall.

Drain #27 – Stormwater design for Southdale Farms Addition

Mr. Lysne reported there is one discrepancy regarding the gateway structure north of 64th Avenue S into Drain #27 that will need to be resolved; however, it should not change the Easement language.

A motion was made by Manager Branson and seconded by Manager Weston to approve and authorize the Chairman to sign the following with the City of Horace, contingent on approval from the Water Resource District Engineer, regarding the stormwater design for Southdale Farms Addition regarding Drain #27:

- *Access Easement* (Storm Sewer)
- *Access Easement* (Access Road)
- *Access Agreement*

Upon roll call vote, the motion carried unanimously.

Drain #27 – Cub Creek Second Addition

Mr. Fredricks reported the developer has signed the *Permanent Easement Agreement* regarding Cub Creek Second Addition. Once the *Permanent Easement Agreement* is recorded, the document number will be included on the Cub Creek Second Addition plat.

It was moved by Manager Weston and seconded by Manager Branson to approve and authorize the Chairman to sign the *Permanent Easement Agreement* regarding Cub Creek Second Addition. Upon roll call vote, the motion carried unanimously.

Drain #27 – slides and tree removal

Mr. Woodard reported a large slide is forming along Drain #27 west of I-29 that should be repaired. Mr. Kluck indicated the City of Fargo will be doing some work on a lift station in that area as well. Mr. Woodard said he believes there would be enough room for both the City of Fargo and Water Resource District contractors to complete work in the area. There is also woody material in the Drain #27 channel in this area that should be removed at the same time the slide is repaired. Mr. Lysne suggested obtaining a quote from Braun Intertec Corporation to complete a geotechnical report and provide a recommended repair of this slide, as well as another slide forming west of 45th Street S on Drain #27.

A motion was made by Manager Weston and seconded by Manager Branson to authorize Moore Engineering, Inc. to obtain a quote from Braun Intertec Corporation for a geotechnical study regarding Drain #27 slide areas west of I-29 and west of 45th Street S. Upon roll call vote, the motion carried unanimously.

The Board next discussed the woody material in the Drain #27 channel near I-29 as well as woody material in Drain #3 between 3rd Avenue S and 7th Avenue S. Mr. Woodard estimated a cost of \$10,000 per location.

A motion was made by Manager Branson and seconded by Manager Weston to authorize Moore Engineering, Inc. to hire a contractor to remove woody material at the following locations, not to exceed a cost of \$10,000 per location:

- Drain #3 between 3rd Avenue S and 7th Avenue S
- Drain #27 near I-29

Upon roll call vote, the motion carried unanimously.

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

Mr. Woodard updated the Board on construction of Drain #40 Channel Improvements Project No. 2019-01 Phase II. The project is complete aside from waiting for the establishment of grass.

It was moved by Manager Branson and seconded by Manager Weston to approve and authorize the Chairman to sign *Contractor's Application for Payment No. 2* for Gladen Construction, Inc. in the amount of \$335,094.60 regarding Drain #40 Channel Improvement Project No. 2019-01 Phase II. Upon roll call vote, the motion carried unanimously.

Drain #45 – Gravender property and drain right of way

Mike Opat noted a letter was sent from the Water Resource District to the property owners that were interested in potential improvements to Drain #45. The letter expressed the Water Resource District's continued interest in working with the property owners and invited further discussion on the matter. The property owners have not yet responded to the letter. The Board tabled the matter to provide ample time for the property owners to contact the Water Resource District regarding the matter.

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

Alexa Ducioame reported Braun Intertec Corporation will be on-site next week to complete the field work for the geotechnical evaluation of two slides along Drain #47 in the NE 1/4 of Section 10 and the NW 1/4 of Section 11 in Pleasant Township.

Utility Permit for MLGC, LLC to install fiber optic cable under the Sheyenne River tributary in Section 4 of Warren Township on the south side of 42nd Street SE

The Secretary-Treasurer stated MLGC, LLC indicated they are no longer planning to install fiber optic cable under the Sheyenne River tributary in Section 4 of Warren Township on the south side of 42nd Street SE at this time.

Utility Permit for Midco to install three 1 1/4" conduits with a coax cable under the Sheyenne River on the south side of 19th Avenue NW

It was moved by Manager Weston and seconded by Manager Branson to approve the *Utility Permit* for Midco to install three 1 1/4" conduits with a coax cable under the

Sheyenne River on the south side of 19th Avenue NW, with input from the Water Resource District Engineer. Upon roll call vote, the motion carried unanimously.

Fargo Department of Planning and Development – November Preliminary Packet

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

Bills

It was moved by Manager Weston and seconded by Manager Branson 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. Manager Weston was absent. The motion carried unanimously.

Drain #10 – Case Corporation, aka Case Equipment Corporation installation of pavement and related improvements over drain right of way for parking and storage of equipment at its facility located at 3401 1st Avenue North in Fargo

Discussion was held regarding a proposed project by Case Corporation, aka Case Equipment Corporation to install pavement and related improvements over Drain #10 right of way for parking and storage of equipment at their facility located at 3401 1st Avenue North in Fargo. Mr. Kluck noted Case Corporation will also need to obtain a permit from the City of Fargo to complete the work. The Board directed Mr. Fredricks to prepare a *License Agreement* regarding the matter and bring the Agreement to a future meeting for consideration.

Adjournment

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

APPROVED:

Dan Jacobson
Chairman

ATTEST:

Carol Harbeke Lewis
Secretary-Treasurer