

MINUTES OF VIRTUAL / CONFERENCE CALL MEETING
RUSH RIVER WATER RESOURCE DISTRICT
ORIGINATING AT THE CASS COUNTY HIGHWAY DEPARTMENT
WEST FARGO, NORTH DAKOTA
APRIL 18, 2023

A virtual / conference call meeting of the Rush River Water Resource District was held on April 18, 2023, at 8:00 a.m.

Present were William A. Hejl, Chairman; Richard Sundberg, Manager; Jacob Gust, 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.; Duane Breitling, Cass County Commissioner; Jason Benson, Cass County Engineer; Kris Bakkegard, Diversion Authority Director of Engineering; Tom Fuchs, Diversion Authority Senior Construction Manager; Paul Olsen, Jacobs; Kim Bruesch, David Baumler, Wade Radermacher and Kevin Mayer, Amenia Township property owners; Steve Faught, Empire Township property owner; and Dane Larsen, Raymond Township property owner.

Agenda and Minutes

It was moved by Manager Sundberg, seconded by Manager Gust and unanimously carried to approve the order of the agenda, as presented, and the minutes of the March 21, 2023, meeting.

2023 flood outlook

Kurt Lysne and Jason Benson updated the Board on the 2023 flood outlook and current conditions. Flooding in Cass County has been more localized and overland this spring. Mr. Benson stated the Cass County Highway Department is responding to emergency requests for sandbags from property owners in Cass County. Discussion was also held on conditions at the Maple River Dam.

Drain #30 – Metro Flood Diversion Project interface

Discussion was held on the interface between Drain #30 and the Metro Flood Diversion Project. Mr. Lysne said there are transitions required between legal assessment drains and the Metro Flood Diversion Project so that future improvements of Water Resource District facilities can be accomplished without initiating federal permitting requirements related to the Metro Flood Diversion Project. Kris Bakkegard proposed the Water Resource District complete the Drain #30 transition work on behalf of the Metro Flood Diversion Authority outside of Metro Flood Diversion Project work limits. The Water Resource District would own the transition between Drain #30 and the Diversion Channel,

and the cost to complete the transition would be reimbursed by the Diversion Authority. Mr. Lysne discussed the current plans for the transition and indicated a small area of right of way would be needed for the project.

It was moved by Manager Gust and seconded by Manager Sundberg to approve the concept of the Water Resource District constructing the transition between Drain #30 and the Diversion Channel of the Metro Flood Diversion Project on behalf of the Metro Flood Diversion Authority and authorize the Water Resource District Attorney to amend the *Memorandum of Understanding* with the Metro Flood Diversion Authority regarding the matter. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Sundberg and seconded by Manager Gust to authorize Moore Engineering, Inc. to prepare the preliminary design and determine right of way needs related to the construction of the transition between Drain #30 and the Diversion Channel of the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Complaint for Water-Related Issues from Kim Bruesch against David Baumler for drainage in the SE 1/4 NE 1/4 of Section 29 in Amenia Township

Mr. Lysne updated the Board on the *Complaint for Water-Related Issues* from Kim Bruesch against David Baumler for deepening the west ditch along 152nd Avenue SE in the SE 1/4 NE 1/4 of Section 29 in Amenia Township. Moore Engineering, Inc. preliminarily delineated the watershed boundaries impacted by the work stated in the *Complaint*. Mr. Lysne stated it was determined that an additional channel was constructed to the east that connects to the work stated in the *Complaint*. The additional channel would increase the drainage area to over 80 acres, which would require a state drainage permit. If the channel has been filled in, then the delineated drainage area is under 80 acres and the work would not require a state drainage permit. David Baumler indicated he farmed the additional channel shut last year. Kim Bruesch stated water is flowing in the additional channel. Sean Fredricks said it needs to be determined whether Mr. Baumler effectively closed or filled the field drain. The Board directed Moore Engineering, Inc. to investigate whether the additional channel is effectively closed or filled and report their findings at a future meeting.

Regional Conservation Partnership Program (RCP) – Rush River Watershed

Mr. Lysne reported on the RCP – Rush River Watershed Plan. The remaining work is to determine the final alignment of the levee. Cass County Joint Water Resource District has contracted with SRF Consulting Group, Inc. to provide perspective on the alignment of the levee. Moore Engineering, Inc. submitted 90% complete plans to the Natural Resources Conservation Service (NRCS) to review. The NRCS is aware there may be changes to the levee alignment.

Weed, cattail, tree and brush control

The Secretary-Treasurer reported Larson Helicopters, LLC declined the contract for weed, cattail, tree and brush control on Rush River Water Resource District facilities for 2023.

A motion was made by Manager Sundberg and seconded by Manager Gust to approve and authorize the Chairman to sign the *Agreement* with Dakota Helicopters, Inc. to provide aerial and ground spraying services for weed, cattail, tree and brush control on Rush River Water Resource District facilities for 2023. Upon roll call vote, the motion carried unanimously.

Cass County Planning

A motion was made by Manager Sundberg and seconded by Manager Gust to authorize the Secretary-Treasurer to submit comment on the Jones Second Subdivision application to Cass County Planning, with input from the Water Resource District Engineer. Upon roll call vote, the motion carried unanimously.

Cass County Joint Water Resource District report

Manager Gust updated the Board on the construction progress of various components of the Metro Flood Diversion Project and noted the Cass County Joint Water Resource District continues to acquire Flowage Easements for the project. Discussion was held on the future of the Drain #30 channel that will be east the Diversion Channel of the Metro Flood Diversion Project. Tom Fuchs stated remnant legal assessment drains will remain in place for local drainage and will also connect to the toe drains of the Diversion Channel.

North Dakota Insurance Reserve Fund – proxy for annual meeting

A motion was made by Manager Gust, seconded by Manager Sundberg and unanimously carried to authorize the Secretary-Treasurer to sign and return the North Dakota Insurance Reserve Fund proxy for Rush River Water Resource District.

Rush River (Drain #12) – release of an *Easement* in the SE 1/4 of Section 30 in Harwood Township

Mr. Lysne discussed a request from a surveyor working with a property owner on a new residential home construction project in the SE 1/4 of Section 30 in Harwood Township. They would like the Water Resource District to consider releasing an existing *Easement* on the Rush River to facilitate construction of the home. The *Easement* includes additional area for disposing material that is not essential to the Water Resource District. The Board discussed historic erosion issues on the Rush River and proposed a waiver to be signed by the property owner to release any liability related to potential future Rush River erosion issues on the property. The Board also discussed the idea of the property owner purchasing the *Easement* from the Water Resource District with the waiver.

It was moved by Manager Sundberg and seconded by Manager Gust to authorize the Water Resource District Engineer and Attorney to correspond with the surveyor and request \$20,000 to release the *Easement* in the SE 1/4 of Section 30 of Harwood Township on parcel 44-0000-01086-000, including a waiver signed by the property owner to release any liability related to potential future Rush River (Drain #12) erosion issues on the property. Upon roll call vote, the motion carried unanimously.

Drain #52 – improvements

David Baumler stated he has been in discussions with property owners regarding a potential Drain #52 reconstruction project. The Board discussed the matter and indicated a petition and \$50,000 deposit would be needed to begin the process as the project would likely require a vote of the Drain #52 assessment district. Mr. Baumler indicated he will discuss the petition and deposit with property owners in the Drain #52 assessment district and will contact the Board if they wish to move forward with the project.

Bills

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

2024 budget and 2023 maintenance levy assessments – emergency snow removal funding

Discussion was held on the possibility of appropriating funds for emergency snow removal efforts on various Rush River Water Resource District facilities in the 2024 budget.

2023 flood outlook (continued)

Chairman Hejl updated the Board on the emergency snow removal efforts on the Rush River and noted various facilities in Rush River Water Resource District are now conveying water.

Adjournment

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

APPROVED:

William A. Hejl
Chairman

ATTEST:

Carol Harbeke Lewis
Secretary-Treasurer