

MINUTES OF VIRTUAL / CONFERENCE CALL MEETING
SOUTHEAST CASS WATER RESOURCE DISTRICT
ORIGINATING AT THE CASS COUNTY HIGHWAY DEPARTMENT
WEST FARGO, NORTH DAKOTA
MAY 9, 2023

A virtual / conference call meeting of the Southeast Cass Water Resource District was held on May 9, 2023, at 8:30 a.m.

Present were Keith Weston, Chairman; Dave Branson, Manager; Rick Steen, 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.; Donald Kress and Eric Hodgson, City of Fargo; Duane Breitling, Cass County Commissioner; Tom Soucy, Cass County Highway Department; Joel Luing, City of Horace; David Braaten, Normanna Township property owner; and Jeff Phillip, Warren Township property owner.

Approval of agenda

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

Minutes

It was moved by Manager Steen, seconded by Manager Branson and unanimously carried to approve the minutes of the April 11, 2023, meeting.

Sheyenne-Maple Flood Control Project #2 – assessment on parcel 02-3000-01240-012 for West Fargo Improvement District No. 02-2250 – property disposal options

Chairman Weston discussed a meeting with the Mayor of West Fargo regarding the assessment on parcel 02-3000-01240-012 for West Fargo Improvement District No. 02-2250. The City of West Fargo will discuss the matter internally, including if the City has a use for the parcel.

Sheyenne-Maple Flood Control Projects #1 and #2 – spring operations

Brady Woodard updated the Board on the current condition of Sheyenne-Maple Flood Control Projects #1 and #2 following the spring melt. The City of West Fargo is currently working on removing debris in the facilities, with the help of a contractor.

Proposed sanitary sewer for Commerce on I-29

A motion was made by Manager Steen and seconded by Manager Branson to authorize Moore Engineering, Inc. to prepare legal descriptions regarding right of way needed for the proposed sanitary sewer for Commerce on I-29 project. Upon roll call vote, the motion carried unanimously.

Drain #3 – Bison Village shared use path located north of 32nd Avenue N and east of the 10th Street N cul-de-sac

Discussion was held on the process regarding the cities of Fargo and West Fargo contracting work related to Water Resource District facilities. The Board indicated any contracted work related to Water Resource District facilities should be communicated with the Water Resource District.

Eric Hodgson discussed the Bison Village shared use path project located north of 32nd Avenue N and east of the 10th Street N cul-de-sac regarding Drain #3. The project is a federal-aid project, and the City of Fargo will be sending out a solicitation of views letter in the near future. Mr. Hodgson indicated the City of Fargo will continue to communicate regarding this project and other projects within the City of Fargo that involve Water Resource District facilities.

Drain #10 – City of Fargo special assessment estimate and information regarding Paving and Utility Rehab / Reconstruction – Improvement District No. BR-23-H – Parcel 01-8690-00200-000 at 3173 Main Avenue (north of Main Avenue)

Discussion was held on the City of Fargo special assessment estimate and information regarding Paving and Utility Rehab / Reconstruction – Improvement District No. BR-23-H – Parcel 01-8690-00200-000 at 3173 Main Avenue regarding Drain #10. Kurt Lysne indicated the City of Fargo identified the site as a parking area and noted it may be an undocumented encroachment on Drain #10. The City of Fargo recommended the Water Resource District investigate the potential encroachment and request an exemption from the special assessment regarding Paving and Utility Rehab / Reconstruction – Improvement District No. BR-23-H.

It was moved by Manager Branson and seconded by Manager Steen to authorize the Secretary-Treasurer to contact the City of Fargo to request an exemption from the special assessment regarding Paving and Utility Rehab / Reconstruction – Improvement District No. BR-23-H – Parcel 01-8690-00200-000 at 3173 Main Avenue regarding Drain #10. Upon roll call vote, the motion carried unanimously.

The Board directed Mr. Fredricks to research if there is an existing Agreement regarding the parking lot encroachment at 3173 Main Avenue regarding Drain #10.

Drain #27 Improvement Project No. 2023-01 - 64th Avenue S to 100th Avenue S (Cass County Highway 14)

The Board reviewed information from the North Dakota Department of Water Resources (NDDWR) regarding *Application for Surface Drain No. 6202*, previously submitted by the

Southeast Cass Water Resource District regarding Cass County Drain No. 27 Improvement Project No. 2023-01. The project will include reconstruction and improvements to approximately three miles of Drain No. 27 in Sections 8, 17, and 20 of Stanley Township. The Project will include channel improvements, side slope improvements, culvert replacements, and road crossing improvements. The Project will begin at 64th Avenue S, and will continue south for three miles, and will include crossing improvements at the intersections of 64th Avenue S and 88th Avenue S. 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. 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. Further, the project will provide more capacity in the Drain No. 27 channel and will stabilize the channel side slopes. Ultimately, the project will ensure efficient drainage despite urbanization along the Drain No. 27 corridor. Mr. Lysne concluded the project will not result in downstream impacts. In fact, the project will improve drainage in the area and will alleviate summer rainfall flooding issues in the project watershed.

Manager Steen 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. 6202* regarding Cass County Drain No. 27 Improvement Project No. 2023-01, subject to any conditions attached by the NDDWR; and to authorize the Secretary-Treasurer to sign *Permit for Surface Drain No. 6202*. Manager Branson seconded the motion. Upon roll call vote, the motion carried unanimously.

A motion was made by Manager Branson and seconded by Manager Steen to approve the *Resolution Authorizing Cass County Drain No. 27 Improvement Project No. 2023-01*. Upon roll call vote, the motion carried unanimously.

Mr. Lysne reported adjacent property owners have been contacted regarding the project. The next step for the project is to acquire the minimal right of way needed to complete the project. Mr. Lysne indicated the project could potentially be bid and construction started this year.

Discussion was held on the installation of a temporary crossing over Drain #27 on the north side of Lots 13 and 14, Block 1, Cub Creek First Addition. Joel Luing indicated the contractor has removed the crossing and appears to have ceased moving equipment across the channel without Water Resource District authorization. The Board directed Mr. Woodard to inspect the Drain #27 channel on the north side of Lots 13 and 14, Block 1, Cub Creek First Addition regarding the unauthorized temporary crossing and potential damage to the facility.

Drain #27 – Encroachment Agreement for Living Waters Lutheran Church and 4540 Investments LLC – east of 45th Street S on the south side of the drain

Discussion was held on the *Encroachment Agreement* for Living Waters Lutheran Church and 4540 Investments LLC east of 45th Street S on the south side of Drain #27. The property owner is platting the property as Southwest Fargo Mission Second Addition and will be granting an *Easement* to the Water Resource District to comply with the City of Fargo's 175' setback ordinance. The *Encroachment Agreement* is related to construction of a parking lot within the *Easement* area. Mr. Lysne noted right of way is necessary in this area for future Drain #27 projects. Manager Steen questioned the need to prevent pushing snow into the drain within the easement area as Drain #27 is highly susceptible to slides. The City of Fargo will communicate with the property owners on the matter. The Board directed Mr. Fredricks to prepare an *Easement* regarding Drain #27 right of way related to the Southwest Fargo Mission Second Addition. The *Easement* and the *Encroachment Agreement* will be considered at a future meeting.

Drain #35 – proposed intercept culvert and addition of a sluice gate at the west end of Section 10 in Normanna Township

Mr. Woodard discussed the cost estimate for a proposed intercept culvert and flap gate or sluice gate at the west end of Section 10 in Normanna Township on Drain #35. David Braaten indicated he is willing to cost-share on the project with the Water Resource District. Mr. Braaten stated the Drain #35 flap gate leaks and he is interested in a sluice gate to prevent backflow of the Sheyenne River into Drain #35. The Board discussed a potential Agreement with Mr. Braaten to operate the sluice gate if one is installed on Drain #35. The Board directed Mr. Woodard to discuss with Mr. Braaten where to install a potential sluice gate and bring an estimate for the project to a future meeting for discussion.

It was moved by Manager Branson and seconded by Manager Steen to approve the installation of an 18-inch intercept culvert to be purchased by David Braaten and to purchase and install a flap gate in the NW 1/4 of Section 10 in Normanna Township. Upon roll call vote, the motion carried unanimously.

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

Mr. Lysne reported Braun Intertec Corporation recently completed the geotechnical report regarding the repair of the Drain #47 slides in the NE 1/4 of Section 10 and the NW 1/4 of Section 11 in Pleasant Township. Moore Engineering, Inc. will bring an analysis of the report and a cost estimate for the project to a future meeting for discussion.

Utility Permit for Insight Technologies, dba Read iTech Fiber to install one new fiber optic cable under Drain #21C between Sections 23 and 24 in Warren Township on the south side of 45th Street SE

A motion was made by Manager Branson and seconded by Manager Steen to approve the *Utility Permit* for Insight Technologies, dba Read iTech Fiber to install one new fiber optic cable under Drain #21C between Sections 23 and 24 in Warren Township on the south side of 45th Street SE, with input from the Water Resource District Engineer. Upon roll call vote, the motion carried unanimously.

Utility Permit for Sparklight to install 1.5" duct with coax under Drain #27, east of 42nd Street S on the south side of the drain (needs to be relocated due to construction of a new lift station last year)

A motion was made by Manager Branson and seconded by Manager Steen to approve the *Utility Permit* for Sparklight to install 1.5" duct with coax under Drain #27, east of 42nd Street S on the south side of the drain, with input from the Water Resource District Engineer. Upon roll call vote, the motion carried unanimously.

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

Discussion was held on the Fargo Department of Planning and Development June Preliminary Packet. Roger Kluck updated the Board on the Interstate Business District Addition adjacent to Drain #40 in Section 15 of Reed Township. Discussion was held on future crossings of Drain #40 for access to Interstate Business District Addition.

Mr. Luing updated the Board on construction in the City of Horace. Many roads are currently closed or will be soon for reconstruction. Mr. Luing noted the public has been driving on 81st Street S instead of using the signed detour. Mr. Woodard noted the road has barricades and is closed to let the road dry out. The City of West Fargo is planning to blade the road soon. Mr. Lysne noted a Section 408 Permit will need to be obtained from the Corps of Engineers if paving is planned to occur on Sheyenne-Maple Flood Control District #2 property.

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

2023 facility inspections

Mr. Woodard inquired about conducting facility inspections following the spring flood event. It was moved by Manager Branson, seconded by Manager Steen and unanimously carried to authorize Moore Engineering, Inc. to conduct a 2023 inspection of Southeast Cass Water Resource District facilities. Upon roll call vote, the motion carried unanimously.

Drain #21C – culverts at Cass County Highway #16

Jeff Phillip stated he believes the Drain #21C culverts at Cass County Highway 16 are allowing an increased flow of water downstream, impacting his property in Section 13 of Warren Township. Mr. Phillip suggested increased culvert capacity through Cass County Highway 6 and through his property. Tom Soucy stated the Drain #21C culverts on Cass County Highway 16 were installed to mitigate the elevation raise of Cass County Highway 16. A hydraulic analysis was conducted for the project. Mr. Lysne noted during the spring melt, water backs up and breaks out of the Drain #21C channel; however, Drain #21C will drain efficiently into the Metro Flood Diversion Project channel when it is operational.

A motion was made by Manager Branson and seconded by Manager Steen to authorize Moore Engineering, Inc. to do the following regarding Drain #21C:

- Analyze the hydraulic analysis conducted for the Cass County Highway 16 road raise project and compare the culvert capacities at Cass County Highway 16 and Cass County Highway 6
- Obtain an estimate from a contractor to repair the damaged sluice gates

Upon roll call vote, the motion carried unanimously

2024 budget and 2023 maintenance levy assessments

The Board tabled discussion on the 2024 budget and 2023 maintenance levy assessments until the next meeting as the Southeast Cass Water Resource District Master Plan is currently being updated.

Bills

It was moved by Manager Branson and seconded by Manager Steen to approve payment of Check #15261, the wire transfers and the electronic funds transfers, as presented. Upon roll call vote, the following Managers voted in favor: Weston, Branson and Steen. The Chairman declared the motion passed.

Drain #45 – tree and debris removal between Main Avenue and the Burlington Northern Santa Fe Railway Company tracks

Mr. Woodard discussed a contractor's estimate to remove trees and debris in the Drain #45 channel between Main Avenue and the Burlington Northern Santa Fe Railway Company tracks. It was moved by Manager Steen and seconded by Manager Branson to approve tree and debris removal in the Drain #45 channel between Main Avenue and the Burlington Northern Santa Fe Railway Company tracks. Upon roll call vote, the motion carried unanimously.

Office remodel update / future meeting location

The Secretary-Treasurer updated the Board on the office remodel and noted future Southeast Cass Water Resource District meetings are scheduled to be held at the West Fargo Public Works building at 810 12th Avenue NW in West Fargo.

North Dakota Water Resource Districts Association – 2023 Joint Summer Water Meeting

The North Dakota Water Resource Districts Association 2023 Joint Summer Water Meeting and Executive Briefing is scheduled for July 19-20 in Dickinson, North Dakota.

Missouri River Joint Water Resource District - Educate Advocate Engage program

Brief discussion was held on a brochure received regarding the Missouri River Joint Water Resource District Educate, Advocate, and Engage program. The Board indicated they will discuss potentially inviting the program Manager, Ken Royce, to speak about the program at a future Cass County Joint Water Resource District meeting.

Adjournment

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

APPROVED:

Keith Weston
Chairman

ATTEST:

Carol Harbeke Lewis
Secretary-Treasurer