

MINUTES OF VIRTUAL / CONFERENCE CALL MEETING
SOUTHEAST CASS WATER RESOURCE DISTRICT
ORIGINATING AT WEST FARGO PUBLIC WORKS
WEST FARGO, NORTH DAKOTA
JUNE 13, 2023

A virtual / conference call meeting of the Southeast Cass Water Resource District was held on June 13, 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, Levi Hanson and Brandon Oye, Moore Engineering, Inc.; Mike Opat, Houston Engineering, Inc.; Jim Hausauer, Roger Kluck, Donald Kress and Luke Morman, City of Fargo; Brian Matzke, City of West Fargo; Adam Spelhaug, City of Kindred; Kris Bakkegard, Diversion Authority Director of Engineering; Tom Fuchs, Diversion Authority Senior Construction Manager; Kellen Grubb, AE2S, Chris Mack, Christianson Companies; and Lindsay Koffler, American Enterprises, Inc.

Approval of agenda

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

Minutes

It was moved by Manager Steen, seconded by Manager Branson and unanimously carried to approve the minutes of the May 9, 2023, meeting.

Proposed sanitary sewer for Commerce on I-29

Jim Hausauer indicated the City of Fargo hopes to have the Agreement with the Commerce on I-29 representatives considered at the next Fargo City Commission meeting.

Drain #3 – Encroachment Agreement with MA Auto Properties, LLC

Sean Fredricks noted the property owner signed the *Encroachment Agreement* regarding parking of vehicles and construction of a fence on Drain #3 right of way. Kurt Lysne discussed the survey submitted by the property owner that will be an Exhibit to the *Agreement*.

A motion was made by Manager Branson and seconded by Manager Steen to approve and authorize the Chairman to sign the *Encroachment Agreement* with MA Auto Properties, LLC regarding Drain #3. Upon roll call vote, the motion carried unanimously.

Drain #10 – slide repairs north of Cass County Highway 20

Mr. Lysne and Alexa Ducioame discussed a cost estimate and preliminary plans based on recommendations from Braun Intertec Corporation to repair slides on Drain #10 north of Cass County Highway 20. The Board discussed the cost estimate for the project in more detail. Mr. Lysne said the next step is to prepare plans and specifications and prepare a contract Agreement for the project.

A motion was made by Manager Branson and seconded by Manager Steen to authorize the following regarding the Drain #10 slide repairs north of Cass County Highway 20:

- Moore Engineering, Inc. to finalize plans and specifications and advertise the project for bids
- The Water Resource District Attorney to prepare a construction contract

Upon roll call vote, the motion carried unanimously.

Drain #10 – Sysco North Dakota, Inc. encroachment north of 12th Avenue N

Discussion was held on a potential encroachment by Sysco North Dakota, Inc. on Drain #10 right of way north of 12th Avenue N. Mr. Lysne said there is asphalt on Drain #10 right of way and slides have occurred at the location. A retaining wall will need to be constructed to protect Drain #10 from future damage if the asphalt remains, or the asphalt could be removed, and the Drain #10 side slopes laid back. Mr. Fredricks said discussions were previously held with Sysco North Dakota, Inc. regarding an encroachment on Drain #10 right of way however an Agreement was not finalized regarding the matter.

It was moved by Manager Steen and seconded by Manager Branson to approve and authorize the Water Resource District Attorney and Engineer to work with the Secretary-Treasurer to send a letter to Sysco North Dakota, Inc. requesting communication before the July 11, 2023, Water Resource District meeting regarding an encroachment on Drain #10 north of 12th Avenue N. Upon roll call vote, the motion carried unanimously.

Drain #21 – West Fargo Lagoon Cell 7 - outlet improvements

Mr. Lysne reported Drain #21 from 12th Avenue NW to the outlet at the Sheyenne River is deteriorating and should be improved. Less water will flow through the drain upon completion of the Metro Flood Diversion Project; however, the drain will continue to handle interior drainage from a large area in the City of West Fargo.

Brian Matzke said the City of West Fargo is concerned slides on the Drain #21 channel near West Fargo Lagoon Cell 7 are affecting the integrity of the sanitary sewer force main to the City of Fargo. Mr. Matzke said the City of West Fargo is willing to assist in repair of Drain #21 slides near West Fargo Lagoon Cell 7 to help ensure the slides do not impact the force main. Mr. Lysne suggested proceeding with a geotechnical report to determine if there is a short-term solution regarding the Drain #21 slides at West Fargo Lagoon Cell 7 that can help support the force main at the location.

It was moved by Manager Branson and seconded by Manager Steen to authorize Moore Engineering, Inc. to hire a contractor to complete a geotechnical study of Drain #21 slides near West Fargo Lagoon Cell 7 to determine a solution to protect the City of West Fargo sanitary sewer force main at the location. Upon roll call vote, the motion carried unanimously.

The Board will continue discussions on a potential long-term study of Drain #21 at a future meeting.

Drain #27 – slides west of I-29 and west of 45th Street S

Mr. Lysne reported Braun Intertec Corporation is working on the geotechnical report for the repair of the Drain #27 slides west of I-29 and west of 45th Street S. Discussion was held on the location of the slides compared to previous slides in the same area. Mr. Lysne indicated the side slopes of Drain #27 in this area are unstable for a number of reasons including discharge of sump pumps from the adjacent homes onto the side slopes. Sump pumps need to be discharged into the street to be collected and outlet into the drain without damaging the drain.

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

Moore Engineering, Inc. continues to prepare the plans for Drain #27 Improvement Project No. 2023-01 from 64th Avenue S to 100th Avenue S. Discussion was held on valuation of right of way needed for the project. Mr. Lysne said agricultural berms are not proposed as part of the project as the area will likely be developed in the near future. The material will instead be stockpiled on properties where property owners wish to use the material.

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

It was moved by Manager Branson and seconded by Manager Steen to approve and authorize the Chairman to sign the *Permanent Drain Easement* with Living Waters Lutheran Church regarding Drain #27. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Steen and seconded by Manager Branson to approve and authorize the Chairman to sign the *Encroachment Agreement* with Living Waters Lutheran Church and 4540 Investments LLC regarding construction of a parking lot within the *Permanent Drain Easement* area regarding Drain #27, contingent upon execution and recording of the *Permanent Drain Easement* and its inclusion on the Southwest Fargo Mission Second Addition plat. Upon roll call vote, the motion carried unanimously.

Chris Mack indicated he would coordinate signing the necessary documents.

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

Ms. Ducioame reported the cost estimate for a proposed intercept culvert and sluice gate at the west end of Section 10 in Normanna Township on Drain #35 is \$8,500. David Braaten remains willing to cost-share on the project with the Water Resource District.

It was moved by Manager Branson and seconded by Manager Steen to approve the installation of an 18” intercept culvert to be purchased by David Braaten and that Southeast Cass Water Resource District purchase and pay for the installation of a sluice gate on the pipe on Drain #35 in the NW 1/4 of Section 10 in Normanna Township. Upon roll call vote, the motion carried unanimously.

Drain #40 – Laverne’s Second Addition – Agreement (Proximity of Airport and Noise Attenuation)

It was moved by Manager Steen and seconded by Manager Branson to approve and authorize the Chairman to sign the *Agreement (Proximity of Airport and Noise Attenuation)* with the City of Fargo for Drain #40 regarding Laverne’s Second Addition. Upon roll call vote, the motion carried unanimously.

Drain #40 – Interstate Business District Addition – Temporary Access Agreement

Discussion was held on Interstate Business District Addition adjacent to Drain #40 in Section 15 of Reed Township. During construction of improvements related to Interstate Business District Addition, neighboring Opp Construction, LLC will lose access to their property. Opp Construction, LLC is inquiring if the Water Resource District will allow temporary access across the Water Resource District lot in Interstate Business District Addition to Opp Construction, LLC until construction of 44th Street North is completed, at which time the temporary access road would be removed by Opp Construction, LLC. The Board noted vegetation should also be reestablished following removal of the temporary access road.

A motion was made by Manager Branson and seconded by Manager Steen to approve and authorize the Chairman to sign the *Temporary Access Agreement* with ARD Properties, LLC, North Fargo Land, LLC and Opp Construction LLC to provide access to Opp Construction, LLC during construction of 44th Street North for Interstate Business District Addition regarding Drain #40. Upon roll call vote, the motion carried unanimously.

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

Mr. Lysne reported vegetation is now established regarding Drain #40 Channel Improvements Project No 2019-01 Phase II. The contractor is reviewing the final pay application for the project.

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

Alexa Ducioame discussed preliminary plans and cost estimates to repair the Drain #47 slides in the NE 1/4 of Section 10 and the NW 1/4 of Section 11 in Pleasant Township. The Board discussed funding for the project and noted the Drain #47 slide in the NE 1/4 of Section 10 in Pleasant Township needs to be repaired as it is threatening a roadway. Tom Fuchs noted the roadway in the NE 1/4 of Section 10 in Pleasant Township will be utilized later this year by the Corps of Engineers' contractor for construction of the Wild Rice River control structure. Mr. Fuchs encouraged the Board to coordinate the timing of the slide repair with the Corps of Engineers. Mr. Lysne noted the road will need to be closed to repair the slide. Following discussion on the project, the Board directed Moore Engineering, Inc. to coordinate the timing of the slide repairs with the Corps of Engineers and discuss the project with contractors to better estimate the cost of the project.

Drain #50 – Metro Flood Diversion Project interface

Discussion was held on the interface between Drain #50 and the Metro Flood Diversion Project. Tom Fuchs 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. In the case of Drain #50, the Metro Flood Diversion Project work limits are in the middle of 112th Avenue S, so the Metro Flood Diversion Authority is proposing the transition between Drain #50 and the Diversion Channel of the Metro Flood Diversion Project be located on the north side of the culverts on 112th Avenue S, which is within the work limits for the Metro Flood Diversion Project. The Water Resource District would complete the remaining Drain #50 transition work that is outside of the Metro Flood Diversion Project work limits on behalf of the Metro Flood Diversion Authority. The Water Resource District would own the transition between Drain #50 and the Diversion Channel, and the cost to complete the transition would be reimbursed by the Diversion Authority.

The Board consented to the concept of the Water Resource District constructing the transition between Drain #50 and the Diversion Channel of the Metro Flood Diversion Project on behalf of the Metro Flood Diversion Authority and authorized the Water Resource District Attorney to amend the *Memorandum of Understanding* with the Metro Flood Diversion Authority regarding the matter.

Drain #60 – Maintenance Agreement with the City of Kindred

Discussion was held on a proposed *Maintenance Agreement* with the City of Kindred regarding Drain #60. Brandon Oye inquired about potential funding or cost-share from the Water Resource District for the City of Kindred to take on maintenance of Drain #60 within City of Kindred limits. The Board indicated similar agreements with other cities regarding maintenance of urban drains do not include funding or cost-share for maintenance work completed by the city. The Drain #60 assessment district does not

have adequate funding to provide City of Kindred to do extra maintenance work. Adam Spelhaug stated the City of Kindred is interested in taking on extra maintenance work on Drain #60 they believe is necessary; however, it won't be feasible without funding from the Water Resource District.

A motion was made by Manager Steen and seconded by Manager Branson to approve and authorize the Chairman to sign the *Maintenance Agreement* with the City of Kindred regarding Drain #60. Upon roll call vote, the motion carried unanimously.

Wild Rice River bridge on North Dakota Highway 46 west of I-29 – North Dakota Department of Transportation request to remove trees built up in the channel

Discussion was held on a request from the North Dakota Department of Transportation to remove trees built up in the Wild Rice River channel at the bridge on North Dakota Highway 46 west of I-29. The Board discussed coordinating with Richland County Water Resource District on the project and sending a letter to the State Water Commission regarding the importance and need for snagging and clearing, including the information from previous snagging and clearing efforts and on the current need to remove debris built up in the Wild Rice River channel at the bridge on North Dakota Highway 46.

It was moved by Manager Branson and seconded by Manager Steen to authorize the following regarding snagging and clearing:

- The Secretary-Treasurer to submit cost-share requests to the State Water Commission for Sheyenne River Snagging and Clearing 2023-2024
- The Secretary-Treasurer to submit cost-share requests to the State Water Commission for Wild Rice River Snagging and Clearing 2023-2024
- To coordinate with Richland County Water Resource District to send a letter to the State Water Commission on the importance and need for snagging and clearing, with input from the Water Resource District Engineer

Upon roll call vote, the motion carried unanimously.

Utility Permits

A motion was made by Manager Branson and seconded by Manager Steen to approve the following *Utility Permits*, with input from the Water Resource District Engineer:

- For VAL-ED Joint Venture LLP dba 702 Communications to install fiber optic cable inside a 1 1/4" HDPE duct under Drain #27 on the north side of 44th Avenue South
- For Cass County Electric Cooperative to install electric primary cable under the Sheyenne River on the north side of 64th Avenue South, contingent upon receipt of a cross-section for the crossing approved by the Water Resource District Engineer
- For Cass Rural Water Users District to install a water supply pipeline and a water return pipeline under Drain #45 north of the south boundary of Section 4 in Reed Township

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 July Preliminary Packet. Donald Kress updated the Board on the status of the Interstate Business District Addition plat. The Fargo City Commission will consider the plat at their next meeting. Mr. Kress will update the Board on the status of the plat at a future meeting.

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

It was moved by Manager Steen and seconded by Manager Branson to authorize the Secretary-Treasurer to submit comment on the following subdivision applications to the West Fargo Planning and Zoning Commission, with input from the Water Resource District Engineer:

- Goldenwood Seventh Addition
- Sandhills Seventh Addition
- The Wilds Twenty-third Addition

Upon roll call vote, the motion carried unanimously.

2024 budget and 2023 maintenance levy assessments

The Board discussed the draft 2024 budget. A motion was made by Manager Steen and seconded by Manager Branson to approve the Southeast Cass Water Resource District 2024 budget, as discussed, subject to further review and concurrence upon distribution of the updates. Upon roll call vote, the motion carried unanimously.

Manager Branson left the meeting at this time.

The Board next discussed the 2023 maintenance levy assessments. A motion was made by Manager Steen and seconded by Chairman Weston to approve the Southeast Cass Water Resource District 2023 maintenance levy assessments, as recommended.

Request from a West Fargo Public Schools educator for a scholarship to cover the registration fee for the Project WET 2023 James and Sheyenne River Watershed Institute on July 17-21, 2023

It was moved by Manager Steen and seconded by Manager Weston to approve a scholarship to cover the registration fee for the West Fargo Public Schools educator to participate in the Project WET 2023 James and Sheyenne River Watershed Institute on July 17-21, 2023. Upon roll call vote, the motion carried unanimously.

Bills

It was moved by Manager Steen and seconded by Chairman 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: Weston and Steen. Manager Branson was absent. The Chairman declared the motion passed.

Tour of facilities

The Board tentatively discussed touring various Southeast Cass Water Resource District facilities on July 14, 2023, at 8:00 a.m.

Adjournment

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

APPROVED:

Keith Weston
Chairman

ATTEST:

Carol Harbeke Lewis
Secretary-Treasurer