

MINUTES OF VIRTUAL / CONFERENCE CALL MEETING
SOUTHEAST CASS WATER RESOURCE DISTRICT
ORIGINATING AT THE CASS COUNTY HIGHWAY DEPARTMENT
HERITAGE CONFERENCE ROOM
WEST FARGO, NORTH DAKOTA
MAY 14, 2024
8:30 A.M.

A virtual / conference call meeting of the Southeast Cass Water Resource District was held on May 14, 2024, at 8:30 a.m.

Present were Keith Weston, Chairman; Dave Branson, Manager; Rick Steen, Manager; Melissa Hinkemeyer, Secretary-Treasurer; Leilei Bao, Accountant; Carolyn Fiechtner, Administrative Assistant; Sean M. Fredricks, Ohnstad Twichell, P.C.; Kurt Lysne, Alexa Ducioame, Levi Hanson, Brady Woodard, Kyle Volk, and Nick Gludt, Moore Engineering, Inc.; Mike Opat, Houston Engineering, Inc.; Duane Breitling, Cass County Commissioner; Alayna Espeseth, Jim Hausauer, Donald Kress, and Jason Satterlund, City of Fargo; and Joel Luing, City of Horace.

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 and seconded by Manager Branson to approve the minutes of the April 9 and 30, 2024, meetings, as presented. Upon roll call vote, the motion carried unanimously.

Sheyenne-Maple Flood Control Project #1 and Drain #45 – Access Agreement with Cargill, Inc. for a spill drill

Cargill, Inc. has requested the Water Resource District's permission to enter upon, over, across, and through portions of the District's right of way for Sheyenne-Maple Flood Control Project #1 and portions of the District's Drain #45 right of way for purposes of conducting training, including a practice drill for purposes of responding to a chemical spill.

Manager Branson moved to approve and authorize the Chairman to sign the *Access Agreement* with Cargill, Inc. for a spill drill regarding Sheyenne-Maple Flood Control Project #1 and Drain #45. Manager Steen seconded the motion. Upon roll call vote, the motion carried unanimously.

Drain #45 – Metro COG request to install a pedestrian counter

Metro COG is seeking permission to install a pedestrian counter on Drain #45 right of way

between 7th avenue E and 10th Avenue E, West Fargo. The counter will assist with decision-making regarding maintenance and expansion of the current pedestrian infrastructure in the area.

Manager Steen moved to authorize the Secretary to respond via email to the Metro Cog representative granting temporary placement of a pedestrian counter on Drain #45 right of way between 7th avenue E and 10th Avenue E, West Fargo. Manager Branson seconded the motion. Upon roll call vote, the motion carried unanimously.

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

Brady Woodard stated Jodi Kallias continues to work with the City of West Fargo regarding her proposed development related to her proposed purchase of parcels 02-3000-012540-012 and 02-3000-01212-000 from Southeast Cass Water Resource District. Surveys have been completed for these parcels and legal descriptions are being prepared. Mr. Woodard noted he will work with the Water Resource District Attorney to prepare draft *Purchase Agreements* regarding the sale of parcels 02-3000-012540-012 and 02-3000-01212-000 regarding Sheyenne-Maple Flood Control Project #2 for future Board review and consideration.

Sheyenne-Maple Flood Control Project #2 – purchase of OINs 726Y2 and 730Y2 from the Cass County Joint Water Resource District

Manager Branson moved to approve and authorize the Chairman to sign the *Purchase Agreement* and the *Access Easement* with the Cass County Joint Water Resource District regarding the purchase of OINs 726Y2 and 730Y2 for Sheyenne-Maple Flood Control Project #2. Manager Steen seconded the motion. Upon roll call vote, the motion carried unanimously.

Devils Lake pumping 2024

The Board discussed the current and anticipated pumping of Devils Lake this year.

Southeast Cass Sewer District Improvement Project No. 89-1 – request from the City of Fargo to eliminate the septic tank maintenance and pumping

Jim Hausauer stated the City of Fargo is requesting an amendment to an Agreement from 1989 regarding Southeast Cass Sewer District Improvement Project No. 89-1 that states the City of Fargo will maintain and pump septic tanks for designated areas within the project boundaries. The City of Fargo is requesting the Water Resource District amend the language in the Agreement to remove the septic tank maintenance and pumping language. Mr. Hausauer indicated the City of Fargo believes the septic tanks are personal property and the monthly utility fees do not cover the cost of pumping the tanks.

After much discussion, the Board asked Mr. Hausauer to provide more information on what will be communicated to the affected property owners and what communications will be used to inform the property owners of any changes that may occur, and provide information on whether the property owners would prefer rate increases to cover the costs of septic tank pumping or pumping the septic tanks on their own. Mr. Hausauer indicated

he will discuss the matter with the affected cities to gather their input on the matter and bring the requested information to a future meeting for continued discussion.

Drain #3 – Harvest Church Addition encroachment south of Main Avenue

Manager Steen motioned to approve and authorize the Chairman to sign the *Encroachment Agreement* with MEC Partners, LLP for the Harvest Church Addition encroachment south of Main Avenue regarding Drain #3. Manager Branson seconded the motion. Upon roll call vote, the motion carried unanimously.

Drain #3 – Letter from Apex Engineering, Inc. regarding surveying at Main Avenue

Kurt Lysne discussed a letter from Apex Engineering requesting authorization to conduct topographic surveys and environmental site assessments on Drain #3 right of way at Main Avenue for a North Dakota Department of Transportation (NDDOT) and City of Fargo project regarding work on Main Avenue from 25th Street to University Drive.

Manager Branson moved and Manager Steen seconded to authorize the Secretary to send an email to Apex Engineering, Inc. acknowledging and approving surveying and environmental site assessments on Drain #3 right of way for NDDOT Project No. NHU-CPU-8-010(046)938, PCN 23199 and City of Fargo Project No. BR-23-A, Main Avenue work from 25th Street to University Drive. Upon roll call vote, the motion carried unanimously.

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

Mr. Woodard stated the contractor is moving equipment onto the site and preparations are beginning for the Drain #10 slide repairs project north of Cass County Highway 20.

Drain #10 – Channel Improvements 2024 Project

Manager Steen moved to conclude no public hearing is necessary regarding *Application for Surface Drain No. 6290*; to adopt Moore Engineering's responses to the eight elements under 89-02-01-09.2 of the North Dakota Administrative Code; to conclude the project will not result in adverse downstream impacts; to approve *Application for Surface Drain No. 6290* regarding Cass County Drain No. 10, subject to any conditions attached by the North Dakota Department of Water Resources; and to authorize the Secretary-Treasurer to sign *Permit for Surface Drain No. 6290*. Manager Branson seconded the motion. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Branson and seconded by Manager Steen to authorize Moore Engineering, Inc. to advertise the Drain #10 Channel Improvements 2024 Project for bids. Upon roll call vote, the motion carried unanimously.

Drain #21 – slides between 12th and 19th Avenues NW

Alexa Ducioame updated the Board on the Drain #21 slide repairs between 12th and 19th Avenues NW and reported the soil stability is the biggest obstacle for the drain. Braun Intertec Corp. developed a profile of the Brenna soil formation in the project area. Moore Engineering, Inc. is investigating moving the channel bottom above the Brenna formation for increased stability and will bring more information on a proposed drain profile to a

future meeting for further discussion.

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

Ms. Ducioame updated the Board on Drain #27 slide repairs west of I-29 and west of 45th Street S and discussed the bids received for the above referenced project. The engineer's base bid estimate based on the bidding quantities was \$746,598.00. The apparent low bidder for the project is Dirt Dynamics, LLC, with a bid of \$ 651,650.00. Moore Engineering recommends that a contract be awarded to Dirt Dynamics, pending a review of the bid documents by the Water Resource District Attorney.

It was moved by Manager Branson and seconded by Manager Steen to award and authorize the Chairman to sign the contract for repair of the Drain #27 slides west of I-29 and west of 45th Street S to Dirt Dynamics, LLC, for the low bid of \$651,650.00, pending review of the bid documents by the Water Resource District Attorney. Upon roll call vote, the motion carried unanimously.

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

Ms. Ducioame provided the Board with an update on the acquisition of right of way for the Drain #27 Improvement Project No. 2023-01 (64th Avenue S to 100th Avenue S). Once right of way acquisition is completed, the project can be bid.

The Board discussed possible construction of a concrete channel liner for Drain #27 in the project area with the significant development occurring in the area. The Board directed Moore Engineering, Inc. to prepare a cost estimate for a concrete channel liner for Drain #27 within the City of Horace.

Drain #27 – slide near the confluence of Drain #53

Ms. Ducioame stated Braun Intertec Corp. is currently completing a site visit for the geotechnical report regarding the Drain #27 slide near the confluence of Drain #53.

Drain #27 / Rose Coulee – tree removal in the channel near Timberline Drive

Discussion was held on tree removal needs in the Drain #27 / Rose Coulee channel near Timberline Drive. Mr. Woodard estimated \$10,000 to remove deadfall in the Drain #27 channel near Timberline Drive. The Board discussed a more comprehensive tree removal effort throughout the Drain #27 / Rose Coulee channel.

Manager Branson moved, and Manager Steen seconded to direct the Secretary-Treasurer to submit an *Application for Cost-Share* to the State Water Commission regarding snagging and clearing of the Drain #27 / Rose Coulee channel from 40th Avenue S to the outlet at the Red River. Upon roll call vote, the motion carried unanimously.

Drain #27 – Utility Easement with Cass County Electric Cooperative to install underground power lines in the SE 1/4 of Section 5 in Stanley Township

Manager Steen motioned to approve and authorize the Chairman to sign the *Utility Easement* with Cass County Electric Cooperative to install underground power lines in

the SE 1/4 of Section 5 in Stanley Township regarding Drain #27. Manager Branson seconded the motion. Upon roll call vote, the motion carried unanimously.

Drain #27 – request from Zach Lee to trap in the channel in the City of Horace

The Board discussed the request from Zach Lee to trap in the Drain #27 channel in the City of Horace and directed the Secretary to respond to Mr. Lee and inform him that the Water Resource District has a contractor for animal damage control, and thus the request is denied.

Legal drain reassessments

Kyle Volk discussed comments received at the hearing regarding the reassessment of benefits of Drains #21, #40, #45, and #60. The investigation of the comments resulted in changes to the boundaries of the facilities.

Additional minutes regarding the reassessment of Drains #21, #40, #45, & #60 are attached hereto.

Master Facility List

Mr. Lysne indicated Moore Engineering; Inc. continues to work on a master facility list for Southeast Cass Water Resource District. A SharePoint site is also being developed for the Cass County Water Resource Districts to house documents regarding water resource district facilities, such as the master facility list.

Correspondence from the North Dakota Department of Water Resources (NDDWR) regarding low head dam cost-share funding and safety signage

The Board discussed a letter received from the NDDWR regarding a low head dam within the Southeast Cass Water Resource District. The NDDWR may provide cost-share up to 75-percent to mitigate public hazards associated with low head dams. Cost-share funding will be considered under this category for dam removals or the placement of hazard mitigation measures.

The Board instructed Moore Engineering, Inc. to reach out to property owners adjacent to the low head dam on the Wild Rice River for input on removal of the dam or installation of hazard mitigation measures regarding the dam.

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

Manager Steen moved to approve the following *Utility Permits* for the City of Fargo, with input from the Water Resource District Engineer:

- *Utility Permit* to fortify rip rap around two City of Fargo storm sewer outfalls on Drain #40 at 19th Avenue N;
- *Utility Permit* to extend RCP and fortify rip rap on Drain #40 at 28th Avenue N;
- *Utility Permit* to install a manhole with flap gate, replace CMP with RCP and install rip rap on Drain #40 at 30th Avenue N; and
- *Utility Permit* to install a manhole with flap gate, replace CMP with RCP and install rip rap on Drain #40 at 32nd Avenue N.

Manager Branson seconded the motion. Upon roll call vote, the motion carried unanimously.

Manager Branson motioned to approve the *Utility Permit* for Cass County Electric Cooperative to install underground power lines under Drain #50 in the NE 1/4 of Section 25 in Warren Township with input from the Water Resource District Engineer, with the condition that Cass County Electric Cooperative coordinates and receives permission from the Metro Flood Diversion Authority, as the permit is located in the Metro Flood Diversion Project right of way. Manager Steen seconded the motion. Upon roll call vote, the motion carried unanimously.

Manager Steen moved to approve the *Access Agreements* with WBI Energy Transmission, Inc. for installation of temporary crossings on Drains #35 and #60 during construction of a natural gas pipeline. WBI Energy Transmission, Inc. previously obtained *Utility Permits* from the Water Resource District for installation of the natural gas pipeline on December 12, 2023. Manager Branson seconded the motion. 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. Donald Kress discussed the Leach and Wells Subdivision, Chas A Roberts Addition, Eagle Valley 5th Addition, Edgewood Estates Third Addition, Legacy I Eighth Addition, Schatz Third Addition, Selkirk Place Second Addition, and Westrac Fifth Addition.

Discussion was held on West Fargo Planning and Zoning items including Brooks Harbor 5th Addition – Planned Unit Development, Charleswood River Estates 12th Addition, North Pond at the Preserve 14th Addition – Conditional Use Permit, R&R 1st Addition, and The Wilds 24th Addition.

Joel Luing reported there are numerous developments upcoming in the City of Horace.

Brief discussion was held on the Erdmann Subdivision application regarding Cass County Planning.

Manager Branson moved and Manager Steen seconded to authorize the Secretary to submit comment on the following, with the Water Resource District Engineer's input:

- Fargo Department of Planning and Development
 - June Preliminary Packet
- West Fargo Planning and Zoning
 - Brooks Harbor 5th Addition – Planned Unit Development
 - Charleswood River Estates 12th Addition
 - North Pond at the Preserve 14th Addition – Conditional Use Permit
 - R&R 1st Addition
 - The Wilds 24th Addition

- City of Horace
- Cass County Planning
 - Erdmann Subdivision

Upon roll call vote, the motion carried unanimously.

Temporary Water Permits

The Board received and filed the following:

- *Temporary Water Permit* for ASN Constructors from Drain #50 in the SE 1/4 of Section 25 in Warren Township
- *Temporary Water Permit* for ASN Constructors from the Sheyenne River in the NE 1/4 of section 25 in Warren Township
- *Temporary Water Permit* for RJ Zavoral & Sons, Inc. from the Wild Rice River in the SW 1/4 of Section 2 in Pleasant Township.

Bills

It was moved by Manager Steen and seconded by Manager Branson to approve payment of Checks #15331 through #15334, the wire transfers, and electronic funds transfers, as presented. Upon roll call vote, the following Managers voted in favor: Weston, Steen, and Branson. The Chairman declared the motion passed.

Treasurer

The Secretary recommended the Board consider transferring the title of Treasurer of the Southeast Cass Water Resource District to the Accountant, Leilei Bao, as Ms. Bao has completed training and is excelling in her role.

Manager Steen moved to appoint Leilei Bao as the Treasurer of the Southeast Cass Water Resource District. Manager Branson seconded the motion. Upon roll call vote, the motion carried unanimously.

NDDWR/SWC summer meeting dates, times, and locations for the Upper and Lower Red River Basins

The Secretary shared with the Board the schedule of the State Water Commission Commissioner-Hosted Basin Meetings for the Upper and Lower Red River Basins.

Adjournment

There being no further business to be considered by the Board, Manager Steen moved, and Manager Branson seconded to adjourn the meeting. The meeting adjourned without objection.

APPROVED:

Keith Weston
Chairman

ATTEST:

Melissa Hinkemeyer
Secretary-Treasurer