

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
AUGUST 13, 2024
8:30 A.M.

A virtual / conference call meeting of the Southeast Cass Water Resource District was held on August 13, 2024, at 8:30 a.m.

Present were Keith Weston, Chairman; Dave Branson, Manager; Rick Steen, Manager; Melissa Hinkemeyer, Director, Secretary; Carolyn Fiechtner, Administrative Assistant; Sean M. Fredricks and David C. Piper, Ohnstad Twichell, P.C.; Kurt Lysne, Alexa Ducioame, Brady Woodard, and Levi Hanson, Moore Engineering, Inc.; Mike Opat, Houston Engineering, Inc.; Duane Breitling, Cass County Commissioner; Kyle Litchy, Cass County Highway Department; Tom Fuchs, Metro Flood Diversion Authority; Jody Bertrand, Jim Hausauer, and Donald Kress, City of Fargo; Joel Luing, City of Horace; and Ryan Grade, Wild Rice River Estates property owner.

Approval of agenda

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

Minutes

It was moved by Manager Branson, seconded by Manager Steen and unanimously carried to approve the minutes of the July 9, 2024, meeting, as presented.

Wild Rice River Estates – slope stabilization

Ryan Grade reported to the Board the Wild Rice River Estates development, located north of Cass County Highway 14 along the Wild Rice River, is requesting assistance regarding a slide that is forming adjacent to the access road for the development. The property owners in the development are concerned about the road eroding into the adjacent Wild Rice River. Kyle Litchy stated the Water Resource District previously coordinated a slope stabilization project with the Wild Rice River Estates development to install a sheet pile wall that protected the road from eroding, providing long term access to the properties in this development. Recently, it was noticed that east of the existing sheet pile wall along the roadway there is a new slide forming, which may also require slope stabilization to keep the roadway from eroding. The Board discussed the previous slope stabilization project and potential cost-share funding available for the new potential project.

After discussion, the Board directed the Secretary to obtain proposals for a geotechnical study of the slide forming adjacent to the access road in the Wild Rice River Estates

Development from the following firms:

- Braun Intertec Corporation
- AET
- Terracon

The Board also indicated Stanley Township will need to be involved in discussions and directed the Secretary to invite the Stanley Township Board of Township Supervisors to the next meeting.

The Board will continue discussion on the matter at the next meeting.

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

Brady Woodard stated Green Works Properties LLP has not yet closed on the purchase of parcels 02-3000-01240-012 and 02-3000-01212-000 from Southeast Cass Water Resource District regarding Sheyenne-Maple Flood Control Project #2. Green Works Properties LLP is in the process of coordinating a closing date on the properties.

Sheyenne-Maple Flood Control Project #2 – sediment removal

Mr. Woodard stated the water has now drained from the Sheyenne-Maple Flood Control Project #2 sediment removal area and the contractor is mobilizing to begin the sediment removal project soon.

Sheyenne-Maple Flood Control Projects #1 and #2 – general maintenance

Mr. Woodard reported on general maintenance projects on Sheyenne-Maple Flood Control Projects #1 and #2 including inspections to comply with federal permit requirements, televising of the culverts, removing sediment from culverts and reconditioning flap gates, haying, and handling encroachment issues.

Drain #3 – crossing near the North Dakota Air National Guard property

Alexa Ducioame stated Moore Engineering, Inc. is sizing the crossing requested by the North Dakota Air National Guard on Drain #3. A report of the findings will be provided to the Board including cost estimates at a future meeting.

Drain #10 Slide Repairs 2024 Project north of Cass County Highway 20

Mr. Woodard reported that the original two slide repairs north of Cass County Highway 20 on Drain #10 are now complete as well as the third slide identified between the two original slides. Kurt Lysne requested Board approval of *Contractor's Application for Payment No. 1* for the project in the amount of \$131,271.61.

It was moved by Manager Steen and seconded by Manager Branson to approve and authorize the Chairman to sign *Contractor's Application for Payment No. 1* for Comstock Construction, Inc. in the amount of \$131,271.61 regarding the Drain #10 Slide Repairs 2024 Project. Upon roll call vote, the motion carried unanimously.

Drain #10 Channel Improvements 2024 Project

Mr. Lysne reported the Drain #10 Channel Improvements 2024 Project bid opening was held on July 17, 2024. Mr. Lysne indicated the low bidder was Key Contracting, Inc. with a bid of \$4,046,389.

A motion was made by Manager Branson and seconded by Manager Steen to award the contract for the Drain #10 Channel Improvements 2024 Project to Key Contracting, Inc. for the low bid of \$4,046,389, and to authorize the Chairman to sign the contract for the project, contingent upon review and approval by the Water Resource District Attorney. Upon roll call, the motion carried unanimously.

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

Ms. Ducioame stated Braun Intertec Corp. has provided repair recommendations for the Drain #21 slides between 12th and 19th Avenues NW which are currently being reviewed for feasibility. Moore Engineering, Inc. will prepare cost estimates based on the recommendations from Braun Intertec Corp. that will be brought to a future meeting for Board review.

Drain #21 – slides north of Main Avenue W

Ms. Ducioame discussed the two proposals received from Braun Intertec Corp. and American Engineering Testing, Inc. (AET)/GSI for a geotechnical study of the Drain #21 slides north of Main Avenue W. Ms. Ducioame stated the geotechnical study proposal from AET/GSI lacked scope of work detail. The Board discussed the proposals in more detail, including cost differences.

After discussion, the Board directed Moore Engineering, Inc. to work with AET/GSI on geotechnical proposal submissions for the Cass County Water Resource Districts and the detail of the scope of work sought in the proposals.

Manager Branson moved to approve the proposal from Braun Intertec Corp. for the geotechnical study of the Drain #21 slides north of Main Avenue W. Manager Steen seconded the motion. Upon roll call vote, the motion carried unanimously.

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

Mr. Woodard stated the contractor for the Drain #27 slide repairs west of I-29 and 45th Street S is planning to mobilize in September. Project completion is scheduled for approximately November 2024.

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

Mr. Lysne provided the status of right of way acquisition for the Drain #27 Improvement Project No. 2023-01 (64th Avenue S to 100th Avenue S). Once the right of way is acquired for the project and the plans are complete, the project will be ready to be advertised for bids.

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

Ms. Ducioame reported Braun Intertec Corp. provided recommendations for the Drain

#27 slide repair near the confluence of Drain #53. The slide repair recommendations are currently being discussed; a final recommendation and cost estimate will be brought to the Board at a future meeting for continued discussion.

Drain #27 – encroachments at 53rd Avenue S

Mr. Woodard discussed Drain #27 encroachments at 53rd Avenue S and stated the City of Fargo met with the property owners regarding the encroachments, and the property owners have indicated the encroachments will be removed.

Drain #27 – City of Fargo regional stormwater pond – phase II

Mr. Lysne discussed a public notice received from the US Army Corps of Engineers regarding solicitation of comments on a Section 404 Permit application for the City of Fargo regional stormwater pond – phase II project.

Manager Steen moved to authorize the Secretary to submit a letter of support to the US Army Corps of Engineers regarding the City of Fargo regional stormwater pond – phase II project. Manager Branson seconded the motion. Upon roll call vote, the motion carried unanimously.

Drain #40 – slide south of County Road 20 at 38th Avenue N (Reile’s Acres)

Ms. Ducioame discussed the two proposals received from Braun Intertec Corp. and AET/GSI for a geotechnical study of the for the Drain #40 slide south of County Road 20 at 38th Avenue N (Reile’s Acres). Ms. Ducioame stated the geotechnical study proposal from AET/GSI lacked scope of work detail.

Manager Branson moved to approve the proposal from Braun Intertec Corp. for the geotechnical study of the Drain #40 slide south of County Road 20 at 38th Avenue N (Reile’s Acres). Manager Steen seconded the motion. Upon roll call vote, the motion carried unanimously.

Drain #40 – Access Agreement with Integrity Windows, LLC d/b/a Integrity Windows, Inc. and The Marvin Companies, Inc.

Mr. Fredricks stated Integrity Windows, LLC d/b/a Integrity Windows, Inc. and The Marvin Companies, Inc. (Marvin) owns and operates a commercial and industrial facility on property adjacent to Drain #40 and has maintained a crossing on, over, and across this drain to accommodate Marvin’s access to and from its facility. The crossing is in need of repair and Marvin is consulting the District regarding the repairs, and to seek the District’s permission to reconstruct, repair, and ultimately maintain the crossing on, over, and across portions of the District’s Drain #40 right of way. Mr. Fredricks indicated he prepared a draft *Access Agreement* with Marvin for the crossing, as there is no agreement in place for the crossing currently. A survey of the crossing area will be needed from Marvin for the *Agreement*. The Board tabled the matter until the survey for the *Agreement* is received from Marvin.

Drain #51 – crossing relocation for the Metro Flood Diversion Project

Tom Fuchs discussed a proposed culvert relocation on Drain #51 for the Metro Flood

Diversion Project. The culvert was installed for the I-29 Road Raise component of the Metro Flood Diversion Project as part of a temporary haul route. The Metro Flood Diversion Authority is interested in moving the culvert north on Drain #51 to provide permanent field access to a remnant property (OIN 9191Y1) regarding the Metro Flood Diversion Project. The Board discussed operation and maintenance responsibilities of the culvert, right of way, and a scenario to potentially move the culvert to the outlet of Drain #51 that is in need of a larger pipe and install a smaller culvert for the property access. Mr. Fuchs noted the larger culvert size is needed for access to the property during construction of the Metro Flood Diversion Project. The Board indicated the Metro Flood Diversion Authority (MFDA) should assume responsibility for installation, operation and maintenance of the culvert through an amendment to the *Memorandum of Understanding* between the Board and the MFDA.

Mr. Fuchs indicated he will analyze the right of way for the proposed culvert relocation on Drain #51 and bring an update on the matter to a future meeting for continued discussion.

Snagging and clearing – Wild Rice River low water crossing between Sections 10 and 15 of Pleasant Township

Mr. Woodard reported the snagging and clearing project on the Wild Rice River at the low water crossing between Sections 10 and 15 of Pleasant Township is complete, however the project cost \$26,325, which exceeds the Board’s previously-approved not-to-exceed amount of \$20,000 for the project.

A motion was made by Manager Branson and seconded by Manager Steen to approve payment to Pro Landscapers, LLC in the amount of \$26,325 for snagging and clearing on the Wild Rice River at the low water crossing between Sections 10 and 15 of Pleasant Township. Upon roll call, the motion carried unanimously.

Sheyenne River and Wild Rice River Snagging and Clearing 2024-2025

Discussion was held on the 2024-2025 snagging and clearing efforts on the Sheyenne River and Wild Rice River. It was moved by Manager Steen and seconded by Manager Branson to authorize the Secretary to submit cost-share requests to the State Water Commission for the following projects:

- Sheyenne River Snagging and Clearing 2024-2025
- Wild Rice River Snagging and Clearing 2024-2025

Upon roll call vote, the motion carried unanimously.

Low head dam hazard mitigation

Mr. Lysne reported Moore Engineering, Inc. is working with the Secretary to submit cost-share applications to the State Water Commission and the Cass County Flood Sales Tax Committee regarding the proposed project to mitigate the safety hazards associated with a low head dam on the Wild Rice River within the Southeast Cass Water Resource District.

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

Manager Steen moved and Manager Branson seconded to approve the following *Utility Permits*, with conditions provided by the Water Resource District Engineer:

- *Utility Permit* for Xcel Energy to install by direct bore 6" conduit with 3PH Distribution UG cable in the conduit on Drain #3c between 22nd Street S and 25th Street S;
- *Utility Permit* for The Municipal Airport Authority of the City of Fargo to install a glycol sewer force main under Drain #10 on the east side of 25th Street N;
- *Utility Permit* for Fargo Parks and Recreation to install a shared use path on Drain #27 south of Oakcreek Drive S;
- *Utility Permit* for Marvin Composites to install a new inlet, pipe and stormwater outfall on Drain #40 north of 15th Avenue NW; and
- *Utility Permit* for Midcontinent Communications to install fiber optics and conduits under the Sheyenne River on the south side of 76th Avenue S

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 September Preliminary Packet. Donald Kress discussed the Timber Parkway Eleventh Addition, The Pines at the District Addition and The Pines at the District 2nd Addition, Estes Addition, and Integrity Store First Addition and related annexation. Mr. Kress also briefly discussed a new growth plan and updated land development code being developed for the City of Fargo.

Discussion was held on the North Pond at the Preserve 18th Addition, submitted by the West Fargo Planning and Zoning.

Joel Luing provided an update on upcoming developments adjacent to Water Resource District facilities in the City of Horace.

Discussion was held on the *Application to Construct No. 2750* for the City of Fargo. The *Application* contemplates construction of a flood control levee adjacent to the City's wastewater treatment plant. The Board had no objections to the project and supports the City of Fargo's flood protection efforts.

Manager Branson moved to authorize the Secretary to submit comment to the North Dakota Department of Water Resources regarding *Application to Construct No. 2750* for the City of Fargo. Manager Steen seconded the motion. Upon roll call vote, the motion carried unanimously.

Application to Install a Subsurface Water Management System No. 202416 for Janice Evingson in the NW 1/4, NE 1/4, and SE 1/4 of Section 27 in Normanna Township

The Board next reviewed an *Application to Install a Subsurface Water Management*

System No. 202416, filed July 30, 2024, by Applicant Janice Evingson. Under the Application, Applicant seeks to install a 290-acre drain tile system in the NE 1/4, the N 1/2 of the SE 1/4, the SW 1/4 of the SE 1/4, and the NE 1/4 of the NW 1/4 of Section 27 in Normanna Township, Cass County, North Dakota. The project will include a single pump outlet located in the northeast corner of the SE 1/4 of Section 27; the pump will discharge directly into Normanna Township Improvement District No. 60, a legal assessment drain owned and operated by the Southeast Cass Water Resource District, commonly referred to as Cass County Drain No. 60.

According to County tax roll information supplied by Applicant, Edwin Charles Evingson and Janice Patricia Evingson, as Trustees of the Revocable Trust Agreement of Edwin Charles Evingson and Janice Patricia Evingson, own the property Applicant intends to tile. Because the project will discharge directly into a legal assessment drain, no downstream notices are required under N.D. Cent. Code § 61-32-03.1.

Manager Steen moved, and Manager Branson seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 202416*, filed July 30, 2024, for Janice Evingson regarding a proposed tile system in the NE 1/4, the N 1/2 of the SE 1/4, the SW 1/4 of the SE 1/4, and the NE 1/4 of the NW 1/4 of Section 27 in Normanna Township and to authorize the Secretary to sign Subsurface Water Management Permit No. 202416, subject to the following conditions:

1. Applicant must turn off any pump outlets and otherwise close all outlets during “critical flood periods,” as determined by the Southeast Cass Water Resource District.
2. Applicant will set and install any drain tile pump at least 25 feet from the top of the back slope of Cass County Drain No. 60, with a pipe buried from the pump to Drain No. 60.
3. Applicant will install and maintain erosion protection at any and all outlets into Cass County Drain No. 60.
4. Applicant will re-establish any areas disturbed installing or maintaining Applicant’s tile system.
5. Applicant will not install Applicant’s tile system within 20 feet, on either side, of any rural water lines Cass Rural Water Users District has in the S 1/2 of the SW 1/4 of Section 1 or in the S 1/2 of the N 1/2 of the SW 1/4 of Section 1 in Normanna Township under any blanket easements, or otherwise beyond the Water District’s existing easement(s).
6. Applicant must apply for an amendment to Subsurface Water Management Permit No. 202416 in advance of any proposed alterations to outlet locations, the addition of any outlets, or improvements or modifications to the tile system that could increase the capacity or drainage area of the tile system.

Upon roll call vote, the motion carried unanimously.

Under Section 61-32-03.1, the Board cannot attach any additional conditions to Applicant's permit. However, for Applicant's protection, and to ensure protection of Applicant's tile system, the Board recommends that Applicant obtain all other necessary and requisite licenses, permits, registrations, and/or approvals from all applicable federal, state, county, and municipal governments, and any other applicable governmental entities.

The Board will provide copies of the Board's *Notice of Decision, Subsurface Water Management Permit No. 202416*, and Applicant's downstream flow map to the Department of Water Resources and Cass Rural Water Users District. Applicant's detailed project design map is an exempt record, and the Board will not provide copies to any third parties.

Application to Install a Subsurface Water Management System No. 202417 for David Braaten in the NW 1/4 of Section 10 in Normanna Township

The Board next reviewed an *Application to Install a Subsurface Water Management System No. 202417*, filed July 25, 2024, by Applicant David Braaten. Under the Application, Applicant seeks to install a 152-acre drain tile system in the NW 1/4 of Section 10 in Normanna Township, Cass County, North Dakota. The project will include a single gravity outlet located approximately 600 feet east of the northwest corner of the NW 1/4 of Section 10; the outlet will discharge directly into Cass County Drain No. 35, a legal assessment drain owned and operated by the Southeast Cass Water Resource District.

According to County tax roll information supplied by Applicant, David and Theresa Braaten Farms owns the NW 1/4 of Section 10 in Normanna Township where Applicant intends to install the tile system. Because the project will discharge directly into a legal assessment drain, no downstream notices are required under N.D. Cent. Code § 61-32-03.1.

Manager Steen moved, and Manager Branson seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 202417*, filed July 25, 2024, for David Braaten regarding a proposed tile system in the NW 1/4 of Section 10 in Normanna Township and to authorize the Secretary to sign Subsurface Water Management Permit No. 202417, subject to the following conditions:

1. Applicant will install and maintain erosion protection at any and all outlets into Cass County Drain No. 35.
2. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.
3. Applicant will not install Applicant's tile system within 20 feet, on either side, of any rural water lines Cass Rural Water Users District has in the NW 1/4 of Section 10

in Normanna Township under any blanket easements, or otherwise beyond the Water District's existing easement(s).

4. Applicant must apply for an amendment to *Subsurface Water Management Permit No. 202417* in advance of any proposed alterations to outlet locations, the addition of any outlets, or improvements or modifications to the tile system that could increase the capacity or drainage area of the tile system.

Upon roll call vote, the motion carried unanimously.

Under Section 61-32-03.1, the Board cannot attach any additional conditions to Applicant's permit. However, for Applicant's protection, and to ensure protection of Applicant's tile system, the Board recommends that Applicant obtain all other necessary and requisite licenses, permits, registrations, and/or approvals from all applicable federal, state, county, and municipal governments, and any other applicable governmental entities.

The Board will provide copies of the Board's *Notice of Decision, Subsurface Water Management Permit No. 202417*, and Applicant's downstream flow map to the Department of Water Resources and Cass Rural Water Users District. Applicant's detailed project design map is an exempt record, and the Board will not provide copies to any third parties.

Application to Install a Subsurface Water Management System No. 202418 for Tyler Odegaard in the SE 1/4 of Section 23 in Normanna Township

The Board next reviewed an *Application to Install a Subsurface Water Management System No. 202418*, filed August 6, 2024, by Applicant Tyler Odegaard. Under the Application, Applicant seeks to install a 100-acre drain tile system in the SE 1/4 of Section 23 in Normanna Township, Cass County, North Dakota. The project will include a single gravity outlet that will discharge directly into a tributary of the Sheyenne River in the E 1/2 of the SE 1/4 of Section 23.

According to County tax roll information, Thomas Odegaard owns those portions of the SE 1/4 of Section 23 in Normanna Township where Applicant intends to install the tile system. Because the project will discharge directly into a natural watercourse, no downstream notices are required under N.D. Cent. Code § 61-32-03.1.

Manager Steen moved, and Manager Branson seconded the motion, to approve *Application to Install a Subsurface Water Management System No. 202418*, filed August 6, 2024, for Tyler Odegaard regarding a proposed tile system in the SE 1/4 of Section 23 in Normanna Township and to authorize the Secretary to sign Subsurface Water Management Permit No. 202418, subject to the following conditions:

1. Applicant will install and maintain erosion protection at any and all outlets into the tributary of the Sheyenne River in the SE 1/4 of Section 23 in Normanna Township.

2. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.
3. Applicant will not install Applicant's tile system within 20 feet, on either side, of any rural water lines Cass Rural Water Users District has in the SE 1/4 of Section 23 in Normanna Township under any blanket easements, or otherwise beyond the Water District's existing easement(s).
4. Applicant must apply for an amendment to Subsurface Water Management Permit No. 202418 in advance of any proposed alterations to outlet locations, the addition of any outlets, or improvements or modifications to the tile system that could increase the capacity or drainage area of the tile system.

Upon roll call vote, the motion carried unanimously.

Under Section 61-32-03.1, the Board cannot attach any additional conditions to Applicant's permit. However, for Applicant's protection, and to ensure protection of Applicant's tile system, the Board recommends that Applicant obtain all other necessary and requisite licenses, permits, registrations, and/or approvals from all applicable federal, state, county, and municipal governments, and any other applicable governmental entities.

The Board will provide copies of the Board's *Notice of Decision, Subsurface Water Management Permit No. 202418*, and Applicant's downstream flow map to the Department of Water Resources, Thomas Odegaard, and Cass Rural Water Users District. Applicant's detailed project design map is an exempt record, and the Board will not provide copies to any third parties.

Notification to Install a Subsurface Water Management System submitted by Ottis Contracting LLC for the SW 1/4 of Section 9 in Normanna Township

The Board received and filed a *Notification to Install a Subsurface Water Management System* submitted by Ottis Contracting LLC for the SW 1/4 of Section 9 in Normanna Township.

Liability insurance renewal

The Secretary discussed the liability insurance premium rate for Southeast Cass Water Resource District. The premium has increased due to the District's increased expenditures associated with property rights acquisition for the Metro Flood Diversion Project.

After discussion, the Board instructed the Secretary to reach out to the Water Resource District insurance representatives, Marsh McLennan Agency, to negotiate a reduced premium as property rights acquisitions are reimbursed by the Metro Flood Diversion Authority. The Board indicated the insurance premium invoice will be removed from the bills until the discussion regarding the premium for Southeast Cass Water Resource District is held with the Agency.

Bills

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

Office staffing

The Secretary reported the part-time Accounting Assistant position has been filled. The new hire, Rita, will be introduced to the Board once she starts her position.

Adjournment

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

APPROVED:

Keith Weston
Chairman

ATTEST:

Melissa Hinkemeyer
Secretary