

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
OCTOBER 08, 2024
8:30 A.M.

A virtual / conference call meeting of the Southeast Cass Water Resource District was held on October 08, 2024, at 8:30 a.m.

Present were Keith Weston, Chairman; Dave Branson, Manager; Rick Steen, Manager; Melissa Hinkemeyer, Director, Secretary; Leilei Bao, Treasurer; Elizabeth Smith, Administrative Assistant; Sean M. Fredricks, Ohnstad Twichell, P.C.; Kurt Lysne, Alexa Ducioame, 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 (MFDA); Jody Bertrand, Jim Hausauer, Will Bayuk, and Donald Kress, City of Fargo; Joel Luing, City of Horace; and Ryan Grade; Stanley Township 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 presented.

Minutes

It was moved by Manager Branson, seconded by Manager Steen, and unanimously carried to approve the minutes of the September 10, 2024, meeting as presented.

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 November Preliminary Packet. Donald Kress briefly reviewed Broadway Commons Addition and Northdale First Addition.

Joel Luing provided an update on upcoming developments adjacent to Water Resource District facilities in the City of Horace, including Oak Valley Addition, Saltwater Addition, and Willow Grove Second Addition. Regarding the Willow Grove Second Addition Mr. Luing indicated an easement will be requested from the Water Resource District in the future for a storm water outfall into Drain #27. Kurt Lysne is communicating with the developer regarding the Drain #27 setback on the plat. The Board indicated an easement will be needed with the developer similar to Cub Creek First and Second Additions. The Water Resource District Attorney will draft the agreement for a future meeting.

Wild Rice River Estates – Slope stabilization

The Secretary reported she reached out to Braun Intertec Corporation, AET, and Terracon to solicit proposals for a geotechnical study of the slide forming adjacent to the access road in the Wild Rice River Estates Development. Braun Intertec Corp. returned a geotechnical study proposal, AET and Terracon have not yet responded to the request for a proposal.

Manager Steen moved to approve the proposal from Braun Intertec Corp. for the geotechnical evaluation of the Wild Rice River Estates slope stability study not to exceed \$25,000 contingent on approval by the Water Resource District Attorney. Manager Branson seconded the motion. Upon roll call vote, the motion carried unanimously.

Discussion was held on the surveying needed for the geotechnical evaluation. Mr. Lysne noted the surveying also includes river bathymetry surveying. Property owner Ryan Grade asked the Board to fund the surveying to help the property owners determine what type of project may be needed.

A motion was made by Manager Steen and seconded by Manager Branson to authorize Moore Engineering, Inc. to conduct the survey work needed for the geotechnical evaluation regarding the Wild Rice River Estates slope stability study not to exceed \$3,000. 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

The Secretary reported GreenWorks Properties, LLP closed on the purchase of parcels 02-3000-01240-012 and 02-3000-01212-000 from Southeast Cass Water Resource District on September 16th regarding Sheyenne-Maple Flood Control Project #2.

Sheyenne-Maple Flood Control Project #2 – Sediment removal

Alexa Ducioame reported the sediment removal project regarding the Sheyenne-Maple Flood Control Project #2 is complete. The Board asked Moore Engineering, Inc. to determine how much sediment remains in the channel that will need to be removed in the future.

Proposed sanitary sewer for Commerce on I-29

Sean Fredricks updated the Board on the proposed sanitary sewer for Commerce on I-29 project. The next step is for Commerce on I-29 property owners and/or the association to submit a *Petition* and bond of \$75,000 for the Water Resource District to proceed with preliminary engineering and the process to form the assessment district for the project. Once the *Petition* and bond are submitted, an agreement between the Water Resource District and the City of Fargo will also be negotiated regarding the project.

Drain #3 – Crossing near the North Dakota Air National Guard

Ms. Ducioame reported Moore Engineering, Inc. has found a contractor to complete the Drain #3 crossing near the North Dakota Air National Guard property. The project should be completed this fall.

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

Ms. Ducioame reported that the Drain #10 Slide Repairs 2024 Project north of Cass County Highway 20 is now complete. Vegetation has been established and thus the project contract can now be closed.

It was moved by Manager Branson and seconded by Manager Steen to approve and authorize the Chairman to sign *Change Order No. 2* - final with Comstock Construction, Inc. in the amount of \$107,348.30 regarding Drain #10 Slide Repairs 2024 Project north of Cass County Highway 20. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Branson and seconded by Manager Steen to approve and authorize the Chairman to sign *Contractor's Application for Payment No. 3* for Comstock Construction, Inc. in the amount of \$27,482.58 regarding the Drain #10 Slide Repairs 2024 Project. Upon roll call vote, the motion carried unanimously.

Drain #10 - Channel Improvements 2024 Project

Mr. Lysne stated the contractor for the Drain #10 Channel Improvements 2024 Project has completed the contract documents for the project. Moore Engineering, Inc. discussed a change proposed by the contract to the spacing between expansion joints in the concrete channel liner. The proposed change will reduce long term maintenance costs; however, additional rebar is needed. Moore Engineering, Inc. recommended approval of the proposed changes.

It was moved by Manager Steen and seconded by Manager Branson to approve and authorize the Chairman to sign *Change Order No. 1* with Key Contracting, Inc. in the amount of \$107,289.60 regarding Drain #10 Channel Improvements 2024 Project. Upon roll call vote, the motion carried unanimously.

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

Moore Engineering, Inc. is evaluating repair options from the geotechnical study and right-of-way needs for the Drain #21 slides between 12th and 19th Avenues NW. Moore Engineering, Inc. will bring back their recommendations for the Board to consider at a future meeting.

Drain #21 – Slide north of Main Avenue W

Ms. Ducioame stated Braun Intertec Corp. conducted their fieldwork for the geotechnical study of the Drain #21 slide north of Main Avenue W. Braun Intertec Corp. will prepare a report regarding their findings.

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

Mr. Lysne stated the contractor for the Drain #27 slide repairs project west of I-29 and west of 45th Street S is preparing to mobilize. The project completion date is November 1, 2024. The Board expressed concerns of the Project not being completed on time and directed the Water Resource District Attorney to contact the contractor regarding withholding the right to assess liquidated damages regarding the Project.

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

Ms. Ducioame reported the Drain #27 Improvement Project No. 2023-01 is being advertised for bids. Bid opening is scheduled for November 4, 2024. Discussion was held on funding for the project which may include a bond for a portion of the project costs. The Board will continue discussion on funding after the bids are received for the Project.

The Board discussed proposing a maintenance agreement with the City of Horace for small maintenance regarding the portion of Drain #27 located within the city. The Board directed the Water Resource District Attorney, Engineer, and Secretary to draft a maintenance agreement to propose to the City of Horace regarding Drain #27.

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

Ms. Ducioame stated Moore Engineering, Inc. is discussing the preferred design of the Drain #27 slide repair project near the confluence of Drain #53 with the City of Fargo. Moore Engineering, Inc. will bring a recommended repair design and cost estimate to the Board for consideration at a future meeting.

Drain #27 – Encroachment Agreement with 4540 Investments LLC

Mr. Fredricks noted 4540 Investments LLC is requesting an *Encroachment Agreement* with the Water Resource District regarding Drain #27. Mr. Fredricks will bring the agreement to a future meeting for the Board’s consideration after 4540 Investments LLC has acquired the property.

Drain #27 – Proposed City of Fargo annexation, including a portion of Drain #27 south of 52nd Avenue S

Donald Kress stated the City of Fargo needs to annex a portion of Drain #27 south of 52nd Avenue South regarding assessment of benefits to property owners for the regional storm water detention facility adjacent to Drain #27. The Board indicated the Water Resource District should not be assessed for the regional storm water detention facility.

Manager Steen moved to participate in the City of Fargo annexation of Drain #27 south of 52nd Avenue South, contingent upon there being no assessment on the annexed property regarding the regional storm water detention facility. Manager Branson seconded the motion. Upon roll call vote, the motion carried unanimously.

Drain #27 – Request for approval of fence installation at 7727 Cub Creek Way

Discussion was held on a request from the property owner at 7727 Cub Creek Way to install a fence within the Drain #27 20 foot limited use zone on the property. The Board expressed concerns regarding future encroachments with the installation of fences in the limited use zone. The Board tabled the matter for continued discussion at the next meeting.

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

Ms. Ducioame stated Braun Intertec Corp. conducted their fieldwork for the geotechnical study of the Drain #40 slide south of County Road 20 at 38th Avenue North. Braun Intertec Corp. will prepare a report regarding their findings.

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. Marvin is preparing the survey of the crossing area necessary for the *Agreement*. The Board will consider the matter when the survey for the *Agreement* is received from Marvin.

Drain #40 – Access Easements with the City of Fargo for storm sewer outfall and storm sewer, sanitary sewer, and water mains north of 40th Avenue N

Will Bayuk discussed requests from the City of Fargo for access easements regarding installation of storm sewer outfall and storm sewer, sanitary sewer, and water mains north of 40th Avenue N. Mr. Bayuk discussed the City of Fargo’s plans in more detail and noted the projects are for the Interstate Business District Addition.

A motion was made by Manager Branson and seconded by Manager Steen to approve and authorize the Chairman to sign the following:

- *Access Easement* with the City of Fargo for storm sewer outfall north of 40th Avenue N
- *Access Easement* with the City of Fargo for storm sewer, sanitary sewer, and water mains north of 40th Avenue N

Upon roll call vote, the motion carried unanimously.

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

Mr. Fredricks updated the Board on the proposed culvert relocation on Drain #51 for the Metro Flood Diversion Project. Discussions will be held soon with the MFDA staff regarding a proposed amendment to the *Memorandum of Understanding* with the water resource districts in Cass County, which will include this proposed crossing relocation on Drain #51.

Metro Flood Diversion Project transitions – Drain #21C, Drain #50, and Drain #51

Ms. Ducioame updated the Board on the status of the transitions between the Metro Flood Diversion Project and legal assessment drains. Task order amendments are needed to continue engineering work for the transitions regarding Drain #21C and Drain #50. Moore Engineering, Inc. is completed with the engineering work for the Drain #51 transition and

will close the related task order. The Corps of Engineers will be constructing the Drain #51 transition at their cost.

A motion was made by Manager Branson and seconded by Manager Steen to approve and authorize the Chairman to sign the following with Moore Engineering, Inc. regarding engineering for the transitions between the Metro Flood Diversion Project and legal assessment drains:

- *Task Order No. 24 – Amendment 1*, in the amount of \$7,500 regarding Drain #21C
- *Task Order No. 25 – Amendment 1*, in the amount of \$3,500 regarding Drain #50

Upon roll call vote, the motion carried unanimously.

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

It was moved by Manager Steen and seconded by Manager Branson to approve and authorize the Chairman to sign the following with the State Water Commission:

- *Agreement for Cost-Share Reimbursement* for Sheyenne River Snagging and Clearing 2024-2025; and
- *Agreement for Cost-Share Reimbursement* for Sheyenne River Snagging and Clearing 2024-2025

Upon roll call vote, the motion carried unanimously.

Low head dam hazard mitigation

Mr. Lysne reported a cost-share request has been submitted to the North Dakota Department of Water Resources 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. The request will be considered at the State Water Commission's upcoming meeting. A cost-share request will also be submitted to the Cass County Flood Sales Tax Committee for their consideration at their upcoming November meeting.

Utility Permit for Lumen to install fiber optic cable under Drain #27 west of 36th Street S

Manager Steen moved and Manager Branson seconded a motion to approve a *Utility Permit* for Lumen to install fiber optic cable under Drain #27 west of 36th Street S with conditions provided by the Water Resource District Engineer. Upon roll call vote, Managers Weston and Branson voted in favor. Manager Steen voted against the motion. The Chairman declared the motion passed.

Temporary Water Permit for the City of Fargo from the Sheyenne River in the NW ¼ of Section 5 in Stanley Township

A motion was by Manager Steen and seconded by Manager Branson to receive and file the *Temporary Water Permit* for the City of Fargo from the Sheyenne River in the NW ¼ of Section 5 in Stanley Township. Upon roll call vote, the motion carried unanimously.

Weed Control

Mr. Lysne reported Dakota Helicopters, Inc. is no longer able to fulfill their Agreement with the Cass County Water Resource Districts regarding weed control. DL Barkie Construction, Inc. submitted a quote for ground spraying of the Cass County Water Resource Districts facilities.

The Board discussed the reduced effectiveness of spraying this late in the year and the Board suggested DL Barkie Construction, Inc. be contacted again next spring regarding weed control efforts for 2025. The Board also discussed changes to the terms of future agreements with contractors for weed control efforts on Water Resource District facilities.

A motion was made by Manager Branson and seconded by Manager Steen to officially terminate the *Agreement* with Dakota Helicopters, Inc. in accordance with Section 3 of the Agreement regarding weed control on Southeast Cass Water Resource District facilities for 2024. Upon roll call vote, the motion carried unanimously.

The Board directed Brady Woodard to communicate with DL Barkie Construction, Inc. regarding the opportunity to bid next spring for 2025 weed control efforts. The Board was appreciative of DL Barkie Construction, Inc. for their interest in providing weed control efforts near the end of this season. The Board directed the Secretary to invite the Cass County Weed Control Officer to a future meeting to discuss weed control on Water Resource District facilities.

Cass County Flood Sales Tax Committee – request for flood risk reduction projects

The Board discussed submitting the low head dam hazard mitigation project for Cass County Flood Sales Tax Committee consideration.

Bills

It was moved by Manager Steen and seconded by Manager Branson to approve payment of Check #15360, 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.

Drain #21C – Intercept culvert installation

Chairman Weston discussed correspondence received from a property owner adjacent to Drain #21C regarding installation of intercept culverts. Mr. Lysne noted the culverts were replacements of damaged culverts, not new culverts. The Board directed the Secretary to include Drain #21C on a future agenda for further discussion regarding culverts on the drain.

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