

MINUTES OF VIRTUAL / CONFERENCE CALL MEETING
MAPLE RIVER WATER RESOURCE DISTRICT
ORIGINATING AT THE CASS COUNTY HIGHWAY DEPARTMENT
WEST FARGO, NORTH DAKOTA
HERITAGE CONFERENCE ROOM
OCTOBER 03, 2024
8:00 A.M.

A virtual / conference call meeting of the Maple River Water Resource District was held on October 03, 2024, at 8:00 a.m.

Present were Gerald Melvin, Chairman; Chad Miller, Manager; Melissa Hinkemeyer, Director, Secretary; Leilei Bao, Treasurer; Elizabeth Smith, Administrative Assistant; Sean M. Fredricks, David C. Piper, and Christie Rust, 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; Sidney Steinweg, Davenport Township property owner; Jan Jenks, Clifton Township property owner; and Steve Johnson, Tower Township property owner.

Approval of agenda

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

Minutes

It was moved by Manager Miller and seconded by Manager Melvin to approve the minutes of the September 5, 2024, meeting, as presented. Upon roll call vote, the motion carried unanimously.

Complaint for Water-Related Issues from Jan Jenks against Wadeson PTP LLLP for unpermitted drainage in the S ½ of Section 28 in Clifton Township

Jan Jenks updated the Board on the water-related issues in the S ½ of Section 28 in Clifton Township. Ms. Jenks said the parties involved appear to have reached a resolution.

Ms. Jenks requested that if Wadeson PTP LLLP adds to their subsurface water management system that is located in the SW ¼ of Section 28 in Clifton Township they should notify adjacent property owners, Ms. Jenks, Bill Lemna, and Terry Freehauf. The Board encouraged cooperation and communication between property owners.

Drain #34 Channel Improvement Project No. 2022-01

Kurt Lysne indicated the Drain #34 Channel Improvement Project No. 2022-01 is on hold until the financing for the project is established.

Drain #37 Improvement Project No. 2022-01

Mr. Lysne indicated right of way acquisition is nearly complete for the Drain #37 Improvement Project No. 2022-01. The project is on hold until the financing for the project is established.

Drain #39 Improvement Project No. 2023-01

Mr. Lysne updated the Board on Drain #39 Improvement Project No. 2023-01, including updates to the project design from discussions with property owners regarding the project. Mr. Lysne will update the Board as the project design moves forward.

Lynchburg-Buffalo Project No. 2023-01

Mr. Lysne updated the Board on the status of the Lynchburg-Buffalo Project No. 2023-01 and stated Moore Engineering, Inc. continues to work on the project design and permitting. Moore Engineering, Inc. met with the Corps of Engineers regarding permitting of the preferred project design that would use less farmland. The Corps indicated the Board should submit a permit application for the preferred design.

Cornell Township Drainage Improvement District No. 80

Mr. Lysne reported he remains in contact with the petitioners for Cornell Township Drainage Improvement District No. 80. The petitioners are deciding on their preferred project design.

Davenport Flood Risk Reduction Project

Alexa Ducioame updated the Board on the Davenport Flood Risk Reduction Project. FEMA has approved the Conditional Letter of Map Revision for the project. Moore Engineering Inc. remains in communication with the North Dakota Department of Water Resources (NDDWR) on the construction permit for the project. Moore Engineering, Inc. also continues to work with Burlington Northern Santa Fe Railway Company and Red River Valley & Western Railroad Company regarding an agreement related to operation and maintenance of the project. A brief discussion was held on cost-share funding for the project.

Sidney Steinweg provided some comments to the Board regarding a possible use for extra material that may be generated from the project.

Kyle Litchy updated the Board on the upcoming Cass County Highway 16 overlay project near Davenport. Mr. Lysne indicated he will be in contact with the Cass County Highway Department to coordinate the details of the project.

Low head dam hazard mitigation project

Discussion was held regarding the low head dam hazard mitigation project in Maple River Water Resource District. Mr. Lysne stated that a cost-share request for the project is being considered by the State Water Commission. If approved the project will also be submitted to the Cass County Flood Sales Tax Committee. Additional work will not be done on the project until cost-share requests to the State Water Commission and to the Cass County Flood Sales Tax Committee have been approved, and the Board decides

whether to proceed with the project.

Complaint for Water-Related Issues from Rick Kensok against Aaron Larson for construction of an unpermitted dike in the S 1/2 of Section 31 in Casselton Township

A brief discussion was held on the *Complaint for Water-Related Issues* from Rick Kensok against Aaron Larson for construction of an unpermitted dike in the S 1/2 of Section 31 in Casselton Township. Mr. Lysne contacted the parties, and it appears the parties may have resolved the concern. The Secretary will bring an update on the matter to the next meeting.

Application to Construct No. 2755 for Harold Miller in the NW 1/4 of Section 9 in Cornell Township

Mr. Lysne reviewed the *Application to Construct No. 2755* for Harold Miller in the NW 1/4 of Section 9 in Cornell Township. The NDDWR has concluded the dike is a low risk project thus per NDDWR policy the NDDWR defers water management considerations and decisions whether a hydraulic model is required for determining effects to upstream, downstream, and adjacent properties to the Maple River Water Resource District.

Mr. Lysne indicated that he reviewed the application and is of the opinion that a hydraulic model is not necessary for the project. Chairman Melvin agreed with Mr. Lysne's findings and concluded no hydraulic model is necessary for the project.

Application to Install a Subsurface Water Management System No. 202422 for Steven D. Johnson in the N 1/2 of Section 13 in Tower Township

The Board next reviewed *Application to Install a Subsurface Water Management System No. 202422*, filed September 26, 2024, by Applicant Steven D. Johnson. Under the Application, Applicant seeks to install a 317-acre drain tile system in the N 1/2 of Section 13 in Tower Township, Cass County, North Dakota. The project will include two pump outlets, both of which will outlet into natural watercourses, as that term is defined under N.D. Cent. Code § 61-01-06. The first outlet will be located along the north boundary of the NW 1/4 of Section 13; the pump will discharge into the south road ditch along 32nd Street SE; the discharge will flow north, under 32nd Street through an existing culvert, into a natural watercourse that flows to the northwest. The second pump will be located along the west boundary of the NW 1/4 of Section 13; the pump will discharge into the east road ditch along 138th Avenue SE; the discharge will flow west, under 138th Avenue through an existing culvert, into a natural watercourse that flows to the northwest.

According to Cass County tax records, Steven D. Johnson owns the N 1/2 of Section 13 in Tower Township, where Applicant intends to install the tile system. The Board will provide notice to Tower Township since the project outlets will discharge into township right of way. With regard to downstream landowners, because the project pumps will discharge into natural watercourses, no downstream notices are required under N.D. Cent. Code § 61-32-03.1.

Manager Miller moved, and Manager Melvin seconded the motion, to approve *Application*

to Install a Subsurface Water Management System No. 202422, filed September 26, 2024, for Steven D. Johnson regarding a proposed tile system in the N 1/2 of Section 13 in Tower Township; and to authorize the Secretary to sign *Subsurface Water Management Permit No. 202422*, subject to the following conditions:

1. Applicant will install and maintain erosion protection at any and all outlets into Tower Township's road right of way.
2. Applicant will re-establish any areas disturbed installing or maintaining Applicant's tile system.
3. Applicant will turn off any pump outlets and otherwise close all outlets during "critical flood periods," as determined by the Maple River Water Resource District.
4. 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 N 1/2 of Section 13 in Tower Township under any blanket easements, or otherwise beyond the Water District's existing easement(s).
5. Applicant will remove silt or vegetation, or repair erosion or scour damages **directly** caused by Applicant's tile system, but only up to the point where the tile discharge from each outlet flows into a natural watercourse.
6. Applicant must apply for an amendment to *Subsurface Water Management Permit No. 202422* 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.

With regard to condition #5, Applicant's obligations to remove silt or vegetation, or to repair erosion or scour damages, will only arise upon submission of substantial evidence to the Board by Tower Township that Applicant's tile system **directly** caused accumulation of silt or vegetation, erosion, or scouring.

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 will recommend that Applicant comply with the following:

1. The Board recommends that Applicant obtain written consent from the Tower Township Board to discharge through or otherwise utilize any of the Township's road right of way.
2. 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. 202422*, and Applicant's downstream flow map to the Department of Water Resources, Tower Township, 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.

Cass County Planning

A motion was by Manager Melvin and seconded by Manager Miller and unanimously carried to authorize the Secretary to submit comment on the following subdivision applications to Cass County Planning with input from the Water Resource District Engineer:

- Buchholtz Subdivision
- Ries Subdivision

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

The Board discussed projects to submit for Cass County Flood Sales Tax Committee consideration including the low head dam hazard mitigation project. Mr. Lysne will update the committee on the Davenport Flood Risk Reduction Project and the RCPP - Upper Maple River Watershed Plan. Mr. Lysne also mentioned a recent revision to the projects eligible for funding. Mr. Lysne will look into the matter further and bring more information to a future meeting.

Bills

It was moved by Manager Miller and seconded by Manager Melvin to approve the payment of Checks #6194 through #6195, the wire transfers, and electronic funds transfers, as presented. 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.

Manager Miller moved and Manager Melvin seconded to approve and authorize the Chairman to sign the *Agreement* with DL Barkie Construction Inc. regarding weed control on Maple River Water Resource District facilities. Upon roll call vote the motion carried unanimously.

Drain #46 – Cass County Highway Department upcoming crossing replacements

Mr. Litchy updated the Board on the timeline of construction of two crossings on Drain #46, between Sections 10 and 15 and Sections 15 and 22 both in Cornell Township. Construction is planned to begin in late October.

Adjournment

There being no further business to be considered by the Board, it was moved by Manager Melvin and seconded by Manager Miller to adjourn the meeting. The meeting adjourned without objection.

APPROVED:

Gerald Melvin
Chairman

ATTEST:

Melissa Hinkemeyer
Secretary