

MINUTES OF MEETING  
MAPLE RIVER WATER RESOURCE DISTRICT  
CASS COUNTY HIGHWAY DEPARTMENT  
WEST FARGO, NORTH DAKOTA  
JANUARY 7, 2011

The Maple River Water Resource District met on January 7, 2011, at 9:00 a.m. at the Cass County Highway Department, West Fargo, North Dakota.

Present were Rodger Olson, Chairman; Jurgen Suhr, Manager; Wesley Beilke, Manager; Carol Harbeke Lewis, Secretary-Treasurer; Kimberly Bomstad, Accounting Tech/Administrative Assistant; Sean M. Fredricks, Attorney for the Board; Chad Engels, Engineer for the Board; Keith Weston, Natural Resources Conservation Service, Darin Milbrath, Durbin Township; Steve Christl, Everest Township Supervisor; David Ratchenski, property owner in Everest Township; Wayne Kellerman, property owner in Highland Township; David Braaten, property owner in Normanna Township; Gary Spoerl, property owner in Davenport Township and Dane Larsen, property owner in Raymond Township.

**Reorganization of the Board for calendar year 2011**

Upon motion duly made by Manager Suhr, seconded by Manager Olson and unanimously carried, the following officers were appointed for the year 2011:

Rodger Olson	Chairman
Jurgen Suhr	Vice Chairman
Carol Harbeke Lewis	Secretary-Treasurer
Wesley Beilke	Cass County Joint Water Resource District Alternate 1
Jurgen Suhr	Cass County Joint Water Resource District Alternate 2
Jurgen Suhr	Red River Joint Water Resource Board Representative
Wesley Beilke	Red River Joint Water Resource Board Alternate Representative

Upon roll call vote, the motion carried unanimously.

**2011 meeting dates**

The Board discussed its regular meeting dates for the year 2011. It was moved by Manager Suhr and seconded by Manager Olson to adopt the following resolution. Upon roll call vote, the motion carried unanimously.

RESOLUTION

BE IT RESOLVED, that the Maple River Water Resource District does hereby set the first Friday of each month at 9:00 a.m. at the Cass County Highway Department, 1201 Main Avenue West, West Fargo, North Dakota, as its regular meeting date, time and place for the year 2011.

BE IT FURTHER RESOLVED, that the Secretary be and she hereby is directed to forward a copy of said schedule of meetings to the Cass County Auditor and to post said schedule at the Water Resource District's principal office and the location of the scheduled meetings, all in accordance with the provisions of Section 44-04-20 as amended.

APPROVED:

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Rodger Olson  
Chairman

ATTEST:

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Carol Harbeke Lewis  
Secretary-Treasurer

**Designation of depositories of Maple River Water Resource District public funds**

It was moved by Manager Suhr and seconded by Manager Olson to designate the following as depositories of Maple River Water Resource District public funds:

Alerus Financial  
State Bank & Trust  
First State Bank of North Dakota (Casselton)

Upon roll call vote, the motion carried unanimously

**Pledge of Assets**

It was moved by Manager Suhr and seconded by Manager Olson to approve the following Pledge of Assets:

Alerus Financial (as per agreement of March 7, 1996)

Upon roll call vote, the motion carried unanimously.

**Review of contracts for engineering and legal services**

It was moved by Manager Suhr and seconded by Manager Olson to reaffirm the agreement with Ohnstad Twichell, P.C. for legal services and the agreement with Moore Engineering, Inc. for engineering services for 2011. Upon roll call vote, the motion carried unanimously.

Manager Beilke was now present.

**Drainage Complaint from Jeff Lahren against David Braaten and Scott Jacobson in Section 18 of Normanna Township**

Chad Engels reviewed LiDAR information for elevations regarding the drainage complaint from Jeff Lahren against David Braaten and Scott Jacobson in Section 18 of Normanna Township. Mr. Engels said the ditch flows north and no culverts were changed. He cannot determine if the ditch was widened due to the snow. David Braaten said the work was done four years ago. He said Mr. Lahren needs to clean the ditch by his yard. The Board asked Mr. Braaten to speak with Mr. Lahren about the matter. Mr. Braaten indicated he would do so. The matter was tabled until spring.

**Problems with expanding closed basin slough in Section 24 of Pontiac Township**

Keith Weston informed the Board that he has been working with Craig Lindemann to obtain a permit for a ring dike in the NW 1/4 of Section 24 in Pontiac Township through the Environmental Quality Incentives Program (EQIP). The main concern is to protect the house and any buildings with petroleum products. Mr. Weston asked the Board if they had any relief planned for the expanding closed basin sloughs in this area. Sean Fredricks said the Board would only have authority to set an elevation for the body of water if a permit application was filed. Another potential solution would be to form an assessment drain, if the Natural Resources Conservation Service could grant exemptions to swampbuster and a funding source is identified. Mr. Weston will visit with Mr. Lindemann and ask that he discuss the matter with neighbors to see if they would be interested in pursuing the project. Another alternative may be to relocate the farmstead. Mr. Engels estimated it would cost \$1,000 to look into the matter a little further.

It was moved by Manager Beilke and seconded by Manager Suhr to authorize Moore Engineering, Inc. to look into a solution for the rising water in the closed basin slough in Section 24 of Pontiac Township. Upon roll call vote, the motion carried unanimously.

**Drainage Complaint from Dean Sprunk against Kellerman Brothers (David Kellerman, Wayne Kellerman and Larry Kellerman) in the SE 1/4 and the NE 1/4 of Section 36 of Highland Township and the NW 1/4 of Section 31 of Watson Township and Obstruction to Drain Complaint from Dean Sprunk against the Kellerman Brothers in the NE 1/4 of Section 36 in Highland Township and the NW 1/4 of Section 31 in Watson Township**

Wayne Kellerman informed the Board that Highland Township would agree to replace the 15" culvert with a 24" culvert through the east-west road north of Dean Sprunk's farmstead in the NW 1/4 of Section 36, if Mr. Kellerman paid for the culvert. The township preferred to wait until spring to do the work. Mr. Kellerman and Mr. Sprunk agreed. Cass County has installed a sluice gate on the west end of the 24" culvert through Cass County Highway 7 near the half-mile line between Section 31 of Watson Township and Section 36 of Highland Township. Mr. Kellerman said Justin and Alan Halvorson have given verbal approval of the plan. The Board directed the Secretary-Treasurer to invite Mr. Sprunk, Mr. Kellerman and the Halvorsons to the next meeting to work out the operating plan for the drainage system.

**Application to Drain with Drain Tile #3588 for Aaron Larson to construct a tile drainage system in the NW 1/4 and SW 1/4 of Section 5 in Walburg Township**

The Board reviewed information from the State Engineer regarding *Application to Drain with Drain Tile #3588* for Aaron Larson. Under the application, Mr. Larson seeks to install a tile system on the W 1/2 of Section 5 in Walburg Township, property owned by Aaron and Stacie Larson. Chad Engels sent a letter to Mr. Larson dated December 27, 2010, in which Mr. Engels sought information from Mr. Larson regarding the proposed flow of the tile discharge. Mr. Larson did not respond to Mr. Engels' letter, so Mr. Engels contacted Mr. Jon Baumler, an adjacent landowner who farms the area and who is familiar with the proposed project. Mr. Baumler confirmed the proposed flow path for Mr. Larson's project.

Mr. Engels presented a map of the proposed project and flow path for the Board's review. The project will outlet into the SE 1/4 of Section 5, into a natural swale that flows northeast, until it reaches the east boundary line of Section 5. The discharge will flow through the natural swale in the SE 1/4 of Section 5 until it reaches the east boundary of the SE 1/4. The township road that borders the section line shared by Sections 4 and 5 contains culverts; a portion of the discharge will flow east through the culverts to the west side of Section 4, and a portion will remain on the west side of the township road. On both sides of the township road, the discharge will flow north through the two township road ditches (a township road controlled by Walburg Township) along the respective boundaries of the NW 1/4 of Section 4 and the NE 1/4 of Section 5. When the discharge on the west side of the road (NE 1/4 of Section 5) reaches the northeast corner of Section 5, the discharge will flow under the township road and merge with the flow on the east side of the road (NW 1/4 of Section 4) in the northwest corner of Section 4. At the point of confluence, the discharge will then flow east approximately one-third of a mile in the south road ditch of the township road on the north border of the NW 1/4 of Section 4. The discharge will then cross into the SW 1/4 of Section 33 in Gill Township.

The discharge will flow into a natural swale that flows through and over the following parcels in Gill Township: the S 1/2 of Section 33; the NE 1/4 of Section 33; the NW 1/4 of Section 34; and the S 1/2 of Section 34. The discharge will then flow through a culvert through Cass County Highway 5, and will continue to flow through the natural swale in the SW 1/4 of Section 35, and will continue southeast. Although the discharge will cross township roads in Gill Township, the discharge will not flow in or utilize Gill Township road ditches.

After reviewing the map of the proposed project, the Board concluded the project will adversely impact the downstream properties through the SW 1/4 of Section 35 in Gill Township due to additional water that will interrupt farming activities; beyond that point, adverse impacts will likely dissipate. The Board adopted Chad Engels' proposed responses to the eight elements under 89-02-01-09.2 of the North Dakota Administrative Code. The Board further determined no hearing was necessary under 89-02-01-09.1(2) of the North Dakota Administrative Code because the Board will require flowage easements from adversely impacted downstream landowners.

It was moved by Manager Suhr and seconded by Manager Beilke to approve *Application to Drain with Drain Tile #3688* for Aaron Larson, subject to the following conditions:

- 1) That applicant obtain and record (with the Cass County Recorder's office) flowage easements (and not just written consents), including language that permits saline water, from the owners of the following parcels in Walburg and Gill Townships, Cass County, North Dakota:
  - a. SE 1/4 of Section 5 in Walburg Township;
  - b. NE 1/4 of Section 5 in Walburg Township;
  - c. NW 1/4 of Section 4 in Walburg Township;
  - d. SW 1/4 of Section 33 in Gill Township;
  - e. SE 1/4 of Section 33 in Gill Township;
  - f. NE 1/4 of Section 33 in Gill Township;
  - g. NW 1/4 of 34 in Gill Township;
  - h. SW 1/4 of Section 34 in Gill Township;
  - i. SE 1/4 of Section 34 in Gill Township; and
  - j. SW 1/4 of Section 35 in Gill Township.
- 2) That applicant obtain written consent from the Walburg Township Board of Township Supervisors to discharge into, or otherwise utilize, any of its township road ditches.
- 3) That applicant obtain written permission from the owner of any land, besides land owned by applicant, on which applicant will construct the tile system.

4) 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.

Upon roll call vote, the motion carried unanimously.

**Obstruction to Drain Complaint by Arthur Ratchenski against Gerald Moderow in the NE 1/4 of Section 24 in Everest Township**

Moore Engineering, Inc. surveyed the approach that was installed with a culvert where Gerald Moderow was ordered to remove an obstruction in the NE 1/4 of Section 24 in Everest Township. Mr. Engels concluded that the culvert was installed at an elevation that is acceptable; however, the flap gate on the north end of the culvert needs to be removed in order to comply with the Order issued by the Water Resource District.

David Ratchenski expressed concerns about the matter and informed the Board that the township road ditch has been farmed in that area for many years. He hopes the culvert would be lowered if the ditch is cleaned out.

It was moved by Manager Suhr and seconded by Manager Beilke that the Water Resource District send a letter to Gerald Moderow stating if the flap gate on the culvert through the approach in the NE 1/4 of Section 24 of Everest Township is not removed by February 1, 2011, the Water Resource District will order it removed and charge the cost to do so against the property taxes.

**Embden Dam – erosion / fencing issue**

Manager Beilke said David Martin agreed to repair the fence at Embden Dam if the Water Resource District pays for the materials. Mr. Engels will look into what needs to be done to repair the erosion at the site.

**Drain #56 – installing a low water crossing in the NE 1/4 of Section 26 in Cornell Township**

It was moved by Manager Beilke and seconded by Manager Suhr to approve the *Culvert Agreement* with Eric Erickson regarding the installation of a low water crossing on Drain #56 in the NE 1/4 of Section 26 in Cornell Township.

**Application to Drain with Drain Tile #3675 for Mike Whitmore in the NE 1/4 of Section 6 in Rochester Township**

The Board reviewed *Application to Drain with Drain Tile #3675* for Mike Whitmore in the NE 1/4 of Section 6 in Rochester Township. The permit will be processed when Mr. Whitmore informs the Board which outlet he wishes to utilize and upon payment of the processing fee.

**Application to Drain with Drain Tile #3695 for Gary Geske in the SW 1/4 of Section 35 in Highland Township**

The Board reviewed information from the State Engineer regarding *Application to Drain with Drain Tile #3695* for Gary Geske in the SW 1/4 of Section 35 in Highland Township. Gary and Sandra Geske are the record owners of the SW 1/4. The application states the outlet for the tile system will also be in the SW 1/4. The project will discharge directly into a tributary of the Maple River; the project will not cross any downstream properties, it will not cross any roads, and it will not utilize any road ditches.

Mr. Engels reviewed the application and has indicated that, in his opinion, the project will not result in adverse impacts to downstream landowners since the project will discharge directly into a tributary of the Maple River. The Board adopted Chad Engels' proposed responses to the eight elements under 89-02-01-09.2 of the North Dakota Administrative Code. The Board further determined no hearing was necessary under 89-02-01-09.1(2) of the North Dakota Administrative Code because the Board determined there are no adverse impacts to downstream landowners.

It was moved by Manager Suhr and seconded by Manager Beilke to approve *Application to Drain with Drain Tile #3695* for Gary Geske, subject to the following conditions:

- 1) That applicant obtain written permission from the owner of any land, besides land owned by applicant, on which applicant will construct the tile system.
- 2) That applicant provide and maintain adequate erosion protection at the outlet(s).
- 3) 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.

Upon roll call vote, the motion carried unanimously.

**State Water Commission Ring Dike Program – correspondence regarding Jeff Askew's application**

The Board received and filed a letter from the State Water Commission on the Ring Dike Program regarding Jeff Askew's application.

**Maple River HMS Modeling**

Mr. Engels informed the Board that detailed modeling will be available by the end of March 2011. The models will allow for future insertion of theoretical retention sites to show what the impacts are.

**Minutes**

It was moved by Manager Suhr and seconded by Manager Beilke to approve the minutes of the December 3, 2010, meeting. Upon roll call vote, the motion carried unanimously.

**Bills**

It was moved by Manager Beilke and seconded by Manager Suhr to approve payment of Checks #4775 through #4784 and the electronic funds transfer, as presented. Upon roll call vote, the following Managers voted in favor: Olson, Suhr and Beilke. The Chairman declared the motion passed.

**Fargo-Moorhead Metropolitan Feasibility Study**

Mr. Fredricks informed the Board that he is going through a conflict analysis for each Water Manager with regard to the Fargo-Moorhead Metropolitan Feasibility Study.

**Waffle Plan – modeling issues**

Mr. Engels informed the Board that the State Water Commission concurred with Moore Engineering, Inc.'s findings with regard to the Energy and Environmental Research Center (EERC) modeling. The letter stated the discrepancies they noted do exist and there seems to be no explanation for them other than error. It also stated that an extensive revision of the hydraulic analyses would be required before the overall project could be properly evaluated. The Cass County Joint Water Resource District sent a letter to Bethany Kurz, EERC, setting out the Water Resource District's concerns and that there is no need to engage in any further debate about the matter unless the EERC has new information.

**Adjournment**

There being no further business to be considered by the Board, it was moved by Manager Beilke, seconded by Manager Suhr and unanimously carried to adjourn the meeting.

APPROVED:

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Rodger Olson  
Chairman

ATTEST:

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Carol Harbeke Lewis  
Secretary-Treasurer