

MINUTES OF MEETING
MAPLE RIVER WATER RESOURCE DISTRICT
CASS COUNTY HIGHWAY DEPARTMENT
WEST FARGO, NORTH DAKOTA
MARCH 1, 2012

The Maple River Water Resource District met on March 1, 2012, at 9:00 a.m. at the Cass County Highway Department, West Fargo, North Dakota.

Present were Rodger Olson, Chairman; Jurgen Suhr, Manager, Gerald Melvin, Manager; Carol Harbeke Lewis, Secretary-Treasurer; Sean M. Fredricks, Attorney for the Board; Chad Engels and Kyle Volk, Engineers for the Board; Wes Belter, North Dakota State Legislator; and those whose names appear on the attached roster.

Drain reassessments / combining drains

The first item of business was the concurrent reassessment hearing for Drains MR-1 (15, 39, 58 and 59), MR-2 (14, 34 and 36) and 37. Chad Engels explained the combination of drains in the MR-1 and MR-2 districts. Each drain collects small amounts of money and cannot afford to do a larger project. Assessing the drains together allows those types of projects to be constructed. The overall collection difference in MR-1 is \$10,233 less than assessing the drains separately. The MR-2 district will collect \$28,386 less than assessing the drains separately. The Drain #37 assessment district will see an increase in the overall collection in the amount of \$2,541.

Mr. Engels reviewed a shaded relief map of each assessment district. He asked those present if they saw any inaccuracies in the boundaries of MR-1. None were heard. He informed those present that the Board plans to equalize the assessments across the district and has the ability to collect up to \$2/acre maximum according to state statute.

Mr. Engels asked for comments with regard to the boundaries of Drain #37. Dave Johnson believes Sections 10 and 15 of Davenport Township drain northeast and not back to Drain #37. Mr. Engels asked if there were any comments with regard to new properties added to the north end of the district. Ryan Trom said water comes out of Drain #37 under high water conditions and runs across Section 10 in Addison Township. Mr. Trom said Section 10 was drained to the northeast corner of the section, then flows east for one mile and continues north. There were no objections to equalizing the assessments in the district.

Mr. Engels asked if there was any input with regard to MR-2. Jim Hagenson asked about property owners draining into the area that are not currently in the district. Chairman Olson said they would be brought into that assessment district.

Paula Swenson asked for clarification on various properties within the district. Chairman Olson explained that every property in this area is assessed for legal drains. The MR-2 district will eliminate overlapping assessment districts.

There were no comments with regard to equalizing the assessments.

Sandra Johnson expressed concern about water making its way through her property on its way to Drain #14. Mr. Engels said part of the issue in the spring is from the Sheyenne River moving into the system.

Sara Forness said there are a lot of people in downstream regions that are being affected by higher water levels for longer periods of time. She would like to see less drainage and better water quality. Sean Fredricks pointed out that the drains being discussed are already in place and that nothing new is being constructed, they are just consolidating assessment districts which will result in more people paying fewer taxes.

Property owners asked why work did not start on Drain #14 at the lower end. Chairman Olson said a project to reconstruct the drain from the outlet to the start of the drain was voted down. Work was done on the lower end of the drain many years ago and flood damage repairs were completed upstream from that area.

Chairman Olson pointed out that the two largest floods on record were in 1826 and 1897 when there were no drains, roads or culverts in place. There has been a large amount of development and infrastructure added that slows the water down, including, roads, ditches and culverts. When water gets to a certain level, it overtops the road. If roads did not exist, there would be nothing to back water up and it would flow uncontrolled. Looking at LiDAR, the valley will get rid of its water, whether there are roads, ditches and culverts. Work being done by farmers helps remove water that would not shed naturally, which prevents summertime damage to crops. Ms. Forness agreed that everyone needs to share blame and suggested they should be paid to hold water. Chairman Olson said Water Resource Districts are looking for areas to do that. Ms. Forness said they have also looked into the State Water Commission farmstead ring dike program.

Gary Cossette asked if they would continue to get representation as good as they would if the drains were handled individually. Chairman Olson said there would be no difference as all of the drains are currently handled by this Board.

The process was reviewed for drainage permits and drainage complaints. Mr. Engels said the Board has required gates on culverts, along with operating plans for the operation of those gates. Chairman Olson said the Board typically has a township official or someone that does not benefit from the project designated to monitor gate operation.

Manager Melvin said sometimes there is no solution, but after studying water issues, it has become clear that the biggest solution is the installation of drain tile. He said there

are many opinions on this and it has to be designed correctly. Chairman Olson said mains could be constructed, similar to how legal drains are constructed; to carry water from drain tiled fields to a natural waterway.

Hearing no further comments, Chairman Olson closed the hearing and informed those present that the Board will review and consider the comments received before making a final decision with regard to the proposed reassessments.

North Dakota Department of Transportation (NDDOT) Request for Drainage on Highway Right-of-way form

Representative Wes Belter met with the Board to discuss the Board's concerns about the conditions attached to the NDDOT *Request for Drainage on Highway Right-of-way* form with regard to drain tile projects. Mr. Belter talked to Troy Gilbertson and he indicated the NDDOT is flexible about the timeframe. It was suggested that the language be updated to more accurately reflect that. Mr. Belter will continue working on the matter with NDDOT officials.

Construction of drain tile "mains", similar to legal drains, was discussed with Mr. Belter. Chairman Olson believes it is something that should be tested. Manager Melvin thought it would be a good program.

Application to Drain #3845 for Dave Torgerson in the N 1/2 of Section 13 in Leonard Township

Chairman Olson will contact Dave Torgerson about a request from Mike Saewert to add a gate to the project in the N1/2 of Section 13 in Leonard Township. Mr. Saewert is concerned the water from the permitted project will build up and run over the township road and flow overland to his farmstead.

Application to Install a Subsurface Drain #12-010 for John Andvik in Section 2 of Barrie Township, Richland County, which outlets to a private ditch that flows north into Cass-Richland Drain #1

It was moved by Manager Melvin and seconded by Manager Suhr to approve *Application to Install a Subsurface Drain #12-010* for John Andvik in Section 2 of Barrie Township, Richland County, subject to the applicant providing and maintaining adequate erosion protection at the outlet into Cass-Richland Drain #1, noting that the applicant is solely responsible for any damages to Cass-Richland Drain #1 as a result of the tile project. Upon roll call vote, the motion carried unanimously.

Solicitation of views and comments from the North Dakota Department of Transportation regarding improvements to State Highway 46 from 9 miles east of Enderlin to State Highway 18 (2014) and from the east junction of State Highway 18 to Cass County Highway 81 (2015-2016)

Chairman Olson spoke with North Dakota Department of Transportation officials about proposed improvements to State Highway 46. The road elevation will change 1/2" and culverts through the highway, as well as through approaches, will be changed. Chairman Olson will inform the Water Resource District Engineer of one culvert that needs to be changed west of Leonard.

State Water Commission Water Development Report for the 2013-2015 biennium

Mr. Engels will compile a list of projects to submit to the State Water Commission for the Water Development Report for the 2013-2015 biennium.

Minutes

It was moved by Manager Suhr, seconded by Manager Melvin and unanimously carried to approve the minutes of the February 2, 2012, meeting, as presented.

Bills

It was moved by Manager Suhr and seconded by Manager Melvin to approve payment of Checks #4923 through #4929 and the electronic funds transfer, as presented. Upon roll call vote, the following Managers voted in favor: Olson, Suhr and Melvin. The Chairman declared the motion passed.

Application to Install a Subsurface Drain #20125 for Gerald, Jon, and Randal Melvin in Sections 11 and 14 in Tower Township

The Board reviewed *Application to Install a Subsurface Drain No. 20125* dated March 1, 2012, for Jon, Randal, and Gerald Melvin. The Board concluded the application does not propose drainage of statewide significance, so the Board has jurisdiction to approve the permit (without forwarding to the State Engineer's Office to consider and approve). Under the application, Applicant seeks to install a drain tile system in all of Section 11 and the NW 1/4 of Section 14 in Tower Township, Cass County, North Dakota. The project will include a gravity outlet that will discharge directly into the Maple River.

Because the proposed project will discharge directly into the Maple River, the application did not require a *Thirty-Day Notice* under N.D. Cent. Code Section 61-32-03.1, and the Board cannot require Applicant to obtain any flowage easements from downstream landowners.

As a water manager with a direct interest in the application, Manager Gerald Melvin consulted with attorney Sean Fredricks regarding any potential conflict of interest issues. Mr. Fredricks and Manager Melvin both concluded this matter involves a "direct and substantial personal or pecuniary interest" of Manager Melvin. With that in mind, Mr. Fredricks advised the Board that Manager Melvin did have a conflict under N.D. Cent. Code § 44-04-22 and that he recommended that Manager Melvin abstain from participating in or voting on his permit. Chairman Olson and Manager Suhr agreed, and Manager Melvin did not participate in the vote or any discussion regarding the outcome of the pending permit.

According to records on file with the Cass County Recorder's Office, Gerald Melvin owns the NW 1/4 of Section 14; with regard to all of Section 11, Gerald and Hattie Melvin own a half interest in all of Section 11, and Randal and Kristi Melvin own a half interest in all of Section 11.

It was moved by Manager Suhr and seconded by Chairman Olson to approve *Application to Install a Subsurface Drain No. 20125* dated March 1, 2012, for Jon, Randal, and Gerald Melvin in the NW 1/4 of Section 14 and all of Section 11 in Tower Township, subject to the following conditions:

- 1) That Applicant obtain easements from the owner of any land, besides land owned by Applicant, on which Applicant will construct the tile system;
- 2) That Applicant notify the Maple River Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;
- 3) That Applicant notify the Maple River Water Resource District in advance of any proposed improvements to the tile system, or any proposed increase in the capacity or drainage area of the tile system and, if necessary, submitting an additional permit application; and
- 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.

Adjournment

There being no further business for the Board to consider, it was moved by Manager Melvin, seconded by Manager Suhr and unanimously carried to adjourn the meeting.

APPROVED:

Rodger Olson
Chairman

ATTEST:

Carol Harbeke Lewis
Secretary-Treasurer