

MINUTES OF MEETING
MAPLE RIVER WATER RESOURCE DISTRICT
CASS COUNTY HIGHWAY DEPARTMENT
WEST FARGO, NORTH DAKOTA
SEPTEMBER 4, 2014

The Maple River Water Resource District met on September 4, 2014, at 8:00 a.m. at the Cass County Highway Department, West Fargo, North Dakota.

Present were Jurgen Suhr, Manager; Gerald Melvin, Manager; Carol Harbeke Lewis, Secretary-Treasurer; Julie Zaeske Norman, Administrative Assistant; Sean M. Fredricks, Attorney for the Board; Mike Opat, Engineer for the Board; Brady Woodard, Moore Engineering, Inc; Kyle Nelson, Farmers National Company; Pat Downs, Red River Retention Authority; Keith Weston, Natural Resources Conservation Service; Mike Eslinger, Dirt PRO; Ethan and Rick Kensok, property owners in Wheatland Township. Manager Rodger Olson was absent.

Minutes

It was moved by Manager Melvin, seconded by Manager Suhr, and unanimously carried to approve the minutes of the August 7, 2014, meeting.

Drain #37 berm – Janet Jensven / Kyle Nelson

Kyle Nelson, representing landowner Janet Jensven, expressed concern over the berm on Drain #37 that has washed out due to significant water flow. Brady Woodard stated that there was no standard design for berms and therefore no consistent remedy or precedence for this circumstance.

Manager Suhr authorized Mr. Woodard to review the property affected and recommend potential solutions for Board consideration at the next meeting.

Mr. Nelson also stated that Ms. Jensven is concerned about the water flow on another property in Davenport Township. The water is flowing north onto her property and is not draining adequately through the existing culverts due to the removal of a private berm. Mr. Fredricks suggested that consideration be given to applying for a levee permit through the Office of the State Engineer.

Pontiac Township Improvement District No. 73

Mr. Opat updated the Board on the Pontiac Township Improvement District No. 73 Project. Reaches 3 through 7 (downstream end) are all draining at this point. Work is moving slowly on Reaches 1, 2, and 8, due to high water levels.

The Board reviewed correspondence received from Sandra Fernow regarding the project assessment. The Secretary-Treasurer will prepare a written response to Ms. Fernow per the Board's direction.

Upper Maple River Dam

Mr. Opat updated the Board on the land acquisitions for the Upper Maple River Dam. Work continues on the project design, project schedule, and securing of easements for the project.

Keith Weston and Pat Downs reported that Mary Podoll, North Dakota State Conservationist, Natural Resources Conservation Service (NRCS), continues to strongly advocate for the project on the federal level. Efforts are focused on securing federal funding to assist with the anticipated project costs.

Mr. Nelson discussed with the Board and NRCS representatives the various factors considered by appraisal processes for easements and land acquisitions.

Mr. Downs stated that the NRCS representatives in Washington, D.C. have asked to review the design and construction plan. If the plans meet federal criteria for funding, a cooperative agreement will be developed.

Garsteig Dam pipe repair

Mr. Woodard reported that bids were received for the repairs needed to the pipe at Garsteig Dam. The recommended bid proposes the placement of a concrete collar on the pipe. Mr. Woodard recommended that the bid from Industrial Builders, Inc. be accepted.

It was moved by Manager Melvin and seconded by Manager Suhr to approve the time and materials bid submitted by Industrial Builders, Inc. for pipe repair at the Garsteig Dam, not to exceed \$36,900. Upon roll call vote, the motion carried unanimously.

Drainage complaint from Rick Kensok against Todd Weber in the S 1/2 of Section 24 in Wheatland Township

Mr. Fredricks reviewed the provisions of the permit approved for Todd Weber, providing an informational foundation for those present to consider the drainage complaint from Rick Kensok. Mr. Kensok spoke to his concerns. Following discussion, the Board determined that more information was required of Mr. Weber.

Application to Install a Subsurface Drain #20147 for James Wieland in the SE 1/4 of Section 22 and the SW 1/4 of Section 23 in Davenport Township

The Board reviewed *Application to Install a Subsurface Drain No. 20147* dated June 10, 2014, for James Wieland. The Board reviewed the criteria in Section 89-02-01-09 of the North Dakota Administrative Code and concluded the project does not meet any of the "statewide" elements; therefore, 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 the SE 1/4 of Section 22 and the SW 1/4 of Section 23 in Davenport Township, Cass County, North Dakota. The project will include a single pump outlet in the northwest corner of the SW 1/4 of Section 23 of Davenport Township (Applicant modified the proposed outlet following submission of the application, which identified the outlet in the SE 1/4 of Section 22); the pump outlet will discharge to the north, through the east township road ditch along the township road on the Section 22/23 section line; the tile discharge will continue to flow north along the west boundary of the NW 1/4 of Section 23 and the west boundary of the SW 1/4 of Section 14.

The Board previously provided a *Thirty Day Notice* under N.D. Century Code Section 61-32-03.1 to landowners within one mile of the pump outlet. The Board had previously provided notice to landowners downstream of the outlet originally planned in the SE 1/4, but sent modified notice once Applicant modified their proposed plan to include the outlet in the northwest corner of the SW 1/4 of Section 23. With regard to landowners on the west side of the township road, the Board has strongly recommended to Applicant that Applicant install a flap gate on the culvert between the NW 1/4 of Section 23 and the N 1/2 NE 1/4 of Section 22 to prevent tile discharge from flowing west through the culvert into the N 1/2 NE 1/4 of Section 22. The Board will not require easements on the W 1/2 of the township road with the understanding Applicant intends to install the flap gate.

According to records on file with the Cass County Recorder's Office, Applicant owns all but 16.03 acres in the SE 1/4 of Section 22; Mark Nettum and Galen and Tracy Nettum own interests in the remainder of the SE 1/4 of Section 22. With regard to the SW 1/4 of Section 23, James Wieland owns all but the East 355 feet of the South 364 feet of the SW 1/4, and Steve Schatzke owns the East 355 feet of the South 364 feet. The Horne Family Limited Partnership owns the W 1/2 NW 1/4 of Section 23; and the Dorian J. Simensen Living Trust owns the SW 1/4 of Section 14. David Braaten owns the N 1/2 NE 1/4 of Section 15, on the west side of the township road.

The Board discussed adverse impacts to downstream landowners as a result of the project and concluded the project will result in prolonged wetness, cattail growth, and access issues along the township road ditch. It was moved by Manager Melvin and seconded by Manager Suhr to approve *Application to Install a Subsurface Drain No. 20147* dated June 10, 2014, for James Wieland in the SE 1/4 of Section 22 and the SW 1/4 of Section 23 in Davenport Township, 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 Davenport Township, Cass County, North Dakota:

- a. W 1/2 NW 1/4 of Section 23; and
- b. W 1/2 SW 1/4 of Section 14;

- 2) That Applicant obtain easements from the owner of any land, besides land owned by Applicant, on which Applicant will construct the tile system;
- 3) That Applicant obtain written permission from the Davenport Township Board of Township Supervisors to discharge into, or otherwise utilize, any of its township road ditches;
- 4) That Applicant obtain written permission from Cass County to discharge into, or otherwise utilize, any of its county highway right of way;
- 5) That Applicant notify the Maple River Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;
- 6) 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;
- 7) That Applicant must close all outlets during flood occurrences or under conditions that may cause adverse impacts to downstream landowners, as determined by the Board; and
- 8) 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.

Application to Install a Subsurface Drain #201412 for Donald Kellerman and Bradley Kellerman in the NE 1/4 of Section 17 in Davenport Township

The Board reviewed *Application to Install a Subsurface Drain No. 201412* dated July 31, 2014, for Donald Kellerman and Bradley Kellerman. The Board reviewed the criteria in Section 89-02-01-09 of the North Dakota Administrative Code and concluded the project does not meet any of the “statewide” elements; therefore 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, Applicants seek to install a drain tile system in the NE 1/4 of Section 17 in Davenport Township, Cass County, North Dakota. The project will include one pump outlet that will discharge in the northeast corner of Section 17; from there, the tile discharge will flow north along the east boundary of Section 8, in the west township road ditch along the Section 8/9 township road, and the tile discharge will continue to flow north.

The Board previously provided *Thirty Day Notices* under N.D. Century Code Section 61-32-03.1 to the owners of the E 1/2 E 1/2 of Section 8.

According to records on file with the Cass County Recorder's Office, Donald Kellerman owns a life estate in the NE 1/4 of Section 17, and Bradley Kellerman owns the remainder interest. Bradley Kellerman owns the SE 1/4 of Section 8; Esther Fredrikson owns a life estate in the E 1/2 NE 1/4 of Section 8, and Matthew Fredrikson owns the remainder interest.

The Board considered potential adverse impacts to downstream properties as a result of the tile discharge. The Board concluded the project will result in prolonged wetness along the course of the tile discharge, cattail growth, and access issues along the course of the tile discharge. It was moved by Manager Melvin and seconded by Manager Suhr to approve *Application to Install a Subsurface Drain No. 201412* dated July 31, 2014, for Donald Kellerman and Bradley Kellerman in the NE 1/4 of Section 17 in Davenport Township, subject to the following conditions:

1) That Applicants 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 Davenport Township, Cass County, North Dakota:

a. E 1/2 NE 1/4 of Section 8;

2) That Applicants obtain easements from the owner of any land, besides land owned by Applicants, on which Applicants will construct the tile system;

3) That Applicants obtain written permission from the Davenport Township Board of Township Supervisors to discharge into, or otherwise utilize, any of its township road ditches;

4) That Applicants notify the Maple River Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;

5) That Applicants 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;

6) That Applicants must close all outlets during flood occurrences or under conditions that may cause adverse impacts to downstream landowners, as determined by the Board; and

7) That Applicants 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.

Application to Install a Subsurface Drain #201415 for Duane Grieger in Section 3 of Tower Township

Upon review of the application *to Install a Subsurface Drain #201415* Duane Grieger in Section 3 of Tower Township, it was found to be incomplete. Mr. Grieger will be contacted regarding the revisions necessary to allow for permit review and approval.

Use of the Township Discharge Permit for subsurface drain applications

Mr. Fredricks presented the newly developed *Township Discharge Permit* for use by townships regarding subsurface drain applications. It was moved by Manager Melvin and seconded by Manager Suhr to adopt and incorporate into procedures the use of the *Township Discharge Permit* form. Upon roll call vote, the motion carried unanimously.

Request for Drainage on Highway Right of Way for Mike Saewert in Sections 4, 9 and 10 in Gill Township to make cuts into the I-94 ditch at the fence line

It was moved by Manager Melvin and seconded by Manager Suhr to approve the *Request for Drainage on Highway Right of Way* for Mike Saewert in Sections 4, 9 and 10 in Gill Township. Upon roll call vote, the motion carried unanimously.

Drain #46 cleanout

An update on the Drain #46 cleanout was provided by Mr. Woodard and the contractor, Mr. Eslinger. Work has been completed on 5 miles of the channel. It was noted that water is standing for a prolonged period of time in parts of the channel, preventing channel crossing.

It was moved by Manager Melvin and seconded by Manager Suhr to authorize funding to continue Drain #46 cleanout work at a cost not to exceed \$50,000. Upon roll call vote, the motion carried unanimously.

The Board further directed Mr. Woodard to survey the areas with excessive standing water to determine the cause and propose remedies, if necessary.

Results of Maple River WRD facilities inspection

Mr. Woodard presented the 2014 spring inspection report. It was moved by Manager Melvin and seconded by Manager Suhr to proceed with the following, as set out in the 2014 spring inspection report:

- Drain #14 Site A – erosion repair
- Drain #14 Site B – culvert replacement
- Drain #15 Site B – tree removal;
- Drain #34 Site A – flap gate replacement;
- Drain #34 Site B – erosion repair;
- Drain #34 Site C – erosion repair;
- Drain #34 Site D – flap gate replacement;
- Drain #35 Site A – flap gate repair;

- Drain #62 Site A – flap gate replacement; and
- Swan Creek Site A – tree removal.

Bills

It was moved by Manager Melvin and seconded by Manager Suhr to approve the payment of Checks #5267 through #5279 and the electronic funds transfer, as presented. 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