

MINUTES OF MEETING
MAPLE RIVER WATER RESOURCE DISTRICT
CASS COUNTY HIGHWAY DEPARTMENT
WEST FARGO, NORTH DAKOTA
SEPTEMBER 3, 2015

The Maple River Water Resource District met on September 3, 2015, at 8:00 a.m. at the Cass County Highway Department, West Fargo, North Dakota.

Present were Rodger Olson, Chairman (by phone), Jurgen Suhr, Manager; Gerald Melvin, Manager; Carol Harbeke Lewis, Secretary-Treasurer; Brenda Lovgren, Administrative Assistant; Sean Fredricks, Attorney for the Board; Chris Gross, Engineer for the Board; Brady Woodard and Brandon Oye, Moore Engineering, Inc.; Frank Podoll, Cass County Highway Department; Steve Christl, property owner in Everest Township; Derek Swenson, property owner in Davenport Township; Ryan Ottis and Mark Ottis; property owners in Normanna Township; and Roger Vining, property owner in Casselton Township.

Chairman Olson asked Manager Suhr to run the meeting.

Minutes

It was moved by Manager Melvin, seconded by Manager Olson and unanimously carried to approve the minutes of the August 6, 2015, meeting.

City of Casselton - drain into Swan Creek Diversion

The City of Casselton is looking into the possibility of constructing a channel to divert water to the north of the Industrial Park to address overland flooding from the west. There has been significant growth in the area and the existing detention pond and pump station are undersized. Brandon Oye reviewed options with the Board. The favored option by the City of Casselton would divert water north along the west side of the railroad tracks, west of the access road to Maple River Grain, to the Swan Creek Diversion. The Cass County Flood Sales Tax Committee has approved 50% cost-share in the amount of \$1,310,000 for the project. Mike Opat will look at the plans and report back to the Board.

Beaver dam removal on Buffalo Creek in the E 1/2 of Section 27 in Everest Township

Brandon Runck contacted the Water Resource District office to request removal of a beaver dam on Buffalo Creek in the E 1/2 of Section 27 in Everest Township, west of State Highway 18. The Water Resource District does not have access or right of way to the property where the beaver dam is located and there is no assessment district in place on Buffalo Creek; therefore, the Water Resource District is unable to approve the request to have the beaver dam removed.

Drain #34 – lowering / installing larger culvert into the drain in the northwest corner of Section 30 in Normanna Township

Ryan Ottis discussed lowering or installing a larger culvert into Drain #34 in the northwest corner of Section 30 in Normanna Township. Mr. Ottis said the extra depth would allow better drainage and provide an adequate outlet for proposed drain tile installation. Chris Gross reported that in

2013, the proposed master plan for Drain #34 allows lowering the culvert one foot. Lowering the culvert more than that could cause a problem with sediment in the drain. Sean Fredricks pointed out that a drainage permit would be needed if the township road ditch is deepened or widened.

It was moved by Manager Olson and seconded by Manager Melvin to authorize Moore Engineering, Inc. to hire a contractor to replace the culvert, if necessary, and lower the culvert one foot into Drain #34 in the northwest corner of Section 30 in Normanna Township. Upon roll call vote, the motion carried unanimously.

Lynchburg Channel / Buffalo Creek Improvements

The Board discussed possible cleanout or reconstruction of the federal projects on the Lynchburg Channel and Buffalo Creek. Mr. Woodard suggested surveying to determine what is needed.

It was moved by Manager Olson and seconded by Manager Melvin to hire Moore Engineering, Inc. to survey the Lynchburg Channel and Buffalo Creek from State Highway 18, east to the outlet at the Maple River and report back to the Board with the results. Upon roll call vote, the motion carried unanimously.

Upper Maple River Dam

Mr. Woodard updated the Board regarding progress of the Upper Maple River Dam. The project is 65% complete and 75% of the project area is seeded. The road raise should be complete by the end of the week and Sussex Dam has been removed.

It was moved by Manager Melvin and seconded by Manager Olson to spread the assessment for the Upper Maple River Dam Project over a period of 15 years at the interest rate of 4.2%. Upon roll call vote, the motion carried unanimously.

Swan Creek improvements from Cass County Highway 10, north 1.5 miles

Chris Gross updated the Board regarding Swan Creek improvements from Cass County Highway 10, north 1.5 miles. A cost-share application was submitted to the State Water Commission.

Drain #46 low water crossing repair

Mr. Woodard spoke with Industrial Builders, Inc. regarding Drain #46 low water crossing repair. Options for proposed concrete pads were discussed. The contractor estimated the cost for the crossing would not exceed \$40,000.

It was moved by Manager Melvin and seconded by Manager Olson to hire Industrial Builders, Inc. to repair the low water crossing on Drain #46 between Sections 4 and 9 in Lake Township, at a cost not to exceed \$40,000. Upon roll call vote, the motion carried unanimously.

Drain #56 – low water crossing one mile north of Cass County Highway 4

Manager Suhr received a request for a low water crossing on Drain #56, one mile north of Cass County Highway 4. The Board discussed placing a 5 or 6 foot culvert in the crossing. Mr. Woodard will inspect the site and report back to the Board.

Detention Project Planning Teams

The funding applications have been forwarded to the Natural Resources Conservation Service to request federal funding through the Regional Conservation Partnership Program for Swan Creek Watershed and the Upper Maple River Watershed Detention Studies. Detention Project Planning Team meetings will be scheduled when the funding agreements are in place with the Natural Resources Conservation Service.

Application to Install a Subsurface Drain #20154 for Donald and Bradley Kellerman in the SE 1/4 of Section 34 in Addison Township

The Board reviewed an *Application to Install a Subsurface Drain #20154* dated July 6, 2015, 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 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 SE 1/4 of Section 34 in Addison Township, Cass County, North Dakota. The project will include a pump outlet that will discharge in the northeast corner of the SE 1/4 of Section 34, into the west road ditch of 161st Avenue SE, the township road along the Section 34/35 section line; from there, the tile discharge will flow north through the west township road ditch along the east boundary of the NE 1/4 of Section 34 and the SE 1/4 of Section 27, and will continue north.

Chris Gross reviewed the application and suggested that, because the project will discharge into the township road right of way, the Board should require Applicant to install and maintain erosion protection to protect the township road ditch. The Board previously provided *Thirty-Day Notices* to the owners of the E 1/2 NE 1/4 of Section 34 and the E 1/2 SE 1/4 of Section 27. The Board found the project will result in adverse impacts in the township road ditch, including maintenance issues regarding the road ditch, prolonged wetness in the road ditch, cattail growth, and potential access issues. Applicants have already obtained a tile discharge permit from Addison Township regarding use of the township road ditch.

According to records on file with the Cass County Recorder’s Office, the Bradley and Lisa Kellerman Living Trust owns the SE 1/4 of Section 34; Leland and Florence Hans own the E 1/2 NE 1/4 of Section 34, less Lot 1 in the northeast corner of the NE 1/4 of Section 34; Michael and Martha Schmit own Lot 1 in the northeast corner of the NE 1/4 of Section 34; and Heuer Brothers, LLP, owns the SE 1/4 of Section 27.

It was moved by Manager Melvin and seconded by Manager Olson to approve *Application to Install a Subsurface Drain #20154* dated July 6, 2015, for Donald Kellerman and Bradley Kellerman in the SE 1/4 of Section 34 in Addison 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 Addison Township, Cass County, North Dakota:

- a. The E 1/2 NE 1/4 of Section 34; and
 - b. The E 1/2 SE 1/4 of Section 27;
- 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 provide and maintain adequate erosion protection at any and all outlets into the township road ditch along 161st Avenue SE in accordance with Addison Township's requirements;
 - 4) That Applicants obtain written permission from the Addison Township Board of Township Supervisors to discharge into, or otherwise utilize, any of its township road ditches;
 - 5) That Applicants notify the Maple River Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;
 - 6) 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;
 - 7) That Applicants must close all outlets during flood occurrences or under conditions that may cause adverse impacts to downstream landowners, as determined by the Maple River Water Resource District; and
 - 8) 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 #20156 for E. Lynn Overboe in the SE 1/4 and NE 1/4 of Section 20 in Normanna Township

The Board reviewed *Application to Install a Subsurface Drain #20156* dated July 17, 2015, for E. Lynn Overboe. 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 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 E 1/2 of Section 20 in Normanna Township, Cass County, North Dakota. The project will include a pump outlet in the northeast corner of Section 20 that will discharge into the west road ditch of Cass County Highway 15; from there, the tile discharge will flow north in the west Highway 15 road ditch along the east boundary of Section 17 and will continue north.

According to records on file with the Cass County Recorder's Office, the Cass County Highway Department owns the west 32 feet of the east 65 feet of the E 1/2 of Section 17; the County has

statutory easement rights over the east 33 feet of the E 1/2 of Section 17 for purposes of maintaining and operating County Highway 15. The underlying landowners regarding the east 33 feet of the E 1/2 of Section 17 are Eleanor Braaten in the NE 1/4, and Virgil and Arlys Torgerson in the SE 1/4.

Because the proposed project will discharge into County highway right of way and over property owned by Ms. Braaten and the Torgersons, the Board provided *Thirty-Day Notices* to those parties. Further, the Board concluded the project will result in adverse impacts to those downstream parties in light of prolonged wetness, potential cattail growth in the road ditch, additional maintenance issues regarding the County Highway 15 road ditch, and potential salinity issues for the first two years.

It was moved by Manager Melvin and seconded by Manager Olson to approve *Application to Install a Subsurface Drain #20156* for E. Lynn Overboe in the E 1/2 of Section 20 in Normanna 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 Normanna Township, Cass County, North Dakota:
 - a. The east 33 feet of the NE 1/4 of Section 17; and
 - b. The east 33 feet of the SE 1/4 of Section 17;
- 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 provide and maintain adequate erosion protection at any and all outlets into Cass County Highway 15 road ditch, in accordance with the County's requirements;
- 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 Maple River Water Resource District; 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 #20159 for Renee Trier in the NW 1/4 of Section 30 in Warren Township

The Board reviewed *Application to Install a Subsurface Drain #20159* dated July 22, 2015, for Renee Trier. 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 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 that portion of the NW 1/4 of Section 30 in Warren Township, Cass County, North Dakota, lying south and east of Cass County Drain #14 (Drain #14 runs diagonally across the NW 1/4 NW 1/4 of Section 30). The project will include a gravity outlet that will discharge directly into Drain #14. The Maple River Water Resource District owns and operates Drain #14 as a portion of *Cass County Drain MR-1 District*.

Chris Gross reviewed the application and suggested that, because the project will discharge directly into Drain #14, the Board should require Applicant to install and maintain erosion protection to protect Drain #14. The Board will require erosion protection, and will require Applicant to obtain a *Utility Permit* regarding discharges into Drain #14 and use of Drain #14 right of way. Because the proposed project will discharge directly into Drain #14, 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.

According to records on file with the Cass County Recorder’s Office, Renee D. Trier owns all of the NW 1/4 of Section 30.

It was moved by Manager Melvin and seconded by Manager Olson to approve a *Utility Permit* regarding any use of Drain #14 right of way and regarding the outlet into Drain #14, and to approve *Application to Install a Subsurface Drain #20159* dated July 22, 2015, for Renee Trier in the NW 1/4 of Section 30 in Warren 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 provide and maintain adequate erosion protection at any and all outlets into Cass County Drain #14 (Applicant is solely responsible for any damages to Cass County Drain #14 as a result of the tile project);
- 3) That Applicant notify the Maple River Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;

- 4) That any time water is breaking out of Drain #14 downstream of the tile discharge into Drain #14, Applicant must turn off any pumps, or otherwise close the tile system;
- 5) That, upon a determination by, and notice from, the Maple River Water Resource District that Drain #14 is full or otherwise unable to accommodate the discharge of water from Applicant's tile system, Applicant must turn off any and all pumps;
- 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 Maple River Water Resource District;
- 8) That Applicant obtain an approved *Utility Permit* from the Maple River Water Resource District regarding any and all outlets into Cass County Drain #14; and
- 9) 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 for Surface Drain for Wayne K. Kellerman in the SW 1/4 of Section 22 in Watson Township

The Office of the State Engineer submitted a preliminary review of Application for Surface Drain #4734 from Wayne K. Kellerman in the SW 1/4 of Section 22 in Watson Township. The purpose of the drainage ditch is to drain water on agricultural land. By constructing the drainage ditch as proposed, the Applicant will alter the natural flow direction of drainage in the SW 1/4 of Section 22 from the north to south. Consequently, the ditch along Cass County Highway 18 will receive more runoff from the SW 1/4 of Section 22 than it would naturally. The matter was tabled until the Water Resource District Engineer can review the application, discuss the matter with the Applicant and submit recommendations.

Request for Drainage on Highway Right of Way for Michael C. Wyum to clean the north ditch of State Highway 46 in Section 33 of Watson Township

It was moved by Manager Melvin and seconded by Manager Olson to approve the *Request for Drainage on Highway Right of Way* for Michael C. Wyum to clean the north ditch of State Highway 46 in section 33 of Watson Township. Upon roll call vote, the motion carried unanimously.

Bills

It was moved by Manager Melvin and seconded by Manager Olson to approve the payment of Checks #5433 through #5440 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 carried.

Adjournment

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

APPROVED:

Rodger Olson
Chairman

ATTEST:

Carol Harbeke Lewis
Secretary-Treasurer