

MINUTES OF MEETING
MAPLE RIVER WATER RESOURCE DISTRICT
CASS COUNTY HIGHWAY DEPARTMENT
WEST FARGO, NORTH DAKOTA
OCTOBER 1, 2015

The Maple River Water Resource District met on October 1, 2015, at 9:00 a.m. at the Upper Maple River Dam Site, Section 35, Carpenter Township, Steele County, 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; and Mike Opat, Engineer for the Board.

Minutes

It was moved by Manager Melvin, seconded by Manager Suhr and unanimously carried to approve the minutes of the August 21 and September 3, 2015, meetings.

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

Mike Opat informed the Board that a cost-share application was submitted to the State Water Commission regarding Swan Creek improvements from Cass County Highway 10, north 1.5 miles, which will be considered at its October 6, 2015, meeting.

Garsteig Dam – NRCS dam assessment / repair / fence repair

Mr. Opat reviewed the *Engineer's Opinion of Probable Cost* regarding Garsteig Dam repairs. The Board discussed completing repairs using Cured-In-Place Pipe Lining.

It was moved by Manager Melvin and seconded by Manager Suhr to authorize Moore Engineering, Inc. to hire a contractor to proceed with repairs to the damaged fence at Garsteig Dam. Upon roll call vote, the motion carried unanimously.

Absaraka Dam repairs

Mr. Opat reviewed the *Engineer's Opinion of Probable Cost* regarding Absaraka Dam repairs. Repairs are planned to be completed next year.

Embden Dam repairs

Mr. Opat reviewed the *Engineer's Opinion of Probable Cost* regarding Embden Dam repairs. Repairs are planned to be completed next year.

Application for Surface Drain #4734 for Wayne K. Kellerman in the SW 1/4 of Section 22 in Watson Township

The Board reviewed information from the State Engineer regarding *Application for Surface Drain #4734 for Wayne Kellerman*. Under the application, Applicant seeks to construct channel improvements in the SW 1/4 of Section 22 in Watson Township. More specifically, Applicant intends to construct ditching improvements commencing at the quarter section line on the north boundary of the SW 1/4 of Section 22, approximately one-sixth of a mile east of the west boundary of the SW 1/4 of Section 22; the drainage ditch will run straight south until reaching the township road along the south boundary of the SW 1/4 of Section 22; from there, Applicant intends to install a culvert through the township road to accommodate the discharge from the drain; the culvert through the township road will discharge to the south through and across the township road ditch before ultimately discharging into Cass County Drain #54 along the north boundary of the NW 1/4 of Section 27 in Watson Township. The Maple River Water Resource District owns and operates Drain #54. The permitted drain will include a 2,640-foot channel improvement; a bottom width of 6 feet maximum; 4:1 side slopes; and a maximum cut of 3.5 feet.

According to records on file with the Cass County Recorder's office, Wayne Kellerman, Larry Kellerman, and the David M. Kellerman Revocable Trust all own equal one-third interests in the SW 1/4 of Section 22 where Applicant intends to construct the drain improvements. Marvin and Jeanette Baarstad own the NW 1/4 of Section 27 in Watson Township.

The Board directed Moore Engineering to prepare responses to the eight elements under Section 89-02-01-09.2 of the North Dakota Administrative Code. The Board further determined no hearing was necessary under Section 89-02-01-09.1(2) of the North Dakota Administrative Code because the Board will require Applicant to obtain permission from the Watson Township Board of Township Supervisors to install a culvert through its road or otherwise utilize any of its road ditches; in addition, the Board will require Applicant to obtain an easement from the owner of the NW 1/4 of Section 27 regarding drainage across that property before entering Drain #54. The Board concluded that, in light of these measures, there will be no further adverse impacts as a result of the project.

It was moved by Manager Melvin and seconded by Manager Suhr to approve a *Utility Permit* regarding Applicant's intention to utilize Drain #54 as an outlet, and to approve *Application for Surface Drain #4734 for Wayne Kellerman*, subject to the conditions attached by the State Engineer, and subject to the following conditions:

- 1) That Applicant obtain and record (with the Cass County Recorder's office) an easement (and not just written consent) from the owners of the NW 1/4 of Section 27 in Watson Township, Cass County, North Dakota, for purposes of draining water over, upon, through, and across a portion of the N 1/2 of the NW 1/4 in Section 27;

- 2) That Applicant obtain and record (with the Cass County Recorder's office) easements (and not just written consents) from all record owners of the SW 1/4 of Section 22 in Watson Township, Cass County, North Dakota, for purposes of constructing, operating, and maintaining a surface drain;
- 3) That Applicant will not construct or improve the drain in any manner that exceeds the dimensions indicated in the application, including a drain length of 2,640 feet; a 6-foot bottom width; 4:1 side slopes; and a maximum cut of 3.5 feet;
- 4) That Applicant obtain an easement from the owner of any land, besides land owned by Applicant, on which Applicant will construct the drain; and
- 5) That Applicant obtain written permission from the Watson Township Board of Township Supervisors to install a culvert through its township road or to otherwise utilize its township road ditches;
- 6) That Applicant notify the Maple River Water Resource District in advance of any proposed improvements to the drain, including any increase in the capacity or drainage area affected, and, if necessary, submit an additional permit application;
- 7) That Applicant obtain an approved *Utility Permit* from the Maple River Water Resource District regarding utilization of Cass County Drain #54 as an outlet; 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 #201517 for Bruce Glasow in the NW 1/4 of Section 21 in Addison Township

The Board reviewed *Application to Install a Subsurface Drain #201517* dated September 2, 2015, for Bruce Glasow. 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, and 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 NW 1/4 of Section

21 in Addison Township, Cass County, North Dakota. The project will include a single pump outlet that will discharge directly into Cass County Drain #37 in the NW 1/4 of Section 21. The Maple River Water Resource District owns and operates Drain #37.

Because the proposed project will discharge directly into Drain #37, 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. The Board will require Applicant to obtain a *Utility Permit* regarding Applicant's plan to discharge into Drain #37.

According to records on file with the Cass County Recorder's Office, Dallas Glasow, Bruce Glasow, and Joan Westlund are the record owners of the NW 1/4 of Section 21 where Applicant intends to install the tile system.

It was moved by Manager Suhr and seconded by Manager Melvin to approve a *Utility Permit* regarding Applicant's plan to utilize Drain #37 as an outlet, and to approve *Application to Install a Subsurface Drain #201517* dated September 2, 2015, for Bruce Glasow in the NW 1/4 of Section 21 in Addison Township, subject to the following conditions:

- 1) That Applicant obtain and record (with the Cass County Recorder's office) a permanent easement (and not just a written consent) from the other record owners of the NW 1/4 of Section 21 in Addison Township, Cass County, North Dakota, that permits Applicant to install, operate, and maintain a subsurface tile system;
- 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 Drain #37 (Applicant is solely responsible for any damages to Drain #37 as a result of the tile project);
- 4) That Applicant notify the Maple River Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;
- 5) That, upon a determination by, and notice from, the Maple River Water Resource District that Drain #37 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 Drain #37; 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 to Install a Subsurface Drain #201519 for Orlan Swenson in the NW 1/4 of Section 30 in Normanna Township

The Board reviewed *Application to Install a Subsurface Drain #201519* dated September 28, 2015, for Orlan Swenson. 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 NW 1/4 of Section 30 in Normanna Township, Cass County, North Dakota. The project will include a gravity outlet that will discharge directly into Cass County Drain #34. The Maple River Water Resource District owns and operates Drain #34, one of the drains consolidated to form Cass County Drain MR-2 District.

Mike Opat reviewed the application and suggested that because the project will discharge directly into Drain #34, the Board should require Applicant to install and maintain erosion protection to protect Drain #34; the Board will require Applicant to ultimately obtain a *Utility Permit* from the Board regarding use of Drain #34 as an outlet. Because the proposed project will discharge directly into Drain #34, 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, Elaine Swenson, Applicant’s wife, is the sole owner of the NW 1/4 of Section 30 in Normanna Township.

It was moved by Manager Melvin and seconded by Manager Suhr to approve a *Utility Permit* regarding any use of Drain #34 right of way and regarding the outlet into Drain #34, and to approve *Application to Install a Subsurface Drain No. 201519* dated September 28, 2015, for Orlan Swenson in the NW 1/4 of Section 30 in Normanna Township, subject to the following conditions:

- 1) That Applicant obtain and record (with the Cass County Recorder's office) an easement (and not just written consent), from the record owner to permit Applicant to install, operate, and maintain a subsurface tile project in the NW 1/4 of Section 30 in Normanna Township, Cass County, North Dakota;
- 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 Drain #34 (Applicant is solely responsible for any damages to Drain #34 as a result of the tile project);
- 4) That Applicant notify the Maple River Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;
- 5) That, upon a determination by, and notice from, the Maple River Water Resource District that Drain #34 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 Drain #34; 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.

Request for Drainage on Highway Right of Way for Jeffrey Askew to clean the Wheatland Channel along the south side of the I-94 frontage road in Section 8 of Durbin Township

It was moved by Manager Melvin and seconded by Manager Suhr to approve the *Request for Drainage on Highway Right of Way* for Jeffrey Askew to clean the Wheatland Channel along the south side of the I-94 frontage road in Section 8 of Durbin Township. Upon roll call vote, the motion carried unanimously.

Utility Permit for Xcel Energy to install 4” natural gas main under the Wheatland Channel in Section 11 of Everest Township, along the east side of State Highway 18

It was moved by Manager Melvin and seconded by Manager Suhr to approve the *Utility Permit* for Xcel Energy to install 4” natural gas main under the Wheatland Channel in Section 11 of Everest Township, along the east side of State Highway 18, subject to conditions provided by the Water Resource District Engineer. Upon roll call vote, the motion carried unanimously.

Proposed home construction for Ryan Stroh between two ravines in Lot 4 of Choke Cherry Lane Subdivision in the SE 1/4 of Section 32 in Davenport Township

Ryan Stroh contacted Chairman Olson with regard to building a home on Lot 4 of Choke Cherry Lane Subdivision in the SE 1/4 of Section 32 in Davenport Township. Chairman Olson advised him to contact Cass County and to be sure and follow county guidelines. The lot sits between high ground and will not impede water, so no drainage issues are anticipated. The Secretary-Treasurer will send Mr. Stroh a copy of the comments submitted to Cass County Planning in 2007 when the subdivision application was considered and inform him the Water Resource District has no further comments.

Bills

It was moved by Manager Melvin and seconded by Manager Suhr to approve the payment of Checks #5441 through #5454 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.

Drain #46 low water crossing repair

The Board received a proposal from Dirt Pro LLC to flatten the slopes at the low water crossing on Drain #46 between Sections 4 and 9 in Lake Township. Industrial Builders, Inc. plans to pour concrete sections this week. There are three additional low water crossings on Drain #46 that possibly need similar repairs.

It was moved by Manager Suhr and seconded by Manager Melvin to hire Dirt Pro LLC to proceed with flattening the slopes at the low water crossing on Drain #46, between Sections 4 and 9 in Lake Township, at a cost not to exceed \$5,120. Upon roll call vote, the motion carried unanimously.

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

Brady Woodard reported that he is still waiting to receive pricing for the pipe for the low water crossing on Drain #56, one mile north of Cass County Highway 4.

Drain #39 repairs in Leonard Township

Mr. Opat reported that seeding is complete on the Drain #39 repairs in Leonard Township and the total project cost came in under budget.

Cass-Richland Drain #1 – flapgate repair west of Kindred

The Board directed Moore Engineering, Inc. to repair two flapgates on Cass-Richland Drain #1, west of Kindred.

Swan Creek Diversion – damaged flapgate

The Secretary-Treasurer reported a damaged flapgate on the Swan Creek Diversion along I-94. Mr. Woodard will look into the matter and report back to the Board.

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