

MINUTES OF MEETING
MAPLE RIVER WATER RESOURCE DISTRICT
CASS COUNTY HIGHWAY DEPARTMENT
WEST FARGO, NORTH DAKOTA
JULY 7, 2016

The Maple River Water Resource District met on July 7, 2016, at 8:00 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; Kathy Grueneich, Administrative Assistant; Sean Fredricks, Attorney for the Board; Mike Opat, Engineer for the Board; Jason Benson, Cass County Engineer; Tom Soucy, Cass County Highway Department; and those whose names appear on the attached roster.

Minutes

It was moved by Manager Melvin, seconded by Manager Suhr and unanimously carried to approve the minutes of the June 2, 14, 21 and 27, 2016, meetings.

Tower Township Improvement District No. 77

Mike Opat presented a watershed map for Tower Township Improvement District No. 77. The map will be used to identify the properties benefiting from the project, which may contribute to the bond required to pursue the project. Mr. Opat said LiDAR was used to develop the map and pointed out that LiDAR does not indicate what is below the water or provide watershed delineation. Upon receipt of the petition and bond, the Water Resource District Engineer would begin putting together a plan. The U.S. Fish and Wildlife Service has some interest in Sections 5 and 6 and the farm program needs to be considered throughout the project area.

Manager Melvin asked Tim Richman, a Tower Township property owner, to speak about the bond. He reported that about \$1,000 per quarter has been promised from some property owners. He stated there are concerns about the project affecting pre-existing drainage.

A question was raised if the drainage would be underground or surface. Mr. Opat said nothing has been determined, but underground would most likely be used with some surface drainage.

Manager Olson asked Mr. Opat to explain typical assessment drain projects. Mr. Opat said assessment drains are typically built to a 10-year rainfall event. He also pointed out

this project is a drainage project and not a flood control project. Sean Fredricks noted an operating plan would be part of the project permit. The Water Resource District would operate and maintain the project.

Project funding was discussed. Cost-share will be requested from the State Water Commission and Cass County.

Guy Gubrud, a Tower Township property owner, expressed concerns about the possibility of the project affecting with his well water in the SW 1/4 of Section 10. Mr. Opat said the preliminary research would take these noted issues into consideration so they can look at the situation as they put together a project plan.

Tim Richman asked about the return of bond money deposited with the Water Resource District. Mr. Fredricks explained the voting process and stated that if the project vote passes, those that deposited funds would receive their money back. If the project vote fails, the funds collected are used to pay project development costs.

Mr. Opat encouraged property owners to work on wetland delineations, updating their maps, and outlining any U.S. Fish and Wildlife Easements on their property as soon as possible.

Property owners were reminded the Petition and deposit / bond funds need to be submitted before the Water Resource District can take the next step on the project.

Upper Swan Creek Channel Improvements

It was moved by Manager Suhr and seconded by Manager Melvin to authorize Moore Engineering, Inc. to offer property owners \$7,500 per acre for permanent right of way regarding the Upper Swan Creek Channel Improvement Project. Upon roll call vote, the motion carried unanimously.

Application to Install a Subsurface Drain No. 20163 for Western Trust Company, Gary G. Hoffman, Trustee, in the S 1/2 of Section 22 in Addison Township

The Board reviewed *Application to Install a Subsurface Drain No. 20163* dated May 12, 2016, for Western Trust Company, Gary Hoffman, Trustee. 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 that part of the S 1/2 of Section 22 in Addison Township, Cass County, North Dakota, lying south and west of the Red River Valley and Western Railroad (RRVW) tracks. The project will include a single pump outlet located along the sound boundary of the SE 1/4 of Section 22, immediately west of and adjacent to the RRVW tracks; the tile discharge will outlet through the RRVW right of way, through an existing culvert along the

north road ditch of the township road on the south side of the SE 1/4 of Section 22; the tile discharge will continue to flow east through the north road ditch until reaching the southeast corner of Section 22; from there, the tile discharge will flow through an existing diagonal culvert into the NW 1/4 of Section 26 in Addison Township; from there, the tile discharge will flow east along the north boundary of the NE 1/4 of Section 26, in the south road ditch of the township road along the north boundary of Section 26; the tile discharge will flow through the south road ditch until ultimately discharging into Cass County Drain #14 in Section 24. The Maple River Water Resource District owns and operates Drain #14.

The Board previously provided *Thirty-Day Notices* under N.D. Cent. Code Section 61-32-03.1 to landowners within one mile downstream from the outlet of the project, and to RRVW. The Board recognized the project will result in adverse impacts to downstream landowners, including prolonged wetness, cattail growth and sediment deposits, and potential access issues. In addition, the Board discussed potential impacts in Drain #14 and considered possible operating requirements to mitigate any impacts to Drain #14 or to other members of the Drain #14 assessment district.

According to records on file with the Cass County Recorder's Office, Western Trust Company owns the S 1/2 of Section 22 west of the RRVW tracks, where Applicant intends to install the tile system. Nesemeier Limited Liability Company owns that portion of the SE 1/4 of Section 22 lying east of the railroad tracks. Further, Wieland Investments, LLLP, owns the NW 1/4 of Section 26, and James Westphal owns the NE 1/4 of Section 26.

It was moved by Manager Suhr and seconded by Manager Melvin to approve *Application to Install a Subsurface Drain No. 20163* dated May 12, 2016, for Western Trust Company in the S 1/2 of Section 22 in Addison 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 Addison Township, Cass County, North Dakota:

- a. That portion of the S 1/2 SE 1/4 of Section 22 lying east of the Red River Valley and Western Railroad tracks;
- b. N 1/2 NW 1/4 of Section 26; and
- c. N 1/2 NE 1/4 of Section 26;

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 Addison Township Board of Township Supervisors to discharge into, or otherwise utilize, any of its township road ditches;

- 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 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;
- 6) 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;
- 7) 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;
- 8) 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
- 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.

Drains #15, #37 and #39 Channel Improvements

Mr. Opat reported that work continues on right of way needed for the channel improvements on Drains #15, #37 and #39.

Lynchburg-Buffalo Project No. 2016-01

Mr. Opat informed the Board the State Water Commission approved the cost-share request for Lynchburg-Buffalo Project No. 2016-01 at its meeting yesterday.

It was moved by Manager Melvin and seconded by Manager Suhr to authorize Moore Engineering, Inc. to offer property owners \$6,000 per acre for permanent right of way and \$500 per acre for permanent easements regarding Lynchburg-Buffalo Project No. 2016-01. Upon roll call vote, the motion carried unanimously.

2016 Swan-Buffalo Detention Dam Repairs - No. 5 (Garsteig), No. 8 (Embden) and No. 12 (Absaraka)

Mr. Opat reported that the 2016 Swan-Buffalo Detention Dam Repairs are ongoing.

Maple River Dam Site T-180 – inspection update

Mr. Woodard reported on the inspection of Maple River Dam Site T-180. The pipe was televised and he has the report, but is waiting to review the video from the inspection. Helicopter spraying has been contracted and Mr. Woodard will coordinate. It was moved by Manager Suhr and seconded by Manager Melvin to authorize Moore Engineering, Inc. to replace the animal control gates at Maple River Dam Site T-180. Upon roll call vote, the motion carried unanimously.

Upper Maple River Dam

Signage at the Upper Maple River Dam was discussed and will be considered.

Lake Bertha Flood Control Project No. 75

Mr. Opat updated the Board on Lake Bertha Flood Control Project No. 75. A recent meeting with township officials went well and the project will proceed through the Cass County Joint Water Resource District. The Project Hearing will be held Tuesday, August 30, 2016, at 9:00 a.m. at the Embden Senior Center.

Correspondence from CHS and SWCA Environmental Consultants soliciting comments regarding the Mapleton Terminal Project refined fuels storage facility located south of the railroad tracks in Section 4 of Mapleton Township

The Board received and filed correspondence from CHS and SWCA Environmental Consultants soliciting comments regarding the Mapleton Terminal Project refined fuels storage facility located south of the railroad tracks in Section 4 of Mapleton Township.

Temporary Water Permit application for Mike Kasowski to divert water from the Maple River in Section 1 of Durbin Township for irrigation

The Board received and filed a *Temporary Water Permit* application for Mike Kasowski to divert water from the Maple River in Section 1 of Durbin Township for irrigation.

2015 Audit

It was moved by Manager Melvin and seconded by Manager Suhr to approve the 2015 Audit of the Maple River Water Resource District. Upon roll call vote, the motion carried unanimously.

Pledge of Assets

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

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

Upon roll call vote, the motion carried unanimously.

2017 budget and 2016 maintenance levy assessments

It was moved by Manager Suhr and seconded by Manager Melvin to approve the Maple River Water Resource District 2017 budget and 2016 maintenance levy assessments. Upon roll call vote, the motion carried unanimously.

Project WET 2016 – sponsorship of educators / youth leaders

It was moved by Manager Suhr and seconded by Manager Melvin to sponsor one educator/youth leader within the Maple River Water Resource District to attend a Project WET Program in 2016. Upon roll call vote, the motion carried unanimously.

Upper Maple River Dam

It was moved by Manager Melvin and seconded by Manager Suhr to approve the *Final Change Order* for H & S Contracting, Inc. for a contract increase in the amount of \$8,118.06 regarding the Upper Maple River Dam Project. Upon roll call vote, the motion carried unanimously.

Bills

It was moved by Manager Suhr and seconded by Manager Melvin to approve the payment of Checks #5549 through #5562, 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.

Water Topics Overview Committee update

Sean Fredricks updated the Board on recent Water Topics Overview Committee meetings. Mr. Fredricks presented information on the importance of the continued use of quick-take eminent domain for water development projects in the state.

Utility Permit for NuStar Pipeline Operating Partnership L.P. to install an 8” petroleum products pipeline under the Maple River in the S 1/2 of Section 21 in Raymond Township

It was moved by Manager Melvin and seconded by Manager Suhr to approve the *Utility Permit* for NuStar Pipeline Operating Partnership L.P. to install an 8” petroleum products pipeline under the Maple River in the S 1/2 of Section 21 in Raymond Township, subject to conditions provided by the Water Resource District Engineer. Upon roll call vote, the motion carried unanimously.

Report on Cass County Joint Water Resource District Tile Committee Meeting

Manager Melvin reported briefly on the Cass County Joint Water Resource District Tile Committee meeting.

Tower Township Improvement District No. 77 (continued business)

Before the meeting adjourned, Manager Melvin presented checks submitted today by Tower Township property owners. As soon as the Petition process is complete and the necessary bond / deposit of funds has been received by the Water Resource District, the project can move forward.

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