

MINUTES OF MEETING
NORTH CASS WATER RESOURCE DISTRICT
CASS COUNTY HIGHWAY DEPARTMENT
WEST FARGO, NORTH DAKOTA
MAY 28, 2013

The North Cass Water Resource District met on May 28, 2013, at 8:00 a.m. at the Cass County Highway Department, West Fargo, North Dakota.

Present were Michael R. Buringrud, Chairman; Robert Thompson, Manager; Wes Ecker, Manager; Carol Harbeke Lewis, Secretary-Treasurer; Sean M. Fredricks, Attorney for the Board; Kurt Lysne, Engineer for the Board; Don Murch, property owner in Arthur Township; Tricia Russell and Sharon Tadson, property owners in Amenia Township; and Roy Wasche, Farm Manager representing property owners in Amenia Township.

Drain #13 Channel Improvement Phase V

It was moved by Manager Ecker and seconded by Manager Thompson to approve the *Special Construction Proposal* for CenturyLink in the amount of \$13,180.55 to relocate cable facilities for the Drain #13 Channel Improvement Phase V Project. Upon roll call vote, the motion carried unanimously.

The Water Resource District Engineer is in the process of obtaining the final parcel of right-of-way needed for the project.

Application to Install a Subsurface Drain #20133 for Donald Murch in the SE 1/4 of Section 5 in Arthur Township

The Board reviewed an *Application to Install a Subsurface Drain No. 20133* dated April 17, 2013, for Donald Murch. 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 5 in Arthur Township, Cass County, North Dakota. The project will include a gravity outlet that will discharge near the southeast corner of Section 5, into the west township road ditch along the north-south township road between Sections 5 and 4; from there, the tile discharge will flow south through the west township road ditch along the east boundary of the NE 1/4 of the NE 1/4 of Section 8 until discharging into a natural watercourse in the NE 1/4 of the NE 1/4 of Section 8.

The Board previously issued *Thirty-Day Notices* to downstream landowners in the NE 1/4 of the NE 1/4 of Section 8, in accordance with N.D. Cent. Code Section 61-32-03.1. The owners of the NE 1/4 of the NE 1/4 of Section 8 submitted

written objections to the proposed project, and some of the owners were present at the Board's meeting to voice their concerns regarding the project. The Board explained to the downstream landowners present that the Board would require the Applicant to obtain a flowage easement from them as a condition to the permit; the flowage easement would allow the Applicant and the downstream landowners to address any adverse impacts of the project.

According to records on file with the Cass County Recorder's Office, the Donald W. Murch and Joann Murch Trust owns the S 1/2 of Section 5 in Arthur Township. With regard to the NE 1/4 of the NE 1/4 of Section 8, there are four owners, all of whom own undivided one-fourth interests in the NE 1/4 of Section 8, as follows:

1. Mary Ann Sullivan Trust;
2. Margaret S. Freel Trust;
3. Russell Living Trust; and
4. Sharon Tadsen.

Donald Murch was present and indicated that he may be willing to install a buried pipe in the west township road ditch as an alternative to discharging through the open township road ditch. The Board explained that if the Applicant sought to address adverse impacts by including a buried pipe, as opposed to requiring a flowage easement for surface discharge through the township road ditch, the Applicant would have to obtain an easement from the downstream landowners for purposes of operating and maintaining a buried pipe.

It was moved by Manager Thompson and seconded by Manager Ecker to approve *Application to Install a Subsurface Drain No. 20133* dated April 17, 2013, for Donald Murch in the SE 1/4 of Section 5 in Arthur Township, subject to the following conditions:

- 1) That Applicant obtain and record (with the Cass County Recorder's office) a flowage easement (and not just written consent), including language that permits saline water, from the owners of the NE 1/4 of the NE 1/4 of Section 8 in Arthur Township, Cass County, North Dakota (if the project will include a surface discharge through the township road ditch);
- 2) That Applicant obtain and record (with the Cass County Recorder's office) a permanent easement (and not just a written consent) that permits applicant to install, operate, and maintain a buried pipe from the owner of the NE 1/4 of the NE 1/4 of Section 8, Arthur Township, Cass County, North Dakota (if the project will include discharge through a buried pipe in the west township road ditch);
- 3) That Applicant obtain easements from the owner of any land, besides land owned by Applicant, on which Applicant will construct the tile system;

- 4) That Applicant obtain written permission from the Arthur Township Board of Township Supervisors to discharge into, or otherwise utilize, any of its township road ditches, or to bore through its township road;
- 5) That Applicant obtain written permission from the Arthur Township Board of Township Supervisors to install, operate, and maintain a buried pipe in any of its township road ditches;
- 6) That Applicant notify the North Cass Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;
- 7) That Applicant notify the North Cass 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
- 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.

Drain #18

It was moved by Manager Ecker and seconded by Manager Thompson to authorize Moore Engineering, Inc. to proceed with cleaning Drain #18 in Section 17 of Kinyon Township, as necessary. Upon roll call vote, the motion carried unanimously.

Drainage Complaint from Wayne Cole Against Mike Whitmore in the SW 1/4 of Section 3 in Rochester Township

Kurt Lysne informed the Board he met with Mike Whitmore on site regarding the Drainage Complaint filed against Mr. Whitmore in the SW 1/4 of Section 3 in Rochester Township. The Board directed the Secretary-Treasurer to invite all of the parties involved to the next meeting in an effort to help resolve the matter.

Cass County Weed Control Work Order

It was moved by Manager Thompson and seconded by Manager Ecker to approve the Cass County Weed Control Work Order form for spraying North Cass Water Resource District facilities in 2013, with the exception of item #7. Upon roll call vote, the motion carried unanimously.

Minutes

It was moved by Manager Thompson and seconded by Manager Ecker to approve the minutes of the April 23, 2013, meeting. Upon roll call vote, the motion carried unanimously.

Bills

It was moved by Manager Ecker and seconded by Manager Thompson to approve payment of Checks #3777 through #3784 and the electronic funds transfers, as presented. Upon roll call vote, the following Managers voted in favor: Buringrud, Thompson and Ecker. The Chairman declared the motion passed.

Adjournment

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

APPROVED:

Wesley Ecker
Acting Chairman

ATTEST:

Carol Harbeke Lewis
Secretary-Treasurer