

MINUTES OF MEETING  
SOUTHEAST CASS WATER RESOURCE DISTRICT  
CASS COUNTY HIGHWAY DEPARTMENT  
WEST FARGO, NORTH DAKOTA  
FEBRUARY 9, 2012

The Southeast Cass Water Resource District met on February 9, 2012, at 9:30 a.m. at the Cass County Highway Department, West Fargo, North Dakota.

Present were Mark Brodshaug, Chairman; Dan Jacobson, Manager; Lance Yohe, Manager; Carol Harbeke Lewis, Secretary-Treasurer; Diane Pochardt, Administrative Assistant; Sean M. Fredricks, Attorney for the Board; Chad Engels and Mike Opat, Engineers for the Board; Brady Woodard, Moore Engineering, Inc.; Roger Hagen, Houston Engineering, Inc.; and those whose names appear on the attached roster.

**Minutes**

It was moved by Manager Jacobson and seconded by Manager Yohe to approve the minutes of the January 23, 26 and 30, 2012, meetings. Upon roll call vote, the motion carried unanimously.

**Approval of agenda order**

It was moved by Manager Yohe and seconded by Manager Jacobson to approve the order of the agenda, as amended. Upon roll call vote, the motion carried unanimously.

**Wild Rice Bank Stabilization and Improvement Project No. 2011-1**

Roger Hagen reviewed the bids received for the Wild Rice Bank Stabilization and Improvement Project No. 2011-1. The bids came in approximately \$50,000 higher than the estimated project cost. Mr. Hagen said the engineering and contingency line items could possibly be reduced and the contractor has indicated they could use wider sheet piling, which would also reduce the cost of the project.

Sean Fredricks pointed out that the majority of the property owners involved in the project would need to approve the increased total amount because it exceeds 20% of the estimated cost of the project. Dean Hornbacher said he did not think that would be a problem and offered to circulate the document that needs to be signed by the property owners.

It was moved by Manager Jacobson and seconded by Manager Yohe to award the contract for the Wild Rice Bank Stabilization and Improvement Project No. 2011-1 to Industrial Builders, Inc., for the low bid of \$289,699, contingent on the following:

- The Board's receipt of a document signed by a majority of property owners in Wild Rice Estates, giving consent to award the construction contract that exceeds the estimated cost by more than 20%;
- The Board's receipt of the signed Access and Maintenance Agreement from Stanley Township;
- A construction permit has been obtained for the project; and
- Receipt of evidence of insurance from Industrial Builders, Inc.

Upon roll call vote, the motion carried unanimously.

It was moved by Manager Yohe and seconded by Manager Jacobson to approve the revised Access and Maintenance Agreement between Southeast Cass Water Resource District and Stanley Township regarding the Wild Rice Bank Stabilization and Improvement Project No. 2011-1, as amended. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Jacobson and seconded by Manager Yohe to approve the *Agreement for Cost Share Reimbursement* with the State Water Commission regarding the Wild Rice Bank Stabilization and Improvement Project No. 2011-1, and to request cost share on the increased project amount. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Jacobson and seconded by Manager Yohe to confirm the Assessment District Agreement for the Wild Rice Bank Stabilization and Improvement Project No. 2011-1. Upon roll call vote, the motion carried unanimously.

**Sheyenne-Maple Flood Control Projects – License Agreement for the purchase of excavated material on project right-of-way**

Mr. Fredricks reviewed the proposed License Agreement that the Board would enter into with contractors requesting excavated material from the Sheyenne-Maple Flood Control Projects. The Board decided they would only sell silt, not clay or black dirt, and that a \$1,000 deposit would be required.

The Water Resource District Attorney will revise the License Agreement as discussed for review at the next meeting.

**Sheyenne-Maple Flood Control Projects – levee recertification**

The Board reviewed a proposal for geotechnical review and evaluation regarding the levee recertification on the Sheyenne-Maple Flood Control Projects. Upon recommendation of the Water Resource District Engineer, it was moved by Manager Jacobson and seconded by Manager Yohe to approve the amended contract with Braun Intertec in the amount of \$76,465 for geotechnical review and evaluation regarding levee recertification for the Sheyenne-Maple Flood Control Projects and to submit the same to the State Water Commission for cost share consideration. Upon roll call vote, the motion carried unanimously.

### **Snagging and Clearing Projects on the Sheyenne and Wild Rice Rivers – update**

Brady Woodard updated the Board on the Sheyenne River and Wild Rice River Snagging and Clearing work.

It was moved by Manager Jacobson and seconded by Manager Yohe to award the contract for Project II of Reach I and Project II of Reach II of the Sheyenne River Snagging and Clearing Project to American Enterprises, Inc. Upon roll call vote, the motion carried unanimously.

### **Upstream Retention Plan**

Mr. Engels and Mike Opat discussed the draft Preliminary Scope of Study for the Upper Red River Watershed Retention Plan, a distributed floodwater storage plan above Halstad, Minnesota. Mr. Engels said a cost estimate is being developed for the project. Various funding sources were discussed. Manager Yohe and Mr. Engels will meet with the Corps of Engineers on Monday, February 13, 2012, to discuss the matter.

### **State Water Commission Agreements for Cost Share Reimbursement – Fetner and Munoz Ring Dikes**

It was moved by Manager Yohe and seconded by Manager Jacobson to direct the Water Resource District Attorney to send a letter to the State Water Commission asking for an explanation on the cap set out in the *Agreement for Cost Share Reimbursement* on the Chester and Inge Fetner and Juan and Nahir Munoz Ring Dike, which differs from the \$40,000 cap in the program policy. Upon roll call vote, the motion carried unanimously.

### **Correspondence from the West Fargo Planning Department**

The Board had no comments to submit with regard to the following correspondence from the West Fargo Planning Department:

- Proposed South Pond at the Preserve 4th Addition
- Proposed The Wild's 2nd Addition
- Planned Unit Development Amendment for Lot 2, Block 1, South Pond at the Preserve 2nd Addition (2915 Bluestem Drive)

It was moved by Manager Jacobson and seconded by Manager Yohe to direct the Secretary-Treasurer to inform the West Fargo Planning Department that the Southeast Cass Water Resource District recommends the setbacks along the Sheyenne River match the Cass County standards on setbacks in the Proposed Maple Ridge at the Preserve 2nd Addition. Upon roll call vote, the motion carried unanimously.

## **Bills**

It was moved by Manager Yohe and seconded by Manager Jacobson to approve payment of Checks #10182 through #10194 and the electronic funds transfer, as presented. Upon roll call vote, the following Managers voted in favor: Brodshaug, Jacobson and Yohe . The Chairman declared the motion passed.

## **Drain #10**

It was moved by Manager Jacobson and seconded by Manager Yohe to authorize Moore Engineering, Inc. to prepare a cost estimate to repair slide areas on Drain #10. Upon roll call vote, the motion carried unanimously.

## **Wild Rice Dam**

Mr. Engels informed the Board that the Corps of Engineers is looking at potential mitigation projects with regard to the Fargo-Moorhead Area Diversion Project and is proposing to place rip-rap at the Wild Rice Dam to encourage fish passage. They would like the Board to provide any input they have on the matter.

## **Application to Install a Subsurface Drain #20124 for Mark Ottis in the NW 1/4 of Section 34, the W 1/2 SW 1/4 of Section 27, and the E 1/2 NE 1/4 of Section 33, all in Normanna Township**

The Board reviewed *Application to Install a Subsurface Drain No. 20124* dated February 6, 2012, for Mark Ottis. 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 34, the W 1/2 SW 1/4 of Section 27, and the E 1/2 NE 1/4 of Section 33, all in Normanna Township, Cass County, North Dakota. The project will include multiple outlets, including four gravity outlets that will discharge directly into Cass County Drain No. 60, as well as a pump outlet that will discharge into the Sheyenne River in the NW 1/4 of Section 34. The Southeast Cass Water Resource District owns and operates Drain #60.

Mr. Engels reviewed the application and indicated the project will include multiple gravity outlets that will discharge into Drain #60, and a pump outlet that will discharge directly into the Sheyenne River. Mr. Engels recommended that the Board require Applicant to install and maintain erosion protection to protect Drain #60, and that the Board should require Applicant to complete a *Utility Permit* on Southeast Cass's form regarding the discharge into Drain #60. Because the proposed project will discharge directly into Drain #60 and into the Sheyenne River, 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, Applicant owns the NW 1/4 of Section 34, the W 1/2 SW 1/4 of Section 27, and the E 1/2 NE 1/4 of Section 33. The Board's understanding is Applicant will construct the project only on property owned by Applicant.

It was moved by Manager Yohe and seconded by Manager Jacobson to approve *Application to Install a Subsurface Drain No. 20124* dated February 6, 2012, for Mark Ottis in the NW 1/4 of Section 34, the W 1/2 SW 1/4 of Section 27, and the E 1/2 NE 1/4 of Section 33, all in Normanna Township, and to approve a *Utility Permit*, 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 (Applicant is solely responsible for any damages to Cass County Drain No. 60 as a result of the tile project);
- 3) That Applicant notify the Southeast Cass Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;
- 4) That Applicant notify the Southeast 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;
- 5) That Applicant obtain a *Utility Permit* from the Southeast Cass Water Resource District regarding any and all outlets into Cass County Drain No. 60; and
- 6) 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.

**Adjournment**

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

APPROVED:

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Mark Brodshaug  
Chairman

ATTEST:

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Carol Harbeke Lewis  
Secretary-Treasurer