

MINUTES OF MEETING  
SOUTHEAST CASS WATER RESOURCE DISTRICT  
CASS COUNTY HIGHWAY DEPARTMENT  
WEST FARGO, NORTH DAKOTA  
JULY 16, 2014

The Southeast Cass Water Resource District met on July 16, 2014, at 8:30 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; Brittany C. Moen, Administrative Assistant; Sean M. Fredricks, Attorney for the Board; Chad Engels and Kurt Lysne, Engineers for the Board; Jacob Gust, Sheyenne-Maple Flood Control District #1 Superintendent; Brady Woodard, Moore Engineering, Inc.; George Grossman, City of West Fargo; Matt Pollert, Industrial Builders, Inc.; and Ryan Ottis, farmland operator in Normanna Township.

**Minutes**

It was moved by Manager Jacobson, seconded by Manager Yohe and unanimously carried to approve the minutes of the June 18, 2014, meeting.

**Approval of agenda**

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

**Amendment to Application to Install a Subsurface Drain No. 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**

Mark Ottis submitted a request to amend his tile permit No. 20124 to modify the outlet plan for the project. Under the original permit, Applicant planned to install four gravity outlets to discharge into Normanna Township Improvement District No. 60, and a pump outlet to discharge into the Sheyenne River in the NW 1/4 of Section 34. Applicant is requesting permission to eliminate the pump outlet into the Sheyenne River and to replace it with a pump outlet into Drain 60, in addition to the four gravity outlets that currently discharge into Drain 60. The project would include an open cut to install an underground pipeline to convey tile discharge from the NW 1/4 of Section 34, through and under Drain 60, to the pump outlet on the south boundary of the W 1/2 of the SW 1/4 of Section 27.

The Board discussed the open cut issue, and Chad Engels indicated the open cut should not be a problem as long as the amendment includes a *Utility Permit*, which will include conditions regarding the installation project.

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). Chad recommended that the Board require Applicant to install and maintain erosion protection to protect Drain 60, an issue the new *Utility Permit* will cover; this *Utility Permit* is separate from the previous *Utility Permit* the Board issued regarding Applicant’s four gravity outlets into Drain 60. Because the project discharges directly into Drain 60, the amendment did not require a *Thirty-Day Notice* under N.D. Cent. Code § 61-32-03.1, and the Board cannot require Applicant to obtain any flowage easements from downstream landowners.

It was moved by Manager Jacobson and seconded by Manager Yohe to approve a *Utility Permit* regarding the pump outlet into Drain 60, including language regarding the open cut installation, and to amend *Application to Install a Subsurface Drain No. 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, 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 Drain 60, limited to four gravity outlets and one pump outlet (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 the four gravity outlets into Drain No. 60;
- 6) That Applicant obtain a *Utility Permit* from the Southeast Cass Water Resource District to permit Applicant to utilize a pump outlet into Drain No. 60, including Applicant’s plan to install the pump outlet via open cut; and

7) 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.

### **Sheyenne-Maple Flood Control Projects closeout update**

Kurt Lysne updated the Board on the Sheyenne-Maple Flood Control Projects closeout. Carol Harbeke Lewis will look for additional documentation related to the local share of the project.

### **Drain #10 slide repairs from 19th Avenue North to Cass County Highway 20**

At the last meeting, Industrial Builders, Inc. expressed an interest in removing excess spoil bank material along Drain #10 south of 32nd Avenue North in Fargo. After looking into the matter further, Mr. Engels said the Board may want to keep the excess material for repairs needed on the drain. Matt Pollert said Industrial Builders, Inc. would like to know in two weeks if the Board would approve removing the material.

Several repair options for the drain were discussed. It was moved by Manager Jacobson and seconded by Manager Yohe to authorize Moore Engineering, Inc. to prepare alternatives for repair of the slides on Drain #10 from 19th Avenue North to Cass County Highway 20. Upon roll call vote, the motion carried unanimously.

The Board will have a special meeting to discuss the matter further on July 30, 2014, at 8:30 a.m.

### **Drain #10 slide repairs at NDSU**

It was moved by Manager Yohe and seconded by Manager Jacobson to advertise for bids on the Drain #10 slide repairs at NDSU. Upon roll call vote, the motion carried unanimously.

### **Results of Southeast Cass Water Resource District facilities inspection**

Mr. Woodard distributed maps showing where repairs are needed on Southeast Cass Water Resource District facilities. It was moved by Manager Jacobson and seconded by Manager Yohe to authorize Moore Engineering, Inc. to proceed with the following surveys or repairs:

- Drain #9 – Site A (adding rip-rap) and Site B (sediment removal)
- Drain #21C – Sites A and B (flap gate repair)
- Drain #27 – Site A (adding rip-rap) and Site B (channel cleanout)
- Drain #35 – Sites A and B (culvert / flap gate repairs)
- Drain #40 – Site B (survey for channel bottom erosion)

Upon roll call vote, the motion carried unanimously.

### **Drain #21C cleanout in Sections 23 and 26 of Warren Township**

The Board discussed a complaint regarding silt buildup in Drain #21C in Sections 23 and 26 of Warren Township. Mr. Woodard explained the drain was surveyed, and it was close to grade. He will meet on-site with the landowner to discuss specific areas that need cleaning.

### **Drain reassessments**

Minutes are attached hereto relating to the reassessment of Drains SC-1, #21, #40 and #45.

### **Sheyenne River and Wild Rice River Snagging and Clearing**

Brady Woodard showed pictures of several large trees in the Sheyenne River. Homeowners along the river have been contacted regarding their preference for removal of the trees. The Water Resource District Engineer will get cost estimates for removing the trees now or in conjunction with the winter snagging and clearing projects.

### **Water quality – The Lake Friendly Accord**

Implementing water quality features on future projects was discussed. The Board directed the Water Resource District Engineer to develop ideas and report back at a future meeting.

### **Application to Install a Subsurface Drain #20146 for Bruce Brand in the NE 1/4 of Section 28 in Stanley Township**

The Board reviewed *Application to Install a Subsurface Drain No. 20146* dated June 6, 2014, for Bruce Brand. 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 NE 1/4 of Section 28 in Stanley Township, Cass County, North Dakota. The project will include a pump outlet that will discharge in the northeast corner of the NE 1/4 of Section 28 into the north-south township road ditch along the east boundary of Section 28; from there, the tile discharge will flow north through the east township road ditch, along the east boundary of Section 21.

The Board previously provided *Thirty-Day Notices* to downstream landowners within one mile of the outlet of the project in accordance with N.D. Cent. Code Section 61-32-03.1. Terry Sauvageau submitted written comments in opposition to the project.

According to records on file with the Cass County Recorder’s Office, Bruce Brand, as Trustee of the Deb Brand Trust, owns the NE 1/4 of Section 28 where Applicant intends to install the tile project. Further, Truman Kingsley and Terry Sauvageau own the N 1/2 NE 1/4 of Section 21; O. D. Dubord, LLP, and O. D. Farm, LLP, own the S 1/2 NE 1/4 of Section 21; James Rheault, Clarence Rheault, Kathleen Thompson, Gary Rheault, and Louis Rheault own the E 1/2 S 1/2 SE 1/4 of Section 21; Lynn Larson, Delores Larson,

and Timothy Larson, all as co-Trustees of the Lynn and Delores Larson Family Trust, own the N 1/2 N 1/2 SE 1/4 of Section 21; and David Brunelle and Janet Cox own the S 1/2 N 1/2 SE 1/4 of Section 21.

It was moved by Manager Jacobson and seconded by Manager Yohe to approve *Application to Install a Subsurface Drain No. 20146* dated June 6, 2014, for Bruce Brand in the NE 1/4 of Section 28 in Stanley 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 Stanley Township, Cass County, North Dakota:
  - a. The N 1/2 of the NE 1/4 of Section 21;
  - b. The S 1/2 of the NE 1/4 of Section 21;
  - c. The E 1/2 of the S 1/2 of the SE 1/4 of Section 21;
  - d. The N 1/2 of the N 1/2 of the SE 1/4 of Section 21; and
  - e. The S 1/2 of the N 1/2 of the SE 1/4 of Section 21;
- 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 Stanley Township Board of Township Supervisors to discharge into, or otherwise utilize, any of its township road ditches;
- 4) That Applicant notify the Southeast Cass Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;
- 5) 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;
- 6) That applicant must close all outlets during flood occurrences or under conditions that may cause adverse impacts to downstream landowners, as determined by the Board; and
- 7) 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.

**Utility Permit for Cass County Electric Cooperative to install underground electric primary cable under Drain #21, south of 13th Avenue South**

It was moved by Manager Yohe and seconded by Manager Jacobson to approve the *Utility Permit* for Cass County Electric Cooperative to install underground electric primary cable under Drain #21, south of 13th Avenue South, subject to the conditions provided by the Water Resource District Engineer. Upon roll call vote, the motion carried unanimously.

**Utility Permit for Midcontinent Communications to install conduit and fiber optic cable under Drain #40, north of 19th Avenue North**

It was moved by Manager Jacobson and seconded by Manager Yohe to approve the *Utility Permit* for Midcontinent Communications to install conduit and fiber optic cable under Drain #40, north of 19th Avenue North. Upon roll call vote, the motion carried unanimously.

**Utility Permit for MVM Contracting, Inc. to install 1-2” duct for fiber main under Drain #10, north of 7th Avenue North**

It was moved by Manager Yohe and seconded by Manager Jacobson to approve the *Utility Permit* for MVM Contracting, Inc. to install 1-2” duct for fiber main under Drain #10, north of 7th Avenue North, subject to the conditions provided by the Water Resource District Engineer. Upon roll call vote, the motion carried unanimously.

**2015 budget and 2014 maintenance levy assessments**

It was moved by Manager Jacobson and seconded by Manager Yohe to approve the 2015 budget and 2014 maintenance levy assessments. Upon roll call vote, the motion carried unanimously.

**Correspondence from the Fargo Department of Planning and Development - August preliminary packet**

The Water Resource District Engineer had no comments to submit on the Fargo Department of Planning and Development correspondence regarding the August preliminary packet.

**Correspondence from West Fargo Planning**

It was moved by Manager Yohe and seconded by Manager Jacobson to authorize the Water Resource District Engineer to review and submit comments regarding the following correspondence from West Fargo Planning:

- Harvest States Second Addition replat and *Conditional Use Permit*;
- Eaglewood 3rd Addition;
- Kautzman Subdivision; and
- Askew Addition.

Upon roll call vote, the motions carried unanimously.

**Bills**

It was moved by Manager Jacobson and seconded by Manager Yohe to approve payment of Checks #11295 through #11311, the electronic funds transfer and the debit card transaction, as presented. Upon roll call vote, the following Managers voted in favor: Brodshaug, Jacobson and Yohe. The Chairman declared the motion passed.

**Sheyenne-Maple Flood Control District #1 – graveling the top of the west levee, south of I-94**

Discussion was held about graveling approximately 1/2 mile on top of the west levee of Sheyenne-Maple Flood Control District #1, south of I-94. Jacob Gust will meet with the township to discuss the matter.

**Adjournment**

There being no further business for the Board to consider, it was moved by Manager Yohe, seconded by Manager Jacobson 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