

MINUTES OF MEETING  
SOUTHEAST CASS WATER RESOURCE DISTRICT  
CASS COUNTY HIGHWAY DEPARTMENT  
WEST FARGO, NORTH DAKOTA  
AUGUST 19, 2015

The Southeast Cass Water Resource District met on August 19, 2015, 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 (by phone); Carol Harbeke Lewis, Secretary-Treasurer; Brenda Lovgren, Administrative Assistant; Sean Fredricks, Attorney for the Board; Kurt Lysne, Engineer for the Board; George Grossman, City of West Fargo; Brady Woodard, Moore Engineering, Inc.; and Jacob Gust, Reed Township Resident.

**Approval of agenda**

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

**Minutes**

It was moved by Manager Yohe, seconded by Manager Jacobson and unanimously carried to approve the minutes of the July 15, July 27, and July 31, 2015, meetings.

**Drainage complaint from Truman Kingsley against Bruce Brand in the NE 1/4 of Section 28 in Stanley Township**

Kurt Lysne spoke with Truman Kingsley regarding the drainage complaint against Bruce Brand in the NE 1/4 of Section 28 in Stanley Township. Mr. Kingsley indicated that he is working with Mr. Brand and believes they will be able to resolve the issues. The Board agreed to extend action on the matter another month to allow Mr. Brand more time to comply with conditions attached to the permit.

The Board discussed flowage easement language relating to drain tile permits.

**2015 Drain #3 and #10 Channel Improvements Project – Application for Surface Drain No. 4684**

The Board reviewed information from the State Engineer regarding *Application to Drain No. 4684*, previously submitted by the Southeast Cass Water Resource District regarding Drain #10 Improvement Project No. 2015-01.

The District owns, operates, and maintains Cass County Drain #10, a legal assessment drain in Cass County, North Dakota. The District has determined certain drainage improvements are necessary to Drain #10 in Sections 23 and 26 of Reed Township, including the preliminary analysis, design, and construction of additional channel capacity

and side slope improvements; relocation, installation, and improvements of intercept drainage culverts; design, redesign, construction, and reconstruction of roadway crossings and related improvements; purchasing and acquiring additional right of way to accommodate the drainage improvements; and other work necessary and incidental to the reconstruction and improvement of Drain #10.

The District submitted this permit application regarding Drain #10 Improvement Project No. 2015-01. The State Engineer concluded the project is not “of either statewide or inter-district significance.”

The Board reviewed and adopted Moore Engineering, Inc.’s proposed responses to the eight elements under 89-02-01-09.2 of the North Dakota Administrative Code. The Board further determined no hearing was necessary under 89-02-01-09.1(2) of the North Dakota Administrative Code because the Board is acquiring the requisite right of way to accommodate the project, and the right of way acquisition will eliminate adverse impacts to private landowners. More specifically, the Board and the Fargo Municipal Airport Authority have negotiated a land transaction and the Board will acquire the right of way necessary to accommodate the project and to eliminate adverse impacts to adjacent or downstream landowners.

It was moved by Manager Jacobson and seconded by Manager Yohe to approve *Application to Drain No. 4684* for the Southeast Cass Water Resource District regarding Drain #10 Improvement Project No. 2015-01, subject to any conditions attached by the State Engineer. Upon roll call vote, the motion carried unanimously.

The Secretary-Treasurer will provide the original, signed permit and all supporting documents to the Office of the State Engineer.

**Drain #21 Improvements Project from Main Avenue to 12th Avenue North – Application for Surface Drain No. 4703**

The Board reviewed information from the State Engineer regarding *Application to Drain No. 4703*, previously submitted by the Southeast Cass Water Resource District regarding Drain #21 Improvement Project No. 2015-01.

The District owns, operates, and maintains Cass County Drain #21, a legal assessment drain in Cass County, North Dakota. The District has determined certain drainage improvements are necessary to Drain #21, including the preliminary analysis, design, and construction of additional channel bottom depth, capacity, and side slope improvements; relocation, installation, and improvements of intercept drainage culverts; design, redesign, construction, and reconstruction of roadway and railroad crossing improvements; purchasing and acquiring additional right of way to accommodate the drainage improvements; and other work necessary and incidental to the reconstruction and improvement of Drain #21.

The District submitted this permit application regarding Drain #21 Improvement Project No. 2015-01. The State Engineer concluded the project is not “of either statewide or inter-district significance.”

The Board reviewed and adopted Moore Engineering, Inc.'s proposed responses to the eight elements under 89-02-01-09.2 of the North Dakota Administrative Code. The Board further determined no hearing was necessary under 89-02-01-09.1(2) of the North Dakota Administrative Code because the Board is acquiring the requisite right of way to accommodate the project, and the right of way acquisition will eliminate adverse impacts to private landowners. Further, the project will discharge into the existing Drain #21 channel so the Board does not anticipate any downstream impacts as a result of the project. In fact, the project should reduce flooding impacts within the project area by lowering water surface profiles due to increased storage availability and efficiency within the channel. The lower channel profile may increase the volume to pump by the existing Drain #21 lift station, but Southeast Cass Water Resource District owns and maintains the lift station.

It was moved by Manager Yohe and seconded by Manager Jacobson to approve *Application to Drain No. 4703* for the Southeast Cass Water Resource District Drain #21 Improvement Project No. 2015-01, subject to any conditions attached by the State Engineer. Upon roll call vote, the motion carried unanimously.

The Secretary-Treasurer will provide the original, signed permit and all supporting documents to the Office of the State Engineer.

**Drain #21 Improvements Project from Main Avenue to 12th Avenue North – Easements**

It was moved by Manager Jacobson and seconded by Manager Yohe to approve the *Permanent Easement* and the *Temporary Easement* with the City of West Fargo regarding the Drain #21 Improvements Project from Main Avenue to 12th Avenue North. Upon roll call vote, the motion carried unanimously.

**Drain #21 Improvements Project from Main Avenue to 12th Avenue North – BNSF Railway Company License**

It was moved by Manager Jacobson and seconded by Manager Yohe to approve and authorize the Chairman to sign the BNSF Railway Company *License* regarding the Drain #21 Improvements Project from Main Avenue to 12th Avenue North. Upon roll call vote, the motion carried unanimously.

A hearing was scheduled at the request of BNSF Railway Company on August 26, 2015, at 9:00 a.m. Sean Fredricks and Kurt Lysne will hold a telephone conference with BNSF Railway Company officials prior to the hearing to discuss the railroad crossing.

Manager Yohe left the meeting at this time.

**Drain #21 Improvements Project from Main Avenue to 12th Avenue North – award construction contract**

It was moved by Manager Jacobson and seconded by Manager Brodshaug to award the contract for the Drain #21 Improvements Project from Main Avenue to 12th Avenue North to Riley Bros. Construction, Inc. for the low bid of \$1,595,896. Upon roll call vote, the motion carried unanimously.

Brady Woodard said the City of West Fargo has requested the Water Resource District stake and identify the drain right of way. Notifying property owners about removing personal property from drain right of way was discussed.

It was moved by Manager Jacobson and seconded by Manager Brodshaug to authorize Moore Engineering, Inc. to survey Drain #21 to identify right of way boundaries from I-94 to 13th Avenue South, and to send letters to homeowners identifying encroachments and requesting the removal of personal property from drain right of way. Upon roll call vote, the motion carried unanimously.

**Drain #45 Improvements Project from 12th Avenue NW to the Sheyenne-Maple Flood Control District #1 tieback levee – Application for Surface Drain No. 4708**

The Board reviewed information from the State Engineer regarding *Application to Drain No. 4708*, previously submitted by the Southeast Cass Water Resource District regarding Drain #45 Improvement Project No. 2015-01.

The District owns, operates, and maintains Cass County Drain #45, a legal assessment drain in Cass County, North Dakota. The District has determined certain drainage improvements are necessary to Drain #45, including the preliminary analysis, design, and construction of additional channel bottom depth, capacity, and side slope improvements; relocation, installation, and improvements of intercept drainage culverts; design, redesign, construction, and reconstruction of roadway and railroad crossing improvements; purchasing and acquiring additional right of way to accommodate the drainage improvements; and other work necessary and incidental to the reconstruction and improvement of Drain #45.

The District submitted a surface permit application regarding Drain #45 Improvement Project No. 2015-01. The State Engineer concluded the project is not “of either statewide or inter-district significance.”

The Board reviewed and adopted Moore Engineering, Inc.’s proposed responses to the eight elements under 89-02-01-09.2 of the North Dakota Administrative Code. The Board further determined no hearing was necessary under 89-02-01-09.1(2) of the North Dakota Administrative Code because the Board already owns the requisite right of way to accommodate the project; the project consists of channel reconstruction and will not require additional acreage to the Drain #45 watershed; the project will utilize the current Drain #45 outlet and, therefore, project impacts downstream will be negligible; and, in fact, the project should reduce flooding impacts within the project area by lowering water surface profiles due to increased storage availability and efficiency within the Drain #45 channel.

It was moved by Manager Jacobson and seconded by Manager Brodshaug to approve *Application to Drain No. 4708* for the Southeast Cass Water Resource District Drain #45 Improvement Project No. 2015-01, subject to any conditions attached by the State Engineer. Upon roll call vote, the motion carried unanimously.

The Secretary-Treasurer will provide the original, signed permit and all supporting documents to the Office of the State Engineer.

Manager Yohe rejoined the meeting at this time.

**Drain #45 Improvements Project from 12th Avenue NW to the Sheyenne-Maple Flood Control District #1 tieback levee - Easements**

It was moved by Manager Jacobson and seconded by Manager Yohe to approve the *Permanent Easement* and the *Temporary Easement* with the City of West Fargo regarding the Drain #45 Improvements Project from 12th Avenue NW to the Sheyenne-Maple Flood Control District #1 tieback levee. Upon roll call vote, the motion carried unanimously.

**Drain #45 Improvements Project from 12th Avenue NW to the Sheyenne-Maple Flood Control District #1 tieback levee – Exchange Agreement**

It was moved by Manager Jacobson and seconded by Manager Yohe to approve the following with Eagle Rock Partners regarding the Drain #45 Improvements Project from 12th Avenue NW to the Sheyenne-Maple Flood Control District #1 tieback levee:

- *Exchange Agreement*, assigning \$17,000 per acre for the property involved, transferring the total cost from the Drain #45 fund to the Sheyenne-Maple Flood Control District #1 fund;
- \$8,500 for *Permanent Easement*; and
- \$800 for crop damage.

Upon roll call vote, the motion carried unanimously.

**Drain #45 Improvements Project from 12th Avenue NW to the Sheyenne-Maple Flood Control District #1 tieback levee – BNSF Railway Company License**

It was moved by Manager Jacobson and seconded by Manager Yohe to approve and to authorize the Chairman to sign the BNSF Railway Company *License* regarding the Drain #45 Improvements Project from 12th Avenue NW to the Sheyenne-Maple Flood Control District #1 tieback levee. Upon roll call vote, the motion carried unanimously.

**Drain #45 Improvements Project from 12th Avenue NW to the Sheyenne-Maple Flood Control District #1 tieback levee – award construction contract**

It was moved by Manager Jacobson and seconded by Manager Yohe to award the contract for the Drain #45 Improvements Project from 12th Avenue NW to the Sheyenne-Maple Flood Control District #1 tieback levee to Midwest Contracting, LLC for the low bid of \$679,606, contingent upon execution of the *Exchange Agreement* with Eagle Rock Partners. Upon roll call vote, the motion carried unanimously.

**Drain #53 – trees along the west side of Silverleaf Addition – Quit Claim Deeds**

Sean Fredricks reviewed the 2009 agreement regarding tree maintenance with homeowners along the west side of Silverleaf Addition.

It was moved by Manager Yohe and seconded by Manager Jacobson to approve Quit Claim Deeds for Lots 9, 10, 12, 13, and 14 of Silverleaf Addition. Upon roll call vote, the motion carried unanimously.

**Drainage through Cass County Highway 10, south to the Sheyenne-Maple Flood Control District #1 intercept culvert**

Mr. Lysne reviewed the *Engineer's Opinion of Probable Cost* to construct a proposed legal drain through Cass County Highway 10, south to the Sheyenne-Maple Flood Control District #1 intercept culvert. The Board discussed 3-party funding to construct the project between Southeast Cass Water Resource District, Cass County, and the City of West Fargo. An assessment district will need to be established and voted on to maintain the project. Moore Engineering, Inc. will complete cost estimates and mapping for project development for review at the next meeting.

**Sheyenne-Maple Flood Control Projects – reassessments**

Additional minutes regarding the Sheyenne-Maple Flood Control District #1 and #2 reassessments are attached hereto.

**Sheyenne-Maple Flood Control Projects – Re-certification of the West Fargo Diversion Levee System – Amendment I to the State Water Commission Agreement for Cost-Share Reimbursement**

It was moved by Manager Yohe and seconded by Manager Jacobson to approve Amendment I to the State Water Commission *Agreement for Cost-Share Reimbursement* regarding the Re-certification of the West Fargo Diversion Levee System. Upon roll call vote, the motion carried unanimously.

Mr. Woodard informed the Board that the Corps of Engineers conducted an annual inspection of Sheyenne-Maple Flood Control Districts #1 and #2. No concerns were addressed and general maintenance is anticipated.

**Application to Install a Subsurface Drain #20157 for E. Lynn Overboe in the NW 1/4 of Section 21 in Normanna Township**

The Board reviewed *Application to Install a Subsurface Drain #20157* for E. Lynn Overboe in the NW 1/4 of Section 21 in Normanna Township. A *Thirty-Day Notice* will be sent to Cass County.

**Items for review and comment, with input provided by the Water Resource District Engineer**

It was moved by Manager Jacobson and seconded by Manager Yohe to approve and authorize the Secretary-Treasurer to submit comment on the following, with input from the Water Resource District Engineer:

- *Utility Permit* for the North Dakota Department of Transportation pump station on Drain #3 at 19th Avenue North;
- *Utility Permit* for CenturyLink to install armored innerduct across Drain #21 on the north side of 13th Avenue South; and
- Correspondence from West Fargo Planning

- Odegaard Preserve Substation
- Oak Ridge 5th PUD Amendment.

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 #12138 through #12168, the electronic funds transfer, and the wire transfer, as presented. Upon roll call vote, the following Managers voted in favor: Brodshaug, Jacobson, and Yohe. The Chairman declared the motion passed.

### **Drain #60 - cleanout**

It was moved by Manager Jacobson and seconded by Manager Yohe to authorize Moore Engineering, Inc. to survey Drain #60 to determine the need for cleanout, at a cost not to exceed \$2,000. Upon roll call vote, the motion carried unanimously.

### **Sheyenne-Maple Flood Control District #1 – Access Easement with the City of West Fargo regarding relocation of the south tieback levee access off of Sheyenne Street**

It was moved by Manager Yohe and seconded by Manager Jacobson to approve and authorize the Chairman and Secretary-Treasurer to sign the revised *Access Easement* with the City of West Fargo regarding relocation of the Sheyenne-Maple Flood Control District #1 south tieback levee access off of Sheyenne Street. Upon roll call vote, the motion carried unanimously.

### **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