

MINUTES OF MEETING  
SOUTHEAST CASS WATER RESOURCE DISTRICT  
CASS COUNTY HIGHWAY DEPARTMENT  
WEST FARGO, NORTH DAKOTA  
AUGUST 24, 2016

The Southeast Cass Water Resource District met on August 24, 2016, 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; Kathy Grueneich, Administrative Assistant; Sean Fredricks, Attorney for the Board; Kurt Lysne and Lyndon Pease, Engineers for the Board; Brady Woodard, Moore Engineering, Inc.; Jason Benson and Tom Soucy, Cass County Highway Department; and Dane Larsen, farm operator.

**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 and seconded by Manager Jacobson to approve the minutes of the July 27, 2016, meeting. Upon roll call vote, the motion carried unanimously.

**Raymond-Mapleton Township Improvement District No. 76**

Mr. Lysne said additional bids are being solicited before recommending the Board move forward with Raymond-Mapleton Township Improvement District No. 76. He will continue to seek a contractor to do the project yet this fall. Jason Benson discussed the Cass County Highway Department's responsibility and the possibility of hiring the same contractor to complete their portion of the project.

Chairman Brodshaug invited Dane Larsen to join the discussion. Mr. Larsen said work done by the City of West Fargo has caused drainage issues on the land he farms in the NE 1/4 of Section 2 in Raymond Township. There was discussion as to how to improve the situation. Brady Woodard suggested the City of West Fargo move material to the north away from the trees so Mr. Larsen could make drainage improvements. He will coordinate the matter with the City of West Fargo.

**2015 Drain #3 and #10 Channel Improvements Project**

Sean Fredricks informed the Board he spoke with the attorney for Wanzek Construction, Inc. (Wanzek) and they agreed to forego the remaining notices to solidify their respective claims regarding the 2015 Drain #3 and #10 Channel Improvements Project. If Wanzek

wishes to pursue litigation, they must file on or before September 16, 2016. Mr. Fredricks also submitted a request for defense on the matter to the North Dakota Insurance Reserve Fund and they have appointed Howard Swanson as defense counsel.

### **Drain #3 – Bison Village**

The Board next reviewed information from the Office of the State Engineer regarding *Application to Drain No. 4863*, previously submitted by the Southeast Cass Water Resource District regarding the Board's joint project with Roers Development, Inc. (Roers), to construct channel and side slopes to Drain #3 (previously Drain #49) located in the SW 1/4 of Section 19-140-48 (Fargo Township) and the SE 1/4 of Section 24 in Reed Township to accommodate Roers' Bison Village multi-dwelling project.

Under an agreement between the Board and Roers, Roers will construct the channel and slope improvements in accordance with the design approved by the Board, at Roers' expense. In accordance with the City of Fargo's floodplain development requirements, Roers cannot construct its structure within 175 feet from the centerline of Drain #3. Roers is in the process of platting the Bison Village property; following completion of the platting process, Roers will convey a portion of the 175-foot setback area to the Board in fee by *Warranty Deed*, and will grant an easement to the Board for the remainder; more specifically, Roers will execute a "Permanent Public Drain Easement" in favor of the Board for purposes of operating and maintaining Drain #3, but Roers will have the right to construct and maintain a storm water retention pond on the easement property. In addition, the parties anticipate construction and maintenance of a bike path on a portion of the easement property by the Fargo Park District.

The Board previously submitted a drainage permit application regarding the project to the Office of the State Engineer, as required under North Dakota law. The Office of the State Engineer forwarded *Application to Drain No. 4863* to the Board, including the Office of the State Engineer's conclusion the project is not "of either statewide or interdistrict significance."

The Board reviewed and adopted Moore Engineering'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 regarding *Application to Drain No. 4863* under 89-02-01-09.1(2) of the North Dakota Administrative Code; the Project will stabilize the slopes and will reduce the risk of erosion that would impact downstream impacts. In light of the lack of any potential impacts downstream, the Board concluded no hearing would be necessary and no flowage easements would be necessary from downstream landowners.

A motion was made by Manager Yohe and seconded by Manager Jacobson to approve *Application to Drain No. 4863* for the Southeast Cass Water Resource District, subject to any conditions attached by the Office of the State Engineer. Upon roll call vote, the motion carried unanimously.

A motion was made by Manager Yohe and seconded by Manager Jacobson to approve a *Utility Permit* for Roers Development, Inc. to install a storm drain outfall pipe on Drain #3 north of Lot 1 in Bison Village Addition in the SW 1/4 of Section 19-140-48 (Fargo Township). Upon roll call vote, the motion carried unanimously.

**Drain #3 – slide and wingwall repair at old Highway 81**

Mr. Lysne brought options for the Drain #3 slide and wingwall repair at old Highway 81 to the Board for discussion and reviewed the *Preliminary Opinion of Probable Cost*. A motion was made by Manager Jacobson and seconded by Manager Yohe to authorize Moore Engineering, Inc. to prepare plans and specs and advertise the Drain #3 Channel Repair at Highway 81 Crossing Project for bids. Upon roll call vote, the motion carried unanimously.

**Drain #3 – tree removal**

Mr. Woodard reported 2 trees had been removed on Drain #3. The City of Fargo requested a tree with Dutch Elm Disease be removed at 3502 10th Street North. He was directed, by a City of Fargo employee, to another tree causing issues at 936 Keno Street and had it removed at the same time. A motion was made by Manager Yohe and seconded by Manager Jacobson to approve the removal of trees from Drain #3 at 3502 10th Street North and 936 Keno Street in Fargo. Upon roll call vote, the motion carried unanimously.

**Drain #10 - culvert repair north of 19th Avenue North**

Mr. Woodard reported Burlington Northern Santa Fe Railroad (BNSF) confirmed they installed the culvert on Drain #10 north of 19th Avenue North. He believes BNSF will complete the repair needed yet this year. The Board asked him to continue working with BNSF on the matter to be sure the repair will comply with legal drain standards.

**Drain #10 – slide north of the intersection of 32nd Street North and 44th Avenue North**

Mr. Woodard said a slide on Drain #10 north of Cass County Highway 20 was reported to him by a landowner. It was moved by Manager Yohe and seconded by Manager Jacobson to authorize Moore Engineering, Inc. to survey and hire Braun Intertec to do soil borings regarding the slide on Drain #10 north of the intersection of 32nd Street North and 44th Avenue North. Upon roll call vote, the motion carried unanimously.

**Drain #10 – proposed levee in the area of Cass County Highway 20 and Cass County Highway 31**

Mr. Lysne explained the proposed levy planned by the City of Fargo from Drain #10, along Cass County Highway 20 and Cass County Highway 31.

**Drain #21 Improvement Project No. 2015-01**

Mr. Lysne gave a construction update on Drain #21 Improvement Project No. 2015-01. He explained the process being used, how Braun Intertec is exploring options on an old slide and issues Riley Bros. Construction, Inc. have had. Mr. Fredricks advised the Board to reserve the right on any requests to extend the project completion date.

The drain was designed with a 10' wide concrete liner so a skid steer could be used to clean it. Mr. Woodard has approached the City of West Fargo and they were in agreement on building a ramp for accessing the drain. A motion was made by Manager Jacobson and seconded by Manager Yohe to approve constructing a ramp access into Drain #21 off 9th Street NW in West Fargo. Upon a roll call vote, the motion carried unanimously. Mr. Lysne will seek approval from City of West Fargo and Cass County officials before proceeding with the work.

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

Mr. Lysne reported on the Drain #45 Improvements Project and reviewed the *Final Cost Summary*. It was moved by Manager Jacobson and seconded by Manager Yohe to approve the *Final Balancing Change Order* for Midwest Contracting, LLC that reduces the contract price in the amount of \$42,075.50 regarding the Drain #45 Improvements Project from 12th Avenue NW to the Sheyenne-Maple Flood Control District #1 north tieback levee. Upon a roll call vote, the motion carried unanimously.

**Sheyenne-Maple Flood Control Districts – inspection by Corps of Engineers**

The Corps of Engineers inspection is scheduled for next week.

**Sheyenne-Maple Flood Control District #1 – Water Quality Mitigation Improvements**

A motion was made by Manager Yohe and seconded by Manager Jacobson to authorize Moore Engineering, Inc. to prepare plans and specs and to advertise the Sheyenne-Maple Flood Control District #1 – Water Quality Mitigation Improvements Project for bids. Upon roll call vote, the motion carried unanimously.

**Utility Permit for MVM Contracting, Inc. to install secondary power line under the Sheyenne-Maple Flood Control District #1 south tieback levee, north of 32nd Avenue South**

Southeast Cass Water Resource District received a *Utility Permit* from MVM Contracting, Inc. (MVM) to install secondary power line under the Sheyenne-Maple Flood Control District #1 south tieback levee, north of 32nd Avenue South. The Board directed the Secretary-Treasurer to contact MVM for additional information to submit to the Corps of Engineers on the matter.

**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 the *Utility Permit* for Cable One Inc. to install fiber optic cables along the west side of Drain #40 from 19th Avenue North to 39th Avenue North, subject to conditions provided by the Water Resource District Engineer. Upon roll call vote, the motion carried unanimously

It was moved by Manager Yohe and seconded by Manager Jacobson to direct the Secretary-Treasurer to submit comment, with input from the Water Resource District Engineer, on the September preliminary packet from the Fargo Department of Planning and Development. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Jacobson and seconded by Manager Yohe to authorize Chairman Brodshaug to sign the plats for West Fargo 6th and 7th Additions, upon confirmation by the Water Resource District Attorney and Engineer. Upon roll call vote, the motion carried unanimously.

The City of West Fargo wants to build a salt storage facility along Drain #21, south of 12th Avenue NW. The Board instructed Mr. Lysne to clarify property ownership, to look into the estimated weight of material along the drain and the recommended set back.

### **Bills**

It was moved by Manager Jacobson and seconded by Manager Yohe to approve payment of Checks #12838 through #12864 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.

### **Water Topics Overview Committee - quick-take eminent domain**

Mr. Fredricks explained the three draft bills prepared by the Legislative Council for the Water Topics Overview Committee (Committee) regarding Water Resource District quick-take eminent domain authority. The first bill would eliminate quick-take entirely for Water Resource Districts; the second bill would eliminate quick-take authority for everything except water supply projects; and the third bill leaves quick-take in place, but would require Water Resource Districts to obtain permission from their respective County Commissions before utilizing it. Correspondence was sent to the Committee by the Red River Joint Water Resource District and the Cass County Joint Water Resource District emphasizing the importance of quick-take to water development in the state. The Board thanked Mr. Fredricks for his work on the matter.

### **Meeting schedule**

The Board agreed to schedule the next meeting for Monday, September 19, 2016.

### **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