

**REGULAR MEETING OF CASS COUNTY BOARD OF COMMISSIONERS
JANUARY 4, 2016**

1. MEETING CALLED TO ORDER

Chairwoman Mary Scherling called the meeting to order at 3:30 PM with all members present as follows: Ken Pawluk, Rick Steen, Arland H. Rasmussen, and Chad M. Peterson. Mary Scherling was present via conference call.

2. PLEDGE OF ALLEGIANCE

Brielle Edwards led the Pledge of Allegiance.

3. CHAIR RELINQUISHES GAVEL TO VICE CHAIR

Mrs. Scherling relinquished the gavel to Vice Chairman Chad Peterson for him to conduct the remainder of the meeting.

4. MINUTES APPROVED

MOTION, passed

Mr. Rasmussen moved and Mr. Steen seconded that the minutes of the previous meeting be approved as written. Motion carried.

5. AGENDA, Order approved

MOTION, passed

Mr. Pawluk moved and Mr. Steen seconded to approve the order of the agenda. Motion carried.

6. CONSENT AGENDA APPROVED

MOTION, passed

Mr. Pawluk moved and Mr. Rasmussen seconded to approve the consent agenda as follows: On roll call vote, the motion carried unanimously.

- a. Approve the pledge of assets and designate bank depositories as submitted by the Cass County Treasurer as follows:

PLEDGE OF ASSETS

Bank of the West	\$ 520,920.00
US Bank Fargo	\$ 1,000,000.00
Wells Fargo Bank/Casselton/Fargo	\$ 6,977,677.00
Bell State Bank & Trust	\$ 10,000,000.00
Quality Bank Fingal/Page	\$ 100,000.00
Bremer Casselton/Fargo	\$ 3,057,111.00
Gate City Bank	\$ 2,862,838.51
Vision Bank Fargo	\$ 2,300,000.00
Western State Bank	\$ 16,000,000.00
Dakota Heritage Bank-Hunter	\$ 636,308.00
Cornerstone Bank	\$ 2,715,588.00
First International Bank & Trust	\$ 5,276,224.00
Starion Financial	\$ 2,908,831.00

BANK DEPOSITORIES

US Bank Fargo
 Bank of the West
 Wells Fargo Bank/Fargo
 Bell State Bank & Trust
 Union State Bank
 Quality Bank Fingal/Page
 Bremer Bank Casselton/Fargo
 Wells Fargo Bank/Casselton
 First State Bank of North Dakota Arthur/Buffalo/Casselton
 Harwood State Bank
 Dakota Heritage Bank-Hunter
 Kindred State Bank
 Bank of North Dakota
 Gate City Bank
 Alerus Financial
 Vision Bank Fargo
 Western State Bank
 Cornerstone Bank
 Starion Financial
 First International Bank & Trust

- b. Authorize the county treasurer to invest uncommitted funds.
- c. Receive and file Indemnity Bond on Lost Instrument for Denise Dziengel; and authorize the county auditor and county treasurer to issue a duplicate check.
- d. Approve omitted assessment according to notice sent by the county auditor to the property owner.
- e. Approve a raffle permit for the Cass County Youth Commission to be held May 4, 2016, at the Cass County Highway Department in West Fargo, North Dakota.
- f. Authorize the purchase of LaserFiche Avante licensing to upgrade the current document management system in the amount of \$113,293.12.
- g. Approve additional carryover of annual leave balance for Cindy Stoick based on the exception allowed in the Cass County Personnel Policy Manual, Section 6.00.
- h. Contract approval
 - Aero-Graphics, Inc.—digital aerial photography services to update images for the GIS system;
 - Children’s Consultation Network—screening, assessment and consultation services for children and caregivers referred to Social Services;
 - Consortium—education, social support and integration assistance to Social Services clients;
 - PATH, Inc.—foster care services including relief care, behavior and crisis planning, crisis intervention, and 24-hour on-call services for families and children;
 - North Dakota Department of Human Services—vulnerable adult protective services;
 - Network Center Communications—access control for installation of new 10-door control panel and door power supply at the Cass County Law Enforcement Center in the amount of \$10,202.57;
 - Network Center Communications—installation of camera system at the Cass County Law Enforcement Center in the amount of \$21,008.45.

7. **COMMISSION POLICY, Amend Section 24.20 Planning Function; Section 24.30 Subdivision Application Fees**

Hali Durand, County Planner, said septic regulations approved last fall include language that appoints the Cass County Planning Commission to hear appeals related to on-site septic regulations. As this is not a function of the Planning Commission as outlined in Section 24.20 of the Commission Policy Manual, Ms. Durand took the opportunity to update the policy, along with Section 24.30, which relates to subdivision application fees. The fee schedule was outdated and has been updated to reflect the fees that are currently being used.

Ms. Durand said the changes have been approved by the Planning Commission; other than the addition of hearing septic appeals and the fee schedule update the changes are mostly grammatical or pertain to formatting.

Mr. Burdick said he has reviewed the changes and he has no comments.

MOTION, passed

Mr. Pawluk moved and Mr. Steen seconded to amend Commission Policy Section 24.20, Planning Function of Cass County and Section 24.30 relating to subdivision application fees. On roll call vote, the motion carried unanimously.

8. **PLAT DENIED, Cenex Pipeline Subdivision; Mapleton Junction Subdivision**

Ms. Durand said the Cenex Pipeline Subdivision and Mapleton Junction Subdivision are related to the proposed NuStar pipeline project. Both plats have met all requirements and Ms. Durand recommends their approval.

Mr. Pawluk said he has followed the project from the onset and he still has concerns that the Cenex Pipeline Subdivision does not meet the requirements of the Cass County Comprehensive Plan, which discourages non-farm development in agricultural areas. He is not opposed to the pipeline or terminal otherwise.

Mrs. Scherling agreed with Mr. Pawluk and said that while several parties have worked hard to come up with a proposal to appease those who are opposed to the project, she believes a precedence may be set by approving a project that conflicts with the comprehensive plan.

Mr. Rasmussen asked which fire department would be responsible for responding to the area. Ms. Durand said the West Fargo Fire Department would respond. Mick Gee, representative of Cenex Harvest States, was present to discuss the matter. Mr. Gee said a foam system would be installed at the site, in addition to either a large water tank, or a water containment area. A rural water line would also be brought to the site.

Mr. Steen asked if another site would be more suitable. Ms. Durand said additional sites were identified in Raymond Township, but with the consideration of homeowner feedback and the location of the existing pipeline, the current site was identified as the best option.

Mr. Steen asked if there was a lot of opposition at the Raymond Township meeting when the variance for the zoning change for the site was approved. Raymond Township Supervisor David Gust was present. Mr. Gust said there was some opposition and concern that the project is not an appropriate use of the land and does not provide direct agricultural services. A zoning variance was approved on a two to one vote. Mr. Gust was the “No” vote.

Raymond Township Chairman Dane Larsen was also present. Mr. Larsen said the project was controversial from the beginning. The current site is the most suitable site in the township, and the representatives worked hard to appease as many residents as possible and address any potential concerns. The zoning variance was approved with the viewpoint that fuel has a very large impact on agriculture.

Oly Olafson, representative from Ulteig Engineers, assisted in locating and identifying the project sites. Mr. Olafson said after the initial site was identified in Prosper, residents voiced concerns and eventually the current site was identified. There was little opposition to the current site.

Mr. Rasmussen asked why residents were opposed to the project, other than for perceived safety issues. Mr. Olafson said he does not know, and perhaps the initial opposition came from residents not understanding the location due to a poor site map.

Mr. Steen said the township approved the zoning variance and the plat has been approved by the Cass County Planning Commission.

MOTION, failed for lack of a second

Mr. Steen moved to grant final plat approval to Cenex Pipeline Subdivision located in Section 9, Township 140N, Range 50W of the 5th Principal Meridian, Cass County, North Dakota as it meets the goals and objectives of the Cass County Comprehensive Plan, Cass County Highway Access Plan, Flood Damage Prevention Ordinance and Cass County Subdivision Ordinance. The motion died due to lack of a second.

MOTION, passed

Mr. Pawluk moved and Mrs. Scherling seconded to deny final plat approval to Cenex Pipeline Subdivision located in Section 9, Township 140N, Range 50W of the 5th Principal Meridian, Cass County, North Dakota. Discussion: Mr. Pawluk said he is not against the project, but every part of the project thus far has come at a compromise, and the chosen location does not have necessary services available. Mr. Steen asked if there is any other area in the county where the facility would be appropriate without having to build additional pipeline. Ms. Durand said the decision is difficult, but the township has approved a zoning variance for the current site and the project does provide an agricultural service. Mr. Peterson asked how the plat can be approved if it goes against the Cass County Comprehensive Plan, which discourages non-farm development in agricultural areas. Mr. Berndt said the project will take the same acreage of farmland no matter the site in the county. On roll call vote, the motion carried with Mr. Pawluk, Mrs. Scherling, and Mr. Peterson voting “Yes”; Mr. Steen, and Mr. Rasmussen voting “No”.

Mr. Pawluk asked if action must be taken on the Mapleton Junction Subdivision as it has also been submitted for approval. Mr. Gee said there is no benefit to approving the subdivision as it relates directly to the Cenex Pipeline Subdivision, and both are required to move forward with the project.

MOTION, withdrawn

Mr. Pawluk moved and Mrs. Scherling seconded to grant final plat approval to Mapleton Junction Subdivision located in Section 9, Township 139N, Range 50W of the 5th Principal Meridian, Cass County, North Dakota as it meets the goals and objectives of the Cass County Comprehensive Plan, Cass County Highway Access Plan, Flood Damage Prevention Ordinance and Cass County Subdivision Ordinance. Discussion: Mr. Steen asked what purpose of approving this plat would serve as it is connected to the Cenex Pipeline Subdivision, and nothing will be accomplished with its approval. Mr. Pawluk said the items were presented separately and require separate votes. The motion was withdrawn by Mr. Pawluk and Mrs. Scherling.

9. COUNTY EMPLOYEE HANDBOOK

Keith Berndt, County Administrator, said one month ago a draft of the new County Employee Handbook was presented to the commission for review. HR Director Cindy Stoick and Senior Attorney Tracy Peters were present to answer questions on the handbook.

Mr. Peterson asked if there were any substantive changes after the previous review of the handbook. Mr. Berndt said there were not.

Mr. Rasmussen asked about the biggest or most controversial change to the original policy manual. Mrs. Peters said there was a change to the donated leave policy, which will create a leave bank to collect annual leave hours donated by employees. The leave will be used by employees who would otherwise need to take leave without pay for extended illnesses or medical issues. Under the current policy, donations for leave must be solicited from employees with the approval of a department head. The hours for the leave bank will most likely be donated by employees who would otherwise lose vacation hours at the end of the year as they are only allowed to carry over a maximum of 240 hours past January 15th of any given year.

Mr. Steen asked how many hours are forfeited every year. Mrs. Stoick said approximately 300 to 400 hours are forfeited every year. Mr. Steen asked if a cap will be put in place on the donated leave bank. Mrs. Stoick said she does not foresee the bank accruing a vast amount of hours as several employees need donated leave every year.

Mr. Steen said not establishing a cap for the leave bank at the onset creates a liability for the county. Mr. Burdick said perhaps language can be added to require the County Administrator to bring the issue to the commission annually to review and control the balance.

Mr. Rasmussen asked who decides how much donated leave time can be used. Mrs. Stoick said it is at the department head's discretion. Department heads have been conscientious when allowing employees to request donated leave and there have been no issues with abuse. The use of hours from the donated leave bank will still require the permission of the employee's department head.

Mr. Steen said there should be limits and guidelines written into the policy on who is eligible to use the leave, when they are allowed to use it, the maximum amount allowed to be used by each employee, and a maximum amount allowed in the bank.

Mr. Burdick asked if there were any other policies that should be revised or studied. Mr. Peterson said he would like to see a uniform policy on the involvement of Human Resources when an employee has an issue or complaint. There is currently no policy or methodology in place and department heads typically handle the issues within their own departments.

Mr. Berndt said the Fair Treatment Policy in the current Cass County Personnel Policy Manual does not have an equivalent policy in the new handbook, but perhaps a similar policy can be added. Mr. Berndt cautioned that the policy must be drafted in a way that allows the county to maintain its at will employment status.

Mr. Rasmussen asked if any issues will arise if the final approval of the handbook is delayed. Mrs. Stoick said waiting on approval will not create any issues.

AMENDED MOTION, passed

Mr. Rasmussen moved and Mr. Steen seconded to table the Cass County Employee Handbook until the next meeting is held on January 19th, 2016. Discussion: Mr. Burdick said there is a very short turnaround time to get things on the agenda for meetings, and the deadline for the next meeting is already one week away. Mr. Rasmussen and Mr. Steen agreed to amend the original motion to table the item until the meeting held on February 1st, 2016. Motion carried.

10. VOUCHERS, Approved

MOTION, passed

Mr. Pawluk moved and Mr. Steen seconded to approve Voucher No. 290,384 through Voucher No. 290,559. On roll call vote, the motion carried unanimously.

11. FORUM ARTICLE; FLOOD DIVERSION LEGISLATION; LAW ENFORCEMENT CENTER, Committee reports

Mr. Berndt said over the weekend an article was printed in *The Forum* newspaper regarding a potential flood sales tax extension. A group from the Flood Diversion board was meeting with the editorial board at the newspaper to discuss the chairman's goals for 2016 when another member of the group prematurely introduced the issue.

Mr. Berndt said following the roundtable discussion on flood diversion legislation last month, Senator John Hoeven called FM Diversion Board Chairman Darrell Vanyo for further discussion on the matter. He is in support of the project.

Mr. Berndt said the asbestos removal is currently underway at the Cass County Law Enforcement Center. Next week the rest of the contractors will begin work.

12. CORRESPONDENCE, Received and filed

MOTION, passed

Mr. Steen moved and Mr. Peterson seconded to receive and file correspondence outlined by the secretary as follows: Motion carried.

- Letter from the City of Fargo Planning Department regarding a public hearing on an application requesting a zoning change from agricultural to limited industrial for property located at 3901 40th Avenue South (this lot is being purchased by the Cass County Joint

Water Resource District for the new Fargo Public School Warehouse as part of the property acquisitions for the 2nd Street levee project in Fargo).

13. ADJOURNMENT

MOTION, passed

On motion by Mr. Pawluk, seconded by Mr. Steen and all in favor, the meeting was adjourned at 5:07 PM.

ATTEST:

APPROVED:

Michael Montplaisir – Auditor
Cass County, North Dakota

Chad M. Peterson, Vice Chairman
Cass County Board of Commissioners