

**REGULAR MEETING OF CASS COUNTY BOARD OF COMMISSIONERS
FEBRUARY 1, 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, Chad M. Peterson and Mary Scherling.

2. PLEDGE OF ALLEGIANCE

Heather Worden led the Pledge of Allegiance.

3. MINUTES APPROVED

MOTION, passed

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

4. AGENDA, Order approved

MOTION, passed

Mr. Pawluk moved and Mr. Peterson seconded to approve the order of the agenda with the addition of a special event permit and resolution of condolence to the consent agenda. Motion carried.

5. 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. Grant a site authorization permit to conduct games of chance under license issued by the North Dakota Attorney General's Office for the period of April 16, 2016, through April 16, 2016, for the North Dakota Chapters of Delta Waterfowl, Inc. at the Hartl Ag Building, Red River Valley Fairgrounds in West Fargo.
- b. Receive and file Indemnity Bonds on Lost Instrument for Fargo Public Schools and Artic Services, Inc.; and authorize the county auditor and county treasurer to issue duplicate checks.
- c. Approve an omitted assessment according to a notice sent by the county auditor to the property owner.
- d. Approve the 2016-2017 Federal Aid Program as presented and authorize the chair to sign the North Dakota Department of Transportation program sheet.
- e. Authorize the chair to sign a purchase order with John Deere Company in the amount of \$8,200 for the rental of two agricultural tractors to be used by the Highway Department; purchase order with Butler Machinery Company in the amount of \$71,019 for a diesel powered generator for the Law Enforcement Center; and purchase order with Mike Schmidt's Painting in the amount of \$13,264 to install epoxy floor finish in the Law Enforcement Center training room.
- f. Contract approval
 - North Dakota Department of Transportation—federal aid project for a bridge replacement in Tower Township located four miles east and 3 miles north of Tower City;
 - Flood lot lease renewals for 2016.

- g. Approve a special event permit for Bar Nine to serve alcoholic beverages on February 13, 2016, during the hours of 6:00 PM to 12:00 AM for a wedding reception to be held at Bonanzaville, U.S.A. in West Fargo, North Dakota.
- h. Adopt a Resolution of Condolence to the family of John Meyer, former Veterans Service Officer and Cass County Commissioner, as follows:

**RESOLUTION OF CONDOLENCE
#2016-1**

WHEREAS, the Board of Cass County Commissioners has learned of the death of John Meyer; and

WHEREAS, John Meyer served as the Cass County Veterans Service Officer (VSO) from 1966 to 1995 providing 29 years of dedicated service to veterans and their families;

WHEREAS, John Meyer served as Cass County Commissioner from 1997-2004; and

THEREFORE, BE IT RESOLVED, that the Board of Cass County Commissioners does hereby express its heartfelt condolences to the family of John Meyer.

BE IT FURTHER RESOLVED that this resolution will be inscribed upon the permanent records of the proceedings of the Board of Cass County Commissioners and a copy forwarded to his family.

Dated at Fargo, North Dakota, this 1st day of February, 2016.

6. PLAT APPROVAL, Cenex Pipeline Subdivision; Mapleton Junction Subdivision

The Cass County Commission denied plat approval for Cenex Pipeline Subdivision at the January 4, 2016 meeting and did not take action on the plat for Mapleton Junction Subdivision. Mrs. Scherling said she was asked to bring back the items because of additional information to be presented to the board.

Gary Koegeboehn from NuStar Company said the project will connect the Cenex and NuStar pipeline systems, which will help provide additional fuel supply during peak seasonal times for the agricultural production market. He reviewed the easements acquired and numerous permits obtained for the project and discussed NuStar's emergency response plan to help protect the community and environment.

Mick Gee from Cenex Pipeline, LLC said the project will consist of three large 145,000 barrel storage tanks to be constructed in Raymond Township. Each tank will have high level monitoring equipment. He also discussed safety and emergency response plans, including a fire protection plan to construct a water storage tank or pond. Mr. Gee said numerous locations were considered for the project, including an industrial site in Mapleton, one near Tharaldson Ethanol Plant north of Casselton, and one south of the Prosper Elevator. Mapleton was not interested in adding the facility to its industrial park; the site near the ethanol plant would have doubled the length of the pipeline route and was cost prohibitive; and the Prosper Elevator site was met with opposition from local residents. In reference to previous discussion at the last meeting on the Cass County Comprehensive Plan, which discourages non-farm development in agricultural areas, Mr. Gee said all of the locations

considered were designated for agricultural use. Officials looked at other options and chose the proposed site for numerous reasons, including that the existing Cenex pipeline is located at this site and the nearest residence is a half-mile away. Mr. Gee said Raymond Township approached Cenex Pipeline, LLC about maintaining the full mile of section road into the site, which they are agreeable to doing.

Mr. Pawluk is not opposed to the project, but has concerns with the storage facilities. He is concerned about the location not being equipped to handle the traffic, and the township not being in a position to deal with the impacts of this project. Mr. Gee emphasized that Cenex Pipeline LLC will not use this facility as a truck terminal.

MOTION, passed

Mr. Steen moved and Mr. Rasmussen seconded to rescind the motion adopted at the January 4, 2016, meeting to deny final plat approval for Cenex Pipeline Subdivision located in Section 9, Township 140N, Range 50W of the 5th Principal Meridian, Cass County, North Dakota. Discussion: Mr. Pawluk asked for clarification on the difference between “reconsider” and “rescind” according to Robert’s Rules of Order. Heather Worden, Commission parliamentarian, said the option to reconsider is used when a board member wishes to change an action voted on earlier in a meeting; a motion to reconsider must be made by a member who voted in the majority. The option to rescind is used when a board member wishes to change an action voted on at a previous meeting; a motion to rescind may be made by any board member. On roll call vote, the motion carried with Mr. Steen, Mr. Rasmussen, Mr. Peterson and Mrs. Scherling voting “Yes”; Mr. Pawluk voting “No”.

MOTION, passed

Mr. Steen moved and Mr. Rasmussen seconded to grant final plat approval for Cenex Pipeline Subdivision located in Section 9, Township 140N, Range 50W of the 5th Principal Meridian, Cass County, North Dakota with the board’s understanding the facility will be used only as a storage facility and will not be a trucking terminal. If at a future time the use of the facility changes, this would require additional action by the Raymond Township Board.

Discussion: Mr. Peterson said his only concern is with the siting of the tank farm, and believes it should be located in an industrial park. He understands Raymond Township approved the plat but is concerned about what happens in the future without supporting infrastructure. Evan Waa, Prosper resident, said the reason for this plat is to provide Cenex with market access to the Twin Cities. Dane Larsen, Raymond Township Chair, said farmers have issues with fuel access in the spring and fall, and this project will help alleviate the problem. He said other sites were considered, but this one was chosen because of its remote location. Cenex has offered to maintain the road. He said the facility will not create a financial burden on the township. Jim Siebert lives one mile from the proposed site and wasn’t aware of the project until a few days ago. He has safety concerns about the location of the tanks to the railroad. Jim Waa, Prosper resident, is concerned with the industrial zoning designation and site location, and said Raymond Township does not

have the infrastructure to maintain the project. Mrs. Scherling said the township has local zoning authority. She has been informed that Cenex Pipeline has other options to consider if the plat is not approved. She said the county commission is deciding whether or not to approve the plat to subdivide the property. She encourages all townships to establish zoning ordinances to help determine a vision for their local communities. On roll call vote, the motion carried with Mr. Steen, Mr. Rasmussen, and Mrs. Scherling voting “Yes”; Mr. Peterson and Mr. Pawluk voting “No”.

MOTION, passed

Mr. Steen moved and Mr. Rasmussen seconded to grant final plat approval for Mapleton Junction Subdivision located in Section 9, Township 139N, Range 50W of the 5th Principal Meridian, Cass County, North Dakota. On roll call vote, the motion carried unanimously.

7. FLOOD RISK REDUCTION PROJECTS, Authorize chairman to sign letter to entities

Keith Berndt, County Administrator, said each year the county sends a letter to cities, townships and water resource boards to solicit project requests for potential flood risk reduction funding assistance. He said 9% of the county’s flood sales tax dollars are designated for projects outside the protection of the FM Diversion. The request today is to authorize the chairman to sign the letter, which will be sent to the different jurisdictions. Mr. Pawluk suggested the letter also include criteria used when choosing projects that may receive funding.

MOTION, passed

Mr. Steen moved and Mr. Peterson seconded to authorize the chair to sign a letter to cities, townships and water resource boards regarding potential flood risk reduction projects and the availability of county sales tax funding assistance. On roll call vote, the motion carried unanimously.

8. CASS COUNTY EMPLOYEE HANDBOOK

Mr. Berndt said the board was presented with a draft of the new County Employee Handbook in December for review and comments. An overview has been prepared to summarize the proposed changes, including new and revised policies. He reviewed changes to policies on annual leave, donated leave, family sick leave, on-call work schedules and pay, and defensive driving requirements.

Mr. Steen asked about who qualifies to use the donated leave bank and who will decide which employees are eligible. He also questioned the maximum amount allowed to be used. He wants to ensure the process is fair and equitable to all employees.

Cindy Stoick, Human Resources Director, said when department heads request donated leave for an employee, the hours collected are for one week at a time. Employees are not allowed to receive an unlimited number of donated hours. The policy states that requests must be approved by the department head requesting the hours, the Human Resources Director and another unnamed department head. Commissioners suggested the requests be reviewed and approved by the County Administrator, Human Resources Director and Chair of the Department Head group.

Mr. Pawluk asked about the circumstances leading up to a request for donated leave. Mrs. Stoick said documentation from a doctor is needed. Tanya Johnson Martinez, Assistant State's Attorney, said the criteria regarding serious illnesses are defined under the Family Medical Leave Act (FMLA).

There was discussion about the on-call policy, which provides payment for non-exempt staff. Exempt employees who are on-call may receive time off at the discretion of the department head. Mr. Pawluk said something more concrete should be included in the policy for exempt staff. State's Attorney Birch Burdick said the manual may be amended if changes are needed after its implementation.

Mr. Steen asked about the timeline associated with steps outlined in the Fair Treatment Policy and suggested a wording change to clarify the process. He also suggested the board be given an update on any financial impacts after the new policies are implemented.

MOTION, passed

Mr. Steen moved and Mr. Rasmussen seconded to approve the new Cass County Employee Handbook, and request the County Auditor to provide an estimate of budget impacts after the new policies are implemented. On roll call vote, the motion carried unanimously.

9. VOUCHERS, Approved

MOTION, passed

Mr. Steen moved and Mr. Peterson seconded to approve Voucher No. 290,898 through Voucher No. 291,144. On roll call vote, the motion carried unanimously.

10. FLOOD DIVERSION PROJECT; FLOOD DIVERSION JPA; MEETING UPDATES, Committee reports

Mr. Berndt said the President's budget will be released February 9th and will include a list of flood control projects approved to receive federal funding. This will help provide guidance on funding for the FM Diversion project this year.

Mr. Berndt discussed possible changes to the Limited Joint Powers Agreement (JPA) for the Metro Flood Diversion Project regarding board membership, committee appointments, cost shares, and project funding.

Mr. Steen attended the F-M Home Builders Association annual meeting. Mrs. Scherling attended the Red River Basin Commission Conference, and a public meeting in Buffalo regarding a livestock farm proposal.

11. CORRESPONDENCE, Received and filed

MOTION, passed

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

- Letter from Moore Engineering, Inc. requesting comments about proposed watershed planning processes for Swan Creek, Rush River and Upper Maple River watersheds initiated by the Cass County Joint Water Resource District (copy referred to county engineer and county planner);

- Letter from the North Dakota Department of Health regarding renewal of a permit for the City of Fargo Landfill;
- Draft copy of the Application for Approval of a Livestock Waste System the North Dakota Department of Health is considering to issue to Rolling Green Family Farms RE, LLP for a proposed livestock feeding operation outside of Buffalo, North Dakota;
- Notice of Proposed Annexation to annex several tracts of land containing approximately 231.38 acres into the corporate city limits of Oxbow.

12. ADJOURNMENT

MOTION, passed

On motion by Mr. Peterson, seconded by Mr. Pawluk and all in favor, the meeting was adjourned at 5:32 PM.

ATTEST:

APPROVED:

Michael Montplaisir – Auditor
Cass County, North Dakota

Mary Scherling, Chairwoman
Cass County Board of Commissioners