

**REGULAR MEETING OF CASS COUNTY BOARD OF COMMISSIONERS  
MARCH 21, 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, Arland H. Rasmussen, Chad M. Peterson and Mary Scherling. Rick Steen was present via conference call.

**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. Rasmussen seconded to approve the order of the agenda. Motion carried.**

**5. CONSENT AGENDA APPROVED**

*MOTION, passed*

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

- a. Receive financial statement from the Auditor's Office for the month ended February 29, 2016.
- b. Approve special event permit for The Work Zone to serve alcoholic beverages on April 8, 2016, during the hours of 3:00 PM to 2:00 AM and April 9, 2016, during the hours of 10:00 AM to 2:00 AM for a pool tournament to be held at the Hartl Ag Building at the Red River Valley Fairgrounds in West Fargo, North Dakota.
- c. Receive and file Indemnity Bonds on Lost Instrument for Caplan Caplan & Caplan, Inc. and Red River Home Dairy Delivery LLC; and authorize the county auditor and county treasurer to issue duplicate checks.
- d. Grant final plat approval for Piper First Subdivision in Section 17, Township 138N, Range 51W, of the 5<sup>th</sup> Principal Meridian, Cass County, North Dakota.
- e. Authorize the Red River Valley Fair Association to list Cass County as the fiscal agent on a grant application for funding through the Garrison Diversion Conservancy District.
- f. Authorize the chair to sign a purchase order with Bert's Truck Equipment in the amount of \$24,585 for Highway Department truck equipment; and authorize the chair to sign a purchase order with On the Level Construction in the amount of \$47,650 for east abutment repairs on County Highway 4 bridge over the Maple River.
- g. Approve checking account transactions for property purchases and related expenses in February 2016 for the FEMA Flood Buyout grant program.
- h. Authorize the county auditor to sign the proxy vote for the North Dakota Insurance Reserve Fund annual meeting to be held May 11, 2016, at the Ramkota Inn in Bismarck, North Dakota, and assign Cass County's votes to Bruce Strinden.
- i. Contract approval
  - Flood lot leases for 2016;
  - Gravel supply bids—accept all bids for 2016 gravel to be used in the best interest of the county;
  - Death investigator services—contracted services to assist the Coroner's Office death investigators (Darin Haverland, the previous contractor, was hired full-time with the Coroner's Office, so these agreements are to replace his services).

**6. BUDGET, General Fund projections for 2016**

Michael Montplaisir, County Auditor, said the 2016 budget was prepared using estimated state revenues. Since that time, state revenues have decreased which in turn has decreased the share of state aid received by Cass County. Also, last year the commission approved the Law Enforcement Center (LEC) purchase using reserves from the General Fund, which affected the ending fund balance for 2015 and will affect the 2016 budget. The projected ending General Fund balance was \$7,137,709 when the 2016 budget was prepared—the new estimated ending fund balance is \$2,775,849 as a result of reduced state aid and LEC building costs. He said this information needs to be taken into consideration when 2017 budgets are prepared so the county does not have to raise property taxes.

Mr. Pawluk said North Dakota Governor Jack Dalrymple asked for a 4% reduction in spending for state offices because of decreased state revenues. He suggested the county consider a similar reduction from April 1<sup>st</sup> through the rest of the year. Mr. Montplaisir said this may be difficult for some of the smaller departments as a large portion of their budgets are for salaries and benefits which are paid through the General Fund.

Mr. Peterson said during the last budget session he voted against a majority of the new hires and advocated for a lower pay raise in anticipation of these issues discussed today. He believes this issue will be resolved if the board maintains the status quo during the next budget session and holds the line on additional staff requests and equipment purchases. He said oil prices will eventually rebound and state revenues will rise again over the next few years. Mrs. Scherling said there will need to be significant cuts made because she does not want to raise taxes.

Mr. Pawluk suggested departments be asked to look at 4% in budget cuts as well as implementing a moratorium on non-mandated travel. Mr. Rasmussen suggested the chair send a letter to department heads to outline the budget issues, and allow departments a chance to consider possible budget cuts.

***MOTION, failed for lack of a second***

**Mr. Pawluk moved to seek a 4% budget reduction from department heads to be presented at the next meeting and any non-mandated travel that has not been booked be temporarily suspended until information is received from departments. Motion failed due to lack of a second.**

***AMENDED MOTION, passed***

**Mr. Rasmussen moved and Mr. Peterson seconded to authorize the chair to send a letter to department heads to explain the budget situation and ask for any reductions they can find in their 2016 budgets. Mr. Peterson made a friendly amendment to the motion that any unessential travel be eliminated in its entirety. Mr. Rasmussen was agreeable to amend the motion. On roll call vote, the motion carried unanimously.**

**7. FLOOD DIVERSION, Presentation on P3 financing and construction**

Attorney John Shockley from Ohnstad Twichell, P.C. provided an overview on the Public Private Partnership (P3) proposed for financing and construction of the FM Diversion project. A P3 is a contractual agreement between a public agency (federal, state or local) and a private sector entity. A split delivery plan will be used with the Diversion channel and associated infrastructure handled by the non-federal sponsors (Diversion Authority); and the southern embankment, associated infrastructure and mitigation handled by the U.S. Army Corps of Engineers (USACE).

Mr. Shockley said the public sector retains ownership and control over the asset, and the private sector manages the project. He said the degree as to what responsibilities are retained or shared is defined in the P3 agreement. The P3 will only be used for the Diversion channel and associated infrastructure and will not be used for land acquisition, tie-back levees, Red River control structure,

or Wild Rice River inlet and control structure—these items will be constructed using traditional bidding and procurement practices. He outlined the stages of the process and provided a timeline. The Diversion channel and associated infrastructure will be paid with Fargo and Cass County sales tax revenues, State of North Dakota funds and State of Minnesota funds. The southern embankment and associated infrastructure lands mitigation will be paid with federal appropriations.

**8. ROAD DEPARTMENT, Contract with KD Hoyt, Inc. for County Highway 3 subgrade repair**

Jason Benson, County Engineer, discussed a subgrade repair project on Cass County Highway 3 from Ayr to I-94 with an option to complete gravel stabilization at the same time. The 2016 budget includes \$1.5 million for this project. He said the low bid was received from KD Hoyt, Inc. with a base bid of \$1,613,273 and gravel stabilization option of \$554,186 for a total of \$2,167,459.

Mr. Pawluk is struggling to approve this request because of the budget shortfall discussed earlier. Mr. Benson said asphalt prices are much lower than in the past which will provide a cost savings to the county. Funds are available in the road budget to cover the additional cost over the original \$1.5 million budgeted for the project. He said if the contract is not approved, he will have to re-bid the project since 30 days will have passed since bids were opened.

Mr. Montplaisir said the Road Department has its own levy and is not funded by dollars from the General Fund.

***MOTION, failed***

**Mr. Rasmussen moved and Mr. Steen seconded to authorize the chair to sign a contract with KD Hoyt, Inc. in the amount of \$2,167,459 for a subgrade repair project on Cass County Highway 3 from Ayr to I-94. Discussion: Mr. Pawluk intends to vote against this motion until budget cuts are received from departments. Mrs. Scherling is not opposed to the project and recommends the county engineer determine if this is a priority when looking at possible budget cuts for this year. On roll call vote, the motion failed with Mr. Peterson, Mr. Pawluk and Mrs. Scherling voting “No”; Mr. Rasmussen and Mr. Steen voting “Yes”.**

Mr. Benson asked how to proceed with this road project. Mrs. Scherling asked about approval of the base bid. Mr. Benson said he prefers this option rather than re-bidding the entire project. Keith Berndt, County Administrator, asked if the base bid is awarded today, whether the Commission could award the option at their next meeting in two weeks. Mr. Benson said the option could be considered if the contractor was agreeable.

***MOTION, passed***

**Mr. Pawluk moved and Mr. Rasmussen seconded to authorize the chair to sign a contract with KD Hoyt, Inc. for the base bid in the amount of \$1,613,273 for a subgrade repair project on Cass County Highway 3 from Ayr to I-94. On roll call vote, the motion carried unanimously.**

**9. SHERIFF’S OFFICE, Consulting contract approved for ARMER radio participation plan**

Sheriff Paul D. Laney was present to discuss a request to hire a consultant to develop an Allied Radio Matrix Emergency Response (ARMER) plan for Cass County, Fargo and West Fargo. He said at the end of 2018, mobile and portable radios and infrastructure will no longer receive factory support to maintain or repair equipment. During the last North Dakota legislative session, \$1.5 million was allotted to study this issue. He said because of the partnership with the Red River Regional Dispatch Center (RRRDC), the county has an opportunity to join the Minnesota ARMER system. However, additional study is needed at a cost of \$30,000 to hire a consultant. If approved, the plan will outline the development of an 800 MHz radio subnetwork and migration to the Minnesota system.

Brian Zastophil, Radio Systems Coordinator from RRRDC, said the system requires a controller at a cost of \$1.5 million; however, this cost would be saved through partnering with Minnesota. The consultant will assess the viability of this option and identify any unexpected costs. This is a short-

term approach with the long-term goal to participate in North Dakota's system once it is established. He reiterated the need as equipment and associated products were purchased in 2003 and have reached the end of their support life. The study is anticipated to be complete in five or six months.

Steve Dirksen, Fargo Fire Chief, was present. He said the \$1.5 million in state funds were not sufficient to study a North Dakota system. He said an integrated system will help both North Dakota and Minnesota entities to support each other and will ensure Cass County is prepared when parts are no longer supported after 2018.

Sheriff Laney understands the budget issues the board has to consider, however, this plan provides a solution to an important safety issue, and he is asking the consultant contract be approved in order to move forward with this project. Mr. Peterson supports the request to join the Minnesota system because the North Dakota legislature will not consider additional action on this issue until next year.

***MOTION, passed***

**Mr. Rasmussen moved and Mr. Peterson seconded to approve a contract with Rey Freeman Communications Consulting to develop an Allied Radio Matrix Emergency Response (ARMER) participation plan for the Cass County Sheriff's Office, Fargo City and West Fargo City. On roll call vote, the motion carried with Mr. Rasmussen, Mr. Peterson, and Mr. Steen voting "Yes"; Mrs. Scherling and Mr. Pawluk voting "No".**

**10. FLOOD CONTROL, State Water Commission reimbursement requests for FM Diversion approved**

During the last three legislative sessions, the state legislature approved a total of \$175 million to be spent on flood control costs. Michael Montplaisir, County Auditor, said for consideration today are the 24<sup>th</sup> and 25<sup>th</sup> requests from the FM Diversion Authority.

The first request covers eligible costs of local matching share requirements of Senate Bill 2020. The costs are for residential relocation assistance for homeowners displaced by in-town levee and OHB levee projects; commercial relocation assistance for the Sidestreet Grille & Pub; 4<sup>th</sup> Street and 2<sup>nd</sup> Street North pump station projects; 2<sup>nd</sup> Street North floodwall project; Park East Apartments demolition; and utility relocations for in-town and OHB levee projects.

The second request covers eligible costs of local matching share requirements of House Bill 1020. The costs are for engineering costs incurred from February 2012 through October 2014 which have not previously been submitted for reimbursement.

***MOTION, passed***

**Mr. Pawluk moved and Mr. Peterson seconded to authorize the chair to sign reimbursement request #24 in the amount of \$2,752,283 and reimbursement request #25 in the amount of \$10,000,000 to the State Water Commission to distribute funds to the FM Diversion according to the terms and conditions of Senate Bill 2020 and House Bill 1020. On roll call vote, the motion carried unanimously.**

**11. VOUCHERS, Approved**

***MOTION, passed***

**Mr. Rasmussen moved and Mr. Peterson seconded to approve Voucher No. 291,741 through Voucher No. 292,073. On roll call vote, the motion carried unanimously.**

**12. FLOOD DIVERSION MEETINGS; MEETING UPDATES; WEST CENTRAL REGIONAL JUVENILE CENTER , Committee reports**

Mr. Berndt said informational meetings will be held with the six-member entities of the FM Diversion Authority on March 31<sup>st</sup> beginning at noon with discussion on the amended Joint Powers Agreement and at 1:00 PM to hear an updated project cost estimate.

Mr. Montplaisir will attend a legislative judiciary committee meeting on March 22<sup>nd</sup> in Bismarck regarding voter registration.

Mrs. Scherling and Mr. Berndt attended a public hearing last week regarding a proposed livestock feeding operation outside of Buffalo, North Dakota.

Mr. Berndt said the director of the West Central Regional Juvenile Center invited Cass County to meet with Clay County officials to discuss future needs of the facility. Mr. Pawluk serves as the county liaison on the center’s advisory board, and suggested that Mr. Peterson, who currently holds the Sheriff portfolio, be the liaison since he will be retiring from the Commission in December. Mr. Pawluk and Mr. Peterson agreed to meet with Clay County officials on this issue.

**13. 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 the North Dakota Department of Transportation requesting comments on any environmental concerns with a proposed roadway improvement project on 10<sup>th</sup> Street North from 4<sup>th</sup> Avenue to 12<sup>th</sup> Avenue North in Fargo (copy referred to county engineer);
- Notice of Cass County Township Officers’ Association annual spring meeting at 7:30 PM on Thursday, March 31, 2016, at the Day’s Inn in Casselton, North Dakota;
- Letter from the North Dakota Department of Transportation regarding bridge structures that need load limit postings.

**14. ADJOURNMENT**

***MOTION, passed***

**On motion by Mr. Peterson, seconded by Mr. Pawluk and all in favor, the meeting was adjourned at 5:28 PM.**

ATTEST:

APPROVED:

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Michael Montplaisir – Auditor  
Cass County, North Dakota

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Mary Scherling, Chairwoman  
Cass County Board of Commissioners