

**REGULAR MEETING OF CASS COUNTY BOARD OF COMMISSIONERS
MAY 16, 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

Brielle Edwards led the Pledge of Allegiance.

3. MINUTES APPROVED

MOTION, passed

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

4. AGENDA, Order approved

MOTION, passed

Mr. Steen moved and Mr. Rasmussen seconded to approve the order of the agenda with the addition of a contract to the consent agenda. Motion carried.

5. CONSENT AGENDA APPROVED

MOTION, passed

Mr. Rasmussen moved and Mr. Steen 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 April 30, 2016.
- b. Approve a special event permit for RAWC, Inc. d/b/a Rookies Sports Bar and Grill to serve alcoholic beverages on June 11, 2016, during the hours of 5:00 PM to 11:00 PM for a wedding reception to be held at the Red River Valley Fairgrounds in West Fargo, North Dakota.
- c. Receive and file Indemnity Bonds on Lost Instrument for Cheryl L. Ellis, JSM Woodworks, and Taylor O'Dell; and authorize the county auditor and county treasurer to issue duplicate checks.
- d. Grant final plat approval for Strand Subdivision in Section 25, Township 137N, Range 52W of the 5th Principal Meridian, Cass County, North Dakota; and grant final plat approval for Nelson Hest Subdivision in Section 9, Township 139N, Range 53W of the 5th Principal Meridian, Cass County, North Dakota.
- e. Authorize funding of the following projects approved by the Flood Sales Tax Committee at a meeting held May 2, 2016: Mapleton levee improvements for recertification for \$99,813; Mapleton lift station discharge improvements for \$14,867; Erie Dam/Brewer Lake repairs for \$25,000; Lake Bertha Flood Control—revise approved amount from \$242,500 to \$66,215; Swan Buffalo Detention Dam #5 (Garsteig Dam) for \$12,697; Swan Buffalo Detention Dam #8 (Embden Dam) for \$12,168; and Swan Buffalo Detention Dam #12 (Absaraka Dam) for \$11,184.
- f. Authorize the chair to sign a purchase order with Riley Bros. Construction, Inc. in the amount of \$67,430 to replace a culvert on Drain 35 along County Highway 15 one mile south of County Highway 16.
- g. Contract approval
 - Associated Financial Group—amendments to Cass County Employee Handbook regarding position classification procedures, definition of normal work week, and severance pay for terminated employees;
 - Mosquito control agreements for cities, subdivisions, and organizations;
 - Dakota Fence Company—installation of guard rail on Sheyenne River bridge along County Highway 20;

- Key Contracting, Inc.—Highway Department shop concrete floor drainage repairs;
- Turf Tamers Lawn Care and Landscaping—lawn maintenance and grass clipping services on county-owned lots;
- Consolidated Communications—local and long distance phone service for the county (the proposal from current provider, CenturyLink, is about \$1,000 more per month).

6. **RESOLUTION #2016-7, Approving Flood Diversion Joint Powers Agreement**

John Shockley, Attorney from Ohnstad Twichell, P.C., was present to discuss the Joint Powers Agreement (JPA) for the Flood Diversion Board of Authority. Mr. Shockley said the near final version of the JPA was approved by the Diversion Authority at their last meeting.

Mr. Shockley discussed some of the minor changes included in the JPA as suggested by this commission, and the Project Partnership Agreement (PPA), which exists between the U.S. Army Corps of Engineers, the Diversion Authority, the City of Fargo, and the City of Moorhead.

MOTION, passed

Mr. Pawluk moved and Mr. Steen seconded to adopt Resolution #2016-7, Approving Flood Diversion Joint Powers Agreement. On roll call vote, the motion carried unanimously.

**RESOLUTION #2016-7
FLOOD DIVERSION JOINT POWERS AGREEMENT**

WHEREAS, Cass County, North Dakota desires to enter into a Joint Powers Agreement with the City of Moorhead, Minnesota, the City of Fargo, North Dakota, Clay County, Minnesota, Buffalo-Red River Watershed District, and Cass County Joint Water Resource District, which establishes and continues a permanent joint powers entity called the Flood Diversion Board of Authority to provide the Fargo-Moorhead Metropolitan Area with permanent and comprehensive flood protection; and

WHEREAS, the parties to the Joint Powers Agreement previously entered into a Limited Joint Powers Agreement, dated as of July 11, 2011, which was subsequently amended in September 2012 by a First Amendment to Limited Joint Powers Agreement and by a Second Amendment to Limited Joint Powers Agreement dated September 9, 2013 (collectively the “Limited Joint Powers Agreement”); and

WHEREAS, the Limited Joint Powers Agreement will be repealed, replaced, and amended in its entirety with the terms and conditions of the Joint Powers Agreement; and

WHEREAS, a copy of the Joint Powers Agreement was presented to the Board of Commissioners of Cass County, and the Board of Commissioners does hereby determine that it is in the best interests of the County to enter into the Joint Powers Agreement.

NOW, THEREFORE BE IT RESOLVED by the Board of Commissioners of Cass County that it is in the best interests of the County to enter into the Joint Powers Agreement with the City of Moorhead, Minnesota, the City of Fargo, North Dakota, Clay County, Minnesota, Buffalo-Red River Watershed District, and Cass County Joint Water Resource District, and hereby authorizes the Chair of the Board and the County Auditor to enter into such Agreement, in substantially the same form as presented to the Board of Commissioners at its meeting on May 16, 2016.

Approved and adopted this 16th day of May, 2016.

7. **CASS COUNTY JAIL, Award bid to JMC Associates to conduct PREA Audit**

Sheriff Paul D. Laney said the Prison Rape Elimination Act (PREA) mandates that all correctional facilities must be independently audited every three years for compliance. A Request for Proposals (RFP) was posted and 18 replies were received. The lowest bid was \$2,717, as submitted by JMC Associates, which is located in Sandia Park, New Mexico. This is well within the previously approved budget of \$5,000 for this service.

MOTION, passed

Mr. Pawluk moved and Mr. Peterson seconded to award the bid to conduct a PREA Audit of the Cass County Jail to JMC Associates and to authorize the chairwoman to sign a contract for services. On roll call vote, the motion carried unanimously.

8. **SPECIAL ASSESSMENT DISTRICT, Wild Rice River Estates Subdivision**

Jason Benson, County Engineer, said he and Michael Montplaisir, County Auditor, have been working with the residents of Wild Rice River Estates to develop an assessment district to pave the road. All homeowners in the district have signed a petition requesting the assessment district, and Apex Engineering was contracted to develop a set of plans for the project. Mr. Benson and Stanley Township have approved the design, and the project is ready to be bid.

Mrs. Scherling asked if 100% of residents are in favor of the project. Mr. Benson said there is full support, and the petition was signed by every individual listed as a property owner in the subdivision.

Mr. Steen asked if the properties have a high elevation as the photo provided shows that the subdivision is surrounded by water. Keith Berndt, County Administrator, said the subdivision remained dry during the 2009 flood. In a worse flood it would most likely be affected, but the subdivision will be protected by the diversion channel.

Mr. Pawluk asked if the county will be protected against claims of non-payment. Mr. Montplaisir said the policy regarding special assessment districts requires that 80% of the lots be built on. Of nine lots in the Wild Rice River Estates Subdivision, only one is vacant.

MOTION, passed

Mr. Steen moved and Mr. Rasmussen seconded to authorize the Cass County Auditor to develop an assessment district for road paving in Wild Rice River Estates Subdivision. On roll call vote, the motion carried unanimously.

9. **COUNTY SEAT CAFÉ, Contract to be developed to reopen café**

Mr. Berndt said he was approached by Anthony and Sara Bachman about re-opening the County Seat Café in the basement cafeteria of the Courthouse. Mr. Berndt spoke with the couple about the lack of success in other attempts in recent years to successfully operate the café long-term, but the couple is enthusiastic and would like to move forward with their effort. The county would provide the space and equipment, and the Bachmans would be responsible for all additional work and expenses. If approved, Mr. Berndt will facilitate a contract with the Bachmans to bring back to the commission for approval.

Mr. Pawluk said there does not seem to be a downside for the county with this arrangement, but he is not optimistic that the café will be sustainable. Mr. Pawluk asked if the equipment is in working order. Mr. Berndt said the equipment is all commercial quality equipment in good working condition.

Mrs. Scherling said the service will be appreciated, but eventually equipment will need maintenance or break. Perhaps if the business appears to be sustainable after an initial six month

to one year period, a nominal fee could be charged for the use of equipment with the proceeds going towards future and inevitable equipment repairs.

Mr. Peterson asked if the space should be opened up for bids instead of giving priority to the first business that requested the opportunity. Mr. Berndt said the market is not good for such a small venture and the last time the space was advertised for potential bids there were no responses. Mr. Pawluk said he believes the Bachmans will be providing a service to the county.

Mr. Pawluk said perhaps if the contract ends and it is found that the venture was not successful the basement cafeteria space should be repurposed.

MOTION, passed

Mr. Rasmussen moved and Mr. Pawluk seconded to authorize the County Administrator to develop a contract with Anthony and Sara Bachman to reopen the County Seat Café. On roll call vote, the motion carried unanimously.

10. CASS COUNTY COURTHOUSE, Repurposing space for Social Services; Director of Tax Equalization

Mr. Berndt said he was approached by Chip Ammerman, Social Services Director, about relocating Social Services staff to currently unoccupied space. As the comprehensive space study previously approved for the Annex and Courthouse buildings was cut due to budget constraints, Mr. Ammerman suggested a number of ideas for a nominal cost to relieve overcrowding. The request includes moving files out of a file room and into the Annex basement to transition the file room into two offices; placing two secure doors between the lobbies to the work areas on the 2nd and 3rd floors in the Annex; moving the Social Services legal team into the Courthouse space formerly occupied by the Sheriff's Department Administration Division; moving Mr. Ammerman and his administrative staff to the 4th floor where the legal staff is currently located in the Annex; and transitioning Mr. Ammerman's current office into two offices and moving four economic assistance staff to this area.

Mr. Berndt recommends postponing action on adding the secure doors to the 2nd and 3rd floor lobbies as they would need to be connected to the fire alarm system and he does not have cost estimates for that work. The rest of the items would cost approximately \$10,000, and Mr. Berndt does recommend approval for those items if the commission feels the expenditure is appropriate at this time.

Mr. Berndt said one other space change he proposes is moving the Tax Equalization staff into the offices near the Grasslands Room (old commission room) as a new staff member added to this department is currently working out of a conference room. These offices were recently vacated by the Sheriff's Department and need no renovations.

There was discussion on other appropriate spaces for the Tax Equalization and Social Services legal staff.

Mrs. Scherling asked if the requested changes will be a temporary fix for a much larger problem. Mr. Ammerman said in the future there is a need for a comprehensive study, but in the meantime the proposal will create six potential offices for staff members, and it provides a quick solution to a growing space issue.

Mr. Peterson said he approves of the request, but would like to stress that it is not a permanent solution. There is currently a lot of unoccupied space in the Courthouse and a space study is needed.

Mrs. Scherling said the request did not go through the Building Committee, which would have been advantageous as a more in depth conversation could have taken place and the spaces could have been toured.

Mr. Rasmussen said he believes this is the best solution for the least amount of money at this time. It is a temporary solution and eventually a long-term solution is needed, but the situation at hand calls for emergency action.

AMENDED MOTION, passed

Mr. Rasmussen moved and Mr. Peterson seconded to authorize the space moves as outlined in the former Sheriff's Office space for Social Services and Director of Equalization. Discussion: Mr. Peterson said as per Mr. Berndt's recommendation, the placement of two secure doors between the lobby to the work areas on 2nd and 3rd floors should be removed from the authorized actions. Mr. Rasmussen agreed to amend the original motion to exclude the placement of the secure doors. Mr. Pawluk asked how long this current action will defer a larger change, and if it is just a temporary fix. Mr. Ammerman said it will provide immediate space relief for staff. Mrs. Scherling asked how accurate the \$10,000 estimate for work is. Mr. Berndt said an architectural firm looked at the area before the space study was terminated so he is confident in the number and it may be work that can be completed by the county maintenance staff. On roll call vote, the motion carried unanimously.

11. FARGO RENAISSANCE ZONE AUTHORITY COMMITTEE, Chad Peterson appointed

Mrs. Scherling said the request for a voting seat on the Fargo Renaissance Zone Authority Committee was unanimously approved by the Fargo City Commission.

MOTION, passed

Mr. Pawluk moved and Mr. Steen seconded to appoint Chad Peterson to the Fargo Renaissance Zone Authority Committee. Discussion: Mr. Peterson said an additional request for a county commissioner to serve on the TIF Committee will be forthcoming as it was also unanimously approved by the Fargo City Commission. Mr. Peterson is willing to serve on this committee as well. On roll call vote, the motion carried unanimously.

12. FLOOD CONTROL, State Water Commission reimbursement request for FM Diversion approved

During the last three legislative sessions, the state legislature approved a total of \$450 million to be spent on flood control costs. Mr. Montplaisir said for consideration today is the 27th request from the FM Diversion Authority, which covers eligible costs of local matching share requirements of House Bill 1020. The costs are for residential relocation assistance for homeowners displaced by in-town levee and OHB levee projects; commercial relocation assistance for Fargo Public School District; Park East Apartments Demolition; Howard Johnson Hotel, former Shakey's Pizza and Fargo Public School building demolition; 2nd Street North pump station project; 4th Street pump station and gate well project; and 2nd Street Floodwall South project.

MOTION, passed

Mr. Pawluk moved and Mr. Peterson seconded to authorize the chair to sign reimbursement request #27 in the amount of \$4,940,909 to the State Water Commission to distribute funds to the FM Diversion according to the terms and conditions of House Bill 1020. On roll call vote, the motion carried unanimously.

13. VOUCHERS, Approved***MOTION, passed***

Mr. Peterson moved and Mr. Rasmussen seconded to approve Voucher No. 292,777 through Voucher No. 293,200. On roll call vote, the motion carried unanimously.

14. EXTENSION AGENT; COUNTY WASTE DISPOSAL; FLOOD DIVERSION UPDATES; EMERGENCY SERVICE ZONE MEETING; HEALTH INSURANCE PLANS, Committee reports

Mr. Peterson left for the remainder of the meeting.

Mr. Pawluk said John Kringler, Cass County Extension Agent, will be retiring in the coming months. Currently, his position is equally funded from the state and the county. The position serves as a county department head, and the state has appointed the position in the past.

Mr. Berndt said he received correspondence from a citizen concerning waste disposal in the county, specifically where to dispose of electronic waste. Mr. Berndt spoke with Fargo Solid Waste and was informed that county residents can dispose of household hazardous waste and electronics at the Fargo facility. Mr. Berndt was also informed by Fargo Cass Public Health that funds are available through the state for the disposal of junk cars.

Mr. Berndt said there will be a presentation on the affordability of the diversion and a future funding overview. The City of Fargo has revised their master plan for in-town control and removed projects deemed unnecessary due to the diversion project. The result is that more of the flood sales tax collected by Fargo will go towards the diversion project. A flood sales tax extension will also be on the ballot this November.

Mr. Berndt said the Minnesota Environmental Impact Study was released today. A comment period will remain open until May 30th. Permitting will be the next step in the process.

Mrs. Scherling said she attended a meeting with interested parties to determine the service areas for F-M Ambulance and Casselton Ambulance Service. The ND Department of Health assisted in drawing the boundaries, which are based on which entity would arrive most quickly. As the metro area grows, the lines will change and need to be redrawn.

Mrs. Scherling said she attended a meeting with Blue Cross Blue Shield of ND concerning new contracts for county employee insurance. There will be more information going forward.

15. CORRESPONDENCE, Received and filed***MOTION, passed***

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

- Letter from Beth Knutson, Chair of the North Dakota Recorders Information Network (NDRIN), regarding action taken by the NDRIN board to refund \$250,000 from reserves to county members with refunds to be deposited into the Document Preservation Fund;
- Letter of retirement from Frank Klein, County Director of Equalization, effective August 1, 2016;
- Letter from Canadian Pacific Railroad regarding a proposed project to construct a 160 foot base station tower within railroad right-of-way in the City of Enderlin;
- Letter from KLJ requesting comments about proposed roadway improvements along Sheyenne Street in West Fargo from 13th Avenue East to 40th Avenue East (copy forwarded to county engineer);

- Letter from KLJ requesting comments about a proposed road improvement and flood protection project on 64th Avenue South from 33rd Street South to 38th Street South in Fargo (copy forwarded to county engineer).

16. ADJOURNMENT

MOTION, passed

On motion by Mr. Pawluk, seconded by Mr. Rasmussen and all in favor, the meeting was adjourned at 4:41 PM.

ATTEST:

APPROVED:

Michael Montplaisir – Auditor
Cass County, North Dakota

Mary Scherling, Chairwoman
Cass County Board of Commissioners