

**REGULAR MEETING OF CASS COUNTY BOARD OF COMMISSIONERS
JULY 18, 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. Steen seconded to approve the order of the 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 June 30, 2016.
- b. Approve a special event permit for Bar Nine to serve alcoholic beverages on August 6, 2016, during the hours of 5:00 PM to 12:00 AM for a wedding reception to be held at Bonanzaville, U.S.A., in West Fargo, North Dakota; approve a special event permit for Bar Nine to serve alcoholic beverages on August 13, 2016, during the hours of 5:00 PM to 12:00 AM for a wedding reception to be held at Bonanzaville, U.S.A., in West Fargo, North Dakota; approve a special event permit for Bar Nine to serve alcoholic beverages on August 19, 2016, during the hours of 5:00 PM to 12:00 AM for a wedding reception to be held at Bonanzaville, U.S.A., in West Fargo, North Dakota; and approve a special event permit for Bar Nine to serve alcoholic beverages on August 25, 2016, during the hours of 5:00 PM to 12:00 AM for a Mule Deer Foundation banquet to be held at Bonanzaville, U.S.A., in West Fargo, North Dakota.
- c. Approve a raffle permit for Northern Cass Booster Club to be held September 24, 2016, at Arthur Barn in Arthur, North Dakota.
- d. Contract approval
 - Flood lot leases with Ronald and Sandra Fuhrman, Todd and Charlotte Underdahl, and Trenton Allen;
 - Northern Improvement Co.—asphalt patching project for various locations in Cass County;
 - Northern States Excavating, Inc.—metal arch culvert installation to replace a bridge in Sections 22/27 of Hunter Township.

6. SHERIFF'S DEPARTMENT, Presentation of plaque to Patti Wasmuth

Sheriff Paul D. Laney and Commission Chair Mary Scherling presented a retirement plaque to Patti Wasmuth, who recently retired from the Cass County Sheriff's Office after 30 years of service. Ms. Wasmuth thanked the commission for the opportunity to work for Cass County Government.

7. DONOR REGISTRY IMPACT AWARD

Emily Laughlin, Community Partnership Coordinator from LifeSource, was present to give an award to the North Dakota Driver's License Office that serves Cass County. She said Cass County has the highest percentage of adults (69.5%) in North Dakota who registered as an organ, eye and tissue donor on their license or state identification. LifeSource recognizes the important role driver's license

offices play in helping people register as donors. She said the mission of their organization is to save lives through organ and tissue donation, and LifeSource wants to recognize Cass County for their partnership. She presented the award to Rachel Mount, Supervisor from the North Dakota Driver's License Office located in Fargo.

8. RESOLUTION #2016-17, Approving Issuance of Recovery Zone Facility Revenue Refunding Bonds for McNeilus Steel, Inc. Project

Attorney Jim Stewart was present to discuss issuance of bonds to refund outstanding Recovery Zone Facility Revenue Bonds (McNeilus Steel, Inc. Project) Series 2010. He said Recovery Zone Facility Bonds were approved for McNeilus Steel, Inc. in 2010 to finance the construction of a steel processing and fabrication plant. The bonds for consideration today will lower the interest rate and will refund the other bonds that were previously issued. Cass County has no liability for any payments on the bonds.

MOTION, passed

Mr. Steen moved and Mr. Rasmussen seconded to adopt Resolution #2016-17, Approving the Issuance of Recovery Zone Facility Revenue Refunding Bonds (McNeilus Steel, Inc. Project), Series 2016. On roll call vote, the motion carried unanimously.

9. ABATEMENT FOR ABC SUPPLY CO. (KELMAR PROPERTIES, LLC), Denied

Frank Klein, Director of Equalization, was present to discuss an abatement application for ABC Supply Co. filed by Kelmar Properties, LLC for property located at 4119 14th Avenue North in Fargo. The Fargo City Commission recommends denial of the abatement request.

Mr. Klein said Kelmar Properties/Tax Recourse LLC is the tax agent for ABC Supply Co. and is asking the 2016 valuation be reduced from \$1,105,000 to \$1,040,756. The agent provided a cost approach to support their appeal, but did not supply an independent land value analysis and instead used the assessor's land value in their approach. Public records show the property sold in December 2012 for \$1,213,400. Mr. Klein said he called and left a message with the tax agent to discuss the request and did not receive a return phone call. He recommends the abatement application be denied based on the limited information submitted by the applicant.

The chair opened the public hearing for comments. Mrs. Scherling asked when the cost approach is used. Mr. Klein said it depends on the nature of each case; however, when determining the value of a property, three different approaches are usually used: sales, income and cost approaches. There being no further comments, the public hearing was closed.

MOTION, passed

Mr. Pawluk moved and Mr. Peterson seconded that Abatement #4454 for ABC Supply Co. filed by Kelmar Properties, LLC be denied as recommended by the City of Fargo and the Director of Equalization. On roll call vote, the motion carried unanimously.

10. FLOOD DIVERSION SHORT-TERM FINANCING

Michael Montplaisir, County Auditor, said Cass County took out a \$50 million loan with U.S. Bank in 2014 for Flood Diversion project costs, and the City of Fargo took out another \$50 million in 2015. He said additional funding will be needed this year to pay the Army Corps of Engineers once construction starts on the inlet control structure this fall. He said talks with U.S. Bank stalled in regard to additional funding. Wells Fargo Bank has agreed to provide \$200 million in funding and requested the dollars be divided into four \$50 million loans. Cass County will take out a \$100 million loan and the City of Fargo will take out a \$100 million loan. The first \$50 million of each of the two loans will pay off the U.S. Bank loans with the remaining funds to be dedicated to project costs.

Attorney John Shockley said resolutions to issue a temporary note along with other financial documents will be presented to the Commission at their next meeting on August 1st. Mr. Peterson asked about the loan terms. Mr. Shockley said the goal is to pay down as much as possible now before locking in long-term financing. Mr. Shockley said permanent financing most likely will be done

sometime after 2020—it is too early to decide when it will be done and what amount will be needed for permanent financing of the project.

No action was requested from the board today.

11. ROAD DEPARTMENT, Funding for Drain 77 project on County Highway 32 in Tower Township

Jason Benson, County Engineer, said a drainage project has been proposed by Tower Township Board members and landowners to reduce damages to roads and crops during high water periods. The area is north of Tower City along County Highway 32, and from 2009 through 2013, additional maintenance and gravel work was needed on this road and other roads to the south because of high water levels. The Cass County Water Resource District requires a \$50,000 payment to initiate a drain project, and if approved by landowners, the Maple River Water Resource District will apply for funding from Cass County's half-cent sales tax. He said Tower Township and ten landowners pledged \$30,000 toward the payment. If the landowners approve the project, the \$50,000 will be returned to the parties that originally paid the fee. He is requesting the county fund the remaining \$20,000 to initiate this project with the Maple River Water Resource District.

Mr. Pawluk has concerns about using sales tax funds because he believes the only benefit the project will provide is drainage to the farm fields. Mr. Benson said the project has the potential to provide future water retention and better drainage to the area.

The Flood Sales Tax Committee met earlier today and approved \$20,000 in funding to initiate the drainage project.

MOTION, passed

Mr. Steen moved and Mr. Rasmussen seconded to approve \$20,000 in funding from the half-cent county flood sales tax for the Drain 77 project along Cass County Highway 32 in Tower Township. Discussion: Mr. Pawluk said this request only serves as a drainage project for area farmers and does not support using sales tax dollars. On roll call vote, the motion carried with Mr. Steen, Mr. Rasmussen, Mr. Peterson, and Mrs. Scherling voting "Yes"; Mr. Pawluk voting "No".

12. FARGO PARK DISTRICT, Transfer of county-owned FEMA lots for nature parks

Mr. Montplaisir said Cass County has been working with the Federal Emergency Management Agency (FEMA) over the last few years to transfer some lots to the Fargo Park District that were acquired by the county through FEMA-financed home and lot purchases. The park district intends to use the land for a nature park. The county recently received approval from FEMA and the North Dakota Department of Emergency Services to transfer some of the lots in Orchard Glen, Forest River and Heritage Hills Subdivisions acquired through the 1997 HMAP and 2009 FMA federal grants. Fargo Park District must comply with the same restrictions as the county regarding the use of the lots. Cass County still owns some lots in Heritage Hills and Orchard Glen from the 2009 HMGP grant, which has not been officially closed.

Mrs. Scherling lives in this area and is concerned about the integrity of the neighborhood and safety issues of those using the park. She said it used to be a heavily travelled residential neighborhood before all the buyouts, and over the last year, there is more vehicle and foot traffic in the area. She asked how the nature park will be policed.

Clay Whittlesey, Fargo Park District Director of Recreation & Facilities, said the district will actively manage the nature park. He said once Fargo Park District takes ownership of the lots, gates, fencing and signage will be installed and gravel will be laid down for a parking area. He said plans have been discussed to have a full-time officer to police the area, and the park district will have a staff person on-call to deal with service calls to the nature park. Mr. Whittlesey said there will be regular security detail assigned to patrol the area during the day and night.

Mr. Rasmussen asked when signage and gates will be installed and how soon the area will be patrolled. Mr. Whittlesey expects it will take a couple months to order the signs and other equipment and then to install everything. Mr. Whittlesey said security of the area can begin right away.

MOTION, passed

Mr. Pawluk moved and Mr. Steen seconded to authorize the Cass County Commission Chair to sign deeds for properties in Orchard Glen, Forest River and Heritage Hills Subdivisions, granting ownership to the Fargo Park District for the use of nature parks in accordance with the authorization from FEMA and the North Dakota Department of Emergency Services. Discussion: Mrs. Scherling asked whether the signage will include the Fargo Park District phone number to reach in the case of any issues. Mr. Whittlesey said he will make sure the signage includes their phone number. On roll call vote, the motion carried unanimously.

13. APPOINTMENTS, NDCCA Standing Committees; Flood Diversion Land Management Committee

Next month the President of the North Dakota County Commissioners' Association (NDCCA) will appoint county commissioners to serve on Standing Committees for their organization. Commissioners volunteered to submit their names for consideration on the following committees:

Rick Steen, Audit Committee
 Mary Scherling, Nominating Committee
 Arland Rasmussen, Resolutions Committee
 Chad Peterson, Legislative Committee

MOTION, passed

Mr. Peterson moved and Mr. Rasmussen seconded to approve the submission of the names as outlined above for consideration to the Standing Committees of the North Dakota County Commissioners' Association. Motion carried.

Mrs. Scherling said there was an oversight made last month when recommending county appointments to the Land Management Committee. Commissioners Scherling, Peterson and Rasmussen were appointed to the committee. Oxbow Mayor Jim Nyhof previously served on the committee and was not appointed when the new JPA became effective. Mr. Rasmussen agreed to step down to allow Mr. Nyhof to be appointed to the Land Management Committee.

MOTION, passed

Mr. Pawluk moved and Mr. Peterson seconded to submit the name of Jim Nyhof in place of Arland Rasmussen as a member on the Diversion Land Management Committee. Discussion: The appointments will be made annually and the commission may choose to appoint three commissioners at a later date. On roll call vote, the motion carried unanimously.

14. VOUCHERS, Approved

MOTION, passed

Mr. Rasmussen moved and Mr. Peterson seconded to approve Voucher No. 294,406 through Voucher No. 294,729. On roll call vote, the motion carried unanimously.

15. MEETING UPDATES; BUDGET PREPARATION, Committee reports

Commissioners and staff reported on meetings they have attended or will be attending in the upcoming weeks.

Mr. Montplaisir said 2017 budget preparation is underway. Departments and outside agencies have until August 1st to submit their budgets.

16. 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.**

- Notice of Filing Ten-Year Plan by Nu-Star Pipeline Operating Partnership L.P. for years 2016 through 2026 with the North Dakota Public Service Commission.

17. PUBLIC COMMENT

Jim Kapitan, Cass County Commission District 3 candidate, provided some comments about the Cass County Home Rule Charter regarding term limits for Cass County Commissioners. He believes that Vern Bennett, who is also running for Commission District 3, is in violation of the Home Rule Charter, which states that no commissioner will serve more than three successive four-year terms. Vern Bennett was a Cass County Commissioner from District 2 for three successive four-year terms and moved out of the district.

State's Attorney Birch Burdick has been in contact with Mr. Kapitan and provided his opinion on this issue. He does not agree that Mr. Bennett's candidacy is a violation of the Home Rule Charter. Mr. Peterson asked Mr. Burdick to formalize an opinion and present it to the board. Mr. Burdick agreed to draft a memorandum and attach the emails he and Mr. Kapitan have exchanged regarding this issue.

18. ADJOURNMENT***MOTION, passed*****On motion by Mr. Peterson, seconded by Mr. Pawluk and all in favor, the meeting was adjourned at 4:58 PM.**

ATTEST:

APPROVED:

Michael Montplaisir – Auditor
Cass County, North Dakota

Mary Scherling, Chairwoman
Cass County Board of Commissioners