

MINUTES OF MEETING
CASS COUNTY JOINT WATER RESOURCE DISTRICT
CASS COUNTY HIGHWAY DEPARTMENT
WEST FARGO, NORTH DAKOTA
APRIL 10, 2014

The Cass County Joint Water Resource District met on April 10, 2014, at 8:00 a.m. at the Cass County Highway Department, West Fargo, North Dakota.

Present were Mark Brodshaug and Dan Jacobson, Southeast Cass Water Resource District; Rodger Olson, Jurgen Suhr and Gerald Melvin, Maple River Water Resource District; Michael R. Buringrud, North Cass Water Resource District; Raymond Wolfer, Rush River Water Resource District; Carol Harbeke Lewis, Secretary-Treasurer; Brittany C. Moen, Administrative Assistant; Sean M. Fredricks, Chris McShane and Lukas D. Andrud, Attorneys for the Board; Lee Beauvais and Chad Engels, Engineers for the Board; Eric Dodds, Advanced Engineering and Environmental Services, Inc.; Bruce Spiller and John Albrecht, CH2ML HILL Engineers, Inc.; Pat Downs, Red River Retention Authority; Stanley Wolf, Cass County Weed Control Officer; Mike D. Brandenburg and Wesley R. Belter, North Dakota Representatives; Keith Weston, Natural Resources Conservation Service; Kurt Tompkins, U.S. Fish and Wildlife Service; and Andrew Fraase, CENTROL Drainage.

Minutes

It was moved by Manager Jacobson and seconded by Manager Buringrud to approve the minutes of the March 27, 2014, meeting, as presented. Upon roll call vote, the motion carried unanimously.

Approval of agenda

It was moved by Manager Buringrud and seconded by Manager Olson to approve the order of the agenda, as amended. Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project – access update

Chris McShane updated the Board on access issues relating to the Metro Flood Diversion Project. The Corps of Engineers has completed their outreach regarding property access along the southern alignment, tieback levee and I-29 for the project. Draft cover letters and *Access Agreements* have been sent to the Corps of Engineers for their review, which will be sent to landowners the week of April 14, 2014. Mr. McShane said the Corps of Engineers will not need access in these areas until September 1, 2014. Of the properties where access is required, several *Access Agreements* are already in place, with earlier expiration dates. Mr. McShane said efforts will be made to coordinate with the Corps of Engineers to get work done on these properties before the *Access Agreements* expire.

Lee Beauvais updated the Board on access issues relating to the in-town levees for the Metro Flood Diversion Project. The Corps of Engineers will complete raptor surveys,

looking for habitats that will require no additional access. All survey work will be completed from public right-of-way.

Mr. Beauvais said cultural survey work will take place soon on the Wild Rice Dam removal / rehabilitation.

Metro Flood Diversion Project – project update

Bruce Spiller is hopeful Federal authorization of the Metro Flood Diversion Project will happen in early May. Authorization of the project would allow the appropriation of funds to begin.

Mr. Spiller summarized the events at the April 3, 2014, Federal hearing in Duluth, Minnesota, regarding Diversion Authority's motion to dismiss 3 of the 4 counts of a complaint filed by the Richland-Wilkin County Joint Powers Authority (JPA). The Magistrate Judge gave the JPA 14 days to amend its complaint to exclude the 3 defective counts, and to obtain approval of the amendment from all parties.

Metro Flood Diversion Project – land acquisition

Eric Dodds distributed a Land Management Summary for the Board's review and updated the Board on land acquisition issues. He said negotiations for the Oxbow Golf and Country Club are expected to begin this month and appraisals are underway for numerous other properties required for the Oxbow-Hickson-Bakke Ring Levee Project. A map of the project area was distributed. Mr. Dodds said acquisition of 5 properties remain before construction on the Ring Levee Project can begin.

Mr. Spiller distributed a map showing properties that will be required for the Metro Flood Diversion Project in-town levees and said appraisals on these properties are underway.

Mr. Spiller presented Task Order No. 2, Amendment No. 1 with Houston-Moore Group, LLC for consideration. The Task Order includes an amended budget for land acquisition and relocation services.

It was moved by Manager Olson and seconded by Manager Jacobson to approve Task Order No. 2 Amendment No. 1 for land acquisition services, which includes the necessary changes for the new estimated cost of commercial appraisals and relocation services, for a total amount of \$1,294,128, with Houston-Moore Group, LLC regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Mr. Spiller then distributed Land Acquisition Directive (LAD) 00005 regarding Reach 1 – 2014 acquisition plan. He explained the LAD will be presented to the Diversion Authority for approval, and then will be brought back to the Board for future action.

Mr. Dodds distributed a Land Management Update from Pifer's Group, Inc. for review with the Board. Pifer's Group, Inc. is renewing farm leases for 2014 and has sent out three cash rent leases to tenants that were identified in previously approved Purchase Agreements.

Lukas Andrud presented information regarding farmland acquisition.

Mr. Dodds reviewed discussion from a Cass Rural Water Users District meeting where he provided project information and explained the recent Diversion Authority's Decision Paper which states the Diversion Authority will pay for the relocation of utilities, if required for the project.

Oxbow-Hickson-Bakke Ring Levee Project Construction

Mr. Spiller discussed the construction schedule for the Oxbow-Hickson-Bakke Ring Levee Project. He informed the Board that the Diversion Authority would like to advertise for bids on April 14, 2014, and award on May 8, 2014.

The Finance Committee will make a recommendation to the Diversion Authority at today's meeting that the Cass County Joint Water Resource District construct and manage the Oxbow-Hickson-Bakke Ring Levee Project.

It was moved by Manager Olson and seconded by Manager Jacobson that the Cass County Joint Water Resource District construct and manage the Oxbow-Hickson-Bakke Ring Levee Project, contingent upon a decision by the Diversion Authority to request Cass County Joint Water Resource District to construct and manage the Oxbow Hickson Bakke Subdivision Levee Project, and to authorize CH2M HILL Engineers, Inc. to act on behalf of the Cass County Joint Water Resource District to advertise for bids on the Oxbow-Hickson-Bakke Ring Levee Project. Upon roll call vote, the motion carried unanimously.

U.S. Fish and Wildlife – easements for wetland protection

Kurt Tompkins with the U.S. Fish and Wildlife Service (USFWS) met with the Board to discuss their efforts for wetland protection easements in Cass County and distributed maps showing the easement acquisition status in Cass County to-date. He gave the Board a brief history of their efforts, saying the USFWS has been purchasing perpetual / permanent easements for wetland preservation since the 1960's. He distributed a copy of a letter and handout that has gone out to 240 landowners in western Cass County, soliciting interest from landowners to sell easements to the USFWS. Interest in the wetland protection easement program has been received from 21 landowners in Cass County so far. The program is supported with 90% of the total duck stamp sales.

Mr. Tompkins explained the easement criteria being offered to landowners, which states no draining or filling is allowed on lands protected with an easement, and burning is on a 3 year rotation. He said if a landowner sells an easement, they receive a one-time payment. The land remains private property and access is not limited. The property owner continues to manage the property and pays all real estate taxes.

Manager Jacobson asked if water can be backed up and drained back down on a property with USFWS easements where the Board would like to establish a detention site. Mr. Tompkins said the USFWS does not protect artificially impounded water. Manager Brodshaug asked if easement language can be changed to include potential projects. Mr. Tompkins said that he has not seen easement language changed in the past, and they are non-negotiable.

Mr. Engels discussed a proposed plan that saw opposition from the USFWS in the past on Lake Bertha, where the Board proposed to drain the top water off in the spring, while satisfying water elevation numbers provided by the USFWS. Mr. Tompkins said he would like to work with the Board, and is not opposed to a potential project on Lake Bertha.

Manager Buringrud expressed concern over easement language that does not compensate for expanded wetland areas. Mr. Tompkins said the USFWS enforcement manual provides guidelines on those situations, but it is not in the contract. Manager Olson said he believes the easement language should include the elevation and specific acreage of the wetland at the time of the original easement, so the landowner can prove the wetland has grown.

Mike Brandenburg reported on his family's experience with the USFWS. He cautioned property owners to know what they are signing.

Manager Olson said he would like the Cass County Joint Water Resource District to get information out to landowners regarding the USFWS easements, so landowners know what they are signing.

Manager Olson requested that Mr. Tompkins provide a list of the landowners receiving the letter from USFWS.

Representative Wes Belter said it is difficult for the state to do much on this. He said there are more concerns with the new Farm Bill. Keith Weston said he could not speak to that.

Flood risk reduction / development of retention projects

Mr. Engels reviewed the discussions from the meetings on the development of retention projects on Tuesday for the Rush River, Buffalo and Swan Creek watersheds, and said the meetings were beneficial to landowners. The Water Resource District office continues to receive landowner maps, which will be compiled for review. The Board would like to follow up with landowners on the comments received.

The Board discussed their gratitude for Jon Roeschlein, Bois de Sioux Watershed District, coming to the meetings to give a presentation on the North Ottawa Detention Project, which demonstrated how a detention project operates.

It was moved by Manager Jacobson and seconded by Manager Wolfer to reimburse Mr. Roeschlein for mileage costs to attend the detention meetings on April 8, 2014. Upon roll call vote, the motion carried unanimously.

Maple River Dam

Lee Beauvais updated the Board on water elevations near the Maple River Dam, and said the flow at Enderlin has flattened. He said the water may not go over the first road, which is at an elevation of 1008.0.

Mr. Beauvais said Kurt Lysne and Brady Woodard met with Highland Township officials regarding the procedure for road closures in the event of high water levels. The Board will discuss entering into an agreement with the township at a future meeting.

Mr. Beauvais updated the Board on the Maple River Dam tree removal project. He said some additional cleanup work has been identified after the snowmelt. The project contractors will go back and finish up that work after it dries up, before farmers are in the field.

Bills

It was moved by Manager Jacobson and seconded by Manager Buringrud to include payment for per diem in the bills. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Jacobson and seconded by Manager Buringrud to approve payment of Checks #11181 through #11187, as presented. Upon roll call vote the following Managers voted in favor: Brodshaug, Olson, Jacobson, Buringrud and Wolfer. Motion passed.

Cass County Weed Control

Stan Wolf met with the Board to discuss spraying on Water Resource District projects. Mr. Woodard will be inspecting the drains for all Cass County Water Resource Districts, and will be in touch with Mr. Wolf.

Adjournment

There being no further business for the Board to consider, it was moved by Manager Buringrud, seconded by Manger Wolfer and unanimously carried to adjourn the meeting.

APPROVED:

Mark Brodshaug
Chairman

ATTEST:

Carol Harbeke Lewis
Secretary-Treasurer