

MINUTES OF MEETING  
CASS COUNTY JOINT WATER RESOURCE DISTRICT  
CASS COUNTY HIGHWAY DEPARTMENT  
WEST FARGO, NORTH DAKOTA  
MAY 28, 2015

The Cass County Joint Water Resource District met on May 28, 2015, 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, Maple River Water Resource District; Ken Lougheed, North Cass Water Resource District; Raymond Wolfer, Rush River Water Resource District; Carol Harbeke Lewis, Secretary-Treasurer; Michelle Anderson, Administrative Assistant; Sean M. Fredricks, Chris McShane, and Lukas Andrud, Attorneys for the Board; Lee Beauvais, Engineer for the Board; Bruce Spiller, CH2M HILL Engineers, Inc.; Dustin Dale and Tanaya Reitz, Advanced Engineering and Environmental Services, Inc. (AE2S); Mary Scherling, Cass County Commissioner; Paul Breen, Fargo resident; and Jacob Gust, Reed Township resident.

**Minutes**

It was moved by Manager Olson, seconded by Manager Jacobson, and unanimously carried to approve the minutes of the May 14 (2 sets) and May 15, 2015, meetings.

**Agenda**

It was moved by Manager Wolfer, seconded by Manager Lougheed and unanimously carried to approve the agenda.

**Metro Flood Diversion Project – assessment district – DPAC Tech Memo**

Brief discussion was held on the *Technical Memorandum* provided by AE2S regarding the assessment district methodology and development for the creation of FM Flood Risk Management District No. 1. Mr. Fredricks and Chairman Brodshaug recommended the Board review, provide comments, and consider approval of the *Technical Memorandum* at a future meeting.

**Metro Flood Diversion Project – access update**

Chris McShane gave an update on access to the Board. The Corps of Engineers has been doing surveys for the last two weeks. The cultural resource surveys are finished for this spring, but more will be done in the fall. Cultural resource, geotechnical, and topographical surveys are still needed. Biotic surveys are needed along the river corridors. Many *Right of Entry Agreements* sent out in March and April have been returned. Staff will begin to contact landowners in the next two weeks. Court action for

access will be filed by July to meet the September 1 deadline set by the Corps of Engineers.

**Metro Flood Diversion Project / In Town Levees Project – relocation benefits**

Tanaya Reitz presented and gave a brief review of the relocation benefit requests for the In Town Levees Project. Discussion was held on management of the vacant apartments and moving up the closing date to June 15, 2015, for Park East Apartments, LLC.

It was moved by Manager Jacobson and seconded by Manager Olson to approve the Relocation Payments as outlined in the letter dated May 26, 2015, regarding the In Town Levees Project. Upon roll call vote, the motion carried unanimously.

**Metro Flood Diversion Project / Oxbow-Hickson-Bakke Ring Levee Project / In Town Levees Project – land acquisition – Diversion Authority Agreement - insurance**

Mr. Fredricks presented a draft of an agreement to clarify the Diversion Authority's indemnification of Cass County Joint Water Resource District. Once approved, the *Agreement* will be presented to the Diversion Authority for approval. Brief discussion was held on the cost and the process of property acquisition updates to the North Dakota Insurance Reserve Fund.

It was moved by Manager Olson and seconded by Manager Lougheed to approve and authorize Chairman Brodshaug to sign the *Agreement* with the Fargo Moorhead Metro Flood Diversion Authority to clarify indemnification of the Cass County Joint Water Resource District. Upon roll call vote, the motion carried unanimously.

**Metro Flood Diversion Project / Oxbow-Hickson-Bakke Ring Levee Project / In Town Levees Project – land acquisition**

It was moved by Manager Jacobson and seconded by Manager Lougheed to approve and authorize Chairman Brodshaug to sign the following, contingent on the approval by the City of Fargo:

- *Agreement* for 1322 Elm Street North, Fargo, North Dakota, regarding the In Town Levees Project;
- *Agreement* for 724 North River Road, Fargo, North Dakota, regarding the In Town Levees Project.

Upon roll call vote, the motion carried unanimously.

Discussion was held on the maintenance and tree farm on property in Pleasant Township. A lease exists on the current tree farm and expires on July 13, 2015. A contract will be presented to the Board at a future meeting to extend the tree farm lease.

It was moved by Manager Olson and seconded by Manager Wolfer to approve and authorize Chairman Brodshaug to sign the *Residential Lease Agreement* to rent Lots 1 and 2, Block 1, Babe's Addition, Pleasant Township, Oxbow, North Dakota, to the Diocese of Fargo, effective upon closing of the property. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Lougheed and seconded by Manager Wolfer to approve and authorize Chairman Brodshaug to sign the *Purchase Agreement* for that Part of Lot 4, Block 4, North Dakota R-2 Urban Renewal Addition to the City of Fargo, regarding the In Town Levees Project. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Olson and seconded by Manager Jacobson to approve and authorize Chairman Brodshaug to sign the *Purchase Agreement* for 1333 Oak Street North, Fargo, North Dakota, regarding the In Town Levees Project. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Wolfer and seconded by Manager Jacobson to approve and authorize Chairman Brodshaug to sign the *Temporary Access Easements* for the following:

- Part of Lots 3 and 4, Block 3, Oak Grove Addition to the City of Fargo, regarding the In Town Levees Project;
- Lot 6 and the West 7 feet of Lot 7, Block 3, Oak Grove Addition to the City of Fargo, regarding the In Town Levees Project;
- Lot 7, except the westerly 7 feet thereof, Block 3, Oak Grove Addition to the City of Fargo, regarding the In Town Levees Project;
- Lot 8 and part of Lot 9, Block 3, Oak Grove Addition to the City of Fargo, regarding the In Town Levees Project;
- Part of Lots 3, 4, and 5, Block 3, Oak Grove Addition to the City of Fargo, regarding the In Town Levees Project;
- Lot 1, Block 1, Anna Holes Addition to the City of Fargo, and a tract of land in the W 1/2 of Section 32 in Fargo Township, regarding the In Town Levees Project;
- Lot 14, Block 3, Bernard Holes 2nd Addition to the City of Fargo, regarding the In Town Levees Project;
- Lot 15, Block 3, Bernard Holes 2nd Addition to the City of Fargo, regarding the In Town Levees Project;
- Lot 3, Block 2, North Dakota R-1 Urban Renewal Addition to the City of Fargo, regarding the In Town Levees Project;
- Lot 2, Block 3, North Dakota R-1 Urban Renewal Addition to the City of Fargo, regarding the In Town Levees Project;
- Lot 2, Block 4, North Dakota R-2 Urban Renewal Addition to the City of Fargo, regarding the In Town Levees Project;
- Lot 8, Block 24, Lots 6, 7, 9, 13, 14, 15, 16, and 17 of Keeney's Subdivision of Lots 6, 7, and 9, Block 24, including the east-west and north-south vacated alleys in said block, in Keeney and Devitt's Second Addition to the City of Fargo, and Lot 1, Block 3, North Dakota R-1 Urban Renewal Addition to the City of Fargo, regarding the In Town Levees Project.

Upon roll call vote, the motion carried unanimously.

It was moved by Manager Jacobson and seconded by Manager Olson to approve and authorize Chairman Brodshaug to sign the *Agreement for Entry and Construction* for 354 Schnell Drive, 358 Schnell Drive, and 365 Schnell Drive, Oxbow, North Dakota, as part

of the Oxbow-Hickson-Bakke Ring Levee Project and to authorize Ohnstad Twichell, P.C. to continue negotiations with the landowners. Upon roll call vote, the motion carried unanimously.

**Metro Flood Diversion Project – bonding**

Mr. Fredricks said John Shockley continues working on the *Intergovernmental Agreement* regarding the Metro Flood Diversion Project.

**Metro Flood Diversion Project – Third Amendment to Joint Powers Agreement**

Mr. Fredricks explained the proposed *Third Amendment to Joint Powers Agreement*. The agreement creates the Dakota Metro Flood Board, which would approve and/or ratify expenditures by, agreements of and other decisions of the Diversion Authority.

It was moved by Manager Olson and seconded by Manager Wolfer to approve and authorize Chairman Brodshaug to sign the *Third Amendment to Joint Powers Agreement*. Upon roll call vote, the motion carried unanimously.

**Metro Flood Diversion Project – Oxbow-CCJWRD Consent Letter**

It was moved by Manager Jacobson and seconded by Manager Lougheed to approve and authorize Chairman Brodshaug to sign the *Consent Letter* regarding legal representation of the Cass County Joint Water Resource District and the City of Oxbow by Ohnstad Twichell, P.C. Upon roll call vote, the motion carried unanimously.

**Metro Flood Diversion Project – Cass County Memorandums of Agreement – Cass County Highway 25 and Cass County Highway 81 and 18**

It was moved by Manager Jacobson and seconded by Manager Lougheed to approve and authorize Chairman Brodshaug to sign the *Memorandum of Agreement* with Cass County for Cass County Highway 25 – North Paved Section and the *Memorandum of Agreement* with Cass County for Cass County Highway 81 and 18 regarding the Oxbow-Hickson-Bakke Ring Levee Project. Upon roll call vote, the motion carried unanimously.

**Metro Flood Diversion Project – project updates**

Bruce Spiller provided the Board with an update. Construction on the Oxbow-Hickson-Bakke Ring Levee Project was halted due to the injunction. Discussion was held on oversight and maintenance of the project.

Mr. Spiller gave an update on the negotiations, construction, and demolition of property for the In Town Levees Project. The Fargo Park District plans to use the trees previously removed from property regarding the In Town Levees Project for playgrounds.

A public meeting was held at the Hickson Community Center on May 19, 2015, to explain the injunction and the impact the injunction will have on the Oxbow-Hickson-Bakke Ring Levee Project and residents in the City of Oxbow. Counsel for the Diversion Authority filed a Request for Stay. Opposing interpretations exist regarding the injunction. Discussion was held on the impact of the injunction, the construction and demolition timeline, and the legal process of a potential appeal if the Request for Stay is denied.

**FM Flood Risk Management District No. 1**

It was moved by Manager Jacobson and seconded by Manager Lougheed to approve and authorize Chairman Brodshaug to sign the *Independent Contractor Agreement* with Richard Lewis for work relating to FM Flood Risk Management District No. 1. Upon roll call vote, the motion carried unanimously.

**Bills**

It was moved by Manager Olson, and seconded by Manager Lougheed to approve the payment of Checks #11895, #11921 through #11936, and the electronic funds transfer, as presented. Upon roll call vote, the following Manager voted in favor: Brodshaug, Olson, Jacobson, Lougheed, and Wolfer. The Chairman declared the motion passed.

**Maple River Dam operation**

Lee Beauvais reported water backed up behind the Maple Rive Dam as a result of recent rainfall. A township road was closed and normal operating procedures were followed.

**North Dakota Water Coalition meeting update**

Manager Jacobson provided an update to the Board on the North Dakota Water Coalition meeting held May 20, 2015.

**Adjournment**

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

APPROVED:

\_\_\_\_\_  
Mark Brodshaug  
Chairman

ATTEST:

\_\_\_\_\_  
Carol Harbeke Lewis  
Secretary-Treasurer