

MINUTES OF MEETING  
CASS COUNTY JOINT WATER RESOURCE DISTRICT  
CASS COUNTY HIGHWAY DEPARTMENT  
WEST FARGO, NORTH DAKOTA  
JUNE 11, 2015

The Cass County Joint Water Resource District met on June 11, 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; 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 and Kurt Lysne, Engineers for the Board; John Albrecht and Ty Smith, CH2M HILL Engineers, Inc.; Eric Dodds, Dustin Dale, and Tanaya Reitz, Advanced Engineering and Environmental Services, Inc. (AE2S); Pat Downs, Moore Engineering, Inc.; Mary Scherling, Cass County Commissioner; Tom Soucy, Assistant Cass County Engineer; Jim Nyhof, Mayor of City of Oxbow, Paul Breen, Fargo resident; William Hejl, Rush River Water Resource District; and Jacob Gust, Reed Township resident. Absent was Rodger Olson, Maple River Water Resource District.

**Minutes**

It was moved by Manager Lougheed, seconded by Manager Wolfer and unanimously carried to approve the minutes of the May 28 (as amended) and June 4, 2015, meetings.

**Agenda**

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

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

It was moved by Manager Jacobson and seconded by Manager Wolfer to approve the *Technical Memorandum* provided by AE2S regarding the Diversion Project Assessment Committee methodology and development for creation of FM Flood Risk Management District No. 1. Upon roll call vote, the motion carried unanimously.

**Metro Flood Diversion Project – access update**

Chris McShane updated the Board on access issues. The Corps of Engineers has been taking flow measurements on the Maple River and will continue to do so throughout the summer.

Mr. McShane stated calls are being made by Water Resource District staff to landowners for *Right of Entry Agreements* sent out in March and April. He will begin court action for access and present Resolutions relating to the matter at a future meeting.

**Metro Flood Diversion Project / In Town Levees Project – appraisal review and approval**

It was moved by Manager Jacobson and seconded by Manager Lougheed to approve the following:

- The appraisal of 425 Oxbow Drive, Oxbow, North Dakota, with an effective date of value of March 13, 2015, as just compensation for acquisition of the property for the Oxbow-Hickson-Bakke Ring Levee Project;
- The appraisal of 455 Oxbow Drive, Oxbow, North Dakota, with an effective date of value of March 13, 2015, as just compensation for acquisition of the property for the Oxbow-Hickson-Bakke Ring Levee Project;
- The appraisal of 473 Oxbow Drive, Oxbow, North Dakota, with an effective date of value of January 2, 2015, as just compensation for acquisition of the property for the Oxbow-Hickson-Bakke Ring Levee Project;
- The appraisal of 469 Oxbow Drive, Oxbow, North Dakota, with an effective date of value of January 2, 2015, as just compensation for acquisition of the property for the Oxbow-Hickson-Bakke Ring Levee Project;
- The appraisal of 465 Oxbow Drive, Oxbow, North Dakota, with an effective date of value of January 2, 2015, as just compensation for acquisition of the property for the Oxbow-Hickson-Bakke Ring Levee Project;
- The appraisal of 457 Oxbow Drive, Oxbow, North Dakota, with an effective date of value of January 2, 2015, as just compensation for acquisition of the property for the Oxbow-Hickson-Bakke Ring Levee Project;
- The appraisal of 461 Oxbow Drive, Oxbow, North Dakota, with an effective date of value of December 2, 2014, as just compensation for acquisition of the property for the Oxbow-Hickson-Bakke Ring Levee Project;
- The appraisal of 477 Oxbow Drive, Oxbow, North Dakota, with an effective date of value of February 13, 2014, as just compensation for acquisition of the property for the Oxbow-Hickson-Bakke Ring Levee Project;
- The appraisal of 872 Riverbend Road, Oxbow, North Dakota, with an effective date of value of March 13, 2015, as just compensation for acquisition of the property for the Oxbow-Hickson-Bakke Ring Levee Project;
- The appraisal of 873 Riverbend Road, Oxbow, North Dakota, with an effective date of value of March 13, 2015, as just compensation for acquisition of the property for the Oxbow-Hickson-Bakke Ring Levee Project.
- The appraisal of 869 Riverbend Road, Oxbow, North Dakota, with an effective date of value of March 13, 2015, as just compensation for acquisition of the property for the Oxbow-Hickson-Bakke Ring Levee Project.

Upon roll call vote, the motion carried unanimously.

Tanaya Reitz presented and reviewed an updated Land Management Summary and an Oxbow Buyout Status Summary. Currently, the Corps of Engineers has 9 appraisals on 3 vacant lots and 6 homes for the In Town Levees Project.

Discussion was held on the immediate and long term impacts of an injunction ordered by a Minnesota U.S. District Judge relating to the Oxbow-Hickson-Bakke Ring Levee Project, including maintenance at the construction site, home construction, impacts to residents, lenders, home builders, contractors and their employees.

Chairman Brodshaug gave an update to the Board on the Finance Committee meeting held on June 10, 2015. Discussion was held on the need for the Diversion Authority counsel to interpret the injunction. The use of escrow accounts to help alleviate contractor and builder concerns was discussed. *Purchase Agreements* may need to be restructured to allow for escrow language. The use of escrow accounts will be discussed further at the Finance Committee meeting in July.

Mayor Nyhof discussed and explained the construction activity in the City of Oxbow that is related to city maintenance and city projects and is not part of the Oxbow-Hickson-Bakke Ring Levee Project. Mayor Nyhof expressed concern for maintenance of construction projects that were started before the injunction was ordered. Clay Dietrich, president of the Fargo-Moorhead Homebuilders Association, will be speaking to the Diversion Authority.

The Board discussed a list of accepted and necessary maintenance and acquisition activities relating to the Oxbow-Hickson-Bakke Ring Levee Project to present to the Diversion Authority for approval.

It was moved by Manager Jacobson and seconded by Manager Lougheed to approve the concept of bringing forward a list of activities specific to the Oxbow-Hickson-Bakke Ring Levee Project to the Diversion Authority for concurrence relating to items with which the Cass County Joint Water Resource District proposes to proceed and not proceed. Upon roll call vote, the motion carried unanimously. Eric Dodds will prepare the list of activities to present to the Diversion Authority.

### **Metro Flood Diversion Project / Oxbow-Hickson-Bakke Ring Levee 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. Park East Apartments, LLC is scheduled to close on June 15, 2015. Discussion was held on management and security of the vacant apartments.

It was moved by Manager Wolfer and seconded by Manager Lougheed to approve the Relocation and Replacement Housing payments as outlined in the letter dated June 8, 2015, regarding the In Town Levees Project. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Jacobson and seconded by Manager Lougheed to approve and authorize Chairman Brodshaug to sign an agreement with Sentry Security, Inc. for security services at Park East Apartments located at 1 2nd Street South, Fargo, North Dakota, regarding the In Town Levees Project, upon approval by the Water Resource District Attorney. 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 *Property Management Agreement* with Roers Property Management, LLC, for services at Park East Apartments located at 1 2nd Street South, Fargo, North Dakota, regarding the In Town Levees Project. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Jacobson and seconded by Manager Lougheed to approve and authorize CH2M HILL, Inc. to send letters of notification of eligibility for relocation benefits to the following properties regarding the In Town Levees Project:

- Lot 3, Block 2, North Dakota R-1 Urban Renewal Addition to the City of Fargo, North Dakota; and
- Lot 8, Block 24, Lots 6, 7, 9, 13, 14, 15, 16, and 17 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.

Upon roll call vote, the motion carried unanimously.

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

Luke Andrud reported a closing on property in Pleasant Township. He is currently working on the lease agreement. Another closing will occur next week in Section 23, Raymond Township.

Mr. Dodds updated the Board on negotiations and potential closing on several properties regarding the In Town Levees Project. Discussion was held on obtaining a property manager for other property owned by the Cass County Joint Water Resource District in regard to the Metro Flood Diversion Project. Eric Dodds will gather proposals from property management companies and bring them back to the Board for consideration at the next meeting.

It was moved by Manager Lougheed and seconded by Manager Wolfer to allow Habitat for Humanity to salvage and remove specific items outlined in the *Guidelines for Property Salvage and Demo* from 8 houses in the El Zagel neighborhood, Fargo, North Dakota, as part of the In Town Levees Project. Upon roll call vote, the motion carried unanimously.

### **Metro Flood Diversion Project – bonding**

Sean M. Fredricks reported to the Board the *Intergovernmental Agreement* was sent to the City of Fargo and Cass County for review.

### **Metro Flood Diversion Project – Dakota Metro Flood Board**

It was moved by Manager Jacobson and seconded by Manager Wolfer to appoint Manager Olson to represent the Cass County Joint Water Resource District on the Dakota Metro Flood Board, and appoint Chairman Brodshaug to serve as the alternate representative. Upon roll call vote, the motion carried unanimously.

### **Metro Flood Diversion Project – project updates**

It was moved by Manager Wolfer and seconded by Manager Lougheed to approve payment to reimburse Oxbow Golf and Country Club in the amount of \$307,550 for various architecture and construction services. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Jacobson and seconded by Manager Lougheed to approve payment to S & A Land Clearing, Inc. for tree removal regarding the Oxbow-Hickson-Bakke Ring Levee and In Town Levees Project in the amount of \$42,500. Upon roll call vote, the motion carried unanimously.

Ty Smith updated the Board on a request from the City of Fargo to use the oak trees that were removed for natural playgrounds.

Discussion was held on specific erosion control construction activities, storm water drain permits, and maintenance of construction that was started before the injunction was ordered regarding the Oxbow-Hickson-Bakke Ring Levee Project.

### **Maple River Dam – removal of the bridge on the Maple River between Sections 11 and 14 in Highland Township, maintenance issues**

Tom Soucy presented a request from the Cass County Highway Department to remove the bridge on the Maple River upstream of the Maple River Dam between Sections 11 and 14 in Highland Township. It was determined that it would be highly unlikely the bridge would be needed for future use.

It was moved by Manager Wolfer and seconded by Manager Lougheed to authorize the Cass County Highway Department to remove the bridge on the Maple River between Sections 11 and 14 in Highland Township. Upon roll call vote, the motion carried unanimously.

Discussion was held on operation and maintenance, drains, weed control, occasional controlled burns, and fencing.

### **Western Cass FIS**

Kurt Lysne gave a brief update to the Board on the concerns Moore Engineering, Inc. has with the Western Cass FIS study.

### **Watershed Detention Studies – Resolution regarding National Watershed Program**

Pat Downs presented and explained the new requirements that need to be established to be eligible and participate in the National Watershed Program through the Natural Resources Conversation Service (NRCS). Discussion was held on the budget, reimbursement process, compliance, and public meetings.

It was moved by Manager Jacobson and seconded by Manager Wolfer to approve the *Resolution Regarding National Watershed Program* for Swan Creek Watershed, Rush

River Watershed and Upper Maple River Watershed. Upon roll call vote, the motion carried unanimously. A copy of the Resolution is attached hereto.

It was moved by Manager Wolfer and seconded by Manager Jacobson to proceed with submitting completed *Priority Screening Questions for Watershed Protection Plan Study Regional Conservation Protection Plan Funding* to the Red River Retention Authority. Upon roll call vote, the motion carried unanimously.

**Bills**

It was moved by Manager Lougheed, and seconded by Manager Jacobson to approve the payment of Checks #11939 through #11959, and the electronic funds transfer, as presented. Upon roll call vote, the following Managers voted in favor: Brodshaug, Jacobson, Lougheed, and Wolfer. Manager Olson was absent. The Chairman declared the motion passed.

**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:

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Mark Brodshaug  
Chairman

ATTEST:

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Carol Harbeke Lewis  
Secretary-Treasurer