

MINUTES OF MEETING
CASS COUNTY JOINT WATER RESOURCE DISTRICT
CASS COUNTY HIGHWAY DEPARTMENT
WEST FARGO, NORTH DAKOTA
DECEMBER 17, 2015

The Cass County Joint Water Resource District met on December 17, 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; Chris McShane and Lukas Andrud, Attorneys for the Board; Lee Beauvais, Mike Opat and Jeff Brown, Engineers for the Board; John Glatzmaier and John Albrecht, CH2M HILL Engineers, Inc.; Eric Dodds, Tanaya Reitz, and Paul Breen, Advanced Engineering and Environmental Services, Inc. (AE2S); Brady Woodard, Moore Engineering, Inc.; Jason Benson, Cass County Engineer; Nathan Boerboom, Division Engineer – Storm Sewer Utilities City of Fargo; William A. Hejl, Rush River Water Resource District; Brad Shaffer, TruNorth Steele; Lynn and Marsha Utke, Highland Township residents; Tim Iwen, Arthur resident; and Steve Fought, Empire Township resident.

Minutes

It was moved by Manager Lougheed, seconded by Manager Wolfer and unanimously carried to approve the minutes of the November 12, November 25 and December 2, 2015, meetings.

Agenda

It was moved by Manager Jacobson, seconded by Manager Olson and unanimously carried to approve the order of the agenda, as amended.

Metro Flood Diversion Project / Oxbow-Hickson-Bakke Ring Levee Project / In Town Levees Project – project updates

John Glatzmaier presented a summary of contracting history and reviewed the utility relocation of copper cable facilities needed for 39 homes and the Oxbow Golf and Country Club. Discussion was held on the process of review for non-bidding contracts.

It was moved by Manager Olson and seconded by Manager Jacobson to approve and authorize Chairman Brodshaug to sign *RA-CL002 WP-43 – Oxbow Reimbursement Agreement* with CenturyLink regarding the Oxbow-Hickson-Bakke Ring Levee Project,

with the condition that upon completion of its removal of abandoned facilities, CenturyLink Communications agrees to release in recordable form its easement as to such areas. Upon roll call vote, the motion carried unanimously.

Mr. Glatzmaier updated the Board on the progress of demolition at 345 Schnell Drive and the removal of the home at 744 Riverbend Road regarding the Oxbow-Hickson-Bakke Ring Levee Project.

Metro Flood Diversion Project – access update

Chris McShane provided an update on access issues and stated the Corps of Engineers has finished soil borings for the year. Over the weekend, while the Corps of Engineers geologist was finishing a soil boring survey on a court ordered right of entry parcel, an unhappy site visitor arrived and began to yell and argue with the geologist. After he was told the Corps of Engineers had a Court Order and permission from the landowner, the unhappy site visitor raged off and began to videotape and photograph the crew as they left the area. While driving along the road away from the area, the unhappy site visitor caught up to the Corps of Engineers and began driving alongside them in the oncoming traffic lane. Traffic forced the unhappy site visitor to retreat and he left them. The Corps employee reported the incident to his safety office and was told to contact the Cass County Sheriff's Department. Mr. McShane contacted the Cass County Sheriff's Department and they agreed to provide support to the Corp of Engineers for the rest of the week so they could finish soil boring surveys. Brady Woodard has been in contact with the parties involved. The State's Attorney's Office was also informed of the incident.

Mr. McShane also updated the Board on the appeal filed by Jonathon Garaas.

The Board discussed inviting property owners to a meeting to explain and answer questions on property access surveys. Mr. McShane suggested sending out letters with specific information explaining the soil boring survey process done by the Corps of Engineers. Mr. Lougheed suggested the access agreement contain a place for the property owner to identify names and addresses of any tenants so they may also be notified. Mr. Lougheed stated ruts made by the driller or any other equipment during a soil boring survey should be repaired immediately. Mr. Woodard will coordinate with the Corp of Engineers to find a process to correct and remedy any ruts made by survey equipment on landowner property in the future.

The Corps of Engineers has begun planning for surveys in 2016. A list will be distributed in January. A review will be done of the agreements received for boundary surveys sent out in late fall 2015.

Metro Flood Diversion Project / Oxbow-Hickson-Bakke Ring Levee Project / In Town Levees Project – appraisal review/approval

It was moved by Manager Olson and seconded by Manager Jacobson to approve the data book value set out in the letter dated November 24, 2015, as a basis of the offer for a *Permanent Easement* on Parcel 32 and a *Temporary Construction Easement* on Parcel

32-A, part of Lots 13-17, Block 4, Keeney & Devitt's Addition to the City of Fargo, 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 – relocation benefits

It was moved by Manager Jacobson and seconded by Manager Lougheed to approve the Relocation Payments, as outlined in the letter dated December 15, 2015, regarding the Oxbow-Hickson-Bakke Ring Levee Project and 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

It was moved by Manager Lougheed and seconded by Manager Wolfer to approve and authorize Chairman Brodshaug to sign the *Purchase Agreement, Replacement Housing Agreement, and Replacement Lot Cost Reimbursement* for OIN #9658 regarding the Oxbow-Hickson-Bakke Ring Levee Project. Upon roll call vote, the motion carried unanimously.

Tanaya Rietz summarized and reviewed the *Oxbow Home Build Escrow Process*, which was previously approved by the Land Management Committee and the Finance Committee. Chairman Brodshaug asked the Cass County Joint Water Resource District attorneys to review the land acquisition documents and include language setting out the funding balance of betterments will be the sole cost and responsibility of the home owner.

It was moved by Manager Wolfer and seconded by Manager Olson to approve the *Oxbow Home Build Escrow Process* and authorize the Water Resource District attorneys to review and approve the necessary *Escrow Agreements* regarding the Metro Flood Diversion Project / Oxbow-Hickson-Bakke Ring Levee Project / In Town Levees Project. Upon roll call vote, the motion carried unanimously.

Ms. Reitz presented and reviewed the *Land Management Summary*. Eighteen homes are currently under construction in Oxbow. Six homes have been completed and the owners have relocated.

It was moved by Manager Brodshaug and seconded by Manager Jacobson to approve, subject to review by Vice Chairman Olson and the Cass County Joint Water Resource District attorney, and authorize Vice Chairman Olson to sign the following for OIN #1975 and #1985 regarding the Oxbow-Hickson-Bakke Ring Levee Project:

- *Exchange Agreement;*
- *Access Easement;*
- *Assignment of Lease – Flexible Farm Lease;*
- *Assignment of Lease – Cash Rent Lease;*
- *Permanent Easement;*
- *Right of First Refusal;*

- *Memorandum of Right of Refusal*; and
- *Warranty Deed*.

Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project – property management

It was moved by Manager Olson and seconded by Manager Jacobson to approve and authorize Chairman Brodshaug to sign an agreement with Sentry Security, Inc. to provide security services for property owned by the Cass County Joint Water Resource District in the City of Oxbow and for construction project areas regarding the Oxbow-Hickson-Bakke Ring Levee Project. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Jacobson and seconded by Manager Olson to approve and authorize the Secretary-Treasurer to coordinate and disperse funds for emergency repairs that may be needed on property owned by the Cass County Joint Water Resource District regarding the Metro Flood Diversion Project, not to exceed a cost of \$2,000. Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project / Oxbow-Hickson-Bakke Ring Levee Project / In Town Levees Project – project updates

Eric Dodds presented and reviewed language included in the year-end omnibus funding bill passed by Congress that provides funding for the Army Corps of Engineers' proposed budget for construction and provides authorization for new construction starts for flood protection projects in the Fargo-Moorhead area. There is strong support in Congress for the Public-Private Partnership Program (P3). The Corps of Engineers will need to submit a report to both the House and Senate Appropriation Committees.

Mr. Dodds gave a brief review of the 2016 budget numbers for the Metro Flood Diversion Project presented at the 6-Entity Diversion Authority informational meeting. He stated the Finance Committee approved the budget and the Diversion Authority will be reviewing the budget later today. The Cass County Joint Water Resource District will review the 2016 budget at its next meeting.

Reimbursement request #21 from the Diversion Authority from funds administered by the State Water Commission, pursuant to SB 2020

It was moved by Manager Jacobson and seconded by Manager Lougheed to approve and authorize the Secretary-Treasurer to sign reimbursement request #21 from the Diversion Authority from funds administered by the State Water Commission pursuant to SB 2020. Upon roll call vote, the motion carried unanimously.

Cass County Highway Department - Drainage/Ditch Cleaning Permit Application

Jason Benson presented and reviewed an updated *Drainage/Ditch Cleaning Permit Application* form used by the Cass County Highway Department. The new form provides guidance on drain tile outlets into county right of way and provides a formal written process for ditch cleaning. The application fee is \$50 and all work on county right of way requires final inspection by the Cass County Highway Department.

Chairman Brodshaug asked Mr. Benson if the application form would be presented to township officials and requested Mr. Benson speak to all of the Cass County Water Resource Districts to make them aware of the updated form.

Maple River Dam - tree removal

Brady Woodard updated the Board on the Maple River Dam tree removal project. Contractors will be able to start work in the next couple of weeks.

It was moved by Manager Jacobson and seconded by Manager Wolfer to approve and authorize the Chairman to sign *Agreements* for tree removal at the Maple River Dam with Industrial Builders, Inc. and American Enterprises, Inc., subject to review and approval by the Water Resource District Engineer. Upon roll call vote, the motion carried unanimously.

Lynn and Marsha Utke requested the Board notify property owners when contractors are working at the Maple River Dam and to show respect to surrounding landowners' property. Mr. Utke also had questions regarding his cost-share responsibility for weed control. Discussion was held on the spraying process. Mr. Woodard, Mr. Utke and Stan Wolf, Cass County Weed Control Officer, will present information at the next meeting for the Board to review and determine cost-share responsibility.

Swan Creek, Upper Maple River and Rush River Watershed Planning Teams

Mike Opat updated the Board on the Swan Creek Watershed Planning Team meeting held on December 16, 2015, and the initial agency consultation / scoping meeting held in Bismarck on December 10, 2015. A public meeting for the Swan Creek, Rush River, and Upper Maple River Watersheds will be held on January 6, 2016, at the Governors' Inn, in Casselton, North Dakota. A National Resources Conservation Service (NRCS) representative will be present, along with an environmental consultant from Barr Engineering Company of Minneapolis, Minnesota.

Lake Bertha Flood Control Project No. 75

Mike Opat and Jeff Brown reviewed information regarding Lake Bertha Flood Control Project No. 75 and distributed cost estimates for the Lake Bertha Outlet Concept Plan in Eldred Township. The project would provide a controlled outlet for the Lake Bertha basin that would allow the basin to be managed for flood risk reduction and floodwater detention benefits. The lake dropped down naturally over the summer to 1084.0 feet. The U.S. Fish and Wildlife Service and North Dakota Game and Fish Department indicated they would accept proceeding with the project at that level. Discussion was held on project permitting and development of an operation and maintenance plan.

A temporary drawdown of the lake for the purpose of building up the township road between Sections 15 and 16 in Eldred Township was also discussed.

It was moved by Manager Olson and seconded by Manager Jacobson to authorize Moore Engineering, Inc. to submit a cost-share request to the State Water Commission and the Red River Joint Water Resource District regarding Lake Bertha Flood Control Project No. 75. Upon roll call vote, the motion carried unanimously.

The Water Resource District attorney and engineer will review easements needed and funding for the project.

Red River Watershed Comprehensive Detention Plan Updates – State Water Commission Agreement for Cost-Share Reimbursement

It was moved by Manager Olson and seconded by Manager Lougheed to approve and authorize Chairman Brodshaug to sign the *Agreement for Cost-Share Reimbursement* with the State Water Commission for the Red River Watershed Comprehensive Detention Plan Updates. Upon roll call vote, the motion carried unanimously.

Lower Red River Basin Regional Detention Study - name consultants for tributary watersheds

It was moved by Manager Olson and seconded by Manager Jacobson to approve and authorize Moore Engineering, Inc. to serve as the consultant for the Cass County Joint Water Resource District for all of the tributary watersheds regarding the Lower Red River Basin Regional Detention Study, except for the Wild Rice River and the Bois de Sioux River Watersheds. Upon roll call vote, the motion carried unanimously.

Bills

It was moved by Manager Lougheed and seconded by Manager Wolfer to approve the payment of Checks #12436 through #12453, and the electronic funds transfers, as presented. Upon roll call vote, the following Managers voted in favor: Brodshaug, Olson, Jacobson, Lougheed, and Wolfer. 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 Olson and unanimously carried to adjourn the meeting.

APPROVED:

Mark Brodshaug
Chairman

ATTEST:

Carol Harbeke Lewis
Secretary-Treasurer