

CASS COUNTY JOINT WATER RESOURCE DISTRICT
CASS COUNTY HIGHWAY DEPARTMENT
WEST FARGO, NORTH DAKOTA
MAY 12, 2016
8:00 A.M.

The Cass County Joint Water Resource District met on May 12, 2016, 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; Jacob Gust, Rush River Water Resource District; Carol Harbeke Lewis, Secretary-Treasurer; Michelle Anderson, Administrative Assistant; Sean M. Fredricks, Chris McShane, Lukas Andrud, John Shockley and Rob Stefanowicz (by phone); Attorneys for the Board; Lyndon Pease and Mike Opat, Engineers for the Board; John Glatzmaier and Randy Richardson, CH2M HILL Engineers, Inc.; Eric Dodds, Tanaya Reitz, Paul Breen and Joe Herbst, Advanced Engineering and Environmental Services, Inc. (AE2S); Kyle Volk, Moore Engineering, Inc.; Terry Williams, Corps of Engineers; Lance Yohe, Southeast Cass Water Resource District; Jason Benson, Cass County Engineer; Nathan Boerboom, Division Engineer – Storm Sewer Utilities City of Fargo; DJ Rieger, City of Oxbow; Ken Helvey and Dave Dutoit, SRF Consulting Group, Inc. Absent was Rodger Olson, Maple River Water Resource District.

Minutes

It was moved by Manager Gust, seconded by Manager Jacobson and unanimously carried to approve the minutes of the April 28, 2016, meetings (three sets).

Agenda

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

Metro Flood Diversion Project – access update

Chris McShane updated the Board on access issues. Surveys will start this fall for the north end of the diversion channel. Additional parcels are needed for access along the Maple River and Sheyenne River for the aqueduct structures. Letters are being prepared to send to the property owners.

Sean Fredricks and Chris McShane updated the board on the appeal filed by Jonathon Garaas. The North Dakota Supreme Court will hear the oral argument related to the case on May 17, 2016.

Metro Flood Diversion Project – relocation benefits

It was moved by Manager Jacobson and seconded by Manager Gust to approve the Relocation Payment for OIN #9125, as outlined in the letter dated May 9, 2016, 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

It was moved by Manager Lougheed and seconded by Manager Jacobson to approve and authorize Chairman Brodshaug to sign the following for OIN #9770 regarding the In Town Levees Project:

- *Purchase Agreement;*
- *Entry and Construction Agreement;* and
- *Option Agreement.*

Upon roll call vote, the motion carried unanimously.

It was moved by Manager Gust and seconded by Manager Lougheed to approve and authorize Chairman Brodshaug to sign the *Purchase Agreement* for OIN #9436 and #9440 regarding the Metro Flood Control Project and to approve the maximum replacement housing differential payment, not to exceed \$89,642.44. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Gust and seconded by Manager Lougheed to approve the purchase of OIN #9261, not to exceed \$275,000, including 5% earnest money, regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Discussion was held on the valuation of flowage easements in the staging area and the budget and schedule for land acquisition as presented in the *Diversion Authority Goals for 2016* by Chairman Vanyo.

It was moved by Manager Lougheed and seconded by Manager Jacobson to approve and authorize Chairman Brodshaug to sign the *Addendum to Purchase Agreement* for OIN #9654 and #9657 regarding the Oxbow-Hickson-Bakke Ring Levee Project. Upon roll call vote, the motion carried unanimously.

The *Diversion Inlet Control Structure Lands Acquisition Update* was presented and reviewed by Chris McShane, Terry Williams, Jason Benson, Eric Dodds and Tanaya Reitz. The Corps of Engineers intends to begin construction on the diversion inlet structure, located south of Horace, in the fall of 2016. Ms. Williams, Mr. Benson and Mr. Dodds outlined the acquisition of 3 properties needed for construction of the inlet structure and realignment of Cass County Highways 16 and 17. These 3 properties have been identified as a priority at this time to accommodate the Corps of Engineers construction schedule. Handouts presented are attached to these minutes.

Ms. Williams updated the Board on the Corps of Engineers' construction schedule and plans to build the diversion inlet structure. Ms. Williams explained the Corps of Engineers is working with the State Water Commission to obtain the permits and gave an approximate timeline of 3 1/2 years to complete project construction. Ms. Williams stated the Corps of Engineers intends to open proposals from interested contractors in mid-July and award contracts in October. Mr. Dodds stated the State Water Commission will issue the permit as soon as property rights have been acquired. Due to the Corps of Engineers' timeline to obligate federal appropriations, the project construction schedule, the permitting requirements from the State Water Commission, and the acreage needed to construct the diversion inlet structure and the realignment of Cass County Highways 16 and 17, acquisition of the 3 parcels is needed at this time.

Jason Benson updated the Board on the construction schedule and plan to realign Cass County Highways 16 and 17 for the Metro Flood Diversion Project. The diversion inlet structure will sit at an angle with the corner intersecting Cass County 17. Mr. Benson explained the overall plan is to build connecting roads, a bridge over the diversion channel and to place a roundabout on Cass County 17 to connect east traffic back to Cass County 16. Construction will be in two phases and will begin on the east side with the bridge and connecting roads, which will limit the north and south road traffic. The new roads will maintain traffic on Cass County Highway 17 and the detour will be needed only through the summer of 2017. Mr. Benson stated final realignment road plans will be finalized by summer. The realignment of Cass County Highways 16 and 17 will include multiple bids to begin this fall and winter.

Discussion was held on the height of the entrance to the diversion inlet structure, the proposed embankment of the dam and the spillway running south into Drain #47.

Pre-acquisition activities have been ongoing for the three properties needed and land acquisition consultants have attempted to negotiate with property owners and presented offers. Dave DuToit updated the Board on each of the negotiation conversations and the responses from property owners. Mr. DuToit stated negotiations have been ongoing for over a month, but the negotiations have not been successful. Mr. McShane outlined the process moving forward and the timeline involved to acquire the properties by eminent domain if the Board cannot reach agreements with these landowners. A Resolution of Necessity will be considered by the Board at a special meeting next week.

Sean Fredricks updated the Board on the Corps of Engineers' recent permit application submitted to the State Water Commission for the diversion inlet structure. The Attorney General indicated they require a commitment from the Board to exercise the powers of eminent domain if the Board cannot acquire the properties through voluntary negotiations as a condition to any permit approval for the Metro Flood Diversion Project, including any necessary property rights in Richland County.

It was moved by Manager Gust and seconded by Manager Lougheed to approve the *Resolution of Intent to Acquire North Dakota Property Rights Regarding the FM Diversion Project* and to submit a copy to the Office of the State Engineer. Upon roll call vote, the motion carried unanimously. A copy of the Resolution is attached hereto.

Discussion was held on the request to the State Engineer from the Richland County Water Resource District to provide information regarding the Metro Flood Diversion Project. The Board discussed meeting with Richland County Water Resource District to address their concerns. Mr. Fredricks will coordinate the matter with the Diversion Authority Administration Team. Ms. Williams stated the Corps of Engineers could support and attend the meeting.

DJ Reiger stated the City of Oxbow is in the process of updating their records and requested the transfer of Oxbow Golf and Country Club property to the Oxbow Job Development Authority. Cass County Joint Water Resource District attorneys will research the matter.

Tanaya Reitz gave a brief update on property acquisition for the Oxbow-Hickson-Bakke Ring Levee Project.

Metro Flood Diversion Project / Oxbow-Hickson-Bakke Ring Levee Project – property management

Paul Breen gave an update on property management and demolition activities for the In Town Levees Project. Asbestos testing is being done on several properties. Mr. Breen stated CH2M HILL Engineers, Inc. will soon place a bid for 10 homes to be moved out of Oxbow for the Oxbow-Hickson-Bakke Ring Levee Project. Brief discussion was held on property rental and maintenance of yards in the City of Oxbow.

Metro Flood Diversion Project – project updates

Eric Dodds stated Lt. Gen. Thomas P. Bostick, the Chief of Engineers and Commanding General of the U. S. Army Corps of Engineers, will visit Fargo in June.

Public-Private Partnership opportunities and the Corps of Engineers construction components will be presented at Industry Day on June 7, 2016, at the Hilton Garden Inn in Fargo.

The Diversion Authority has scheduled 6-Entity Member informational meetings at the end of May. A financial plan is being developed for the Metro Flood Diversion Project.

Public-Private Partnership (P3) Procurement update

John Shockley gave a detailed presentation to the Board on the P3 Split Delivery Plan. The many benefits of a split delivery system are an accelerated project delivery, reduction in taxpayer cost, safeguard to people and property in Fargo-Moorhead and surrounding communities, provides \$1.9 billion in public benefits, reduces the risk

exposure and future costs for many federal agencies, protects the local economy, and an implementation of the most cost-effective option to flood risk management for Fargo-Moorhead and surrounding communities.

The P3 will only be used for the diversion channel and associated infrastructure. Mr. Shockley briefly explained the payment process for the P3 developer. The Metro Flood Diversion will be owned by the 6-Member Entities. Utility and legal drain agreements need to be in place before a P3 developer is selected. Mr. Shockley stated the Metro Flood Diversion Project is gaining international attention and anticipates local contractors will have the opportunity to be involved in helping build the diversion. There will be a sign-up sheet available for local contractors on Industry Day. Once started, Mr. Shockley estimated the Metro Flood Diversion Project could be complete in 3 1/2 years.

An engineering technical team will be created to review the statement of qualifications. Mr. Shockley encouraged the Board to choose a technical representative to serve on the technical team. The Corps of Engineers will be present, but only for observational purposes. A representative for the technical team will be discussed at the next meeting.

Metro Flood Diversion Project – Joint Powers Agreement

Sean Fredricks provided an update to the Board on the recent substantive changes that have been made to the *Joint Powers Agreement* as a result of the comments received from member entities.

John Shockley gave a brief update on the Project Partnership Agreement (PPA). The Diversion Authority hopes to sign the PPA with the Corps of Engineers by July 1, 2016.

Reimbursement request #27 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 Gust to approve and authorize the Secretary-Treasurer to sign reimbursement request #27 from the Diversion Authority from funds administered by the State Water Commission, pursuant to SB 2020. Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project - invoice approval

A brief explanation was given to the Board by the Cass County Joint Water Resource District Secretary-Treasurer on the invoice approval process for the Metro Flood Diversion Project.

Lake Bertha Flood Control Project No. 75

Mike Opat reviewed funding and preliminary assessment calculations regarding Lake Bertha Flood Control Project No. 75. Mr. Opat will review permit requirements for easements and bring information to the next meeting.

GIS web map

Kyle Volk presented and reviewed a Geographic Information Systems (GIS) web mapping service pertaining to Cass County Water Resource Districts.

Bills

It was moved by Manager Jacobson and seconded by Manager Gust to approve the payment of Checks #12681 through #12698, and the electronic funds transfers, as presented. Upon roll call vote, the following Managers voted in favor: Brodshaug, Jacobson, Lougheed and Gust. 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 Gust, seconded by Manager Lougheed and unanimously carried to adjourn the meeting.

APPROVED:

Mark Brodshaug
Chairman

ATTEST:

Carol Harbeke Lewis
Secretary-Treasurer