

CASS COUNTY JOINT WATER RESOURCE DISTRICT
CASS COUNTY HIGHWAY DEPARTMENT
WEST FARGO, NORTH DAKOTA
JULY 28, 2016
8:00 A.M.

The Cass County Joint Water Resource District met on July 28, 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; Rodger Olson, Maple River 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 and Andrew D. Cook, Attorneys for the Board; Lee Beauvais and Mike Opat, Engineers for the Board; Randy Richardson, CH2M HILL Engineers, Inc.; Rocky Schneider, Paul Breen and Joe Herbst, Advanced Engineering and Environmental Services, Inc. (AE2S); Rick Steen, Cass County Commissioner; Keith Berndt, Cass County Administrator; Nathan Boerboom, City of Fargo Division Engineer-Metro Flood Diversion; and Terry and Kristie Sauvageau, Horace residents.

Minutes

It was moved by Manager Gust, seconded by Manager Jacobson and unanimously carried to approve the minutes of the July 11 and July 14 (three sets), 2016, meetings.

Agenda

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

Metro Flood Diversion Project – access update

Joe Herbst updated the Board on access issues. A second round of letters and *Right of Entry Agreements* are ready to send to property owners for surveys requested by the Corps of Engineers for the Metro Flood Diversion Project. Communication from land agents to property owners in Phase I has been effective at providing project information.

The Corps of Engineers has completed soil borings for re-testing on 3 sites near Drain #14 and south of I-94.

Manager Lougheed joined the meeting at this time.

Metro Flood Diversion Project – relocation benefits

It was moved by Manager Olson and seconded by Manager Jacobson to approve the Relocation Payments for OIN #9125 and #9782 as outlined in the letter dated July 25, 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

Chris McShane updated the Board on property needed for the diversion inlet structure. Hearings have been scheduled for mid-August for property owners of OIN #1097 and #230. Negotiations continue with the property owner for OIN #1096.

Andrew Cook gave an update to the Board on property needed for the Oxbow-Hickson-Bakke Ring Levee Project and the appeal filed by Jonathon Garaas. The North Dakota Supreme Court upheld the District Court’s ruling. Brief discussion was held on the schedule and budget regarding the creation of FM Flood Risk Management District No. 1.

Rocky Schneider reviewed *Phase 1 Property Acquisition Communications Work Plan* for the public and individual property owners and residents that own, occupy or farm property impacted by the Metro Flood Diversion Project. The communication plan outlines the audience, method of delivery and the schedule of communication to property owners, residents, businesses and tenants impacted by the project.

Mr. Schneider will coordinate with Jason Benson to provide communication and set up township meetings at the north end of the diversion channel to update property owners on the project. A public website detailing property impacted by the Metro Flood Diversion Project may be available for property owners in the future.

Discussion was held on the property acquisition prioritization, the budget and potential options available for property owners in the staging area impacted by the Metro Flood Diversion Project. Prioritization will be determined based on design and the construction schedule for voluntary property acquisition. There are approximately 100 property acquisitions and 30 Oxbow lots available for property owners in the staging area.

Brief discussion was held on the land acquisition budget for the Metro Flood Diversion Project. John Shockley is working with the Diversion Authority, Cass County and the City of Fargo on short-term financing. The land acquisition team will determine the budget to acquire property for 2017 and submit it to the Diversion Authority for consideration. Manager Lougheed suggested the land acquisition team take into consideration farm businesses, as well as resident and non-resident tenants, when determining the land acquisition budget for 2017. Joe Herbst stated the land acquisition team will research the qualifications and eligibility requirements for potential relocation

payments for businesses renting property impacted by the Metro Flood Diversion Project. Mr. Schneider will coordinate with the Cass County Joint Water Resource District office to provide project updates.

Mr. Herbst updated the Board on the Phase I land acquisition activities for the north end of the diversion channel. Mr. Herbst stated the ESRI Workflow Manager software is working well and those working on the land acquisition for the Metro Flood Diversion Project are using the system.

On August 3, 2016, the Corps of Engineers will meet and determine a plan for appraisal and appraisal review requirements necessary for property acquisition for the diversion channel. Appraisers are ready to begin working on properties at the north end of the diversion channel.

Discussion was held on the land acquisition process and land agent contact with property owners for the Metro Flood Diversion Project. Manager Olson expressed concern regarding land agent communication with property owners. Mr. Herbst reviewed current land agent qualifications and experience and stated the current land agents selected were chosen for their experience and ability to treat property owners with dignity and respect. Chairman Brodshaug stated if a land agent is reported for acting in an unprofessional manner, the matter will follow the chain of command for investigation and the Board would not directly intervene, but pass the information on to the appropriate people. Chris McShane stated the North Dakota Attorney General has an eminent domain brochure that they are required to submit to property owners, which explains landowner rights for condemnation proceedings. It was suggested the land acquisition team direct the land agents to hand deliver the eminent domain brochure to property owners and explain they are required to do so by state law. Terry Sauvageau stated when he received the brochure in the mail, it concerned him greatly. Mr. Sauvageau stated it would have been helpful if he would have received the eminent domain brochure from the land agent with an explanation.

Rocky Schneider stated a document is being prepared to share with elected officials that will offer suggestions and provide contact information regarding inquiries about the *Right of Entry* and the land acquisition process.

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

Paul Breen gave an update on property management. Mr. Breen stated the Diversion Authority has been reviewing the schedule for construction on the Oxbow-Hickson-Bakke Ring Levee Project to coordinate with construction of homes in the City of Oxbow. An approach may be constructed to access Cass County Highway 81 to accommodate moving homes out of the City of Oxbow.

Metro Flood Diversion Project – project updates

Brief discussion was held on the lawsuit filed by the Richland-Wilkin Joint Powers Authority against the Minnesota Department of Natural Resources based on the results of the final *Environment Impact Statement*.

It was moved by Manager Jacobson and seconded by Manager Gust to approve *Task Order No. 9 – P3 Evaluation Team Member Services* for Moore Engineering, Inc., to represent the Cass County Joint Water Resource District as a member of the Evaluation Team for *Statement of Qualification (SOQ)* services through October 13, 2016, not to exceed \$22,850, regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Discussion was held on flowage easement valuation, budget and the land acquisition schedule for property in the staging area regarding the Metro Flood Diversion Project. Chris McShane stated he has been working with Eric Dodds and SRF Consulting Group, Inc., to research flowage easement valuation and locate appraisers. Mr. McShane provided a review of his search of potential appraisers. A Task Order will be considered by the Board at a future meeting.

Reimbursement requests #30 and #31 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 Olson to approve and authorize the Secretary-Treasurer to sign reimbursement requests #30 and #31 from the Diversion Authority from funds administered by the State Water Commission, pursuant to SB 2020. Upon roll call vote, the motion carried unanimously.

Maple River Dam – 2016 maintenance levy assessment

The Board reviewed costs for regular maintenance and needs for the Maple River Dam. It was moved by Manager Olson and seconded by Manager Gust to set the 2016 maintenance levy assessment for the Maple River Dam at the \$1.00 level. Upon roll call vote, the motion carried unanimously.

Lake Bertha Flood Control Project No. 75

The Project Hearing for Lake Bertha Flood Control District No. 75 will be held at 9:00 a.m. on Tuesday, August 30, 2016, at the Embden Senior Center, in Embden, North Dakota. Ballots are scheduled to be mailed on August 4, 2016.

Bills

It was moved by Manager Jacobson and seconded by Manager Lougheed to approve the payment of Checks #12794 through #12796, Checks #12814 through #12830 and the electronic funds transfers, as presented. Upon roll call vote, the following Managers voted in favor: Brodshaug, Olson, Jacobson, Lougheed and Gust. The Chairman declared the motion passed.

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 July 25, 2016. Mr. Opat stated the landowners have a better understanding of the flood damage areas in the watershed and appreciate the planning process.

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