

**REGULAR MEETING OF CASS COUNTY BOARD OF COMMISSIONERS
MARCH 18, 2024**

1. MEETING CALLED TO ORDER

Chairman Chad M. Peterson called the meeting to order at 3:30 PM with members present as follows: Tony Grindberg, Duane Breitling, Jim Kapitan, and Chad M. Peterson. Mary Scherling was absent.

2. PLEDGE OF ALLEGIANCE

Taylor Kaushagen led the Pledge of Allegiance.

3. MINUTES APPROVED

MOTION, passed

Mr. Grindberg moved and Mr. Kapitan seconded that the minutes of the previous meeting be approved as written. Motion carried.

4. AGENDA, Order approved

MOTION, passed

Mr. Breitling moved and Mr. Kapitan seconded to approve the order of the agenda. Motion carried.

5. CONSENT AGENDA APPROVED

MOTION, passed

Mr. Grindberg moved and Mr. Breitling seconded to approve the consent agenda as follows: On roll call vote, the motion carried unanimously.

- a. Receive the monthly financial statement from the Finance Office for month ended February 29, 2024.
- b. Authorize purchase of fuel and gasoline for the Highway Department from March 2024 to March 2026 from Kotaco Fuels.
- c. Authorize closure of Highway 10 in Buffalo from 11:00 AM to 9:00 PM on Saturday, July 20, 2025, for Buffalo's annual celebration and homecoming.
- d. Approve raffle permit for Fargo Firefighters Local 642 to be held on May 16, 2024, at Bonanzaville USA in West Fargo, North Dakota.
- e. Approve special event permit for Jack Nick LLC d/b/a Knickerbocker Liquor Locker to serve alcoholic beverages during the hours of 6:00 PM on April 13, 2024, to 2:00 AM on April 14, 2024, for a birthday party at 409 1st Avenue in Hickson, North Dakota.
- f. Ratify the actions taken by the Personnel Overview Committee on March 18, 2024 and amend Employee Handbook Policy 406 to remove the sentence "seasonal employees are paid at 92% of the full DBM salary", effectively setting the rate of pay for seasonal employees at 100% of the A12 paygrade.
- g. Contract approval—
 - North Dakota Secretary of State's Office—Memorandum of Understanding for CradlePoint to be used in elections;
 - Honeywell Building Technologies—three-year building performance service agreement;
 - KRGB Gravel LTD and Mark Sand & Gravel Dakota Co.—2024 gravel supply for the Highway Department;
 - Flood lot lease renewal for 2024.

6. PUBLIC COMMENT

Mr. Peterson asked for public comment and hearing none, moved on to the regular agenda items.

7. **FARGO PAYMENT IN LIEU OF TAXES FOR BORDER STATES INDUSTRIES, INC., County to not participate and continue negotiating**

The Fargo City Assessor forwarded information to the Cass County Commission regarding an application received from Border States Industries, Inc. for a payment in lieu of taxes (PILOT) for a primary sector distribution facility located on six parcels of land on 43rd Street North and 42nd Street North in Fargo. The request is for a ten-year PILOT exemption with a 100 percent exemption of the building value from property taxes during the duration. The land would be fully taxable with an estimated value of \$4,347,000, and annual taxes of approximately \$59,100.

Fargo Director of Strategic Planning and Research, Jim Gilmour was present and said the City of Fargo Commission will take action on the application at their meeting tonight. Mr. Peterson said the County Commission prefers to take action after the City has acted and recommended bringing the item back after the City of Fargo Commission has acted.

MOTION, passed

Mr. Grindberg moved and Mr. Breitling seconded to not participate in the request for a payment in lieu of tax (PILOT) in the City of Fargo submitted by Border States Industries, Inc. on a new primary sector distribution facility located on six parcels of land on 43rd Street North and 42nd Street North in Fargo for up to a ten-year period and negotiate the terms of the property tax incentive as described in N.D.C.C 40-05-24. On roll call vote, the motion carried unanimously.

8. **FARGO PAYMENT IN LIEU OF TAXES FOR LASHKOWITZ 9 AND LASHKOWITZ 4, County to participate in incentive for up to a ten-year period**

The Fargo City Assessor forwarded information to the Cass County Commission regarding an application received from Lashkowitz 9 and Lashkowitz 4 for a payment in lieu of taxes (PILOT) for a low-income housing facility located at 101 2nd Street South in Fargo. The request is for a seventeen-year PILOT exemption with a 100 percent exemption with a 100 percent exemption of the building value from property taxes during the duration. The land would be fully taxable with an estimated value of \$634,200 and an annual tax of approximately \$9,400. Mr. Gilmour said the project would not be feasible without the incentive.

Chief Executive Officer of the Fargo Housing and Redevelopment Authority, Chris Brungardt was present and discussed the housing project. He said the project is to construct two low income housing buildings with 110 units with a mix of one, two, and three bedrooms. He said the total project cost is approximately \$40 million. Mr. Brungardt said after 15 years, the Fargo Housing Authority will be the full owner of the building.

Mr. Grindberg asked if the project has been bid. Mr. Brungardt said the Fargo Housing Authority selected Roers as the contractor for the project through a request for proposals and it is not a public project therefore there is no formal bidding. He said the project is funded through government credits. Mr. Breitling asked if the units are handicap accessible. Mr. Brungardt said 10% of the units will be ADA compliant and another 20% will be ADA designed meaning they can easily become ADA complaint.

MOTION, passed

Mr. Grindberg moved and Mr. Kapitan seconded to participate in the request for a payment in lieu of tax (PILOT) in the City of Fargo submitted by Lashkowitz 9 and Lashkowitz 4 for a new low-income housing facility located at 101 2nd Street South in Fargo for up to a seventeen-year period. On roll call vote, the motion carried unanimously.

9. **ABATEMENT, Approved for Jamie Swenson**

County Director of Equalization, Paul Fracassi was present to discuss an abatement application submitted by Jamie Swenson for a property located at 1710 1 Avenue South in Fargo. The applicant

requested a reduction in the 2023 value from \$193,500 to \$95,000. Mr. Fracassi said the City of Fargo's Assessor's Office recommended and the Fargo City Commission approved reducing the value from \$193,500 to \$96,600 due to its current condition.

James Haley from the City of Fargo Assessor's Office was present and said per the City of Fargo Inspection Department, the home was slated to be demolished, however, the homeowner took out a building permit to repair the home. He said the home was reviewed and based on the review and information from the owner, the condition of the house was likely present in 2023 and had a negative effect on the value and a reduction is warranted.

MOTION, passed

Mr. Breitling moved and Mr. Kapitan seconded to approve abatement application 4555 and reduce the value for parcel 01-0060-00130-000 to \$96,600 for 2023. On roll call vote, the motion carried unanimously.

10. ABATEMENT, Approved for John Shipley

Mr. Fracassi discussed an abatement application submitted by John Shipley for a property located at 113 Woodland Drive North in Fargo. The applicant requested a reduction in the 2023 value from \$397,200 to \$361,200. Mr. Fracassi said the City of Fargo Assessor's Office recommended and the Fargo City Commission approved reducing the value as requested. Mr. Haley said the Fargo City Assessor's Office reviewed the property and found cracking on drywall and uneven foundations in the addition and attached garage. He said the property owner provided two bids. He said based on the review and information provided by the owner, the reduction is warranted.

MOTION, passed

Mr. Breitling moved and Mr. Kapitan seconded to approve abatement application 4558 and reduce the value for parcel 01-2360-00630-000 to \$361,200 for 2023. On roll call vote, the motion carried unanimously.

11. ABATEMENT, Tabled for Dawn Osborne

An abatement application was submitted by Dawn Osborne for a property located at 3723 21 Street South in Fargo. The applicant requested a reduction in the 2023 value from \$371,400 to \$331,400. Mr. Fracassi said the applicant supplied the County Tax Equalization Office with information regarding the application on Friday and requested the application be tabled to give more time to review the submitted information.

MOTION, passed

Mr. Kapitan moved and Mr. Breitling seconded to table action on abatement application 4566 to allow for information to be reviewed. Motion carried.

12. HUMAN RESOURCES, Deputy Nathan Boerboom Military Leave Retirement credit

Assistant County Administrator and Human Resources Director, Tracy Peters was present and said County Sheriff Deputy Nathan Boerboom contacted her several months ago concerning Deputy Boerboom's North Dakota Public Employees Retirement System (NDPERS) contributions during military deployments. She said Deputy Boerboom had military deployments in 2011, 2012, 2017, and 2023 and over the course of the first three deployments, there were approximately 23 months when Deputy Boerboom was on leave without pay. She said when an employee is on leave without pay, there are no contributions made to NDPERS by the employee or by the county. Ms. Peters said under the Uniformed Service Employment and Reemployment Rights Act (USERRA), a service member is entitled to purchase service credit for the months of deployment when no NDPERS contributions were being made. She said the service member is required to make timely application to purchase this credit by submitting a written request to NDPERS and Deputy Boerboom missed the deadline to apply after three of his deployments. She said Deputy Boerboom is now asking the county to purchase service credit for him to make up for the months of service he would otherwise have if he had completed timely applications after his military deployments. Mr. Boerboom was present and said he provided a memo to the Commission prior to the meeting outlining his request.

Mr. Peterson asked if it is legal for Cass County to approve the request. Ms. Peters said any County employee can purchase additional service credit through NDPERS. She said Deputy Boerboom's request is to purchase service credit in today's dollars due to missing the deadline to apply after his first three deployments. She said Deputy Boerboom utilized the program after his latest deployment in 2023. Mr. Breitling asked how many County employees have utilized the opportunity to purchase service credit after military deployment. Ms. Peters said in the last five years, approximately 17 County employees have had unpaid leave while performing military service, three of them made application and one subsequently withdrew their application to purchase credit.

MOTION, failed

Mr. Grindberg moved to approve Deputy Boerboom request to purchase NDPERS retirement credit. Motion died due to lack of a second.

Mr. Peterson asked the State's Attorney's Office to discuss their legal review of the request. State's Attorney, Kim Hegvik was present and said the County met its obligation to post the USERAA notice. She said the Commission is not legally required to approve the request, however, it is at the discretion of the Commission.

Mr. Kapitan said he is sorry to hear this happened to Deputy Boerboom. He said it is unfortunate that he missed an opportunity to purchase retirement credit, however, it is the responsibility of each person to know their rights. Mr. Boerboom said a few weeks ago he went to the Jail and the USERAA poster was not displayed at the Jail as it should be. He said he cannot prove or disprove if the poster was at the Jail at the time of his deployments. He said during 2011, there was no employee contribution to NDPERS, it was paid fully by the County. Ms. Hegvik said 2011 is outside the statute of limitations and there is no way to go back to 2011 and see if the notice was posted or not. Ms. Peters said approving Deputy Boerboom's request could have ramifications and set a precedent for the future. Mr. Peterson said he is grateful for Deputy Boerboom's service and sacrifice. He said approving the request would set a precedent and too much time has passed to go back.

MOTION, passed

Mr. Kapitan moved and Mr. Peterson seconded to deny Deputy Boerboom request to purchase NDPERS retirement credit. On roll call vote, the motion carried with Mr. Breitling, Mr. Kapitan, and Mr. Peterson voting "yes" and Mr. Grindberg voting "no".

13. ROAD, Budget adjustment and structure replacement projects approved

County Engineer, Tom Soucy was present and discussed a request for a budget adjustment and approval of three concrete box culvert projects. Mr. Soucy said the 2024 budgeted road projects have been coming in under budget. He said the County received its allocation of legacy non-oil producing county funding of \$2.4 million in December of 2023 rather than in 2024 leading to a higher beginning balance in 2024. He said the Highway Department is requesting three additional concrete box culvert projects to be completed in 2024 to take advantage of the low bid prices. Mr. Soucy said the budget adjustment and three projects were presented at the Road Advisory meeting earlier today and were approved to forward a recommendation to the Commission. The budget adjustment request is in the amount of \$1,381,211 to the bridge construction line item 211-4001-431-45.50.

MOTION, passed

Mr. Breitling moved and Mr. Kapitan seconded to approve a budget adjustment of \$1,381,211 to the bridge construction budget line item 211-4001-431-45.50 and authorize the chair to sign contract documents with John Riley Construction, Inc. for the structure replacement in Everest Township and Cornell Township. On roll call vote, the motion carried unanimously.

14. JAIL, Nursing services update

County Administrator, Robert Wilson was present and discussed an update on Jail nursing services. Currently, Fargo Cass Public Health (FCPH) provides nursing services to the Jail and nursing staff

are City of Fargo employees. Additionally, Family Health Care (FHC) serves as the medical director at the Jail. Mr. Wilson said last fall, FCPH notified the County it intended to transition out of providing nursing services at the Jail. He said since then County staff in Administration, Human Resources, Sheriff's Office, Information Technology, Finance Office, and State's Attorney's Office have had extensive conversations about other options for nursing services. He said a recommendation from FCPH and County staff is to have the current FCPH staff transition from City of Fargo employment to County employment. Mr. Wilson said there are two options for managing the employees and the nursing services which include either the County assuming all responsibilities, or the County contracting with FHC for the administrative, medical record keeping, human resources, Department of Corrections and Rehabilitation (DOCR) compliance, prescription drug, and licensing responsibilities for jail nursing services.

Director of Public Health at FCPH, Desi Fleming was present and said she believes transitioning to FHC would be positive for the County and Jail due to FHC transition to a medical software system that is industry standard called EPIC, the prescription drug savings FHS could provide, and potential to increase provider time. Mr. Peterson asked if there is a timeline for the transition. Ms. Fleming said it would make sense to have the transition in place by July in order to be presented to the Commission during budget hearings. Mr. Wilson said there will likely be a plan in place for the transition prior to budget hearings with the full transition completed by the end of 2024.

County Information Technology Director was present and said currently FCPH holds all the jail medical records on an internal system. He said the industry standard software for medical record keeping is EPIC. He said EPIC is used by most area medical providers and would allow for ease of access to records from one medical facility to another, including the Jail. He said if the County wanted to house its own system, it would require a large investment and additional staff. Ms. Fleming said once the transition has occurred, the County can contract with FCPH for access to medical records for a period of time.

Mr. Breitling asked if nursing staff are in favor of the transition. Ms. Fleming said nursing staff met with Mr. Wilson and Ms. Peters and are in favor of transitioning to County employees.

County Sheriff Jesse Jahner was present and said once the Jail addition is complete, it is anticipated two additional jail nursing staff will be needed.

Mr. Wilson said County staff will continue to work with FCPH and FHC on transitioning nursing services and will bring a contract with FHC to a future Commission meeting for consideration.

15. VOUCHERS, Approved
MOTION, passed

Mr. Kapitan moved and Mr. Breitling seconded to approve Voucher No. 341986 through Voucher No. 342278 for a total of \$2,547,815.95. On roll call vote, the motion carried unanimously.

16. MEETING UPDATES, Committee reports

Commissioners and staff reported on meetings they have attended or will be attending in the upcoming weeks.

17. CORRESPONDENCE, Received and filed
MOTION, passed

Mr. Breitling moved and Mr. Grindberg seconded to receive and file correspondence outlined by the secretary as follows: Motion carried.

- Letter from the City of Casselton informing the County Commission and Central Cass School District of a public hearing that will be held at Casselton City Hall on April 2, 2024, at 7 pm regarding weather to approve an amended developer's agreement with Maple

River Grain and Agronomy, LLC. The amendment will remove a portion of the property included in the TIF and does not change the term of the TIF which goes through 2033.

18. ADJOURNMENT

MOTION, passed

On motion by Mr. Breitling, seconded by Mr. Kapitan and all in favor, the meeting was adjourned at 5:01 PM.

ATTEST:

APPROVED:

Brandy Madrigga, County Finance Director
Cass County, North Dakota

Chad M. Peterson, Chairman
Cass County Board of Commissioners