

FLOOD SALES TAX PROJECTS  
DISCUSSION ON MATCHING FUNDS  
(Scherling)

## Worden, Heather

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**From:** Worden, Heather  
**Sent:** Thursday, March 16, 2017 7:46 AM  
**To:** Rodger Olson (olsonrodger@aol.com)  
**Cc:** Peterson, Chad; Scherling, Mary; Montplaisir, Michael; Wilson, Robert  
**Subject:** Re: Flood Sales Tax Committee - Question

Rodger,

I sent your request to Commission Chair Chad Peterson and Commissioners Scherling and Steen. Below you can see Chad plans to address the issue at our Commission meeting on April 3<sup>rd</sup>. Commissioner Scherling also responded that this issue has been brought up quite a bit lately and supports a discussion. There is an item on the committee agenda for other business, so I assume this issue could be discussed then.

Heather Worden, Administrative Assistant  
Cass County Commission  
211 9<sup>th</sup> Street South  
PO Box 2806  
Fargo ND 58108-2806  
(701) 241-5609

**From:** Peterson, Chad  
**Sent:** Thursday, March 16, 2017 6:10 AM  
**To:** Scherling, Mary <ScherlingM@casscountynd.gov>  
**Cc:** Worden, Heather <WordenH@casscountynd.gov>; Montplaisir, Michael <MontplaisirM@casscountynd.gov>; Steen, Rick <SteenR@casscountynd.gov>; Wilson, Robert <WilsonRo@casscountynd.gov>; Edwards, Brielle <EdwardsB@casscountynd.gov>  
**Subject:** Re: Flood Sales Tax Committee - Question

Heather, please add it to the agenda in a couple weeks.

Chad Peterson  
Northern Plains Design, LLC

On Mar 15, 2017, at 7:20 PM, Scherling, Mary <[ScherlingM@casscountynd.gov](mailto:ScherlingM@casscountynd.gov)> wrote:

This has been brought up a lot lately and I think we should have a discussion.

Mary Scherling  
Cass County Commissioner

On Mar 15, 2017, at 4:36 PM, Worden, Heather <[WordenH@casscountynd.gov](mailto:WordenH@casscountynd.gov)> wrote:

I received a call from Rodger Olson, who serves on the Flood Sales Tax Committee. He asked if the committee could discuss the policy on the percentage of sales tax funds distributed for flood control projects. I told him I would refer his request to you.

Heather Worden, Administrative Assistant  
Cass County Commission  
211 9<sup>th</sup> Street South

**FLOOD SALES TAX COMMITTEE  
MARCH 2, 2011—3:00 PM**

**1. MEETING TO ORDER**

Commission Chairman Darrell Vanyo called a meeting of the Flood Sales Tax Committee to order on Wednesday, March 2, 2011, at 3:00 PM in the Commission Room, Cass County Courthouse, with the following present: County Commission Chairman Darrell Vanyo; County Engineer Keith Berndt; County Auditor Michael Montplaisir; Water Resource District Representative Rodger Olson and County Commissioner Ken Pawluk. Also present was Chad Engels, Moore Engineering and members of the local media.

Mr. Vanyo explained the Flood Sales Tax Committee was established to review submitted projects and determine which projects are eligible to receive partial funding through the sales tax revenue. He said today's meeting is an organizational meeting to set guidelines on how the committee should proceed.

Mr. Vanyo asked for a chairman recommendation for the committee. He is a committee member as the Commission Chairman, however; will go off the committee when his appointment as Commission Chairman is over. The committee agreed the Commission Chairperson should serve as chairperson for the Flood Sales Tax Committee.

On September 8, 2010, Mr. Vanyo sent a letter to Cass County Water Resource District Managers, Cass County Township Chairmen and Cass County City Mayors informing them of a policy adopted on August 2, 2010 by the Cass County Commission outlining how the sales tax proceeds will be spent. The voters passed a one half percent sales tax at the November 2, 2010 election and the revenue generated will be used to fund flood reduction projects. The purpose of the letter was to solicit input in assembling a list of flood risk reduction projects which will be considered and prioritized by the committee. The policy states the county will evaluate projects on an annual basis.

**2. REVIEW OF PROJECTS REQUESTED AND PROJECTS COMING DIRECTLY FROM THE COUNTY**

Mr. Berndt worked with local entities in compiling a list of projects. He distributed a handout outlining twenty-nine projects which have been submitted for consideration. Of the projects submitted twenty-one were received from local entities and eight were submitted by Mr. Berndt.

Mr. Olson said the water resource districts have six additional projects they are submitting for consideration. Mr. Engels distributed a spreadsheet and briefly outlined the projects.

**3. REVIEW OF MONEY AVAILABLE IN 2011**

Mr. Montplaisir said beginning in May, Cass County will begin receiving a small amount of sales tax revenue with more sizeable amounts starting in June. He projects the sales tax should generate between \$10 and \$11 million per year. The first priority

will be to reimburse the City of Fargo the \$1.7 million owed for the Red River diversion study. After reimbursing the city, the remainder of the funds, approximately 10% of collections or roughly \$1 million will be used to assist in funding flood protection projects submitted to the county for consideration.

**4. ESTABLISHMENT OF A PROCESS FOR PRIORITIZATION**

Mr. Vanyo asked the committee to make a list of discussion points for the prioritization process.

The list of discussion points are as follows:

1. Population benefited by the project
2. Distribution of funds by location
3. Disbursement percentage determined by the number of people benefited
4. Cost effectiveness of the project
5. Permanency of the project
6. Effect of the diversion on the project
7. Does the project have long-term merit (ex: 10 years)
8. Other sources of funding

Making a priority list will allow people requesting funding to know if they are on the priority list, however; the list can be adjusted depending on necessity. Mr. Vanyo said it may be best to have people come before the committee and give a brief presentation on their projects.

**5. DISCUSSION OF MEETING FREQUENCY, TIMETABLE FOR FIRST PROJECT, OBJECTIVES, ETC.**

Mr. Vanyo will set the next meeting for May and people should be made aware that the first round of funding may not be available for approximately one year.

Mr. Pawluk asked if a project should be eligible for consideration if it has been started or even completed. Mr. Vanyo said consideration should be given to all projects submitted as a result of the letter of request sent by Mr. Vanyo on September 8<sup>th</sup>, 2010.

Mr. Vanyo said the committee should make a list of the top two or three projects before the next solicitation goes out and some type of conclusion should be reached by this fall.

The objective of the committee is to deal with funds which go beyond the 50/50 match with the City of Fargo.

Mr. Vanyo clarified if sales tax revenue is used for home buyouts to allow for permanent flood protection it would not be straying from the ballot measure passed by the voters in November, 2010.

**6. ADJOURNMENT**

Mr. Vanyo declared the meeting adjourned at 4:15 PM.

**FLOOD SALES TAX COMMITTEE  
MARCH 19, 2012—11:00 AM**

**1. MEETING TO ORDER**

Commissioner Darrell Vanyo called a meeting of the Flood Sales Tax Committee to order on Monday, March 19, 2012, at 11:05 AM in the Commission Room, Cass County Courthouse, with the following present: County Commissioner Ken Pawluk; County Administrator Keith Berndt; County Auditor Michael Montplaisir; Joint Water Resource District Representative Rodger Olson; and County Commissioner Darrell Vanyo.

Also present were Jason Benson, Cass County Engineer; city officials; local residents; staff from engineering firms; and members of the local media.

**2. MINUTES APPROVED**

*MOTION, passed*

**Mr. Berndt moved and Mr. Montplaisir seconded to approve the meeting minutes from May 18, 2011, as presented. Motion carried.**

**3. FLOOD SALES TAX FUND UPDATE**

Mr. Vanyo said when the flood sales tax was approved by voters in 2010, the county estimated \$11 million in revenues would be raised per year. Based on that figure, \$10 million would be set aside for FM diversion expenses, and \$1 million for other county projects.

Mr. Montplaisir said the current balance of the Sales Tax Fund is approximately \$6.5 million. He estimates an additional \$9 million will be generated in the remaining nine months of 2012. He said about \$10.1 million will be available this year after payments are made for diversion design costs.

Mr. Vanyo suggested the committee consider the use of 2011 dollars as a guideline when reviewing project requests today. He said the committee could also consider using funds raised the past three months of 2012.

The sales tax raised \$7.6 million in 2011 and based on that figure, \$692,783 would be available for county projects.

**4. PROJECTS REVIEWED AND APPROVED**

Mr. Vanyo said a spreadsheet of all project requests received in 2010 and 2011 was prepared for review by the committee. He said one of the requirements for him to consider a project is whether construction is scheduled this year or has already begun.

Mr. Berndt reviewed the list with recommendations for the committee to consider. He suggested the county consider funding 50% of the local cost share along with each entity contributing 50%.

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SUBJECT: COUNTY SALES TAX FOR FLOOD RISK REDUCTION AND RECOVERY  
PROJECTS

ADOPTED DATE: AUGUST 2, 2010

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This policy governs expenditures of funds from a one half percent County sales tax planned to start in 2011 to fund flood risk reduction projects. The primary purpose of the sales tax measure is to fund local costs associated with a planned Red River Flood Diversion project in either Minnesota or North Dakota. The planned diversion project will not address all flood damage risks in Cass County. Additional measures are necessary to reduce risk to areas within and outside of the diversion perimeter. Sales tax proceeds may also be expended for the Diversion and other flood risk reduction or recovery projects subject to funding availability and approval by the County Commission. The County sales tax proceeds should be used to leverage other sources of funding when possible.

County sales tax funds expended within incorporated cities: The County Commission may consider requests for flood risk reduction and recovery funding from cities within Cass County. The city will be responsible for planning and engineering costs associated with the project. Plans and specifications should be prepared by a professional engineer registered within the State of North Dakota. The city should also be able to demonstrate that other revenue sources for the project have been actively sought out. The preferred funding split is that City funds match the County sales tax proceeds on a 1:1 basis. Other funding splits may be considered by the Commission on a case by case basis to allow consideration to be given to unique circumstances and the ability of the City to pay 50% of the local cost share.

County sales tax funds expended outside of incorporated cities: The County Commission may also consider flood risk reduction and recovery projects recommended by the County Engineer or requested by townships, neighborhood groups, or individuals for areas within and outside of the diversion perimeter. Special assessments may be considered as a local match to County sales tax funds. Funds may be expended for projects that provide benefit to Cass County residents but are physically constructed outside of the County boundaries such as retention projects. Funds may also be spent to assist property owners downstream from the diversion channel in offsetting diversion project impacts.

The County Commission will solicit requests on an annual basis. Requests received from political subdivisions and county staff for cost effective projects will be prioritized and considered for funding by the County Commission as funds available allow.

HISTORICAL REFERENCE DATE: AUGUST 2, 2010

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SUBJECT: ORDINANCE #2010-2 AMENDED (FLOOD CONTROL SALES TAX)

ADOPTED DATE: DECEMBER 19, 2016

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County sales tax funds expended outside of incorporated cities: The County Commission may also consider flood risk reduction and recovery projects recommended by the County Engineer or requested by townships, neighborhood groups, or individuals for areas within and outside of the diversion perimeter. Special assessments may be considered as a local match to County sales tax funds. Funds may be expended for projects that provide benefit to Cass County residents but are physically constructed outside of the County boundaries such as retention projects. Funds may also be spent to assist property owners downstream from the diversion channel in offsetting diversion project impacts.

Effective Date.

This Ordinance shall take effect after its passage, approval, and publication, but not prior to January 1, 2017.

Termination Date.

The sales, use, and gross receipts tax shall run through December 31, 2084 and shall be rescinded when all of the costs, obligations and debt for said project have been paid in full and satisfied, whichever event occurs first as provided in Resolution No. 2016-20.

APPROVED:

ss/Chad M. Peterson  
Chad M. Peterson, Chairman  
Board of Commissioners  
Cass County, North Dakota

ATTEST:

ss/Michael Montplaisir  
Michael Montplaisir, County Auditor

(SEAL)

First Reading: November 21, 2016  
Publication: November 28, 2016  
Second Reading: December 19, 2016  
Final Passage: December 19, 2016

HISTORICAL REFERENCE DATE: DECEMBER 20, 2010

- (b) **City of Moorhead.** The **City of Moorhead**, in accordance with the cost share allocation formula set forth in Section 12.11 of this **Agreement**, will use its **Best Efforts** to actively request an amount not to exceed \$100,000,000, in 2015 dollars as **Adjusted for Inflation**, from the State of Minnesota consisting of appropriations, grants or cost share allocations made available for the **Project**.
- (c) **Cass County.** **Cass County** will contribute not less than 91% of the **County 2010-26 Sales Tax**. Subject to any required vote of the voters and the approval of ordinances implementing such a sales tax, **Cass County** will impose, levy, and collect a **Future County Sales Tax** upon all taxable retail sales within **Cass County**. The **Member Entities** acknowledge and agree that the sales and use tax rate, duration and terms may need to be modified and adjusted during the term of this **Agreement**. **Cass County** will also contribute any State of North Dakota grants, funds or cost-share allocations made available for the **Project**.
- (d) **Clay County.** **Clay County** will use its **Best Efforts** to actively request any and all State of Minnesota appropriations, grants or cost share allocations made available for the **Project**. **Clay County** will actively support the **City of Moorhead's** efforts to request State of Minnesota funds from the Minnesota Legislature.
- (e) **CCJWRD.** **CCJWRD** will use its **Best Efforts** to create and establish the **Assessment District** for the **Project** pursuant to Chapter 61-16.1 of the North Dakota Century Code and apportion and levy a special assessment for the **Project**. The **Member Entities** agree and acknowledge that the annual installments of special assessments contemplated in this Article shall be certified in the event that the **Sales Tax Revenues** generated by the **City of Fargo** and **Cass County's** sales tax ordinances are ever insufficient to pay the debt service on any **Debt Obligations** issued for the **Project** and any **Milestone Payments, Availability Payments, and P3 Payments**.

The **Member Entities** agree and acknowledge that the **City of Fargo** and **Cass County** may extend only one of the **Existing Sales and Use Taxes** beyond the **County 2010-26 Sales Tax Sunset Date** or the **City 3-21 Sales Tax Sunset Date** pursuant to Section 9.11 of this **Agreement**. In the event that the **City of Fargo** and **Cass County** mutually determine to voluntarily allow one of the **Existing Sales and Use Taxes** to sunset without submitting a request to the voters to extend said sales and use tax, then that party's obligations to extend said sales and use tax under this Section shall terminate upon the sunset of said sales tax.

**Section 9.03 MEMBER ENTITIES' CONTRIBUTIONS FOR OPERATIONS AND MAINTENANCE COSTS.** The operations and maintenance of the **Project** shall be financed from special assessments for maintenance of the **Project, Storm Water Maintenance Fees**, grants, donations, excess sales tax revenues and any other funds contributed by the **Member Entities** (the "**O&M Revenues**"). The **Member Entities** shall contribute and pledge the following:

- (a) **CCJWRD.** **CCJWRD** will use its **Best Efforts** to create and establish maintenance assessment districts for the maintenance of the **Project** pursuant to