

MINUTES OF VIRTUAL / CONFERENCE CALL MEETING
CASS COUNTY JOINT WATER RESOURCE DISTRICT
ORIGINATING AT THE CASS COUNTY HIGHWAY DEPARTMENT
WEST FARGO, NORTH DAKOTA
JANUARY 26, 2023

A virtual / conference call meeting of the Cass County Joint Water Resource District was held on January 26, 2023, at 8:00 a.m.

Present were Keith Weston and Rick Steen, 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; Nina Stone, Accountant; Melissa Hinkemeyer, Administrative Assistant; Sean M. Fredricks, Luke Andrud, Chris McShane and Katie Schmidt, Ohnstad Twichell, P.C.; Kurt Lysne and Lyndon Pease, Moore Engineering, Inc.; Mike Opat, Houston Engineering, Inc.; Rob Stefonowicz, Larkin Hoffman Attorneys; Eric Dodds, Dean Vetter and Sabrina Tusa, AE2S; Scott Stenger and Dale Ahlsten, ProSource Technologies, LLC; Oly Olafson, Lee Kaffar, Wade Whitworth and Kelsey Lee, HDR, Inc.; Ken Helvey and Katie Laidley, SRF Consulting Group, Inc.; Lisa Brekkestran and Drew Nicklay, Ulteig Engineers, Inc.; Jodi Smith, Diversion Authority Director of Lands and Compliance; Madeline Gorghuber, Diversion Authority Lands Specialist; Duane Breitling, Cass County Commissioner; Matt Stamness, Cass County Highway Department; John Albrecht and Katrina Olson, Jacobs; Ted Preister, Red River Basin Commission Executive Director; and Kristie Sauvageau, Stanley Township property owner.

Agenda

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

Minutes

It was moved by Manager Lougheed, seconded by Manager Weston and unanimously carried to approve the minutes of the January 12, 2023, meeting.

Metro Flood Diversion Project – project updates and general topics

Chris McShane updated the Board on the status of various formal negotiations regarding the Metro Flood Diversion Project.

Eric Dodds discussed the Property Acquisition Status Report regarding the Metro Flood Diversion Project. There have been 24 additional property acquisitions since the previous report was presented at the December 15, 2022, meeting.

Chairman Olson inquired about the status of securing Environmental Monitoring Easements for the Metro Flood Diversion Project. Jodi Smith stated there is coordination ongoing with the Corps of Engineers regarding the matter and land agents continue to work with property owners to secure the remaining Environmental Monitoring Easements.

Discussion was held regarding mitigation projects included in the *Adaptive Management and Mitigation Plan* of the Metro Flood Diversion Project, with an emphasis on tree mitigation.

Mr. Dodds reported Pleasant Township is considering an ordinance regarding development downstream of the Southern Embankment of the Metro Flood Diversion Project. The North Dakota Department of Water Resources and Minnesota Department of Natural Resources recommend sound development downstream of the Southern Embankment. The ordinance could impact potential replacement housing sites for property owners impacted by the Metro Flood Diversion Project.

Metro Flood Diversion Project – appraisal / RHDP review / approval

Oly Olafson discussed an appraisal waiver valuation for OIN 1587 regarding the Metro Flood Diversion Project. A motion was made by Manager Steen and seconded by Manager Loughheed to approve the appraisal waiver valuation for OIN 1587 as just compensation for acquisition of property regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Gust and seconded by Manager Weston to approve the updated maximum Replacement Housing Differential Payment for OIN 839 in the amount of \$24,632 regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project – acquisition review / approval

It was moved by Manager Loughheed and seconded by Manager Steen to approve the *Purchase Agreement* and *Rental Agreement* for OIN 839 regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Mr. Dodds reported negotiations are at a standstill with some property owners regarding the acquisition of Flowage Easements for the Metro Flood Diversion Project. Mr. Dodds proposed sending letters to groups of property owners where land agents have identified Flowage Easement negotiations are not proceeding. The letters would provide a last written offer for the property owner to sign an Agreement to Acquire a Flowage Easement or reach an agreement with their land agent by a certain date. If an agreement is not reached by that date, legal counsel would be authorized to file an eminent domain proceeding to acquire the Flowage Easement on the property. Negotiations would also continue throughout the process.

A motion was made by Manager Gust and seconded by Manager Weston to approve and authorize the following regarding acquisition of Flowage Easements for the Metro Flood Diversion Project:

- Authorize the Secretary-Treasurer to send final next steps letters and Agreements to Acquire a Flowage Easement to the owners of the following properties:
 - OINs 855 and 1961
 - OIN 1095
 - OINs 1339 and 1481
 - OINs 1347 and 1581
 - OIN 1882
 - OIN 1886
 - OIN 1891
 - OIN 1959
 - OIN 7002
- Authorize legal counsel to file and proceed with eminent domain actions under Chapter 32-15 of the North Dakota Century Code if property owners do not sign and return agreements on or before February 27, 2023

Upon roll call vote, the motion carried unanimously.

It was moved by Manager Lougheed and seconded by Manager Steen to approve the *Purchase Agreement* for OIN 2011 regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Weston and seconded by Manager Gust to approve the *Purchase Agreement* for OIN 5034 regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Oly Olafson and Jodi Smith reviewed a counteroffer from the property owners of OIN 1886 regarding the Metro Flood Diversion Project. The Board discussed the counteroffer.

It was moved by Manager Lougheed and seconded by Chairman Olson to approve the *Purchase Agreement* for OIN 1886 regarding the Metro Flood Diversion Project. The Board held further discussion on the counteroffer. Upon roll call vote, the following Managers voted in favor: Olson and Lougheed. Managers Gust, Weston and Steen voted against the motion. The motion failed.

Mr. Dodds presented a Pre-Approval Application Form for a *Rural Impact Mitigation Program* loan for OIN 2016 regarding the Metro Flood Diversion Project.

A motion was made by Manager Steen and seconded by Manager Gust to approve the Pre-Approval Application Form for a *Rural Impact Mitigation Program* loan for OIN 2016 regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project – land agent reports

Ken Helvey, Mr. Olafson, Scott Stenger, Dale Ahlsten and Lisa Brekkestran reported on activities, meetings and discussions with various property owners regarding the Metro Flood Diversion Project.

Metro Flood Diversion Project – relocation and RHDP reimbursement review / approval

It was moved by Manager Gust and seconded by Manager Steen to approve the relocation and replacement housing payment for OIN 8385, as outlined in the letter dated January 13, 2023, regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Lougheed and seconded by Manager Weston to approve the relocation and replacement housing payment for OIN 9383, as outlined in the letter dated January 13, 2023, regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project – property management

Mr. Dodds stated the National Weather Service will publish the first flood forecast for the area tomorrow, January 27, 2022. The land management team for the Metro Flood Diversion Project is currently conducting an inventory of flood risk on properties owned for the project.

Madeline Gorghuber discussed various farmland leases regarding the Metro Flood Diversion Project. A motion was made by Manager Weston and seconded by Manager Gust to approve the 2023 *Cash Crop Lease Agreements*, as corrected, on the following properties regarding the Metro Flood Diversion Project:

- OINs 1979, 8857, 8864 and 8865
- OINs 530Y, 2372Y and 9182Y
- OINs 900Y and 2368Y
- OINs 943Y and 9762Y
- OINs 523Y and 937Y
- OINs 26 and 1088Y
- OINs 1890, 1990 and 9332N

Upon roll call vote, the motion carried unanimously.

Ms. Gorghuber stated the former property owner of OIN 8385 is building a replacement property; however, it is not finished yet and he has requested to continue renting OIN 8385 on a month-to-month basis until his replacement property is completed. The lease would expire August 31, 2023.

A motion was made by Manager Gust and seconded by Manager Lougheed to approve and authorize the Chairman to sign the *Amendment to Rental Agreement Lease* with Eric Score for OIN 8385 regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Ms. Gorghuber said the barn on OIN 8385 needs to be removed for the Metro Flood Diversion Project and indicated Mr. Score has requested to remove it to salvage the

materials, at no cost to the Water Resource District. Under the proposed *Structure Removal Agreement*, Mr. Score is required to secure and maintain liability insurance and all work must be completed by June 30, 2023.

A motion was made by Manager Lougheed and seconded by Manager Steen to approve and authorize the Chairman to sign the *Structure Removal Agreement* with Eric Score for the removal of the barn on OIN 8385 regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project – contracting actions

It was moved by Manager Steen and seconded by Manager Lougheed to approve and authorize the Chairman to sign the following regarding appraisal and land management services for the Metro Flood Diversion Project:

- *Task Order No. 6 - Amendment 2* with Patchin Messner Valuation Counselors, in the amount of \$6,250
- *Task Order No. 5 – Amendment 2* with Patchin Messner Valuation Counselors, in the amount of \$3,000
- *Task Order No. 1 – Amendment 3* with Pifer’s Land Management Group, with no change in cost

Upon roll call vote, the motion carried unanimously.

Maple River Dam – 2022-2023 tree removal

Kurt Lysne reported the contractor is continuing to work on the tree removal project in the backwater pool of the Maple River Dam.

Regional Conservation Partnership Program

Mr. Lysne reported on the RCPP – Upper Maple River Watershed Plan. Cost-share is in place to update the Plan and re-submit it to the Natural Resources Conservation Service (NRCS) and the National Watershed Management Center when the updates are complete.

Discussion was held on the RCPP – Rush River Watershed Plan. Moore Engineering, Inc. met with the City of Amenia and property owners recently to discuss updates on the project. Minor alignment changes to the levee were made as a result of the discussions at the meeting. Moore Engineering, Inc. is continuing final design, including surveying, to determine the modifications that can be made to the project based on feedback from property owners and the City of Amenia, while continuing to stay in compliance with the NRCS and FEMA. Once the modifications to the design are complete, Moore Engineering, Inc. will bring the design to a future meeting for discussion and will also meet with property owners and the City of Amenia again.

Legislative updates

Sean Fredricks updated the Board on legislative items regarding water resource districts.

Bills

It was moved by Manager Lougheed and seconded by Manager Gust to approve the payment of Checks #15226 through #15238 and the wire transfers, as presented. Upon roll call vote, the following Managers voted in favor: Olson, Lougheed, Weston, Gust and Steen. The Chairman declared the motion passed.

Red River Basin Commission - Red River bathymetry

Ted Preister reported bathymetry data on the Red River mainstem will be collected by the Corps of Engineers this summer from the South Dakota border to the Canadian border.

Adjournment

There being no further business for the Board to consider, it was moved by Manager Lougheed, seconded by Manager Weston and unanimously carried to adjourn the meeting.

APPROVED:

Rodger Olson
Chairman

ATTEST:

Carol Harbeke Lewis
Secretary-Treasurer