

MINUTES OF VIRTUAL / CONFERENCE CALL MEETING
CASS COUNTY JOINT WATER RESOURCE DISTRICT
ORIGINATING AT THE CASS COUNTY HIGHWAY DEPARTMENT
WEST FARGO, NORTH DAKOTA
FEBURARY 9, 2023

A virtual / conference call meeting of the Cass County Joint Water Resource District was held on February 9, 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 and Katie Schmidt, Ohnstad Twichell, P.C.; Kurt Lysne, Lyndon Pease, Josh Hassell and Brady Woodard, Moore Engineering, Inc.; Mike Opat, Houston Engineering, Inc.; Rob Stefonowicz, Larkin Hoffman Attorneys; Eric Dodds, Dean Vetter and Sabrina Tusa, AE2S; Ken Helvey, SRF Consulting Group, Inc.; Scott Stenger and Dale Ahlsten, ProSource Technologies, LLC; Oly Olafson, Lee Kaffar, Wade Whitworth and Kelsey Lee, HDR, Inc.; Drew Nicklay, Ulteig Engineers, Inc.; Madeline Gorghuber, Diversion Authority Lands Specialist; Duane Breitling, Cass County Commissioner; Matt Stamness, Cass County Highway Department; Katrina Olson, Jacobs; Dylan Brown, ASN Constructors; Kristie Sauvageau and Leo Richard, Stanley Township property owners.

Agenda

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

Minutes

It was moved by Manager Weston, seconded by Manager Gust and unanimously carried to approve the minutes of the January 26, 2023 (two sets), meetings.

Metro Flood Diversion Project – acquisition review / approval

Eric Dodds reported negotiations are at a standstill with some property owners regarding the acquisition of property for the Southern Embankment – Reach 2B component of the Metro Flood Diversion Project. Mr. Dodds proposed sending letters to groups of property owners where land agents have identified property acquisition negotiations are not proceeding. The letters would provide a last written offer for the property owner to sign a Purchase Agreement 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 necessary property rights. Negotiations would also continue throughout the process.

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

- Authorize the Secretary-Treasurer to send final next steps letters and Purchase Agreements to the owners of the following properties:
 - OINs 818N1 and 818N2
 - OIN 1075
 - OIN 1078X
 - OINs 1080 and 1081
 - OIN 1118
 - OIN 7225
 - OIN 8359
- 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 Steen and seconded by Manager Lougheed to approve the *Purchase Agreement* for OIN 1344 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 *Purchase Agreement* for OINs 1451, 1452, 1453, 1466 and 1494 regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Sean Fredricks discussed the proposed *Agreement for Entry and Construction* for OINs 9736 and 9737 regarding the Metro Flood Diversion Project. The Agreement allows Metro Flood Diversion Project construction to proceed while continuing negotiations regarding the value of the necessary property rights on OINs 9736 and 9737 for the Metro Flood Diversion Project.

It was moved by Manager Lougheed and seconded by Manager Weston to approve and authorize the Chairman to sign the *Agreement for Entry and Construction* for OINs 9736 and 9737 regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

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

It was moved by Manager Lougheed and seconded by Manager Gust to approve the relocation and replacement housing payments for OIN 1899, as outlined in the letter dated February 3, 2023, regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Weston and seconded by Manager Lougheed to approve the relocation and replacement housing payments for OIN 220, as outlined in the letter dated February 3, 2023, regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Gust and seconded by Manager Steen to approve the relocation and replacement housing payment for OIN 1129, as outlined in the letter dated February 3, 2023, regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Weston and seconded by Manager Lougheed to approve the payment to Dakota Hills Electric, Inc. for electrical bids regarding Rural Impact Mitigation Program reports for OINs 818, 2016 and 1939, as outlined in the letter dated February 3, 2023, regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project – property management

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

- OINs 6, 8, 9, 14, 15, 16, 17, 18, 19, 20, 21, 22, and southern portions of OINs 11, 12 and 13
- OINs 217Y and 233Y
- OINs 722X and 9279
- OINs 815Y, 1094 and 9191Y
- OIN 938Y

Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project – Raymond Township Improvement District No. 67 – ASN Constructors Access Agreement

Dylan Brown stated ASN Constructors will be completing work on the Burlington Northern Santa Fe railway for the Metro Flood Diversion Project in the SE 1/4 of Section 14 in Raymond Township. To access the project site, ASN Constructors is requesting to construct a crossing on property owned by the Water Resource District for Raymond Township Improvement District No. 67. The crossing is anticipated to be utilized through 2026. The Water Resource District would review the design and plans for the crossing prior to its installation.

It was moved by Manager Gust and seconded by Manager Weston to approve and authorize the Chairman to sign the *Access Agreement* with ASN Constructors regarding installation and use of a crossing on Raymond Township Improvement District No. 67 in the SE 1/4 of Section 14 in Raymond Township. Upon roll call vote, the motion carried unanimously.

Maple River Dam – 2022-2023 tree removal

Brady Woodard reported the contractor is continuing to work on the tree removal project in the backwater pool of the Maple River Dam. The weather has been optimal for the project and the contractor is available to do more work if the Water Resource District wishes to continue the project. The Board discussed continuing tree removal work at the Maple River Dam for approximately two additional weeks, not to exceed \$50,000.

It was moved by Manager Gust and seconded by Manager Loughheed to approve and authorize the Chairman to sign the *First Amendment* to the *Agreement* for the Maple River Dam Tree Removal Project in the backwater pool of the Maple River Dam, not to exceed \$50,000. Upon roll call vote, the motion carried unanimously.

Weed, cattail, tree and brush control

Discussion was held on the bids received and products used for weed, cattail, tree and brush control on Cass County Joint Water Resource District facilities for 2023. The Board directed the Secretary-Treasurer to invite the Cass County Weed Control Officer to a future meeting to further discuss the matter.

Maple River Dam - Lynn Utke letter

The Board discussed a letter received from Lynn Utke regarding property in the Maple River Dam area. Mr. Utke indicated there is a possible beaver dam or blocked culvert in Section 28 of Highland Township. The Board directed Mr. Woodard to contact Mr. Utke regarding the matter.

Mr. Utke suggested utilizing the supplemental crop insurance program for the Metro Flood Diversion Project for property owners behind the Maple River Dam. The Board indicated the Maple River Dam is unrelated to the Metro Flood Diversion Project and agreements have been in place with property owners for many years regarding the Maple River Dam. It was also pointed out that the Water Resource District continues to monitor and take action necessary for weed control needed on Water Resource District owned properties regarding the Maple River Dam.

The Board directed the Secretary-Treasurer to send a letter to Mr. Utke outlining the above.

Regional Conservation Partnership Program

Josh Hassell reported on the RCPP – Rush River Watershed Plan. Moore Engineering, Inc. is preparing exhibits to show impacts of the modified project alignment to surrounding property. The exhibits will also be used in continued conversations with property owners. 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 before returning the Plan to the Natural Resources Conservation Service (NRCS) for review. Discussion was held on the timeline for the design. Mr. Hassell indicated because of the changes to the alignment, the design has taken more time to complete than was originally anticipated. Mr. Hassell also noted the cost-share

request submitted to the NDDWR for the additional work needed for the Plan will be considered at the February State Water Commission meeting. The Board directed Moore Engineering, Inc. to work with the Secretary-Treasurer to request a special meeting of the Cass County Flood Sales Tax Committee to consider the cost-share request submitted for the Plan updates.

Mr. Hassell next reported on the RCPP – Upper Maple River Watershed Plan. The NRCS has indicated that due to changes in the Plan, the scoping meeting will need to be held again with various agencies. Moore Engineering, Inc. will assist in coordinating that meeting, which may be held in May.

Bills

It was moved by Manager Steen and seconded by Manager Lougheed to approve the payment of Checks #15239 through #15246 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.

Legislative updates

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

Cass County letter of support request – FY 2023 Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Transportation Grants program

The Secretary-Treasurer stated the Cass County Engineer requested a letter of support for Cass County's application submission for the FY 2023 Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Transportation Grants program. The project includes reconstructing Cass County Highway 4 between Cass County Highway 11 and North Dakota Highway 18 and Cass County Highway 10 between Cass County Highway 5 and the City of Tower City/Barnes County line. The letter of support will assist Cass County with their RAISE grant application which could result in bringing between \$12-\$22 million in federal infrastructure funding to Cass County.

A motion was made by Manager Weston and seconded by Manager Lougheed to authorize the Secretary-Treasurer to draft a letter to the U.S. Department of Transportation supporting Cass County's application for the FY 2023 RAISE Transportation Grants program. Upon roll call vote, the motion carried unanimously.

Letter from the Cass County Commission regarding potential flood risk reduction projects for Cass County Flood Sales Tax funding consideration

Kurt Lysne indicated he is not aware of any Cass County Joint Water Resource District projects to submit for Cass County Flood Sales Tax funding consideration at this time. Mr. Lysne said he will be present at the Cass County Flood Sales Tax Committee meeting to provide updates on Water Resource District projects that have been approved for funding through the Cass County Flood Sales Tax.

Adjournment

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

APPROVED:

Rodger Olson
Chairman

ATTEST:

Carol Harbeke Lewis
Secretary-Treasurer