

MINUTES OF VIRTUAL / CONFERENCE CALL MEETING
CASS COUNTY JOINT WATER RESOURCE DISTRICT
ORIGINATING AT THE WEST FARGO PUBLIC WORKS BUILDING
WEST FARGO, NORTH DAKOTA
SEPTEMBER 28, 2023

A virtual / conference call meeting of the Cass County Joint Water Resource District was held on September 28, 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.; Rob Stefonowicz, Larkin Hoffman; Kurt Lysne, Lyndon Pease and Brady Woodard, Moore Engineering, Inc.; Mike Opat, Houston Engineering, Inc.; Duane Breitling, Cass County Commissioner; Dean Vetter and Sabrina Tusa, AE2S; Scott Stenger and Dale Ahlsten, ProSource Technologies, LLC; Oly Olafson, HDR, Inc.; Joel Paulson, Diversion Authority Executive Director; Martin Nicholson, Diversion Authority Deputy Executive Director; Jodi Smith, Diversion Authority Director of Lands and Compliance; Madeline Daudt, Diversion Authority Lands Specialist; Jessica Warren, Diversion Authority Compliance Specialist; Paul Barthel and Katrina Olson, Jacobs; Leo Richard, Stanley Township property owner.

Agenda

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

Minutes

It was moved by Manager Steen, seconded by Manager Weston and unanimously carried to approve the minutes of the September 14, 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.

Dean Vetter discussed the FMD-Wiser Subdivision plat that comprises of Water Resource District owned property in Wiser Township for the Diversion Channel and Associated Infrastructure of the Metro Flood Diversion Project. The Cass County Planning Commission recommended the plat for approval by the Cass County Commission at their meeting this morning, contingent upon approval of the plat by the Water Resource District.

It was moved by Manager Weston and seconded by Manager Gust to approve and authorize the Chairman to sign the FMD-Wiser Subdivision plat regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Jodi Smith discussed the Property Acquisition Status Report regarding the Metro Flood Diversion Project. Ms. Smith indicated current activities entail property rights negotiations and acquisitions and beginning to plat the land for the Diversion Channel and Associated Infrastructure of the Metro Flood Diversion Project.

Ms. Smith updated the Board on the lands budget for the Metro Flood Diversion Project. The Board asked Ms. Smith and Paul Barthel to update and bring back the updated lands budget analysis for the Metro Flood Diversion Project at a future meeting.

Metro Flood Diversion Project – appraisal / RHDP review / approval

Mr. Vetter discussed various appraisals regarding the Metro Flood Diversion Project.

It was moved by Manager Steen and seconded by Manager Gust to approve the appraisal on OIN 1939, with an effective date of April 27, 2023, as an estimate of 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 Weston and seconded by Manager Lougheed to approve the appraisal on OINs 867, 2033 and 8360, with an effective date of July 20, 2022, as an estimate of 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 Steen to approve the maximum Replacement Housing Differential Payment for OIN 1912 in the amount of \$140,000 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 maximum Replacement Housing Differential Payment for OIN 1939 in the amount of \$174,864 regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project – acquisition review / approval

Sabrina Tusa reported negotiations are at a standstill with some property owners regarding the acquisition of Flowage Easements for the Metro Flood Diversion Project. Ms. Tusa proposed sending letters to 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 Steen and seconded by Manager Gust to approve and authorize the following regarding acquisition of Flowage Easements for the Metro Flood Diversion Project:

- Authorize the Secretary-Treasurer to send a final next steps letter and Agreement to Acquire a Flowage Easement to the owners of OINs 1967 and 1968
- Authorize legal counsel to file and proceed with an eminent domain action under Chapter 32-15 of the North Dakota Century Code if the property owners do not sign and return the agreement on or before October 30, 2023

Upon roll call vote, the motion carried unanimously.

It was moved by Manager Lougheed and seconded by Manager Weston to approve the *Pre-Approval Application Form* for a Rural Impact Mitigation Program loan for OINs 9993 and 9994 regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project – land agent reports

Scott Stenger reported on activities, meetings and discussions with various property owners regarding the Metro Flood Diversion Project. Mr. Stenger noted he, Eric Dodds and Ken Helvey have given presentations at various conferences regarding right of way acquisition for the Metro Flood Diversion Project. Conference attendees have been very engaged in learning more about topics such as flowage easements and crop insurance related to 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 Weston to approve the relocation and replacement housing payments for OIN 1112 and 1113, as outlined in the letters dated September 20, 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 Gust to approve the relocation and replacement housing payment for OIN 2014, as outlined in the letter dated September 20, 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 ND Petroleum Equipment, Inc. in the amount of \$315,000 regarding the purchase and installation of propane service to OIN 1093 for 6G / Richard Farms. Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project – property management

Madeline Daudt said as part the settlement with Terry and Kristie Sauvageau regarding OINs 1098, 1112 and 1113 that was approved at the June 22, 2023, meeting, the Sauvageau's will accept fee ownership of all parcels subject to existing farmland leases; the Sauvageau's will become the landlords/lessors under those leases and will be entitled to all rental payments due or owed under each lease; and rental payments for 2023 will

be credited at closing. Ms. Daudt indicated the rental payments for OINs 29, 31, 827, 1099X and 1106Y paid to the Water Resource District are to be reimbursed to Terry and Kristie Sauvageau per the settlement.

A motion was made by Manager Lougheed and seconded by Manager Gust to approve the reimbursement of rental payments for the following properties to Terry and Kristie Sauvageau regarding the Metro Flood Diversion Project:

- OIN 29, in the amount of \$36
- OIN 31, in the amount of \$11,385
- OIN 827, in the amount of \$20,931
- OIN 1099X, in the amount of \$6,928.50
- OIN 1106Y, in the amount of \$14,295

Upon roll call vote, the motion carried unanimously.

It was moved by Manager Gust and seconded by Manager Steen to approve and authorize the Chairman to sign the *Temporary Access Agreement* with the property owners of OIN 7004 regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Jessica Warren indicated a property owner adjacent to OIN 7234 has requested the removal of dead trees on OIN 7234. Ms. Warren said there are approximately 28 trees to be removed.

A motion was made by Manager Steen and seconded by Manager Gust to approve and authorize the Chairman to sign the *Tree Removal Agreement* with L&L's Tree Service LLC, as amended, regarding the removal of trees on OIN 7234. Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project – contracting actions

It was moved by Manager Lougheed and seconded by Manager Weston to approve and authorize the Chairman to sign *Task Order No. 6 – Amendment 4* for Crown Appraisals, Inc., in the amount of \$18,000 regarding appraisal services for the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Ms. Daudt discussed an *Agreement* with Ames Construction, Inc. to leave the existing material within the fenced job site on OIN 815Y as per the settlement with the property owners of OIN 8386, that was approved at the August 24, 2023, meeting. The property owners of OIN 8386 will be relocating their business to OIN 815Y and requested the material remain on the property.

It was moved by Manager Lougheed and seconded by Manager Steen to approve and authorize the Chairman to sign the *Agreement* with Ames Construction, Inc. regarding the existing material within the fenced job site on OIN 815Y regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

A motion was made by Manager Steen and seconded by Manager Gust to approve the *Exchange Agreement and Purchase Agreement Amendment* with the Lawrence & Susan Richard Living Trust regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Regional Conservation Partnership Program (RCPP)

Kurt Lysne updated the Board on the RCPP – Upper Maple River Watershed Plan. Moore Engineering, Inc. submitted the Plan to the Natural Resources Conservation Service (NRCS) for final review and completion.

Manager Weston reported the NRCS is coordinating a tour in Manitoba, Canada, of biomass harvesting on October 11 with NRCS Regional Conservation Partnership Program (RCPP) Plan sponsors. Biomass harvesting is included in several North Dakota RCPP Plans, including the RCPP – Upper Maple River Watershed Plan. Manager Weston said the tour is an opportunity to discuss biomass harvesting with individuals experienced in the process.

Maple River Dam – Year 17 (2023) archaeological monitoring

Brady Woodard said Moore Engineering, Inc. is completing the annual surveys of the cultural sites and preparing the maps that will be provided to the project Archaeologist. The project Archaeologist is anticipated to be on-site in a couple of weeks.

Maple River Dam – weed control

Mr. Woodard reported the weed control contractor recently completed the ground spraying component of the weed control spraying at the Maple River Dam. The Board discussed making sure the weed control contractor does not inadvertently spray the grass in Water Resource District facilities. Mr. Woodard indicated he will discuss the matter with the weed control contractor.

Maple River Dam – sign repair

Discussion was held on signage at the Maple River Dam. Mr. Lysne noted Moore Engineering, Inc. has been in communication with adjacent property owners regarding signage of posted properties at the Maple River Dam.

Bills

It was moved by Manager Steen and seconded by Manager Lougheed to approve the payment of Checks #15284 through #15287 and the wire transfers, as presented. Upon roll call vote, the following Managers voted in favor: Olson, Lougheed, Weston, Gust and Steen. The motion carried unanimously.

Office staffing

The Board discussed future office staffing needs upon retirement of the current Secretary-Treasurer at the end of the year. The Board requested job descriptions for the Water Resource District positions for review at the November meeting.

Minnesota Association of Floodplain Managers 2023 conference

Manager Weston reported the 2023 conference of the Minnesota Association of Floodplain Managers is being held November 1-3, 2023, in Moorhead, Minnesota. Manager Weston indicated the information could be beneficial to Water Resource District Managers.

Red River Basin Commission conference

The Red River Basin Commission is hosting the 41st Annual Red River Basin Land and Water International Summit Conference January 16-18, 2024, at the West Fargo Convention Center in West Fargo, North Dakota. The conference will largely focus on soil health topics.

Adjournment

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

APPROVED:

Rodger Olson
Chairman

ATTEST:

Carol Harbeke Lewis
Secretary-Treasurer