

MINUTES OF VIRTUAL / CONFERENCE CALL MEETING  
CASS COUNTY JOINT WATER RESOURCE DISTRICT  
ORIGINATING AT THE WEST FARGO PUBLIC WORKS BUILDING  
WEST FARGO, NORTH DAKOTA  
DECEMBER 14, 2023

A virtual / conference call meeting of the Cass County Joint Water Resource District was held on December 14, 2023, at 9:00 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.; Rob Stefonowicz, Larkin Hoffman; Lyndon Pease, Alexa Ducioame, Josh Hassell and Brady Woodard, Moore Engineering, Inc.; Mike Opat, Houston Engineering, Inc.; Duane Breitling and Mary Scherling, Cass County Commissioners; Joel Paulsen, Jodi Smith, Martin Nicholson, Madeline Daudt and Jessica Warren, Metro Flood Diversion Authority; Eric Dodds, Dean Vetter and Sabrina Tusa, AE2S; Ken Helvey and Katie Laidley, SRF Consulting Group, Inc.; Scott Stenger and Dale Ahlsten, ProSource Technologies, LLC; Oly Olafson, Lee Kaffer, Wade Whitworth, Kelsey Lee and Katy Moore, HDR Engineering, Inc.; Paul Barthel, Jacobs; Dan Jacobson and Richard Lewis, Fargo residents.

**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 Steen, seconded by Manager Lougheed and unanimously carried to approve the minutes of the December 14, 2023 (two sets), meetings.

**Metro Flood Diversion Project – John Albrecht retirement**

John Albrecht notified the Board he is retiring from appraisal work regarding the Metro Flood Diversion Project. The Board thanked Mr. Albrecht for his work, they have enjoyed working with him.

**Metro Flood Diversion Project – project updates and general topics**

Rob Stefonowicz 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. Property acquisition for the project continues to progress and project

properties deemed excess land are proceeding through the Metro Flood Diversion Authority's *Policy on the Disposition and Management of Comprehensive Project Lands*.

Paul Barthel provided an overview and showed a video of the construction status of various components of the Metro Flood Diversion Project. Mr. Barthel indicated he will continue to provide construction updates to the Board at future meetings and information is also available at [www.fmdiversion.gov](http://www.fmdiversion.gov) and on the Metro Flood Diversion Authority's YouTube channel. Discussion was held on construction timelines of various portions of the Diversion Channel for the Metro Flood Diversion Project.

Jodi Smith reported all parcels in the footprint of the Diversion Channel of the Metro Flood Diversion Project will no longer be in agricultural production in 2024, as well as most parcels in the footprints of Southern Embankment Reaches 2B and 4. Discussion was held on weed control efforts on those properties that will not be in agricultural production. Ms. Smith indicated contractors are hired to handle weed control regarding the Metro Flood Diversion Project.

Ms. Smith discussed the forest mitigation plan regarding the Metro Flood Diversion Project. Ms. Smith said mitigation efforts are required to comply with permits for the project. The Corps of Engineers is responsible for planting the forest mitigation sites and maintaining the sites for five years. The forest mitigation plantings will occur in 2024 and 2025. The Metro Flood Diversion Authority has partnered with Cass County to plant trees for the forest mitigation on flood buyout lots and the forest mitigation sites will be deed restricted.

### **Metro Flood Diversion Project – acquisition review / approval**

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 1328 and 1345
  - OIN 1329
  - OINs 1336, 1362 and 1370
  - OINs 1337, 1348 and 1356
  - OINs 1366, 1599, 8467, 8468 and 8780

- OIN 1545
- OIN 8466
- OINs 9231 and 9232
- 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 January 15, 2024.

Upon roll call vote, the motion carried unanimously.

It was moved by Manager Lougheed and seconded by Manager Steen to approve the *Pre-Approval Application Form* for a Rural Impact Mitigation Program loan for OIN 1912 regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Weston and seconded by Manager Steen to approve reimbursement of property owners' attorney's fees regarding acquisition of a *Flowage Easement* on OINs 1587, 9237 and 9245 in the amount of \$590 regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

**Metro Flood Diversion Project – land agent reports**

Ken Helvey, Wade Whitworth, Oly Olafson, Dale Ahlsten and Scott Stenger 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 Steen and seconded by Manager Weston to approve the relocation and replacement housing payment for OINs 9431 and 9438, as outlined in the letter dated December 5, 2023, regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

**Metro Flood Diversion Project – property management**

A motion was made by Manager Lougheed and seconded by Manager Gust to approve and authorize the Chairman to sign the *Debris Removal Agreement* with Peter Livdahl, d/b/a Building & Grounds Management for debris removal on OIN 1200X regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

A motion was made by Manager Gust and seconded by Manager Weston to approve and authorize the Chairman to sign the *License and Hold Harmless Agreement* with Wagner Construction, Inc. regarding staging of equipment on OIN 1083X regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Madeline Daudt discussed crop damage claims regarding OINs 9758N, 698N, 9756, 9760, 8674 and 8675 regarding the Metro Flood Diversion Project. The Board discussed the lack of documentation to support the crop damage claim for Jim Hagenson on OINs 8674 and 8675. Ms. Daudt indicated all crop damage sites were measured by the P3 developer for the Diversion Channel and Associated Infrastructure of the Metro Flood Diversion Project.

It was moved by Manager Lougheed and seconded by Manager Steen to do the following regarding crop damages related to the Metro Flood Diversion Project:

- Approve payment to Kevin Libbrecht for crop damages on OINs 9758N and 698N, in the amount of \$13,931.30
- Approve payment to Alan Libbrecht for crop damages on OINs 9756 and 9760, in the amount of \$7,752.34
- Table the crop damages claim for Jim Hagenson for OINs 8674 and 8675 until additional documentation is received.

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:

- *Services Agreement for Appraisal Review Services* with DKJ Appraisal, LLC
- *Task Order No. 1 – Amendment 0* with LandVest, Inc. in the amount of \$164,500
- *Task Order No. 1 – Amendment 4* with Pifer’s Land Management Group at no cost

Upon roll call vote, the motion carried unanimously.

### **Metro Flood Diversion Project – acquisition of remnant parcels**

Manager Weston said Southeast Cass Water Resource District is interested in potentially purchasing excess properties OINs 726Y, 730Y and 9732Y for the Metro Flood Diversion Project to be used as sediment disposal sites for Sheyenne-Maple Flood Control Projects #1 and #2. Ms. Smith indicated OINs 726Y and 730Y are anticipated to be deemed excess properties, however OIN 9732Y is not anticipated to be deemed excess property. Once properties are deemed excess by the Metro Flood Diversion Authority’s Executive Director, the properties will follow the Metro Flood Diversion Authority’s *Policy on the Disposition and Management of Comprehensive Project Lands*. The Board discussed purchase of excess Metro Flood Diversion Project lands for Water Resource District sediment disposal purposes. Discussion will continue on the matter at a future meeting.

### **Regional Conservation Partnership Program (RCPP)**

Josh Hassell updated the Board on the RCPP – Rush River Watershed Plan. A meeting was held recently with BNSF and the Mayor of Amenia to discuss the alignment of the levee and operation and maintenance of the project in relation to BNSF property in the project area. Moore Engineering, Inc. is near completion of the design of the project. Once the design is complete, the Water Resource District and the City of Amenia can discuss the draft operation and maintenance plan for the project.

### **Maple River Dam – 2023-2024 tree removal**

Discussion was held on tree removal efforts in the backwater pool area of the Maple River Dam for 2023-2024. It was moved by Manager Weston and seconded by Manager Lougheed to approve and authorize the Chairman to sign the *Agreement* with Industrial Builders, Inc. for the 2023-2024 Maple River Dam Tree Removal Project in the backwater pool of the Maple River Dam, not to exceed \$100,000. Upon roll call vote, the motion carried unanimously.

**Maple River Dam – Year 17 (2023) archeological monitoring**

Brady Woodard stated Moore Engineering, Inc. continues to work with the project Archaeologist on the environmentally sensitive sites regarding the Year 17 (2023) archaeological monitoring at the Maple River Dam.

**Set regular meeting dates for 2024**

The Board discussed its regular meeting dates, times and places for the year 2024. It was moved by Manager Lougheed and seconded by Manager Weston to adopt the following Resolution. Upon roll call vote, the motion carried unanimously.

RESOLUTION

BE IT RESOLVED, that the Cass County Joint Water Resource District does hereby set the second and fourth Thursdays of January and February at 8:00 a.m. at the West Fargo Public Works Building, 810 12th Avenue NW, West Fargo, North Dakota, the second and fourth Thursdays of March through October at 8:00 a.m., the 14th of November at 9:00 a.m., and the 12th of December at 9:00 a.m., at the Cass County Highway Department, 1201 Main Avenue West, West Fargo, North Dakota, as its regular meeting dates, times and places for the year 2024.

BE IT FURTHER RESOLVED, that the Secretary be and she hereby is directed to forward a copy of said schedule of meetings to the Cass County Auditor and post said schedule at the Water Resource District’s principal office and the location of the scheduled meetings, all in accordance with the provisions of Section 44-04.20 as amended.

APPROVED:

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Rodger Olson  
Chairman

ATTEST:

\_\_\_\_\_  
Melissa Hinkemeyer  
Secretary

**Appointment of Cass County Water Resource Districts representative to the Cass County Road Advisory Committee for a two-year term (2024-2025)**

It was moved by Manager Lougheed, seconded by Manager Weston and unanimously carried to appoint William A. Hejl as the Cass County Water Resource Districts representative to the Cass County Road Advisory Committee for a two-year term (2024-2025).

### **Office staffing and furniture**

Discussion was held on a quote from Business Essentials for office furniture for four employees and a workroom. The furniture is the same furniture Cass County is furnishing their offices with as part of the Cass County Highway Department building remodel and addition project.

A motion was made by Manager Steen and seconded by Manager Weston to authorize Melissa Hinkemeyer to sign and return the Business Essentials quote for office furniture for the Cass County Water Resource Districts' office spaces, as presented. Upon roll call vote, the motion carried unanimously.

The Board discussed forming a Humans Resources Committee for staff hiring and human resources matters regarding the Cass County Water Resource Districts.

A motion was made by Manager Steen and seconded by Manager Lougheed to form and appoint Manager Weston, Manager Steen, William A. Hejl, Melissa Hinkemeyer and Nina Stone to the Cass County Joint Water Resource District Human Resources Committee. Upon roll call vote, the motion carried unanimously.

A motion was made by Manager Steen and seconded by Manager Gust to approve payments for sick leave and vacation for Carol Harbeke Lewis and Nina Stone, as presented. The Board also directed the Human Resources Committee to develop policies related to payment of sick leave and vacation for departing employees. Upon roll call vote, the motion carried unanimously.

The Board also directed the Human Resources Committee to explore the possibility of implementing salary steps for Cass County Water Resource Districts staff.

### **Bills**

It was moved by Manager Steen and seconded by Manager Weston to approve the payment of Checks #15296 through #15300 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.

### **Staff recognition**

Chairman Olson moved to recognize the hard work and efforts by Carol Harbeke Lewis and Nina Stone and show appreciation for their years of service to the Cass County Water Resource Districts. Manager Lougheed seconded the motion. Upon roll call vote, the motion carried unanimously.

### **Independent Contractor Agreement with Nina Stone**

Manager Weston said Nina Stone has offered to continue providing accounting services on an hourly basis for the Cass County Water Resource Districts until a new Accountant is hired and trained. A motion was made by Manager Weston and seconded by Manager Gust to direct the Water Resource District Attorney to draft an *Independent Contractor Agreement* with Nina Stone regarding accounting services for the Cass County Water Resource Districts for consideration at a future meeting. Upon roll call vote, the motion carried unanimously.

**Adjournment**

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

APPROVED:

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Rodger Olson  
Chairman

ATTEST:

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Melissa Hinkemeyer  
Secretary