

MINUTES OF VIRTUAL / CONFERENCE CALL MEETING
CASS COUNTY JOINT WATER RESOURCE DISTRICT
ORIGINATING AT THE WEST FARGO PUBLIC WORKS BUILDING
810 12TH AVENUE NW, WEST FARGO, NORTH DAKOTA
JANUARY 11, 2024
8:00 A.M.

A virtual / conference call meeting of the Cass County Joint Water Resource District was held on January 11, 2024, at 8:00 a.m.

Present were Rodger Olson, Maple River Water Resource District; Ken Lougheed, North Cass Water Resource District; Jacob Gust, Rush River Water Resource District; Keith Weston and Rick Steen, Southeast Cass Water Resource District; Melissa Hinkemeyer, Secretary-Treasurer; Carolyn Fiechtner, Administrative Assistant; Sean M. Fredricks, Luke Andrud, and Chis McShane, Ohnstad Twichell, P.C.; Rob Stefonowicz, Larkin Hoffman; Lyndon Pease, Brady Woodard, and Josh Hassell, Moore Engineering, Inc.; Mike Opat, Houston Engineering, Inc.; Joel Paulsen, Jodi Smith, Tom Fuchs, Madeline Daudt and Jessica Warren, Metro Flood Diversion Authority; Eric Dodds, Dean Vetter, and Sabrina Tusa, AE2S; Duane Breitling, Cass County Commissioner; Ken Helvey and Katie Laidley, SRF Consulting Group, Inc.; Scott Stenger and Dale Ahlsten, ProSource Technologies, LLC; Drew Nicklay, Ulteig Engineers; Oly Olafson, Kelsey Lee and Wade Whitworth HDR Engineering, Inc.; Paul Barthel, Jacobs; and Leo Richard, Stanley Township property owner.

Approval of agenda

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

Minutes

It was moved by Manager Steen, seconded by Manager Weston, and unanimously carried to approve the minutes of the December 14, 15, 18, 19, 20, and 26, 2023, and January 2 and 5, 2024, meetings.

Reorganization of the Board for 2024

It was moved by Manager Steen and seconded by Manager Gust to appoint the following individuals to serve in the designated capacities for calendar year 2024:

Rodger Olson	Chairman
Ken Lougheed	Vice Chairman
Melissa Hinkemeyer	Secretary-Treasurer

Upon roll call vote, the motion carried unanimously.

It was moved by Manager Gust and seconded by Manager Steen to appoint the following individuals to serve in the designated capacities for calendar year 2024:

Rodger Olson	Diversion Authority Representative
Rick Steen	Diversion Authority Alternate Representative
Rodger Olson	Diversion Authority Planning Committee
Rick Steen	Diversion Authority Planning Committee Alternate Representative
Ken Lougheed	Diversion Authority Land Management Committee Representative
Jacob Gust	Diversion Authority Land Management Committee Alternate Representative
Rick Steen	Diversion Authority Finance Committee Representative
Jacob Gust	Diversion Authority Finance Committee Alternate Representative

Upon roll call vote, the motion carried unanimously.

It was moved by Manager Steen and seconded by Manager Weston to establish a Human Resources Committee which will consist of four members: Manager Hejl, Manager Steen, Manager Weston, and Secretary-Treasurer Melissa Hinkemeyer. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Steen and seconded by Manager Lougheed to appoint the following individuals to serve in the designated capacities for calendar year 2024:

Keith Weston	North Dakota Water Coalition Representative
Jacob Gust	North Dakota Water Coalition Alternate Representative

Upon roll call vote, the motion carried unanimously.

Review of Contract of Legal Services

It was moved by Manager Weston and seconded by Manager Gust to reaffirm the agreement with Ohnstad Twichell, P.C. for legal services and approve the 2024 billing rates, as presented. Upon roll call vote, the motion carried unanimously.

Review of Contracts for Engineering Services

It was moved by Manager Steen and seconded by Manager Weston to reaffirm the agreement with Moore Engineering, Inc. for engineering services and approve the 2024 billing rates, as presented. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Gust and seconded by Manager Lougheed to reaffirm the agreement with Houston Engineering, Inc. for engineering services and approve the 2024 billing rates, as presented. Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project – appraisal / RHDP review / approval

It was moved by Manager Weston and seconded by Manager Steen to approve the appraisal for OIN 1548, with an effective date of December 1, 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.

Metro Flood Diversion Project – Executive Session for purposes of discussing contract negotiation strategies, litigation strategies and attorney consultation regarding ongoing litigation and ongoing contract negotiations related to right of way and property acquisitions necessary to accommodate the Metro Flood Diversion Project, in accordance with N.D. Cent. Code §§ 44-04-19.1(2), (5), and (9)

It was moved by Manager Steen and seconded by Manager Weston to close the meeting at 8:30 a.m. for the purposes of discussing contract negotiation strategies, litigation strategies and attorney consultation regarding ongoing litigation, reasonably predictable litigation, and contract negotiations related to right of way and property acquisitions necessary to accommodate the Metro Flood Diversion Project, in accordance with N.D. Cent. Code §§ 44-04-19.1(2), (5), and (9) regarding the following parties and matter:

1. Darwin and Sandra Duval (OIN 1912); and
2. Cass County Joint Water Resource District v. Kirk Brungard Civ. No. 39-2023-CV-00098 (OIN 8781)

Upon roll call vote, the following Managers voted in favor: Olson, Lougheed, Weston, Gust, and Steen. The motion carried unanimously.

The executive session was attended by Managers Olson, Lougheed, Weston, Gust, and Steen, Melissa Hinkemeyer, Carolyn Fiechtner, Sean Fredricks, Chris McShane, Luke Andrud, Rob Stefonowicz, Joel Paulsen, Jodi Smith, Madeline Daudt, Eric Dodds, Dean Vetter, Sabrina Tusa, Duane Breitling, Lyndon Pease, Ken Helvey and Katie Laidley.

The executive session adjourned at 8:59 a.m. and the regular meeting was reconvened and opened to the public.

Metro Flood Diversion Project – acquisition review / approval

Chairman Olson asked if any members of the Board wished to offer any motions regarding the following matter:

Cass County Joint Water Resource District v. Kirk Brungard Civ. No. 39-2023-CV-00098 (OIN 8781)

Manager Weston moved to approve a settlement with Kirk Brungard, Richard Nelson, Lucia Nelson, Pamela Hall, and Brent Nelson, as follows:

- Kirk Brungard, Richard Nelson, Lucia Nelson, Pamela Hall, and Brent Nelson (“Brungard/Nelson”) will convey to the Cass County Joint Water Resource District

(the “District”) flowage easement interests over approximately 8.87 acres on OIN 8781.

- The District will pay Brungard/Nelson a total of \$13,500 upon closing of the real estate transactions contemplated under the parties’ settlement agreement for the property rights conveyed by Brungard/Nelson, as outlined above.
- Following the closing of the of the real estate transactions contemplated under the parties’ settlement agreement, and following payment to Brungard/Nelson, the parties will execute and file a stipulation to dismiss the eminent domain action, *Cass County Joint Water Resource District v. Kirk Brungard, et al.*, Civ. No. 39-2023-CV-00098 (OIN 8781).

Manager Gust seconded the motion. Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project – property management

Madeline Daudt discussed various farmland leases regarding the Metro Flood Diversion Project. A motion was made by Manager Steen and seconded by Manager Weston to approve the 2024 *Cash Crop Lease Agreements*, as presented, on the following properties regarding the Metro Flood Diversion Project:

- OINs 221Y, 222Y and 1185Y1
- OINs 507Y (Area 1), 508Y, 510Y, 590Y, 2376Y, 2377Y, 2378Y, 6, 8, 9, 14 (outside of work limits), 15N, 15Y, 16N, 16Y, 17, 18, 19, 20, 21 and 22
- OINs 511Y, 512Y, 897Y, 884Y and 885Y
- OIN 524Y
- OINs 561Y, 1169X, 1200X, 2366Y, 2367Y and 8852Y
- OINs 571Y, 572, 573Y, 574Y and 2363Y
- OIN 1221Y
- OINs 1979, 8857, 8864 and 8865
- OINs 9162, 9163, 9164 and 9165
- OIN 9741Y

Upon roll call vote, the motion carried unanimously.

Ms. Daudt discussed a revised crop damage reimbursement claim regarding OINs 8674 and 8675 regarding the Metro Flood Diversion Project. The Board tabled the claim at the previous meeting due to a lack of documentation to support the claim. The Board continued to discuss the claim. Ms. Daudt indicated the crop damage sites were measured by the P3 developer for the Diversion Channel and Associated Infrastructure of the Metro Flood Diversion Project and the reimbursement is based on Cass County average production information from November 1 crop seed pricing.

The Board indicated they would like more information regarding the crop damage claim for OINs 8674 and 8675 and how crop damage payments are determined. The Board directed Ms. Daudt to invite Jon Norstog to the next Water Resource District meeting to explain the process that is used by the P3 developer for the Diversion Channel and Associated Infrastructure of the Metro Flood Diversion Project to determine the recommended crop damage payments.

Metro Flood Diversion Project – Cass County Electric Cooperative Easements

Paul Barthel discussed four *Utility Easements*, a *Release of Easement*, and a *Partial Release of Easement* for Cass County Electric Cooperative on OINs 2364N, 2365N and 9271N regarding the Metro Flood Diversion Project. The *Utility Easements* are needed to replace overhead power lines with underground power infrastructure due to space constraints with the Cass County Highway 81 and railroad work on OINs 2364N, 2365N and 9271N regarding the Metro Flood Diversion Project. Mr. Fredricks noted before the *Utility Easements* can be recorded, the existing Cass County Electric Cooperative Easements on OINs 2364N, 2365N and 9271N will need to be released.

It was moved by Manager Weston and seconded by Manager Steen to approve and authorize the Chairman to sign the following with Cass County Electric cooperative regarding the Metro Flood Diversion Project:

- *Utility Easement* on OINs 9271N and 2365N for above-ground power infrastructure, contingent upon Cass County Electric Cooperative's execution of satisfactory release of the existing Easement
- *Utility Easement* on OINs 9271N and 2365N for underground power infrastructure, contingent upon Cass County Electric Cooperative's execution of satisfactory release of the existing Easement
- *Utility Easement* on OIN 2364N for above-ground power infrastructure, contingent upon Cass County Electric Cooperative's execution of satisfactory partial release of the existing Easement
- *Utility Easement* on OIN 2364N for underground power infrastructure, contingent upon Cass County Electric Cooperative's execution of satisfactory partial release of the existing Easement

Upon roll call vote, the motion carried unanimously.

Regional Conservation Partnership Program

Josh Hassell reported Moore Engineering, Inc. continues to coordinate with Burlington Northern Santa Fe Railway Company regarding the RCPP – Rush River Watershed Plan to complete the final design. 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

Brady Woodard briefly reported on debris and tree removal at the Maple River Dam and noted a Cass County bridge in the backwater pool of the Maple River Dam that was damaged during the spring melt is being repaired by Cass County.

Administrative Items

The Director, Secretary - Treasurer reported the newly hired accountant for the Water Resource Districts starts next week. The remodel of the Cass County Highway Department building continues to move forward, with expected completion at the end of February. Brief discussion was held on the Human Resources Committee possibly creating an employee policy manual for Water Resource District staff. Manager Steen also suggested the Human Resources Committee study a step matrix for merit salary increases for Water Resource District staff. The Board agreed and directed the Human

Resources Committee to begin work on an employee policy manual and studying a step matrix for merit salary increases for Water Resource District staff.

Ms. Hinkemeyer asked the Board to consider approval of a request to carry over 18 hours of vacation time to 2024 that will expire on January 15, 2024. Due to staffing changes, she is unable to use the 18 vacation hours before the January 15, 2024, deadline. Manager Weston moved to approve the carryover of 18 hours of unused vacation hours into 2024 for Melissa Hinkemeyer. Manager Steen seconded the motion. Upon roll call vote, the motion carried unanimously.

Manager Weston moved to approve the annual salary for Ms. Hinkemeyer's new role as Director and Secretary of the Cass County Water Resource Districts, as presented. Manager Steen seconded the motion. Upon roll call vote, the motion carried unanimously.

Bills

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

Animal damage control contractor 2024 rates

A motion was made by Chairman Weston and seconded by Manager Steen to approve and authorize the Chairman to sign the *Agreement* with JAC Predator and Large Pest Control, Inc. for animal damage control services and approve the 2024 billing rates presented for Cass County Joint Water Resource District. Upon roll call vote, the motion carried unanimously.

Adjournment

There being no further business to be considered by the Board, the special meeting adjourned without objection.

APPROVED:

Rodger Olson
Chairman

ATTEST:

Melissa Hinkemeyer
Secretary-Treasurer