

MINUTES OF VIRTUAL / CONFERENCE CALL MEETING
CASS COUNTY JOINT WATER RESOURCE DISTRICT
ORIGINATING AT THE CASS COUNTY HIGHWAY DEPARTMENT
WEST FARGO, NORTH DAKOTA
HERITAGE CONFERENCE ROOM
APRIL 25, 2024
8:00 A.M.

A virtual / conference call meeting of the Cass County Joint Water Resource District was held on April 25, 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; Leilei Bao, Accountant; Carolyn Fiechtner, Administrative Assistant; Sean M. Fredricks, Chris McShane, Luke Andrud and Katie Schmidt, Ohnstad Twichell, P.C.; Kurt Lysne, Lyndon Pease, and Brady Woodard, Moore Engineering, Inc.; ; Mike Opat, Houston Engineering, Inc.; Jodi Smith, Jessica Warren, and Madeline Daudt, Metro Flood Diversion Authority; Duane Breitling and Mary Scherling, Cass County Commissioners; Eric Dodds, Dean Vetter, and Sabrina Tusa, AE2S; Paul Barthel, Jacobs; Scott Stenger, and Dale Ahlsten, ProSource Technologies, LLC; Ken Helvey and Katie Laidley, SRF Consulting Group, Inc.; Oly Olafson, Kelsey Lee, and Katy Moore, HDR, Inc.; and Leo Richard, Stanley Township property owner.

Approval of agenda

It was moved by Manager Steen, seconded by Manager Gust, 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 April 11, 2024, meeting, as presented.

Metro Flood Diversion Project – project updates and general topics

Eric Dodds discussed the Property Acquisition Status Report regarding the Metro Flood Diversion Project. Mr. Dodds reported on key activities including the status of acquisitions of property and Rights of Entry for the project.

Discussion was held on drainage concerns of various property owners regarding the Metro Flood Diversion Project. Jodi Smith noted the Metro Flood Diversion Authority and Jacobs have been working with property owners regarding drainage questions and concerns. Property owners with questions or concerns regarding drainage related to the Metro Flood Diversion Project are encouraged to contact the Metro Flood Diversion Authority staff.

Chris McShane reported on the status of formal negotiations regarding the Metro Flood Diversion Project.

Metro Flood Diversion Project – excess lands

Ms. Smith presented to the Board properties deemed as excess land by the Metro Flood Diversion Authority Co-Executive Directors and to request the Board consider approval of the properties as excess land and authorize the sale of the properties per the Metro Flood Diversion Project *Policy on the Disposition and Management of Comprehensive Project Lands*. The following OINs have been identified as excess land:

- OINs 717Y and 9732Y
- OIN 7247
- OIN 7248
- OIN 7249
- OIN 877, subject to a flowage easement
- OIN 8385Y, subject to a flowage easement

It was moved by Manager Gust and seconded by Manager Steen to declare the following properties as excess land regarding the Metro Flood Diversion Project and authorize the sale of the properties as per the *Policy on the Disposition and Management of Comprehensive Project Lands*:

- OINs 717Y and 9732Y
- OIN 7247
- OIN 7248
- OIN 7249

Upon roll call vote, the motion carried unanimously.

It was moved by Manager Steen and seconded by Manager Weston to declare the following properties as excess land regarding the Metro Flood Diversion Project and authorize the sale of the properties, subject to a flowage easement on the properties, as per the *Policy on the Disposition and Management of Comprehensive Project Lands*:

- OIN 877
- OIN 8385Y

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), regarding the following matter:

It was moved by Manager Steen and seconded by Manager Weston to close the meeting at 8:36 a.m. for the 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) regarding the following matter:

1. Cass County Joint Water Resource District v. Richard Bellemare, et al., Civ. No. 09-2023-CV-00941 (OINs 1080 and 1081)

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, Leilei Bao, Sean Fredricks, Chris McShane, Luke Andrud, Katie Schmidt, Jodi Smith, Madeline Daudt, Eric Dodds, Dean Vetter, Sabrina Tusa, Duane Breitling, Mary Scherling, Katie Laidley, Scott Stenger, and Dale Ahlsten.

The executive session adjourned at 8:57 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. Richard Bellemare, et al., Civ. No. 09-2023-CV-00941 (OINs 1080 and 1081).

Manager Lougheed moved, and Manager Weston seconded to approve a settlement with Richard Bellemare, et al., as follows:

- Bellemare will convey to the Cass County Joint Water Resource District (the “District”) fee simple ownership of approximately 45.24 acres and an easement for a term of years over 3.13 acres on OINs 1080 and 1081, as defined by survey.
- The District will pay Bellemare a total of \$1,970,654 upon closing of the real estate transaction contemplated under the parties’ settlement agreement for the property rights conveyed by Bellemare, as outlined above, prior to June 14, 2024.
- Bellemare will continue to farm the acres conveyed to the District in accordance with the terms of a written lease the parties will negotiate and execute in conjunction with execution of the parties’ settlement agreement.
- Following the closing of the of the real estate transaction contemplated under the parties’ settlement agreement, and following payment to Bellemare, the parties will execute and file a stipulation to dismiss the eminent domain action, Cass County Joint Water Resource District v. Richard Bellemare, et al., Civ. No. 09-2023-CV-00941.
- The District will reimburse Bellemare for reasonable attorneys’ fees, not to exceed \$40,000.

Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project – land agent reports

Scott Stenger, Katie Laidley and Oly Olafson 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 1912, as outlined in the letter dated April 25, 2024, 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 relocation and replacement housing payment for OIN 1093, as outlined in the letter dated April 25, 2024, 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 8386, as outlined in the letter dated April 25, 2024, regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project – property management

Paul Barthel discussed a crop damage claim by Evan Holmen on OIN 1222 for the crop year 2023. The Metro Flood Diversion Authority has reached an agreement with the P3 developer for the Diversion Channel and Associated Infrastructure of the Metro Flood Diversion Project, whereby the parties will each pay 50% of the total costs associated with this third-party claim.

Manager Steen moved to approve a crop damage payment to Evan Holmen in the amount of \$3,142.13 on OIN 1222 regarding the Metro Flood Diversion Project. Manager Gust seconded the motion. Upon roll call vote, the motion carried unanimously.

Madeline Daudt discussed a 2024 farmland lease on OIN 1099N regarding the Metro Flood Diversion Project. A motion was made by Manager Weston and seconded by Manager Steen to approve the 2024 *Cash Crop Lease Agreement* on OIN 1099N regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project – update on *Purchase Agreement* for OINs 726Y2 and 730Y2 with the Southeast Cass Water Resource District for sale of excess lands

Sean Fredricks stated the Southeast Cass Water Resource District has approved the *Purchase Agreement* for OINs 726Y2 and 730Y2 with the Cass County Joint Water Resource District, with the contingency that the Cass County Joint Water Resource District executes an *Access Easement* over OIN 726N for access to OIN 726Y. Moore Engineering, Inc. is currently preparing the survey for the *Easement*.

Regional Conservation Partnership Program

Kurt Lysne briefly reported on the RCPP – Rush River Watershed Plan. Discussions continue with Burlington Northern Santa Fe Railway Company on the project plans.

Moore Engineering, Inc. continues to keep the City of Amenia informed of the status of the Plan.

Mr. Lysne next reported on the RCPP – Upper Maple River Watershed Plan. The Natural Resources Conservation Service continues to work on finalizing the Plan.

Sheldon Flood Protection Project No. 2019-01

Mr. Lysne reported property owners in the Sheldon Addition attended the Cass County Flood Sales Tax Committee meeting recently to discuss increased funding needs for the Sheldon Flood Protection Project No. 2019-01. Project costs have increased with inflation, and the residents requested the Cass County Flood Sales Tax Committee increase the funding percentage not to exceed the total cost-share amount they had previously approved, as the State Water Commission approved funding for the project since the Cass County Flood Sales Tax funding was approved. The Committee approved of the concept of increasing the percentage of cost-share funding for the local share of the project, not to exceed the previously approved cost-share amount. Mr. Lysne noted the project is ready to proceed to bidding as soon as the one remaining easement is acquired for the project.

Maple River Dam

Brady Woodard reported JAC Predator and Large Pest Control, Inc. is monitoring beaver and gopher activity at the Maple River Dam to help prevent damage to the facility.

Bills

The Secretary requested that the crop damage payment to Evan Holmen amount be added to the bills, in the amount of \$3,142.13.

It was moved by Manager Steen and seconded by Manager Gust to approve payment of Checks #15322 through #15324 and #15326, and the wire transfers, as amended. Upon roll call vote, the following Managers voted in favor: Olson, Lougheed, Gust, Steen, and Weston. The Chairman declared the motion passed.

Human Resources Committee update

Manager Weston provided an update to the Board on the Human Resources Committee for the Cass County Water Resource Districts. The Committee has been focusing on the areas of updates to the Personnel Policy Manual, office staffing, items related to the office remodel, and emergency preparedness. Manager Weston noted that as policies are developed, these policies will be brought to the Board for review and consideration.

The Human Resources Committee discussed additional accounting staff needs. The Committee is seeking approval for both short-term part-time and longer-term part-time assistance for accounting. For the short-term need, the Committee requests a temporary assistant to support the Accountant until a part-time employee is hired. This is a strategic approach to managing workload fluctuations and ensuring that the accounting needs for the Cass County Water Resource Districts are efficiently met.

Manager Steen moved to approve and authorize the Secretary to work with a staffing agency to hire a temporary staff member to assist the Accountant, not to exceed \$25 per hour wages, 20 hours per week and 2 months in duration. Manager Gust seconded the motion. Upon roll call vote, the motion carried unanimously.

The hiring of a longer-term part-time staff position will be reviewed and considered by the individual Cass County water resource districts.

Treasurer

The Secretary recommended the Board consider transferring the title of Treasurer of the Cass County Joint Water Resource District to the Accountant, Leilei Bao, as Ms. Bao has completed training and is excelling in her role.

Manager Weston moved to appoint Leilei Bao as the Treasurer of the Cass County Joint Water Resource District. Manager Steen seconded the motion. Upon roll call vote, the motion carried unanimously.

Adjournment

There being no further business to be considered by the Board, it was moved by Manager Gust, seconded by Manager Lougheed, and unanimously carried to adjourn the meeting.

APPROVED:

Rodger Olson
Chairman

ATTEST:

Melissa Hinkemeyer
Secretary-Treasurer