

MINUTES OF MEETING
CASS COUNTY JOINT WATER RESOURCE DISTRICT
CASS COUNTY HIGHWAY DEPARTMENT
WEST FARGO, NORTH DAKOTA
JULY 23, 2010

The Cass County Joint Water Resource District met on July 23, 2010, at 8:00 a.m. at the Cass County Highway Department, West Fargo, North Dakota.

Present were Thomas L. Fischer, Chairman; Mark Brodshaug and Mark Thelen, Southeast Cass Water Resource District; Rodger Olson, Maple River Water Resource District; Michael R. Buringrud, North Cass Water Resource District; Raymond Wolfer and William A. Hejl, Rush River Water Resource District; Carol Harbeke Lewis, Secretary-Treasurer; Kimberly Bomstad, Accounting Tech/Administrative Assistant; Sean M. Fredricks, Attorney for the Board; Jeff Volk, Lee Beauvais and Chad Engels, Engineers for the Board; April Walker, Senior Engineer for the City of Fargo; Keith Berndt, Cass County Engineer; Lance Yohe, Red River Basin Commission; Craig Hakanson, City of Horace; Joe Belford, Ramsey County Commissioner; Gary Spoerl, property owner in Everest Township; Jacob Gust, Sheyenne-Maple Flood Control District #1 Superintendent and Richard Lewis, West Fargo resident.

Fargo-Moorhead Metropolitan Feasibility Study – Metro Diversion Joint Powers Agreement

Sean Fredricks discussed the components of the Metro Diversion Joint Powers Agreement. Mr. Fredricks said Cass County Commissioner Darrell Vanyo suggested that the larger six-party agreement be completed by October 2010. The agreement between Cass County, City of Fargo and Cass County Joint Water Resource District needs to be completed before that. Issues that need to be resolved include cost share, operation and maintenance, voting and assessments.

Mark Bittner has indicated that he believes there should be an assessment component to fund the project and the Board is in agreement with that. At a previous meeting, the City of Fargo suggested that any assessment dollars that come from within the City of Fargo be credited to them. Mr. Fredricks argued the Board believes any assessment dollars generated should be credited to the Cass County Joint Water Resource District, and the reason that is important, is because it has been suggested that voting should reflect the amount of money you bring to the table. Chairman Fischer said the goal is to raise a pool of money and we are all going to have to agree to the voting power. Manager Brodshaug agreed.

Manager Buringrud did not like the reference to the creation of a “potential” assessment district. Manager Brodshaug suggested the Board outline its concerns in a letter. April Walker informed the Board that Minnesota is starting to discuss a special assessment district.

Mr. Fredricks said an important piece that needs to be included in the Metro Diversion Joint Powers Agreement is the downstream / upstream impacts and how to fund the projects.

Fargo-Moorhead Metropolitan Feasibility Study – Cass County/Fargo/Cass County Joint Water Resource District Flood Protection Cooperation Agreement

Discussion was held on the Cass County/Fargo/Cass County Joint Water Resource District Flood Protection Cooperation Agreement regarding the proposed Red River Diversion. City of Fargo and Cass County limited the agreement to financial sponsorship and sales tax relating to the project.

Cass County Commissioner Darryl Vanyo is concerned about defining what sponsorship means. Mr. Fredricks reviewed various limitations that were included in the agreement.

Manager Hejl expressed his concern with the City of Fargo being the sole local sponsor. Mr. Fredricks said the technical team will make the majority of design decisions and other decisions would be made by the Fargo-Moorhead Metropolitan Working Group. Mr. Fredricks added that the agreement is at a point where we may not be able to make any more amendments.

Mr. Fredricks said Cass County and the City of Fargo agree to match dollar for dollar, the money expended toward the project, contingent upon the Cass County sales tax being approved by the voters.

Mr. Fredricks said it was made clear that the Cass County Joint Water Resource District wanted a special assessment district to finance a portion of the Fargo-Moorhead Metropolitan Feasibility Study. Manager Buringrud asked why the City of Fargo is opposed to a special assessment district. Manager Hejl said he does not agree with the wording in the agreement of a “potential” creation of a special assessment district. Manager Buringrud agreed. Manager Buringrud said if the agreement is not changed to take out “potential” then the Cass County Joint Water Resource District should not sign it. Mr. Fredricks reminded the Board that the intent of the agreement is to come up with an entity that is going to be the financial sponsor and the use of sales tax.

Manager Hejl expressed concern that the agreement does not limit the Cass County Joint Water Resource District from entering into a subsequent agreement for equal cost share between Cass County/Fargo/Cass County Joint Water Resource District. Mr. Fredricks said it will not limit the Board and will be worked out in the Metro Diversion Joint Powers Agreement. The Board will not wait until after the sales tax vote to begin looking at a special assessment district.

Manager Buringrud and Manager Hejl indicated they would like the word “potential” removed from the agreement so that a special assessment district is part of the funding package for the project.

Mr. Fredricks said the Cass County Joint Water Resource District Board asked to add the last sentence which states, “regardless of the outcome of the Cass County sales tax vote, following the vote, Fargo, Cass County and the Joint Board will discuss and negotiate, in good faith, the potential creation of a special assessment district by the Joint Board to finance a portion of the non-federal, non-state, non-Moorhead, non-Clay costs of the Fargo-Moorhead Metropolitan Feasibility Study Project, and to finance the maintenance of the Project.” Mr. Fredricks said if the Board says the agreement must state there is going to be a special assessment district, the agreement would not get signed.

It was moved by Manager Brodshaug and seconded by Manager Olson to authorize Chairman Fischer to sign the Cass County/Fargo/Cass County Joint Water Resource District Flood Protection Cooperation Agreement regarding the Fargo-Moorhead Metropolitan Feasibility Study and communicate the Board wants to start discussion on the next Cass County/Fargo/Cass County Joint Water Resource District agreement as soon as possible. Discussion: Manager Buringrud said it needs to be set out what will be done for downstream impacts. Manager Olson said this agreement puts the Board at the table to make that argument. **This document does not address downstream impacts and the next one will do more.** Mr. Fredricks said the next agreement will address funding, ownership, operation, maintenance, special assessment districts and sales tax. Jeff Volk said there are many contentious issues and there will continue to be changes. There may be many agreements as issues are settled between the entities. Upon roll call vote, the motion carried unanimously.

Fargo-Moorhead Metropolitan Feasibility Study – Right of Access

The Corps of Engineers needs to continue studying the Minnesota Diversion and that includes some North Dakota properties on the tieback levee. Now the City of Moorhead and the City of Fargo have asked the Water Resource District to do the right of access for those properties. Mr. Fredricks said this would require an amendment to the first Joint Powers Agreement, to expand the authorities of the Water Resource District to study North Dakota properties for the Minnesota Diversion tieback levee. It was moved by Manager Olson and seconded by Manager Buringrud to approve the *First Amendment to Joint Powers Agreement* regarding the first Joint Powers Agreement between the City of Fargo, the Water Resource District and Cass County. Upon roll call vote, the motion carried unanimously.

Fargo-Moorhead Metropolitan Feasibility Study – Resolution of Necessity for access to North Dakota parcels to accommodate the Minnesota Diversion

It was moved by Manager Olson and seconded by Manager Brodshaug to approve the Resolution of Necessity regarding the Fargo-Moorhead Metropolitan Feasibility Study for access to North Dakota parcels to accommodate the Minnesota Diversion. Upon roll call vote, the motion carried unanimously. The Resolution is attached hereto.

Fargo-Moorhead Metropolitan Feasibility Study – letter setting out Cass County Joint Water Resource District authorities and capabilities

The Board discussed sending a letter to city and county officials setting out the authorities and capabilities of the Cass County Joint Water Resource District with regard to the Fargo-Moorhead Metropolitan Feasibility Study. Manager Hejl reviewed revisions he would like made to the letter. Chairman Fischer suggested Manager Hejl work with Mr. Fredricks on the matter.

Fargo-Moorhead Metropolitan Feasibility Study – letter from Rush River Water Resource District regarding the channel alignment

The Board received and filed a letter from the Rush River Water Resource District requesting the support of the Cass County Joint Water Resource District to move the alignment of the proposed Red River Diversion away from Drain #13. They believe doing so would save millions of dollars. The letter also requested the use of Red River Diversion project funds to improve Drain #13 for use as a collection channel. Manager Brodshaug encouraged the Rush River Water Resource District to work with the Corps of Engineers on the matter.

Fargo-Moorhead Metropolitan Feasibility Study – letter to the Corps of Engineers commenting on the Draft Environmental Impact Statement

The Board discussed submitting a letter to the Corps of Engineers commenting on the Draft Environmental Impact Statement. Chairman Fischer suggested each Manager submit comments to the Secretary-Treasurer for review at the next meeting.

NRCS / Congressman Peterson Tile Drainage Liaison

It was moved by Manager Olson and seconded by Manager Brodshaug to appoint Manager Hejl as the NRCS / Congressman Peterson Tile Drainage Liaison. Upon roll call vote, the motion carried unanimously.

Waffle Plan review

Chad Engels informed the Board that they have completed review of the EERC Waffle Plan and found some concerns with the models. Chairman Fischer spoke with the Todd Sando, Interim State Engineer, and he was receptive to conducting another review of the plan. Manager Thelen suggested hiring Ulteig Engineers, Inc. to review the plan. Jeff Volk and Mr. Engels will meet with Mr. Sando to discuss the matter.

Maple River Dam - Change Order No. 5 on the Shea Site (32CS0101)

It was moved by Manager Wolfer and seconded by Manager Brodshaug to approve Change Order No. 5 for Aecom, Inc. in the amount of \$4,880 regarding the Shea Site (32CS0101). Upon roll call vote, the motion carried unanimously. A copy of the Change Order is attached hereto.

2010 Maintenance Levy Assessment on the Maple River Dam

It was moved by Manager Olson and seconded by Manager Buringrud to approve the 2010 Maintenance Levy Assessment of \$1 per acre on the Maple River Dam. Upon roll call vote, the motion carried unanimously.

Policy approval

It was moved by Manager Buringrud and seconded by Manager Olson to adopt Personnel Policies 2.0, 2.1, 2.2, 3.0, 4.0, 4.1 and 4.3. Upon roll call vote, the motion carried unanimously.

Minutes

It was moved by Manager Buringrud and seconded by Manager Olson to approve minutes of meetings June 25, July 1, July 7, July 9 (as amended) and July 15, 2010. Upon roll call vote, the motion carried unanimously.

Bills

It was moved by Manager Wolfer and seconded by Manager Brodshaug to approve the payment of Checks #9524 through #9531, as presented. Upon roll call vote, the following Managers voted in favor: Fischer, Olson, Brodshaug, Buringrud and Wolfer. The Chairman declared the motion passed.

Section 404 discussion

The Board discussed Section 404 requirements.

Devils Lake issues

Joe Belford showed a DVD with information on Devils Lake and discussed concerns relating to the flood levels there.

Fargo-Moorhead Metropolitan Feasibility Study – downstream and upstream impacts

Lance Yohe reported on efforts to address downstream and upstream impacts relating to the Fargo-Moorhead Metropolitan Feasibility Study. Mr. Yohe estimated the cost to complete the work outlined would be between \$200,000 and \$400,000. Jeff Volk said there needs to be an understanding of which models are being used to assess change. Two completely different things are going on, which are not very compatible. Mr. Yohe said they need to discuss that and figure it out. **Mr. Volk said his other concern is mixing the Fargo-Moorhead Diversion with a long-term flood solutions project. He suggested it may be better to separate the two issues.**

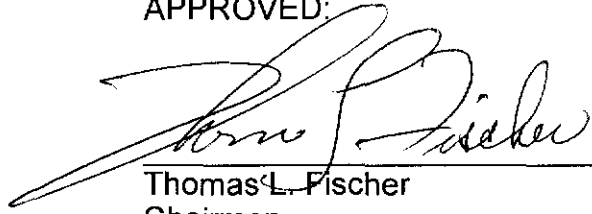
Meeting dates

It was moved by Manager Buringrud and seconded by Manager Brodshaug to amend the meeting schedule to set the second Friday and fourth Friday of August through October, November 12 and 23 and December 17 and 30, 2010, at 9:30 a.m. as regular meeting dates for the Cass County Joint Water Resource District. Upon roll call vote, the motion carried unanimously.

Adjournment

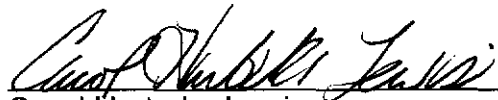
There being no further business to be considered by the Board, the meeting adjourned without objection.

APPROVED:



Thomas L. Fischer
Chairman

ATTEST:



Carol Harbeke Lewis
Secretary-Treasurer