

MINUTES OF MEETING  
CASS COUNTY JOINT WATER RESOURCE DISTRICT  
CASS COUNTY HIGHWAY DEPARTMENT  
WEST FARGO, NORTH DAKOTA  
AUGUST 27, 2010

The Cass County Joint Water Resource District met on August 27, 2010, at 9:30 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; Michael R. Buringrud, North Cass Water Resource District; Raymond Wolfer, Rush River Water Resource District; Carol Harbeke Lewis, Secretary-Treasurer; Sean M. Fredricks, Attorney for the Board; Jeff Volk and Lee Beauvais, Engineers for the Board; Dennis Ertelt, Maple River Dam Land Manager; Jacob Gust, Sheyenne-Maple Flood Control District #1 Superintendent; Irene Olson and Warren Solberg, property owners in Stanley Township; Jonathan Garaas, Attorney for Irene Olson; Craig Hakanson, City of Horace; Dean Rust, property owner in Raymond Township and Richard Lewis, West Fargo resident. Manager Rodger Olson was absent.

**Fargo-Moorhead Metropolitan Feasibility Study – Right of Entry**

Mr. Garaas said his client, Irene Olson, is opposed to granting access to her property because they believe the work needed was already done for the Southside Flood Control Project. He indicated they would fight the matter in court. Lee Beauvais said access is needed to a different property than what was tested for the Southside Flood Control Project. In addition, that was only tested for soils stability and what is needed now is an archaeology, wetland and cultural investigation. Access is needed to Warren Solberg's property due to a proposed feature on his property that would deal with breakout water. Jeff Volk added that it is not specifically known what is needed until they are further into the design process.

Mr. Solberg said the Corps of Engineers could not give him an answer when he asked what was going to be done, so he does not know how that will impact them. He asked why it is acceptable to raise flood elevations north of town and not south of town. He asked why a couple inches of water could not be held back south of town. Mr. Volk said no one knows all the specifics of everything and it is not fair to expect the Corps of Engineers to answer every question immediately. He added that information relating to the project is available in the reports that are now released.

Mr. Solberg said the Right of Entry document is poorly drafted. He believes there is nothing in it that protects him and that it only protects the Corps of Engineers. Sean Fredricks assured Mr. Solberg that the statutes do protect him, but he will look into using different language. He explained that the Corps of Engineers turned everything

over to the Water Resource District for acquiring voluntary access. The Water Resource District will try to work with property owners and tenants, but if they do not succeed, court proceedings will be initiated. Mr. Garaas said tenants should also be named in the lawsuit. He believes the Water Resource District should not interfere with property owners' contracts.

It was moved by Manager Buringrud and seconded by Manager Brodshaug to approve the following Resolutions:

- Resolution of Necessity, Fargo Moorhead Metropolitan Feasibility Study, Access upon Remaining North Dakota Alignment Parcels; and
- Resolution of Necessity, Fargo Moorhead Metropolitan Feasibility Study, Access upon Certain Real Property in North Dakota to Accommodate Minnesota Diversion.

Upon roll call vote, the motion carried unanimously. Copies of the Resolutions are attached hereto. Mr. Fredricks will come back to the Board before filing anything with the court.

Manager Wolfer expressed concern about renters of the properties involved with the project. They do not receive any payment and they are the ones that realize the losses.

### **Fargo-Moorhead Metropolitan Feasibility Study – Joint Powers Agreements**

Mr. Fredricks reported that he and Chairman Fischer attended an attorney-liaison meeting regarding the Metro Joint Powers Agreement. Following that meeting, they met with representatives for the City of Fargo and Cass County to frame various issues that need to be resolved before execution of the larger Metro Joint Powers Agreement.

Mr. Fredricks said the following issues were discussed:

- That there has to be language in the next three-party Joint Powers Agreement that says the parties agree there "will be" an assessment district.
- Voting 2-2-2 vs. 3-2-1 for City of Fargo, Cass County and the Water Resource District, respectively.
- That the Water Resource District should be integral to operation and maintenance.
- Language regarding downstream/upstream projects.

Manager Buringrud thinks it is important that an assessment is part of construction, as well as maintenance of the project, and he wants to see that in writing. Manager Brodshaug said it has to be clear that a special assessment is likely to be part of the financing package for the project and it is important for the public to know that prior to voting on the county sales tax in November.

Cass County is adamant that the Metro Joint Powers Agreement is in place before the November election vote, so the three-party Joint Powers Agreement needs to be approved first.

Manager Thelen left the meeting at this time.

Mr. Garaas said the City of Horace has gone on record opposing the project if there is a special assessment. He said the Water Resource District should abandon the idea. He said the City of Horace would be willing to pay their share to secure the area along Sheyenne-Maple Flood Control District #2 Project, south of the city. Manager Brodshaug said an assessment makes who pays for the project more equitable. Mr. Garaas said he does not trust the government to accurately identify the benefits.

**Fargo-Moorhead Metropolitan Feasibility Study - downstream / upstream impacts**

The Board agreed that the funding approved for the Red River Basin Commission to coordinate downstream / upstream impact information will be allocated upon receipt of invoices for the costs incurred, rather than a lump sum payment.

**Maple River Dam – Maple River Streambank and Site Stabilization Project**

It was moved by Manager Brodshaug and seconded by Manager Wolfer to authorize AECOM, Inc. to advertise for bids on the Maple River Streambank and Site Stabilization Project regarding the Maple River Dam, upon approval of the Water Resource District Engineer. Upon roll call vote, the motion carried unanimously.

**Maple River Dam – maintenance**

Dennis Ertelt discussed spraying volunteer trees on the emergency spillway with the Board. He will work with Stan Wolf, Cass County Weed Control, on the matter.

The Board directed Mr. Ertelt to replace trees as necessary on the project.

The State Water Commission will be inspecting the dam for safety purposes on August 31, 2010, at 10:00 a.m.

**Minutes**

It was moved by Manager Buringrud and seconded by Manager Brodshaug to approve the minutes of the August 13, 2010, meeting. Upon roll call vote, the motion carried unanimously.

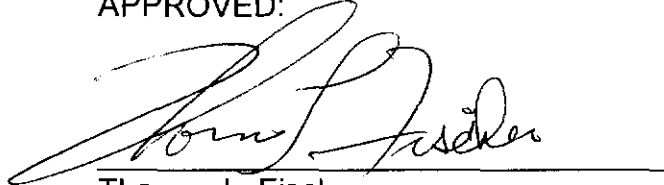
**Bills**

It was moved by Manager Brodshaug and seconded by Manager Wolfer to approve the payment of Checks #9594 through #9596, as presented. Upon roll call vote, the following Managers voted in favor: Fischer, Brodshaug, Buringrud and Wolfer. The Chairman declared the motion passed.

**Adjournment**

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

APPROVED:

A handwritten signature in black ink, appearing to read "Thomas L. Fischer", written over a horizontal line.

Thomas L. Fischer  
Chairman

ATTEST:

A handwritten signature in black ink, appearing to read "Carol Harbeke Lewis", written over a horizontal line.

Carol Harbeke Lewis  
Secretary-Treasurer