

Minutes of Meeting

Souris River Joint Water Resource Board

Thursday, April 4, 2019

A regular meeting of the board of directors of the Souris River Joint Water Resource Board was called to order by Chairman David Ashley at 4:00 p.m. on Thursday, April 4, 2019, in the Community Room of the Minot Auditorium, in the City of Minot, North Dakota. Joint Board members attending the meeting were David Ashley, Clif Issendorf, Mark Cook, Dan Jonasson and Tom Klein. A roster of those attending is attached as **Attachment A**. Chairman David Ashley called the meeting to order and announced that a quorum was present.

The Joint Board discussed the proposed Agenda for the meeting. Chairman David Ashley added "Acquisition Funding Authority" as Agenda Item No. 9(c); "Outlaw Creek-Lelan Goodman" as Agenda Item No. 16(a); and "Culvert Placement Discussion" as Agenda Item No. 16(b).

**Tom Klein made a motion to approve the agenda, as amended. Mark Cook seconded the motion. The motion passed without opposition.**

The draft Minutes from the March 7, 2019, meeting were discussed.

**Dan Jonasson made a motion to approve the Minutes from the March 7, 2019, Joint Board meeting. Clif Issendorf seconded the motion. The motion passed without opposition.**

The Joint Board discussed the Budget Report included in the April Board packet. Ryan Ackerman provided an explanation to the Joint Board regarding the April Budget Report.

**Clif Issendorf moved to approve the April Budget Report. Tom Klein seconded the motion. The motion passed without opposition.**

The Joint Board discussed the bills. The Joint Board discussed the bill for the City of Minot regarding the irrigation water for construction on Wee Links. Chairman David Ashley indicated that he would abstain from the Park Construction invoice and billing. The Joint Board discussed the Park Construction bill separately.

**Dan Jonasson moved to approve Park Construction bill in the amount of \$159,114.20. Tom Klein seconded the motion. Chairman David Ashley abstained. The motion passed without opposition.**

The Joint Board discussed all other bills contained in the April Board packet. A spreadsheet showing a summary of the April bills is attached as **Attachment B**.

**Tom Klein moved to approve the remaining bills in the amount of \$1,118,850.70. Clif Issendorf seconded the motion. The motion passed without opposition.**

Jerry Bents provided an update to the Joint Board regarding MI-1 construction, which featured a drone video of the construction site. Jerry Bents referred the Joint Board to the Houston Engineering Report on page 213 of the April Board packet. Jerry Bents also provided an update regarding Phase MI-5. Jerry Bents indicated that the design for Phase MI-5 is moving slowly due to negotiations with BNSF.

Jason Westbrook provided an update regarding construction on Phase MI-2/3, which featured a drone video. A report from Barr Engineering is contained at page 261 of the April Board packet. Jason Westbrook indicated that Wagner Construction and Barr Engineering are starting to conduct their weekly construction meetings moving forward.

Jason Westbrook provided an update on Phase BU-1 design. Ryan Ackerman provided the Joint Board with an explanation of the Colton Avenue Bridge Replacement bid opening. Ryan Ackerman directed the Joint Board's attention to page 258 of the April Board packet. As previously reported, there were 3 bids, with the lowest bid from Swingen Construction at \$5,744,240. Using that number, the engineering team calculated a \$6,500,000 project estimate. Ryan Ackerman reported that the Joint Board has \$2,535,000 of state funding available for this Colton Avenue Bridge Replacement project, therefore the Joint Board would need another \$1,690,000 of state funding available to take on the Colton project. Ryan Ackerman suggested that the Joint Board could temporarily shift \$900,000 from Outlaw Creek funding authority and \$790,000 from West Peterson Coulee funding authority in order to move forward with the Colton Avenue Bridge Replacement project. Ryan Ackerman recommended that the Joint Board take the six actions listed on page 259 of the April Board packet.

**Dan Jonasson made a motion to take the six recommended actions listed on Page 259 of the April Board packet. Tom Klein seconded the motion. David Ashley indicated that the recommended actions made sense in order to put all authorized funding to work. Dan Jonasson indicated that with the river low, this would be a good time to take on the project. The motion passed without opposition.**

The Joint Board discussed Agenda Item No. 9B on page 260 of the April Board packet. Ryan Ackerman explained the additional engineering work that Barr had to accomplish, and the lack of funding for acquisitions that were necessary in Burlington in order to move forward with work during the remainder of the biennium. Ryan Ackerman explained that \$637,022 in funding authority remained available for the West Peterson Coulee project, and recommended that the Joint Board take the recommended two actions shown on page 260 of the Board packet. It was explained that the Joint Board could replenish funding authority for the West Peterson Coulee project or Outlaw Creek project during the next biennium.

**Clif Issendorf made a motion to take the two recommended actions listed on Page 260 of the April Board packet. Tom Klein seconded the motion. The motion passed without opposition.**

The Joint Board discussed Agenda Item No. 9C relating to acquisition funding. Ryan Ackerman explained that approximately \$9,000,000 of contingency funding authority was budgeted and set aside for Phases MI 1, 2, and 3, but that the Joint Board has progressed with construction to the point that this set aside funding authority will not likely be needed for construction. Change orders have cost the project

approximately \$1,500,000 out of this contingency funding, leaving \$7,500,000 in contingency funding authority available. Ryan Ackerman explained that the acquisition team needs funds to continue to acquire property necessary for future phases of the Project. Ryan Ackerman recommended shifting \$3,700,000 of contingency funding authority for the construction of Phases MI 1, 2, and 3 to allow that funding authority be used for acquisitions in the City of Minot.

**Tom Klein made a motion to shift \$3,700,000 of contingency funding authority for the construction of Phases MI 1, 2, and 3 to allow that funding authority be used for acquisitions in the City of Minot, to authorize the Joint Board Administrator to execute and provide all applicable documentation to the State Water Commission, and to give the Chairman the authority to execute all applicable documents. Dan Jonasson seconded the motion. The motion passed without opposition.**

Jason Westbrook provided the Joint Board an update on Phase WC-1 design work of Barr Engineering.

Ryan Ackerman provided an update to the Joint Board regarding the USACE Feasibility Study. Ryan Ackerman informed the Joint Board that USACE General Todd Semonite will be traveling to Minot with Senator Hoeven for a meeting on the Project, scheduled for April 16, 2019. Ryan Ackerman asked that any Joint Board member who is available attend the meeting.

Ryan Ackerman provided an update on the StARR Program. A StARR Program Summary was provided at page 265 of the April Board packet.

Dennis Reep and Troy Borchard from HDR provided an update to the Joint Board regarding rural bridge design by HDR Engineering.

Ryan Ackerman and Jack Dwyer provided an update regarding the North Dakota legislative session.

Chairman David Ashley directed the Joint Board's attention to a list of upcoming meetings contained in the Board packet.

The Joint Board discussed Agenda Item 16(a) under Other Business relating to Outlaw Creek. Chairman Dave Ashley provided Leland Goodman with an opportunity to make a presentation to the Joint Board relating to Outlaw Creek. Mr. Goodman expressed concern that state funding that was authorized for the Outlaw Creek project was being used for other projects. Mr. Goodman indicated that the local stakeholders have waited a long time for this project to move forward. Mr. Goodman indicated that several persons provided dissention at the public input meeting that were not stakeholders of the Outlaw Creek project. Chairman David Ashley indicated that the Joint Board was looking for funding sources and solutions for the Outlaw Creek project, and that the Joint Board was not diverting or stealing money from the Outlaw Creek project. Mr. Goodman apologized for making any insinuation that the Joint Board was stealing money. Clif Issendorf indicated that the rural areas of Outlaw Creek could have flooded half of the last fifty years, a considerably higher percentage than the areas within the City of Minot during that time. Clif Issendorf indicated that the Joint Board should administer water

management and conveyance for the quality of life of the rural residents in the Outlaw Creek area the same as is being provided within the City of Minot.

The Joint Board discussed Agenda Item 16(b) under Other Business relating to culvert placement. Maurice Foley from the Ward County Water Resource District explained the need for a culvert at a location depicted on a map, attached as **Attachment C**. The Joint Board reviewed the map. Mr. Foley indicated that the Joint Board owned a lot adjacent to a prescriptive public road that was privately constructed. Mr. Foley indicated that the road was restricting the flow of water, and requested the Joint Board's permission to construct a culvert to allow the free flow of water along its natural path.

**Clif Issendorf made a motion to grant permission to construct a culvert at the location indicated on the map provided by Maurice Foley. Mark Cook seconded the motion. The motion passed without opposition. Dan Jonasson did not vote on the motion, as this was not a flood-related decision.**

Chairman David Ashley announced the topics and authority for holding an executive session, to discuss Jerry and Tawnya Nelson's StARR Program negotiation and threatened litigation and related matters under N.D.C.C. § 44-04-19.1(5) and N.D.C.C. § 44-04-19.1(9).

**Clif Issendorf made a motion to enter into executive session. Tom Klein seconded the motion. The motion passed without opposition.**

The meeting was closed to the public. Following the conclusion of the executive session, the Joint Board reconvened the open meeting.

**Dan Jonasson made a motion that the Joint Board make the Nelsons an offer subject to fully-executed agreement, based on a final determination of value of \$734,650.50 for their property; that the offer will include that the Nelsons can keep possession of the property until August 31, 2021; that the Nelsons offer will include that the Nelsons can keep the existing structures; and that the Joint Board's lawyer will explain StARR Policy regarding the Joint Board offering 95% of the property value to StARR applicants; and that the Nelsons will have until April 30, 2019 to accept the offer. Clif Issendorf seconded the motion. The motion passed without opposition.**

There being no further business, the meeting was adjourned.



Jack Dwyer  
Legal Counsel



Sign-In  
 April 4, 2019  
 Minot Municipal Auditorium

| Name            | Organization         |
|-----------------|----------------------|
| Nathan Amich    | Ackermann - Estvold  |
| Maurice Johnson | WCCWC                |
| Josh Walsh      | Minot Alderman       |
| elf Jurengof    | Bottro Co. & SRJB    |
| Mark Cook       | Renville Co SRJB     |
| Dan Jensen      | City of Minot / SRJB |
| Tom Klein       | SRJB / WCCWC         |
| Jarvis Nelson   |                      |
| Dennis Ross     | HDR ENGINEERING      |
| Troy Borchard   | HDR ENGINEERING      |
| LYNDON PEASE    | MOORE ENGINEERING    |
| Jason Westhede  | Barr                 |
| JERRY BENTZ     | HOUSTON ENT          |
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| Firm                      | Project                              | Project Number | Acct | Cost                   |
|---------------------------|--------------------------------------|----------------|------|------------------------|
| Barr Engineering          | StARR Program                        | 1974-14        | 6303 | \$ 9,833.36            |
|                           | Ward County Acquisition              | 1523-05        | 1100 | \$ 9,621.25            |
|                           | Phase 2 and 3 Construction           | 1974-26        | 6316 | \$ 53,601.34           |
|                           | Maple Diversion                      | 1974-12        | 6322 | \$ 50,902.03           |
|                           | Outlaw Creek                         | 1974-18        | 6307 | \$ 3,005.75            |
|                           | Tierrecita Villejo Levee Design      | 1974-13        | 6324 | \$ 74,913.75           |
| Houston Engineering       | MI-5 4 <sup>th</sup> Ave Tieback     | 1974-19        | 6308 | \$ 5,140.00            |
|                           | Phase MI-1                           | 1974-22        | 6314 | \$ 74,447.12           |
|                           | Maple Diversion                      | 1974-12        | 6322 | \$ 68,755.23           |
| Ackerman-Estvold          | Administration                       | N/A            | 6102 | \$ 35,542.50           |
|                           | Flood Specific EAP                   | 1974-25        | 6325 | \$ 9,395.00            |
|                           | ISRB Plan of Study                   | N/A            | 6102 | \$ 4,432.50            |
| Wagner Construction       | Phase 2 and 3 Construction           | 1974-26        | 6316 | \$ 562,888.84          |
| Park Construction Company | Phase MI-1                           | 1974-22        | 6314 | \$ 159,114.20          |
| HDR                       | Phase MI-1                           | 1974-22        | 6314 | \$ 633.26              |
|                           | Phase 2 and 3 construction           | 1974-26        | 6316 | \$ 633.26              |
|                           | BU-1MI-5 Ind Ext Review              | 1974-19        | 6308 | \$ 4,909.75            |
|                           | SA-1: Sawyer Bridge Design           | 1974-31        | 6327 | \$ 38,932.79           |
|                           | VE-1: Velva Bridge Design            | 1974-32        | 6328 | \$ 40,887.93           |
|                           | RC-1: Mouse River Park Bridge Design | 1974-30        | 6326 | \$ 21,246.81           |
| Dwyer Law Office          | Legal                                | N/A            | 6104 | \$ 7,375.73            |
| City of Minot             | Phase 2 and 3 construction           | 1974-26        | 6314 | \$ 41,752.50           |
| <b>Total</b>              |                                      |                |      | <b>\$ 1,277,964.90</b> |

