

## Minutes of Meeting

### Souris River Joint Water Resource Board

Thursday, November 10, 2016

A regular meeting of the board of directors of the Souris River Joint Water Resource Board was called to order by Chairman David Ashley on Thursday, November 10, 2016, in the Community Room of the Minot City Auditorium in Minot, North Dakota. Joint Board members attending the meeting were Dave Ashley, Clif Issendorf, Dan Jonasson, Roger Sauer and Tom Klein. A roster of those attending the meeting is listed on Attachment A.

The Joint Board discussed the proposed Agenda for the meeting. The following revisions were made to the Agenda: Agenda Item 5(c) was added regarding the USACE Section 214 Agreement; Agenda Item 6 was revised to include two bills from USACE; Agenda Item 12 was removed regarding the Renville County Private Cemetery; and Agenda Item 13(a) was added regarding a XCEL Utility Relocation request. Roger Sauer made a motion to adopt the Agenda, as revised. Tom Klein seconded the motion. The motion passed without opposition.

The Minutes of the October 13, 2016, meeting were discussed. Dan Jonasson made a motion to approve the Minutes of the October 13, 2016, meeting, and Roger Sauer seconded the motion. The motion was approved without opposition.

Ryan Ackerman provided a budget update to the Board. He provided a written document titled "Design Budget Update (Phases 1, 2, and 3)" to the Board, which is attached as Attachment B.

- It was reported that the State Water Commission's approved cost share spanning 4 different approvals (but under one Agreement with SWC) totals \$9,257,400.00. The local cost share provided by the City of Minot's flood control sales tax totals \$6,171,600.00, for a total budgeted revenue of \$15,429,000.00. It was reported that, assuming the pending Authorization 4 as shown in the Attachment B is approved by the Joint Board, a total of \$15,250,857.80 in spending has been authorized to date, leaving \$178,142.20 in available revenue. To date, \$13,343,782.85 has been spent on design related activities, which is 87% of the total authorized budget (this number assumes that the November invoices and pending authorizations are approved).
- Regarding the USACE Feasibility Study, it was reported that the budgeted revenue for expenditures anticipated in the current biennium for this Study totals \$700,000.00. 50% of this total has been authorized by the State Water Commission, with the other 50% being the local cost share paid by the City of Minot's flood control sales tax. (\$25,000.00 was initially paid by the Joint Board out of its operating capital, but this initial amount was not considered in the \$700,000.00 budgeted revenue since it pre-dates the Feasibility Cost Share Agreement between the Joint Board and the State Water Commission). The Joint Board has paid \$175,000.00 to the USACE, and provided \$50,628.10 in work in kind to the

USACE. The USACE has requested payment of another \$300,000.00. If the Joint Board approves the \$300,000.00 payment to the USACE, the expenses that count total budgeted revenue equal \$525,628.10, leaving \$174,371.90 of the budgeted revenue available.

- Regarding the USACE 214 Agreement, which requires the Joint Board to pay the USACE to review the Section 408 submittal and environmental impact statement, the Joint Board's total budgeted revenue equals \$500,000.00, of which 75% (\$375,000.00) has been authorized by the State Water Commission, with the other 25% (\$125,000.00) coming from the City of Minot flood control sales tax. The USACE initially budgeted \$358,000.00 for the work under the 214 Agreement, but the USACE has requested an additional \$100,000.00 to ensure that additional work will not be delayed by a lack of funding. Assuming the Joint Board approves this additional request and pays the requested amount to the USACE, the expenses to date will total \$458,000.00, leaving \$42,000.00 in available budgeted revenue.

Dan Jonasson requested an additional explanation for the additional authorizations for Houston and Barr Engineering. Dave Ashley indicated that the explanation would be covered under Agenda Item 5. Dan Jonasson requested cash flow projections from the Board for 2016 and 2017 to allow the City of Minot to obtain adequate funding.

The Joint Board discussed proposed amendments to the Joint Board's engineering contracts.

- Barr Engineering submitted an amendment to its contract with the Joint Board for an additional \$632,000.00 to take on additional scope of work. Of this request, Barr Engineering requested an additional \$100,000.00 for work relating to the environmental impact statement, and \$532,000.00 for design work relating to project features as set forth in the Amendment to Owner-Engineer Agreement, which is included on Page 9 in the Board packet. It was noted that the Dakota Skipper butterfly, which was potentially identified by biologists who inspected the borrow site, has added additional environmental requirements to the Project. Dan Jonasson moved to approve the Amendment to Owner-Engineer Agreement for Barr Engineering. Roger Sauer seconded the motion. The motion passed without opposition.
- Houston Engineering submitted Work Order No. 6 for an additional \$211,000.00 to take on additional scope of work. Of this request, \$150,000.00 will be utilized for services related to Conditional Letter of Map Revision (CLOMR) Submittal, and \$61,000.00 will be utilized to provide general project coordination and support. Roger Sauer moved to approve Word Order No. 6. Tom Klein seconded the motion. The motion was approved without opposition.
- USACE requested Amendment No. 1 to the existing Memorandum of Agreement between the St. Paul District Corps of Engineer and the Joint Board, dated December 17, 2014 (the "USACE 214 Agreement") to increase the total project cost by \$100,000.00. The Amendment is attached as Attachment C. According to Nathan Wallerstedt, Project Manager of the USACE, the initial funding of \$358,000.00, as well as other funding sources, would be

exhausted before the additional \$100,000.00 would be tapped. It was discussed by the Joint Board that the Joint Board was paying for services which should be paid by the United States. Tom Klein made a motion to approve the Amendment No. 1 to the existing Memorandum of Agreement. Dan Jonasson seconded the motion. Clif Issendorf inquired as to whether additional requests from the USACE would be included in the Joint Board's future budget. Ryan Ackerman reported that these items would be included as a percentage of design and permitting for the Joint Board's future budget. The motion was passed unanimously. Ryan Ackerman indicated that he would relay the Joint Board's reluctance in approving the Amendment to the USACE.

The Joint Board reviewed and approved bills as follows:

1. Ryan Ackerman indicated that, on page 16 of the Board packet, the second line item under Barr Engineering stating "MI-2B Construction SVGC" should be replaced with "MI-2A Construction Perkett Ditch." Dan Jonasson moved to approve the bills as presented in the amount of \$1,221,640.12. Tom Klein seconded the motion. Clif Issendorf inquired as to whether Dwyer Law was charging travel time from Fargo. Jack Dwyer indicated that travel time for the Dwyer Law bill would have been charged from Bismarck. The motion passed unanimously.
2. Ryan Ackerman provided a letter from Nathan Wallerstedt from the USACE with a request that the Joint Board pay \$300,000.00 to the USACE in relation to the USACE's Feasibility Study, attached as Attachment D. Dan Jonasson moved to pay USACE in the amount of \$300,000.00 in relation to the USACE Feasibility Study. Tom Klein seconded the motion. The motion was approved unanimously.
3. Ryan Ackerman asked the Joint Board to authorize the payment of the \$100,000.00 contemplated by the Amendment No. 1 to the USACE 214 Agreement. Dan Jonasson moved that the Joint Board pay \$100,000.00 to the USACE for the Amendment No. 1 to the USACE 214 Agreement. Roger Sauer seconded the motion. Clif Issendorf inquired as to why the USACE does not show any revenue towards work in kind. Ryan Ackerman indicated that the USACE has not yet processed the work performed by the Joint Board's consultants. The motion was approved unanimously.

The Joint Board discussed the StARR Program. Ryan Ackerman provided an update to the Joint Board. The Joint Board discussed policy revisions or clarifications as follows:

1. Item 7A – The Joint Board discussed whether the Program was an all or nothing program, or whether a participant would be allowed to participate with some structures, but not all structures on the participant's property lying within the 2011 flood plan. It was discussed that structures that are excluded from the Program would be precluded from any "substantial improvement" as that term is defined in 44 CFR 59.1. Roger Sauer moved to allow participants to choose to demolish, relocate, or ring dike only certain structures on the participant's property, and that any other structures not included in the Program would be subject to a

restriction on substantial improvements. Clif Issendorf seconded the motion. Shelly Wepler from Ward County inquired whether enforcement or economic blight would be a future problem. It was discussed that flood plain regulations from township or county planning and zoning could help reduce any such issue. The motion was approved unanimously.

2. Item 7B – The Joint Board discussed the No-Build Easement contemplated by the StARR Program document. It was reported that the current policy requires a no-build easement be recorded against all lands owned by the participant, including other parcels. Ryan Ackerman proposed that the StARR policy be revised to record the no-build easement against only the subject property for which the participant receives StARR benefits, and that the participant personally agrees against building other structures within the 2011 flood plain on other properties owned by the participant for which the participant did not receive StARR benefits (but that no encumbrance would be recorded against those other properties). Roger Sauer moved to adopt the proposed policy. Dan Jonasson seconded the motion. Tom Klein inquired whether a participant would be allowed to construct a structure within a ring dike built by the StARR Program. It was discussed that structures could be built within the ring dike, but not outside of the ring dike. The motion was approved unanimously.
3. Item 7C – The Joint Board discussed a proposed Voluntary Structure Acquisition, Relocation, or Ring Dike Offer Price Appeals Process. The Joint Board tabled the proposed policy addition for further review.

Ryan Ackerman provided an update regarding the USACE Feasibility Study. It was reported that the Feasibility Study is progressing as planned, and is in the sixth month of the three year process. The USACE recently held a series of local meetings in Mohall, Velva, and Minot. A “Vertical Team Charrette” between the Joint Board and the USACE has been scheduled, which will give the Joint Board an opportunity to work with a number of levels of the USACE.

Jerry Bents provided the Joint Board with an update on the engineering and design for Phase I, including:

- Phase I 100% submittal has been completed.
- Design review meeting was held with the City of Minot.
- USACE has reviewed the 100% submittal, and Houston has received comments on 2 of the 5 disciplines from USACE.
- HDR Peer Review is under way of the 100% submittal.
- EIS draft has been submitted for review by the USACE for Phase I, II, and III.

Ryan Ackerman provided an update to the Joint Board for Phase II and Phase III, including:

- USACE comments have been received on 100% submittal, and incorporated into the plan set.

- Phase III may be amended to buy out a neighborhood by the Forest Road Segment as opposed to building out the flood risk reduction project features in that area, but the approval process from the USACE will not be interrupted.

The Joint Board discussed Levee Pipe Video Inspections. Houston Engineering provided Work Order No. 07 to provide coordination of storm sewer televising of areas outside of the City of Minot, including Mouse River Park, Burlington to Minot, Sawyer, and Velva. It was reported that this work was required by the USACE. Tom Klein made a motion to approve Work Order No. 07. Roger Sauer seconded the motion. The motion was approved unanimously.

The Joint Board discussed a utility relocation request from XCEL Energy as outlined in a Memorandum from Stan Hanson of Houston Engineering, which is attached as Attachment E. It was reported that this relocation request aligns with the Joint Board's policy for utility relocations. Of the \$493,817.30 required for Phase I's electrical relocation costs, the Joint Board's share would be \$298,091.61 as set forth in the Memorandum. Clif Issendorf made a motion to approve XCEL's relocation request. Tom Klein seconded the motion. The motion was approved unanimously.

There being no further business, the meeting was adjourned.

  
Legal Counsel