

Minutes of Meeting

Souris River Joint Water Resource Board

Thursday, November 2, 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, November 2, 2019, in the Community Room of the Minot Auditorium, in the City of Minot, North Dakota. Joint Board members attending the meeting were Clif Issendorf, Dan Jonasson and Tom Klein. Chairman David Ashley and Mark Cook joined the meeting by phone. 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 indicated that Agenda Item No. 4.a would be added to include a discussion of the Sherbenske bill and change orders.

Tom Klein moved to approve the agenda, as amended. Dan Jonasson seconded the motion. The motion passed without opposition.

The draft Minutes from the October 3, 2019 regular meeting were discussed.

Dan Jonasson made a motion to approve the Minutes from the October 3, 2019 Joint Board meeting. Clif Issendorf seconded the motion. The motion passed without opposition.

The Joint Board discussed the Budget Report included in the November Board packet. Ryan Ackerman provided an explanation to the Joint Board regarding the November Budget Report and some timing issues of debits and credits.

Tom Klein moved to approve the November Budget Report. Dan Jonasson seconded the motion. The motion passed without opposition.

The Joint Board discussed Sherbenske Construction. Ryan Ackerman indicated that the construction contract was closed out, and that Sherbenske Construction requested payment for an approximate additional \$250,000 for a number of different construction items. Many of the claims were refuted except for the following items: 1) Change Order No. 13 relating to additional dirt work in the amount of \$6,000; 2) Change Order No. 14 for exposing a gas line and experiencing delays in the amount of \$7,130; Change Order No. 15 for delays caused by XCEL overhead lines and for delays associated with CP Railroad in the amount of \$75,000; and Change Order No. 16, which is a balancing change order based on actual quantities constructed multiplied by unit-based pricing in the amount of \$30,847.80

Dan Jonasson moved to approve Change Order No. 13 in the amount of \$6,000. Clif Issendorf seconded the motion. The motion passed without opposition.

Tom Klein moved to approve Change Order No. 14 in the amount of \$7,130. Mark Cook seconded the motion. The motion passed without opposition.

Dan Jonasson moved to approve Change Order No. 15 in the amount of \$75,000. Tom Klein seconded the motion. A discussion included whether XCEL Energy would be responsible for the costs associated with the overhead power lines. The Joint Board directed its Administrator to look into the Joint Board's ability to charge XCEL for a portion of the cost. The motion passed without opposition.

Dan Jonasson moved to approve Change Order No. 16 in the amount of \$30,847.80. Tom Klein seconded the motion. The motion passed without opposition.

The Joint Board discussed the bills. Chairman David Ashley provided an opportunity for questions on bills. A discussion ensued relating to a Barr Engineering bill for reimbursements for a Home Depot receipt. Jason Westbrook indicated that the Home Depot receipt was for several projects, and only those associated with MREFPP were billed against the MREFPP. Ryan Ackerman explained that the Park Construction bill was increased \$155,000 to \$5,930,851.27 because liquidated damages were not chargeable to Park Construction for the Milestone Dates in the construction contract.

Dan Jonasson made a motion to approve the payment of bills in the amount of \$8,815,742.37. Tom Klein seconded the motion. The motion passed without opposition.

Jerry Bents from Houston Engineering provided the Joint Board with an update on Phases MI-1 and MI-5. Jerry Bents explained that Houston Engineering processed Change Order No. 14, which will reduce the work in the Park Construction contract in amount of \$3,630,000 to allow room to alter Phase MI-5 design for working around railroad facilities.

Dan Jonasson moved to approve Change Order No. 14 with Park Construction. Clif Issendorf seconded the motion. The motion passed without opposition.

Ryan Ackerman provided an update on railroad coordination. Ryan Ackerman indicated that even though the Build Grant Application was likely going to be awarded and provide \$18M in grant funding, it would require BNSF financial participation that BNSF was not interested in providing. Therefore, the Joint Board withdrew its application due to lack of total funding necessary to make this option feasible from a financial standpoint. The Joint Board design team has moved onto alternatives that would work around BNSF railroad facilities as much as possible. CP Rail has requested that if the bridge at 2nd Avenue is replaced over the Maple Diversion, that the bridge be elevated, which would significantly increase costs due to tie in grades. CP Rail and the Joint Board's design team are looking at alternatives.

Jason Westbrook from Barr Engineering provided the Joint Board with an update on Phases MI-2/3 and BU-1 and WC-1.

Ryan Ackerman provided the Joint Board with an update regarding the StARR Program. Ryan Ackerman asked the Joint Board to consider the request for sealed bids for land resale as set forth on page 384 of the November Board packet.

Dan Jonasson made a motion to approve the advertisement for bids for land resale. Clif Issendorf seconded the motion. The motion passed without opposition.

The Joint Board discussed the future of the StARR Program. Ryan Ackerman indicated that \$1.2M is available to continue the program. The Joint Board discussed that landowners interested in the StARR Program have had a number of opportunities to participate but have not chosen to move forward, and that the properties are not critical to the operation of the Mouse River Enhanced Flood Control Project. Ryan Ackerman indicated that, depending on future funding, the StARR Program could potentially be reopened if there was significant landowner demand.

Clif Issendorf made a motion to begin the process of closing the StARR program. Mark Cook seconded the motion. The motion passed without opposition.

Dennis Reep from HDR Engineering provided the Joint Board regarding the Rural Bridges.

The Joint Board discussed engineering contract amendments. Ryan Ackerman indicated that Houston Engineering will need to make significant changes to the Phase MI-5 design due to seeking additional alternatives with crossing BNSF rail facilities.

Dan Jonasson moved to approve Amendment No. 2 to Work Order 5 of the Houston Engineering agreement for design engineering for Phase MI-5 not to exceed \$200,000 and authorize the Chairman to sign the amendment. Tom Klein seconded the motion. A discussion ensued regarding the design work performed by Houston Engineering to date was necessary to continue dialogue with BNSF, but the alternative that was designed needs significant alterations due to opposition from BNSF. A roll call vote was cast. The motion passed without opposition.

Ryan Ackerman discussed the need for additional design work on the Maple Diversion (Phase MI-4). To date, the Joint Board has incurred approximately \$2,000,000 in getting the design up to a 35% level, in furtherance of the USACE Feasibility Study. The total cost of Maple Diversion construction is estimated at \$85M, and the design will cost approximately \$8M to \$10M. Ryan Ackerman recommended authorizing an additional \$2,000,000 for Maple Diversion design work, with \$1,000,000 for Houston Engineering and \$1,000,000 for Barr Engineering, as both firms are engaged in components of Maple Diversion design.

Dan Jonasson moved to approved Amendment 1 to Work Order 10 of the Houston Engineering agreement for design engineering for Phase MI-4 not to exceed \$1,000,000, and to approve Amendment 1 to Task Order 5 of the Barr Engineering agreement for design engineering for Phase MI-4 not to exceed \$1,000,000 and authorize the Chairman to sign the both amendments. Tom Klein seconded the motion. The motion passed without opposition.

The Joint Board discussed acquisition negotiation policy for real estate acquisitions that are necessary for the Project. Ryan Ackerman provided a recommended policy for negotiating agility for the acquisition team, which can be found at page 427 of the November Board packet. The Board tabled the discussion.

A discussion followed regarding Souris River basin conditions, and 2020 flood forecast. Ryan Ackerman indicated, although local conditions are saturated, farther up the basin is dryer. Ward County Commissioner Shelly Wepler reported she attended the International Souris River Board in Ottawa and expressed concern over basin conditions.

The Joint Board discussed upcoming meetings that were included in the November Board Packet.

There being no further business to discuss, the meeting was adjourned.



Jack Dwyer
Legal Counsel