

Minutes of Meeting
Souris River Joint Water Resource Board
Thursday, February 3, 2022

A meeting of the board of directors of the Souris River Joint Water Resource District was called to order by Chairman David Ashley at 4:00 p.m. on Thursday, February 3, 2022, in Room 203 of the Minot Auditorium in Minot, North Dakota. Joint Board members in attendance were Dan Jonasson, Tom Klein, Clif Issendorf and Dan Steinberger. 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. Ryan Ackerman requested addition of (1) Item 10b, Preliminary Engineering Services Agreement with BNSF; and (2) Item 19a, Ward County use of Talbott's Nursery.

Dan Steinberger made a motion to approve the Agenda. Dan Jonasson seconded the motion. The motion passed without opposition.

The draft minutes from the January 6, 2022 regular meeting and January 25, 2022 and January 26, 2022 special meetings of the SRJB were discussed. Dan Steinberger requested that January 25, 2022 special meeting minutes be supplemented to add details of discussion on the Sawyer bridge (current design is compatible with that future plan and the future plan addresses concerns Dan Steinberger raised at the meeting). Jack Dwyer agreed to add that information to the January 25, 2022 minutes.

Dan Steinberger made a motion to approve the Minutes from the January 6, 2022 regular meeting and January 26, 2022 special meeting of the SRJB. Dan Jonasson seconded the motion. The motion passed without opposition.

The Joint Board discussed the Budget Report included in the February Board Packet. Ryan Ackerman explained the Balance Sheet and Budget Report.

Dan Jonasson moved to approve the Budget Report. Dan Steinberger seconded the motion. A roll call vote was cast. The motion passed without opposition.

The Joint Board discussed the bills set forth in the February Board Packet totaling \$935,990.89. Chairman Ashley opened it up for questions from the Board on each bill being approved.

Clif Issendorf moved to approve the payment of bills totaling \$935,990.89. Dan Steinberger seconded the motion. A roll call vote was cast. The motion passed without opposition.

Ryan Ackerman provided an update on the StARR program, advising that the process of closing the program down has been taking place over the last several months. There has been a request from Dave and Mindee Kohlman, participants in the StARR program. The Kohlmans have expressed interest in purchasing the property that was previously sold to the SRJB. The Kohlmans are currently leasing the house and property from the SRJB. The current lease expires on December 20, 2022. Absent action from the SRJB, intent is to demolish the remaining structures and restore the property to a natural state and then essentially transfer the property to the Minot Park District. Dave Kohlman addressed the SRJB, indicating they never wanted to sell their home but felt forced to. Mr. Kohlman was not asking for the structures to stay, but wants the property for a place for his family to spend time and pass on in the future.

Mr. Kohlman asked for a fair opportunity to bid on the property and keep it in his family. Chairman Ashley questioned the comment that he felt it was not voluntary and explained it was voluntary. Dan Steinberger looked at Google Earth from 2011 and asked if there are any levees, etc. we are looking at for future. Ryan Ackerman indicated there are no planned levees in the area.

Dan Jonasson motioned to affirm the property transfer offers for the former Kohlman and Waggoner properties to Ward County and the Minot Park District for public purposes as previously identified and continue partnerships in place. Clif Issendorf seconded the motion. Dan Steinberger questioned how much area is potential partnership. Ryan Ackerman explained it is the highlighted area on the illustration. A roll call vote was cast. The motion passed without opposition.

The Joint Board discussed the Legislative Advocacy Program. A proposal for advocacy services has been received from the North Dakota Water Resource Districts Association (NDWRDA). This program helps the NDWRDA be actively engaged with the legislative process in Bismarck. The NDWRDA is proposing a change to the funding so that the amount per year is the same regardless of if it is a legislative year or not. Previously, the SRJB has paid \$8,000 during legislative years and \$4,000 during non-legislative years. The new funding proposal would be \$7,500 per year. With interim committees and increased focus on water issues, there has been a growing number of opportunities to engage with legislators each year, and the resulting effort has increased.

Clif Issendorf moved to approve the legislative advocacy proposal from the North Dakota Water Resource Districts Association at a cost of \$7,500 per year. Dan Steinberger seconded the motion. A roll call vote was cast. Jack Dwyer indicated the Legislative Advocacy Program was started a few years ago and it was added to the budget of the North Dakota Water Users and the water resource districts. It has allowed the SRJB to keep coverage at the legislature and so instead of having just one full-time person basically advocating for the water community, we have Dani Hanson (a full-time lobbyist), John Suter (a full-time lobbyist) and Jack Dwyer (a part-time lobbyist). Jack Dwyer indicated that the Legislative Advocacy Program has helped increase that coverage and the support is appreciated. A roll call vote was cast. The motion passed without opposition.

The Joint Board discussed an engineering contract amendment with Houston Engineering for Phase MI-4B construction. Phase MI-4B includes the relocation of a raw water line to be completed in advance of the construction of the Maple Diversion. A scope and cost proposal has been received from Houston Engineering for engineering services during construction.

Dan Jonasson motioned to approve Task Order 17 with Houston Engineering for Engineering Services During Construction for Phase MI-4B in an amount not to exceed \$108,326.00 and authorize the chairman to sign the agreements on behalf of the SRJB. Dan Steinberger seconded the motion. A roll call vote was cast. The motion passed without opposition.

The Joint Board discussed an engineering contract amendment with Houston Engineering for Phase MI-5B construction. Ryan Ackerman advised that Phase MI-5B includes the relocation of a building acquired by the SRJB to a site owned by the City of Minot. The building will be utilized for storage of flood control materials and equipment (stop logs, spare parts, pumps, etc.). A scope and cost proposal has been received from Houston Engineering for engineering services during construction.

Dan Jonasson motioned to approve Task Order 18 with Houston Engineering for Engineering Services During Construction for Phase MI-5B in an amount not to exceed \$38,292.00 and authorize the chairman to sign the agreements on behalf of the SRJB. Dan Steinberger seconded the motion. A roll call vote was cast. The motion passed without opposition.

The Joint Board discussed an amendment with Barr Engineering on Phase BU-1D construction. Ryan Ackerman advised that Phase BU-1D includes the construction of a levee along the Des Lacs River in Burlington. This phase of the project represents the final phase of construction in Burlington. Also included in the cost proposal is effort associated with FEMA certification of the project, as well as additional effort associated with previous phases of the project. Phase BU-1B required additional effort related to nonconformance of the slurry cutoff wall, and Phase BU-1C required additional effort related to delays and lack of production associated with the slurry cutoff wall. A scope and cost proposal has been received from Barr Engineering for engineering services during construction.

Dan Jonasson motioned to approve Task Order 11 with Barr Engineering for Engineering Services During Construction for Phase BU-1D in an amount not to exceed \$1,508,500.00 and authorize the chairman to sign the agreements on behalf of the SRJB. Dan Steinberger seconded the motion. A roll call vote was cast. The motion passed without opposition.

The Joint Board discussed Engineering Contract Amendments with HDR Engineering on SA-1 construction. Ryan Ackerman explained that Phase SA-1 is the replacement of the existing bridge over the Mouse River at Sawyer. A scope and cost proposal has been received from HDR Engineering for engineering services during construction

Dan Jonasson motioned to approve Amendment 3 to Task Order 6 with HDR Engineering for Engineering Services During Construction for Phase SA-1 in an amount not to exceed \$630,544.50 and authorize the chairman to sign the agreements on behalf of the SRJB. Tom Klein seconded the motion. A roll call vote was cast. The motion passed without opposition.

Jerry Bents from Houston Engineering provided the Joint Board with an update on Phase MI-1. Jerry Bents advised they are working on punch list items to close out the contract. No action was needed from the SRJB on this phase at this time. A Project Status Report from Houston Engineering is contained in the February Board Packet.

Jerry Bents updated on Phase MI-4A. A Project Status Report from Houston Engineering is contained in the February Board Packet. A bid opening was conducted on January 18, 2022 for Phase MI-4B. This project will relocate a raw water line from the proposed route of the Maple Diversion. Three bids were received. The engineer's estimate for the construction of this phase of the project was \$334,876.00. The lowest bid was received from Kemper Construction Company in the amount of \$384,878.00. The low bid is 15% higher than the engineer's estimate. Based on the volatility of the bids received, it is not expected that rebidding the project will result in lower costs for the SRJB.

Tom Klein motioned to accept the low bid of Kemper Construction for Phase MI-4B in the amount of \$384,878.00 and authorize the chairman to sign the appropriate agreements on behalf of the SRJB. Clif Issendorf seconded the motion. A roll call vote was cast. The motion passed without opposition.

The SRJB discussed the Preliminary Engineering Services Agreement (PEA) with BNSF Railway for Phase MI-4 (the Maple Diversion). Ryan Ackerman advised that the SRJB has historically paid for the cost of engineering services incurred by the railroads (CP Rail and BNSF) that are related to the Mouse River project. BNSF has provided an agreement for preliminary engineering services related to the Maple Diversion. The agreement terms are similar to what has been agreed to previously with Phase MI-5.

Dan Steinberger motioned to approve the Preliminary Engineering Service Agreement with BNSF Railway for the Maple Diversion and authorize initial payment of \$150,000.00 to BNSF Railway. Tom Klein seconded the motion. A roll call vote was cast. The motion passed without opposition.

Jerry Bents updated on Phase MI-5. A Project Status Report from Houston Engineering is contained in the February Board Packet. Jerry Bents advised that a bid opening was conducted on January 31, 2022 for the relocation of a building on the property of the future pump station on Phase MI-5. The building is being relocated to property owned by the City of Minot, near the Minot Public Works building, and will be used to store materials and equipment related to the Mouse River Enhanced Flood Protection Project. The engineer's estimate for the building relocation was \$152,500.00. One bid was received from Huwe the House Mover, Inc.

Tom Klein motioned to accept the bid received from Huwe the House Mover, Inc. for Phase MI-5B in the amount of \$154,500.00 and authorize the Chairman to sign the agreements on behalf of the SRJB. Dan Steinberger seconded the motion. A roll call vote was cast. The motion passed without opposition.

The Joint Board discussed the Subrecipient Agreement with the City of Minot. Ryan Ackerman indicated that the City of Minot is the grant recipient of approximately \$10 million through the Defense Community Infrastructure Program. The Souris River Joint Board is a subrecipient of the funding, meaning that the funding passes through the City to the SRJB for the construction of Phase MI-5. A subrecipient agreement has been drafted and reviewed with the City of Minot staff.

Tom Klein motioned to approve the subrecipient agreement with the City of Minot for the construction of Phase MI-5 and authorize the chairman to sign the appropriate agreement on behalf of the SRJB. Dan Jonasson seconded the motion. A roll call vote was cast. The motion passed without opposition.

Jerry Bents updated on Phase MI-6. Jerry Bents advised they are working through details of alignment and some of the utilities. A Project Status Report from Houston Engineering is contained in the February Board Packet.

Ryan Ackerman provided an update and overview to the Joint Board regarding Phase MI-7. A Project Status Report is contained in the February Board Packet.

Ryan Ackerman provided an update and overview to the Joint Board regarding Phase WC-1. A Project Status Report is contained in the February Board Packet.

Ryan Ackerman provided an update and overview to the Joint Board on Phase BU-1. A Project Status Report is contained in the February Board Packet.

Troy Borchard from HDR Engineering provided an update regarding Rural Bridges. On the Mouse River Park, work is being done to obtain an access agreement between the county on the Board for access onto the levee after construction. Also, the sovereign lands permit has been submitted. A presentation will take place at the March 1, 2022 County Commission meeting to give an overview of the project for the local residents. On the Sawyer bridge, bid opening will be February 24, 2022. On the Velva site, they are working forward with final design. A Project Status Report from HDR Engineering is contained in the February Board Packet.

The Joint Board discussed the rural segments of the Project, including Flood Assistance and Risk Mitigation (FARM) Program. Ryan Ackerman indicated that draft program guidelines for the Rural Flood Assistance and Risk Mitigation (FARM) Program were delivered to the SRJB in December 2021. The administrator is seeking feedback on the program to refine the guidelines prior to initiating contact with staff at the North Dakota Department of Water Resources regarding funding eligibility.

Dan Jonasson motioned to approve the guidelines for the Flood Assistance and Risk Mitigation program and direct the SRJB administrator to initiate contact with cost-share staff at the North Dakota Department of Water Resources regarding funding eligibility. Clif Issendorf seconded the motion. Clif Issendorf indicated that when there was a flood in Bottineau County and dams were higher than county roads, water backed up over Highway 5 (a federal highway) and asked whether that is included in the new approach. Ryan Ackerman advised that it is not. Dan Steinberger asked whether the 35 areas in question are located throughout the entire basin. Ryan Ackerman advised they are located throughout the basin. Dan Jonasson inquired about funding acquired during the last legislative session. Ryan Ackerman confirmed funding for rural drainage was acquired in the last legislative session. Dan Steinberger asked whether funding requires sponsorship. Ryan Ackerman advised the SRJB would be the project sponsor but 10% is attributed to the landowner. A roll call vote was cast. The motion passed without opposition.

With respect to rural segments of the Project, the Joint Board also discussed the Des Lacs Tributary Storage. Ryan Ackerman advised that one of the strategies identified in the Rural Reaches Preliminary Engineering Report for rural flood risk management was creating flood storage along tributaries of the Mouse River. The SRJB Administrator met with representatives of the US Fish and Wildlife Service at the Des Lacs National Wildlife Refuge on January 27, 2022. Based on the conversation with the USFWS, it appears that the potential exists for a project which would provide a moderate amount of flood control storage on the Des Lacs NWR which would also be compatible with the wildlife management objectives of the Des Lacs NWR. To evaluate the feasibility of this concept, a hydrologic and hydraulic modeling effort would be necessary. When the Outlaw Creek project was halted due to a finding of non-compatibility by the US Fish and Wildlife Service, all engineering and environmental work was stopped, and there is approximately \$50,000 remaining in the budget previously approved by the SRJB for work on Outlaw Creek.

Dan Jonasson motioned to authorize the use of the remaining budget of the Outlaw Creek project to perform a hydrologic and hydraulic evaluation of the merits of establishing flood control storage on the Des Lacs National Wildlife Refuge. Clif Issendorf seconded the motion. A roll call vote was cast. The motion passed without opposition.

The Joint Board took note of future meetings and events as set forth in the February Board Packet.

The Joint Board discussed Ward County use of Talbott Nursery. Ryan Ackerman provided information with respect to Ward County requesting ability to install a kayak launch in the area of the Talbott's Nursery.

Dan Jonasson motioned to enter into a Memorandum of Understanding with Ward County Parks to allow the property purchased by the SRJB known as Talbott Nursery to be converted to a park, with operation and maintenance responsibilities being transferred to Ward County Parks. Tom Klein seconded the motion. Director Jonasson asked about decertification of the levee and Ryan Ackerman responded. Director Jonasson questioned possibly stipulating that the launch cannot be installed or accessed until construction with WC-1 is finished to mitigate safety concerns with kayaks launching down the river channel. A roll call vote was cast. The motion (amended to incorporate the stipulation that the kayak launch not be installed until it is safe to do so) passed without opposition.

There being no further business to discuss, Chairman Ashley called for a motion to adjourn.

Dan Jonasson motioned to adjourn the meeting. Tom Klein seconded the motion.

The next regular meeting of the Joint Board is scheduled for Thursday, March 3, 2022 at 4:00 p.m. in Room 203 of the Minot Auditorium.



Jack Dwyer
Legal Counsel