

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

WATER TOPICS OVERVIEW COMMITTEE

Monday, February 3, 2014

Oriole Room (Meeting Room #2), Alerus Center, 1200 South 42nd Street, Grand Forks, North Dakota

Tuesday, February 4, 2014

City Commission Meeting Room, Fargo City Hall, 200 Third Street North, Fargo, North Dakota

Senator Tony Grindberg, Chairman, called the meeting to order at 12:30 p.m.

Members present: Senators Tony Grindberg, Ray Holmberg, Gary A. Lee, Larry Luick, Larry J. Robinson; Representatives Bill Amerman, Dick Anderson, Ron Guggisberg, Curt Hofstad, Curtiss Kreun, Scott Louser, Naomi Muscha, Jon Nelson, Todd Porter, Jim Schmidt

Member absent: Representative Vicky Steiner

Others present: Ronald Sorvaag, State Senator, Fargo
Joshua A. Boschee, State Representative, Fargo
Ed Gruchalla, State Representative, Fargo
Rick Holman, State Representative, Mayville
Gary Paur, State Representative, Gilby
Mark Sanford, State Representative, Grand Forks
Peter F. Silbernagel, State Representative, Casselton
Representatives Al Carlson and Mark S. Owens, members of the Legislative Management, were also in attendance.

See [Appendix A](#) for additional persons present.

It was moved by Senator Holmberg, seconded by Representative Hofstad, and carried on a voice vote that the minutes of the November 18, 2013, meeting be approved as distributed.

Mr. Hal Gershman, President, Grand Forks City Council, welcomed the committee. He thanked the members of the legislature for the \$52 million in state support for Grand Forks flood control. He said the flood control works well, and the city is growing.

Mr. Todd Feland, City Administrator, Grand Forks, Mr. Ken Vein, City Council Member, Grand Forks, Mr. Barry Wilfahrt, President/CEO, Grand Forks - East Grand Forks Chamber of Commerce, and Mr. Klaus Thiessen, President and CEO, Grand Forks Region Economic Development Corporation, gave a presentation ([Appendix B](#)) on the importance of state investment in strategic water infrastructure needs. Mr. Thiessen said the Northern Plains Nitrogen Plant uses wastewater. Mr. Wilfahrt said the Grand Sky enhanced use lease is for base industries, for example, aerospace, electronics, and data. He said the data center will have a large use for water.

In response to a question from Senator Holmberg, Mr. Wilfahrt said the state money was used to hire a consulting firm to negotiate with the United States Air Force. He said the Grand Sky project is a partnership between the county, the developer, and the state.

In response to a question from Representative Schmidt, Mr. Thiessen said the project was not placed on private land because it had to be on United States Air Force property for security reasons. Mr. Wilfahrt said the tenants will be able to use the Air Force runway that is presently under-used.

In response to a question from Senator Grindberg, Mr. Vein said the additional cost for the Red River Valley Water Supply Project as a state project results from the additional miles of pipeline. He said if federal works were allowed to be used, then the McClusky Canal could be used instead of more pipeline.

In response to a question from Representative Anderson, Mr. Vein said even if there was a record decision, Plan A would require an authorization and appropriation from Congress. He said Plan B would be quicker, and the overall expense would be about the same.

Mr. Feland said the new regional water treatment plant is a regional project to be used for the next 100 years.

In response to a question from Representative Nelson, Mr. Feland said generally cities administer water services through an enterprise fund. He said large projects like water treatment plants are funded through revenue bonds. He said the plant is a multigenerational plant, and there needs to be a financing structure to spread the debt out over multiple generations.

In response to a question from Representative Hofstad, Mr. Feland said the new plant will provide 20 million gallons of water each day. He said the present plant provides 16 million gallons of water each day. He said the summer demand is 12 million to 14 million gallons of water each day. He said the usual demand is 8 million gallons of water each day.

In response to a question from Senator Luick, Mr. Feland said the regional project plan includes East Grand Forks. He said financial involvement from Minnesota has to be worked out.

In response to a question from Senator Luick, Mr. Vein said irrigation has not been viewed as a purpose of the Red River Valley Water Supply Project. He said the federal estimate of water usage for Plan A was conservative.

In response to a question from Representative Schmidt, Mr. Vein said the cost-share policy should be as inclusive as possible with 50 percent cost-share.

In response to a question from Representative Kreun, Mr. Vein said the Red River Valley Water Supply Project is for drought mitigation and not for day-to-day usage.

In response to a question from Senator Luick, Mr. Vein said the Red River Valley Water Supply Project has 122 miles of pipeline. He said he would like to see the pipe bigger so as to address other needs, but that greatly increases the costs. He said these considerations will have to be addressed if it is a state project.

In response to a question from Senator Grindberg, Mr. Vein said it is difficult to have a consensus on the State Water Commission cost-share policy because there are so many needs. He said there needs to be a long-term strategic plan. He said there will always be a local cost-share, and a low-cost loan would help with this local share. He said the funds could come from a different source than the resources trust fund.

Mr. Chris West, Mayor, Grafton, provided testimony to the committee on water issues relating to Grafton. He thanked the legislature for the funding for the water treatment plant last session. He said the Red River Valley Water Supply Project is important to Grafton. He said the Park River goes through Grafton, but there is better water from the Red River. He said the largest issue for Grafton is permanent flood protection. He said there is a federal project in place but no funding. He said the city will go ahead without federal funding if possible. He said the federal law that takes away the subsidy from the federal flood control insurance program has increased costs from \$1,000 to \$4,000 to \$6,000 per home per year in Grafton. He said this has had an affect on sales of homes which have plummeted. He said the flood protection is needed to get out of the 100-year flood zone so there is not an insurance requirement.

In response to a question from Senator Luick, Mr. West said the Army Corps of Engineers says a diversion is the most viable. He said a levy of 22 feet would provide for a 100-year flood protection.

In response to a question from Representative Nelson, Mr. West said the flood control project has been in the process for 30 years, and Grafton has waited 10 years for federal funding. He said federal regulations have changed over those time periods. He said the city cannot afford to wait, and the federal government is not in the financial condition to help. He said the cost of the diversion plan is \$45 million.

In response to a question from Representative Louser, Mr. West said Grafton has not investigated the community rating system applied for by Fargo and Grand Forks to get flood insurance discounts through the Federal Emergency Management Agency (FEMA).

Mr. Dan Stenvold, Mayor, Park River, provided testimony on water issues in Park River. He said the water tower in Park River was built in 1932 and holds 50,000 gallons. He said the cost to fix it is around \$900,000. He said a new 250,000-gallon water tower would cost \$2.7 million. He said 50 percent cost-share was provided, although 75 percent would have been preferred. He said the state revolving loan fund provides for the remainder, and this is being paid for with a \$12 per month increase in water rates. He said water infrastructure in cities is deteriorating, and the state should fund infrastructure needs with a 75 percent grant.

Mr. Eric Volk, Executive Director, North Dakota Rural Water Systems Association, gave a presentation ([Appendix C](#)) on rural water in this state.

In response to a question from Representative Owens, Mr. Volk said rural water systems prioritize internally and submit the list to the State Water Commission. The State Water Commission has always provided for a 75 percent match for new expansion.

In response to a question from Senator Grindberg, Mr. Volk said the top priority is getting water to new customers and to customers who have water in violation of the Safe Drinking Water Act. He said addressing efficiency and quality are also high on the list.

In response to a question from Senator Lee, Mr. Volk said there have not been any major issues regarding the jurisdiction of rural water systems and municipalities. He said the bill last legislative session was to get people together before there were problems. He said the bill may come into play in the future.

In response to a question from Senator Lee, Mr. Volk said the issue with Jamestown and the rural water system has been addressed through a signed document and with a trade of territory.

In response to a question from Senator Luick, Mr. Volk said the State Water Commission has data on aquifers. He said the rural water systems use surface water.

In response to a question from Representative Schmidt, Mr. Volk said comparing the rates of rural water systems may be the same as comparing apples to oranges because of debt load and whether the project was done with the municipal, rural, and industrial program or before that program was in existence. He said the comparisons are skewed with the density of customers.

In response to a question from Representative Hofstad, Mr. Volk said the deterioration of solvent used on early pipelines was a big issue and has been addressed over the years.

Representative Schmidt said not all rural water systems are running in the red, and the systems running in the black should not be penalized for being effective.

Mr. Neil Breidenbach, Manager, Grand Forks-Traill Water District, provided testimony on the Grand Forks-Traill Water District. He said the pipelines in the district are approximately the same amount of miles of solvent-weld and gasket-weld. He said the solvent-weld has 35 breaks each year, and the gasket-weld has 1 break or 2 breaks each year. He said the system loses 25 percent of the water. He said repairing the lines is not easy.

In response to a question from Representative Nelson, Mr. Breidenbach said a new treatment plant in Grand Forks would not be able to help the system that much because most of the system is at a higher elevation. He said the system works with Grand Forks as to disasters but not on supply on a regular basis. He said some of the system could be fed from Grand Forks because of being at a lower elevation.

In response to a question from Senator Luick, Mr. Breidenbach said the system does not use glue and primer and uses gasket because it works in all weather. He said boring is done with poly, not PVC, and can be done to a thousand feet with ease.

Mr. Gordon Johnson, Manager, North Valley Water District, provided written testimony ([Appendix D](#)) on State Water Commission policies on funding projects.

In response to a question from Representative Nelson, Mr. Johnson said large rebuilds should not be considered operating and maintenance, especially if capacity is expanded. He said the cost-share should be up to 75 percent. He said the State Water Commission needs to have flexibility. He said there needs to be flexibility to add projects with a higher cost-share for the state.

In response to a question from Representative Owens, Mr. Johnson said most engineering results in a project.

In response to a question from Senator Lee, Mr. Johnson said there has to be 20 percent in reserves because it is required by lenders. He said the district should be putting more money away for replacement, but customers' rates are already high.

In response to a question from Senator Luick, Mr. Johnson said a medium project has engineering costs of 10 to 15 percent. He said the larger the project is, the lower the percentage. He said engineers follow the rural development guide. He said engineers vary widely on price.

In response to a question from Senator Grindberg, Mr. Johnson said users are asked at every annual meeting whether they want higher rates for expansion. He said an increase of \$12 per month can result in people backing out of wanting water from the district.

Ms. Dawn Keeley, Executive Director, Red River Regional Council, gave a presentation ([Appendix E](#)) on the Red River Regional Council.

Representative Kreun read a statement ([Appendix F](#)) on the role of the Water Topics Overview Committee in developing policy with the State Water Commission. He recommended a working group of Water Topics Overview Committee members to work with the State Water Commission. Senator Holmberg said historically there have not been subcommittees, and any work will be done by the whole committee.

Senator Grindberg said after the next meeting, the committee will meet in Bismarck to develop priorities.

Representative Kreun said the legislature needs a cohesive policy for the next legislative session.

Representative Schmidt said when the state owns a water system with taxpayer money, there appears to be unlimited spending. He said if taxpayers own a rural water system, the taxpayer is not treated the same. He said the ownership of rural water systems needs to be reexamined by the state.

Chairman Grindberg recessed the meeting at 4:15 p.m. and called the meeting to order at 9:00 a.m. on Tuesday, February 4, 2014, at the City Commission Meeting Room, Fargo City Hall, 200 Third Street North, Fargo.

Mr. Bruce Furness, Chairman, Lake Agassiz Water Authority, gave a presentation ([Appendix G](#)) on the history of the Lake Agassiz Water Authority.

Mr. Ken Vein, Chairman, Garrison Diversion Conservancy District, and Mr. Dave Koland, General Manager, Garrison Diversion Conservancy District, gave a presentation ([Appendix H](#)) on the Red River Valley Water Supply Project alternatives.

In response to a question from Representative Hofstad, Mr. Koland said there has not been a detailed analysis of additional revenue provided from the Red River Valley Water Supply Project from spur lines.

In response to a question from Representative Schmidt, Mr. Koland said the maximum acre-feet per year to be used from the Missouri River for the Red River Valley Water Supply Project is 82,000.

In response to a question from Representative Nelson, Mr. Koland said collector wells would provide riverbank filtration, which is a form of treatment. He said the state is committed to addressing Canadian concerns by treating the water with a high level of treatment before the water crosses the continental divide.

In response to a question from Representative Nelson, Mr. Koland said the Northwest Area Water Supply Project does not totally treat the water before it crosses the continental divide.

In response to a question from Senator Luick, Mr. Koland said the Red River Valley communities have rights in the water in Lake Ashtabula.

In response to a question from Representative Kreun, Mr. Koland said entities receiving water from the Red River Valley Water Supply Project will pay for the expenses from Day One.

Mr. Todd Sando, State Engineer, and Chief Engineer-Secretary, State Water Commission, provided an update on the activities of the commission. He said there is \$11 million in the budget for the Red River Valley Water Supply Project. He said the corridors need to be reevaluated if there is not federal involvement to look for federal issues. He said federal issues include the federal works at the lake, getting the water out of the Missouri River, and getting pipelines across this state without going over federal lands. He said the value engineering should be done before the end of summer, and the selection team has chosen the top firm and is negotiating with that firm.

In response to a question from Representative Kreun, Mr. Sando said the goal of the Red River Valley Water Supply Project is to provide as much water as possible to as many people as possible. He said this will be done by mainly providing water to people in eastern North Dakota.

In response to a question from Representative Carlson, Mr. Sando said the project will take generations and the timing of the funding will take long as well. He said the construction would take at least six years. He said the legal issues will lengthen the timeline.

In response to a question from Representative Carlson, Mr. Sando said it will take several bienniums to pay for the cost-share which was originally one-third state, one-third federal, and one-third local. He said the new policy suggests an increase of 50 to 60 percent. He said in the end, the Legislative Assembly will need to decide.

In response to a question from Senator Luick, Mr. Sando said the state has been in legal controversy with Manitoba and the Canadian government over the Northwest Area Water Supply Project for over a decade. He said the Canadian government has multiple border issues, and any resolution as to water issues would become complicated if combined with other issues. He said the Northwest Area Water Supply Project is in federal court because there is federal involvement. He said federal court takes more time than state court. He said Manitoba agreed to moving water out of Devils Lake.

In response to a question from Representative Hofstad, Mr. Sando said any revenue from water supply projects goes to operation and not to the initial construction.

Senator Grindberg said the Red River Valley Water Supply Project needs to be in motion. He said it sends the message that the state is moving forward.

In response to a question from Representative Porter, Mr. Sando said in moving water from Devils Lake to the Sheyenne River, water was dropped over land and not directly into the river. He said this same technique may be able to be used with the Red River Valley Water Supply Project.

Mr. Sando said the State Water Commission has had public meetings across the state and has a 26-page comment summary on the commission's website. He said the issues contained in the comments include cost-share percentages, cost-share on engineering for rural flood control, eligibility of items, caps on projects, rules for major projects, an affordability factor, tribal lands, and engineering services. He said the commission does not cost-share on land. He said the comments say land is expensive and should be included in the cost-share. He said most comments want more items eligible, and this is the largest group of comments. He said it is difficult to be equitable. He said the commission may remove the cap on rural flood control projects of \$500,000. He said the commission received comments that major projects--projects over \$100 million--like the Red River Valley Water Supply Project should be evaluated on a case-by-case basis.

In response to a question from Representative Nelson, Mr. Sando said the State Water Commission administrative budget has been paid from the general fund and more recently shifts back and forth between the

general fund and resources trust fund. He said the commission would like the resources trust fund to be used toward projects.

In response to a question from Representative Kreun, Mr. Sando said tribes are sovereign nations, and the State Water Commission does not cost-share with tribes. He said the commission cost-shares with political subdivisions, and tribes need to work with a local political subdivision to receive the benefits of state funding. He said traditionally the federal government has provided money to the tribes, including operating and maintenance. He said federal funding has dried up.

In response to a question from Senator Robinson, Mr. Sando said the State Water Commission needs a cost-share policy by May so the commission can develop a budget.

Mr. Sando said rural water supply projects used to be all federal but have become more state. He said this biennium there is \$55 million for rural water supply projects and \$16 million for municipal.

In response to a question from Senator Robinson, Mr. Sando said the resources trust fund receives \$23 million to \$25 million per month. He said deposits are tracking above predictions. He said cashflow is not a problem because water projects take a long time. He said the State Water Commission has spent \$33 million out of the \$550 million appropriated this biennium.

In response to a question from Senator Grindberg, Mr. Sando said there was \$200 million carried over from the previous biennium. He said the additional funds in the resources trust fund above projections could be as high as an extra \$100 million. He said this money may be spent with Budget Section approval.

In response to a question from Representative Hofstad, Mr. Sando said sales by the Western Area Water Supply Authority are providing a good revenue stream.

Mr. Morrie Lanning, Past Moorhead Alderman and Mayor, and Past Minnesota House of Representatives, and Mr. Kristopher Knutson, Water Division Manager, Moorhead Public Service, gave a presentation ([Appendix I](#)) on the Red River Valley Water Supply Project from a Minnesota perspective. Mr. Lanning said there has been a history of drought in this semi-arid area. He said there needs to be additional water for growth. Mr. Knutson said 80 percent of the water for Moorhead comes from the Red River with an aquifer backup if there is a drought.

In response to a question from Representative Schmidt, Mr. Knutson said the policy of the effect of drainage on the aquifers used by Moorhead has not been addressed by Minnesota.

In response to a question from Representative Nelson, Mr. Knutson said the Moorhead treatment plant takes water in at the Midtown Dam, which is south of the Sheyenne River entrance into the Red River, so there is no impact of Devils Lake water on Moorhead.

Mr. Jim Gartin, President, Greater Fargo Moorhead Economic Development Corporation, and Mr. Craig Whitney, President/CEO, Fargo Moorhead West Fargo Chamber of Commerce, provided testimony on the role of water on present and future business. Mr. Gartin said he has 150 retention and expansion visits a year and collects issues businesses have and places them into an information management system. He said 93 percent of businesses identify workforce as a concern. He said the second most common concern, of approximately 77 percent of businesses, is water supply. He said he partners with Grand Forks and other business leaders in the valley which focus on six areas. He said the number one area for focus is workforce and the second is water. He said water supply is more important on a valleywide perspective than is flood control. He said he supports the Red River Valley Water Supply Project.

Mr. Whitney said the chamber represents 2,100 businesses and is the largest chamber in North Dakota and Minnesota. He said the chamber supports the Red River Valley Water Supply Project.

Mr. Pat Zavoral, City Administrator, Fargo, Mr. Bruce Grubb, Enterprise Director, Fargo, and Mr. Kent Constin, Director of Finance, Fargo, gave a presentation ([Appendix J](#)) on water infrastructure needs. Mr. Zavoral said that Fargo is growing, and businesses like the area because of the work ethic. He said demographers have said that

the city would slow down in growth, but it has done the opposite. Mr. Grubb said Devils Lake can provide two years of short-term water supply. He said Lake Ashtabula can provide one year of short-term water supply.

Mr. Costin said special assessments should be allowed for a 50-year term for major projects. He said the infrastructure loan program should be for a term of 75 years so there can be low monthly payments.

In response to a question from Representative Porter, Mr. Grubb said Fargo will pay for the Red River Valley Water Supply Project based on the amount of capacity received by Fargo. He said the city expects to pay 40 to 50 percent of the local cost.

Mr. Jeff Lewis, Executive Director, Red River Basin Commission, gave a presentation ([Appendix K](#)) on the activities of the Red River Basin Commission. In response to a question from Senator Luick, Mr. Lewis said a 35 percent reduction in runoff would have a result of a one-foot to two-foot drop in water levels during a 100-year flood in Fargo.

Mr. Chuck Fritz, Director, International Water Institute, gave a presentation ([Appendix L](#)) on decision support for local land and water managers. In response to a question from Senator Luick, Mr. Fritz said the information used for runoff information came from the LiDAR information. He said this information was partly paid for by state funds.

Representative Carlson said the committee should focus on priorities for funding from the resources trust fund.

Senator Grindberg said the committee will review funding priorities in a meeting in Bismarck.

Representative Carlson said the State Water Commission will have set priorities by March, and the meeting in Bismarck will be after March.

Senator Grindberg said the committee could be at odds with the State Water Commission about prioritization and cost-share. He said the committee will provide for prioritization and a review of cost-share, but after the commission has made its determination.

No further business appearing, Chairman Grindberg adjourned the meeting at 2:22 p.m.

Timothy J. Dawson
Committee Counsel

ATTACH:12