



**DIVERSION AUTHORITY
Land Management Committee
City Commission Room
Fargo City Hall
Thursday, April 10, 2014
2:00 p.m.**

1. Agenda review
2. Approve March 13, 2014, minutes
3. CCJWRD Land Acquisition Report
4. Property & Farmland Management Update
5. Right of Entry Status & Cultural Resources Easement Acquisition Update
6. Other business
7. Next meeting Thursday, May 8, 2014

**DIVERSION AUTHORITY
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City Commission Room
Fargo City Hall
Thursday, March 13, 2014
2:00 p.m.**

Committee Members Present: Fargo Mayor Dennis Walaker, Oxbow Mayor Jim Nyhof, Moorhead Council Representative Heidi Durand, Cass County Commission Representative Darrell Vanyo, Cass County Joint Water Resource District Representative Rodger Olson, Fargo City Administrator Pat Zavoral, Cass County Administrator Keith Berndt, Moorhead City Administrator Michael Redlinger, Fargo Director of Engineering Mark Bittner, Moorhead City Engineer Bob Zimmerman, Fargo City Engineer April Walker (alternate).

Others Present: Eric Dodds - AE2S, US Army Corps of Engineers Project Managers Terry Williams and Brett Coleman, Mark Brodshaug - Cass County Joint Water Resource District, Lyndon Pease - Moore Engineering, Alex Offerdahl - Watts and Associates, Inc.

The meeting was called to order by Chair Dennis Walaker.

Agenda Review

There were no additions or amendments to the agenda.

Approve February 13, 2014 Minutes

Bob Zimmerman moved the minutes from the February 13, 2014 meeting be approved. Darrell Vanyo seconded the motion. All the members voted aye and the motion was declared carried.

Cass County Joint Water Resource District (CCJWRD) Land Acquisition Report

Mark Brodshaug said one of the seven parcels approved for acquisition may be delayed. He said there have been no new acquisitions; however, one property owner is now looking to sell his entire parcel, expanding the acreage an additional 80 acres. He said appraisers are working in Oxbow and homeowners are being generally cooperative although feelings on the project are mixed. The draft appraisal is completed for the Oxbow Golf Course and under discussion and review.

Eric Dodds said one hardship property is outstanding, a rural residence in Minnesota. The appraisal is going through the review process, he said, and he expects to have a recommended action for next month's meeting. He said The Pifer Group, Inc. has been retained for land management services which may include dealing with various farm programs. He said in addition to having the Diversion Authority Chair Darrell Vanyo authorized to execute documents related to various farm programs, it would be advantageous to have additional representatives authorized to execute necessary documents on behalf of the Diversion Authority. He said Carol Harbeke Lewis of

CCJWRD and Dwight Hofland of The Pifer Group, Inc. are being recommended to fill that role.

Keith Berndt moved that this committee forward its recommendation to the Diversion Authority to authorize and appoint Carol Harbeke Lewis in her capacity as Secretary-Treasurer of the Cass County Joint Water Resource District and Dwight Hofland of The Pifer Group, Inc., in its capacity as Agent under the Agreement Between Owner and Agent for Farmland Management Services, as its representatives to execute all documents necessary on its behalf for all FSA (Farm Services Agency), CCC (Commodity Credit Corporation), and NRCS (Natural Resources Conservation Service) programs or any other program operated by the U.S. Department of Agriculture. Furthermore, each such representative may exercise the authority and powers granted independently of the other representative. Rodger Olson seconded the motion. All the members voted aye and the motion was declared carried.

Ag Risk Management Options - Crop Insurance

Eric Dodds said Watts and Associates Crop Insurance Division drafted an "Evaluation of Agricultural Risk Management Options for the FM Area Diversion Project" summarizing available options. He introduced Alex Offerdahl, a crop insurance economics expert representing Watts and Associates, Inc. (W&A).

Alex Offerdahl said he met with the Program Management Consultant (PMC) staff and the Agricultural Policy Subcommittee to present the initial options paper on mitigating agricultural risk. He said his firm's preliminary work focused on the possibility of extending federal crop insurance programs as they currently exist. Growers are extremely unlikely to receive any compensation under the federal crop program for losses due to intentional inundation, he said, because it is not a covered peril. He reviewed possible options, one being the potential that a private insurance company could offer coverage for an event deemed outside the authorization of federal crop insurance. Flowage easements are required by the Corps, he said, and alternatives could be offered above that baseline. He said land acquisition was discussed, although it was determined to be a difficult and potentially cost prohibitive option. Also, the installation of a widespread tiling project for soil drainage was looked at. He said self insurance with either some type of reserve, or an ad hoc approach, would make the Diversion Authority in essence a mutual type insurance entity. He said the report is intended to give options and not recommendations, and extended debate and consideration on options is expected. W&A will respond should there be a desire for additional, more focused research, he said, and until then they will await direction and feedback.

In response to a question from Pat Zavoral about how the magnitude of the project may relate to the acceptance of a rider to federal crop insurance, Alex Offerdahl said that, from a premium potential and with a limited number of claimants, it may not be a big enough project for insurance companies to compete for. In most years the total value of the crops in the approximate 35,000 acre staging area would be approximately \$18-\$20 million, he said, and from an annual exposure perspective and a premium potential of about \$750,000.00 to \$1.2 million, this is not huge. Because the same

companies may also be carrying federal crop insurance there may be interest from a few companies, he said. As far as a self insured plan, he said, the projections he has seen indicate compensation may be only once in ten years or up to three times in ten years. He said it would be difficult to maintain staff and adhere to legal requirements for those rare occasions there are claims and it would be difficult to keep up with insurance standards and regulations. He said self insurance could be pursued; however, he would advise looking at working with a professional insurance company or an administrative entity to manage some of the day to day aspects. While self insurance is likely to be the lowest total net cost, the legal and regulatory headaches will have to be considered, he said.

In response to a question from Darrell Vanyo about whether any options stood out during this process and whether some can be eliminated, Rodger Olson said a variety of combinations within these options seemed to be the most acceptable avenue for the Agricultural Policy Subcommittee. He said more discovery is needed prior to selecting the options.

Eric Dodds said flowage easements are required by the Corps and combinations of that with some type of insurance or acquisitions are likely. Even multiple combinations may be done, he said, depending on the area.

Rodger Olson said the question has been raised about whether providing insurance in addition to flowage easements is doubling up. He said the assumption is that if insurance is provided, the value of the flowage easement would decrease.

Alex Offerdahl said the total value of a loss should be unaffected by how it is distributed, it is a matter of finding the greatest level of acceptability. He said there are two classes of risk involved. One is a change in the fundamental potential long term use of that land, he said, and the second is the annual crop peril posed by intentional inundation. He said whether it is paid upfront as an easement, or a portion paid upfront as an easement and the remainder in the form of compensation in an inundation event, the total pie does not get larger based on how it is sliced. He said the concept of insurance is to distribute losses over time, and from a budget perspective the goal is to annualize the total value of those losses in one way or another to make sure those affected are offered some form of compensation.

Terry Williams said from the federal perspective the flowage easement fully covers the impact of staging water. She said she will seek information from the Corps Real Estate Division to answer a question from Rodger Olson about whether appraisals can take into account that that peril is gone by providing insurance and how long that commitment must be.

Alex Offerdahl said one or more of the farmers in the staging area have specific issues with organic certification and inundation. He said organic certification is earned over a number of years, and inundation presents the potential to lose certification. There is no historic precedent as a result of inundation and cross pollination with non-organic

matter, he said; however, it is a rational fear of the grower and it is good to be sensitive to such issues as the program is designed.

Mark Brodshaug said perhaps the list of six options could be narrowed to a smaller number to dig into, then Mr. Offerdahl could be asked to come back for additional meetings. He said such meetings could also include agricultural bankers and local crop insurance representatives. They would be a good group to help to understand these issues, he said.

In response to a question from Mark Bittner about whether crop insurance may be beyond what is required, Terry Williams said flowage easements, from the federal perspective, fully cover the impact of storing water.

Keith Berndt said there was feedback from the public early in the process about the fact that the original payment for flowage easements goes to the land owner and a renter may not see any benefits. He said those concerns resulted in discussions about adding another layer, such as insurance, to protect the operator. However, he said, in theory, a benefit to the operator could be that the land would not command as high a rent cost.

Darrell Vanyo said while the need for agricultural risk mitigation is years down the road, questions continually come up from agricultural producers and legislators wanting to know what is being done for mitigation. He said there are options available and he would like to see the progress continue. He thanked Alex Offerdahl for his input and knowledge of the insurance industry and said perhaps some Agricultural Policy Subcommittee meetings could include him by conference call to answer questions.

Right of Entry Status & Cultural Resources Easement Acquisition Update

Lyndon Pease said there is a potential environmental mitigation project along the Wild Rice River near its confluence with the Red River, north of Cass County Highway 18, and surveys will be conducted on three properties there this spring. He said access will be needed for the in-town levees portion of the project, which should be able to be done from public right-of-way. He said in the Oxbow/Hickson/Bakke area, access is needed for seven different properties, five in North Dakota and two in Minnesota. He said work to be conducted later in 2014 and into the next couple years, is along the southern alignment on over 100 properties in both North Dakota and Minnesota. That access will be needed for Phase 1 Cultural Resource surveys, geotechnical surveys, land surveys, and Hazardous, Toxic and Radioactive Waste (HTRW) surveys, he said.

The next meeting will be Thursday, April 10, 2014 at 2:00 p.m.

Meeting adjourned at 2:50 pm