

**DIVERSION AUTHORITY
Land Management Committee
City Commission Room
Fargo City Hall
Thursday, November 14, 2013
2:00 p.m.**

Committee Members Present: Fargo Mayor Dennis Walaker, Cass County Commission Representative Darrell Vanyo, Clay County Commission Representative Jon Evert, Cass County Joint Water Resource District Representative Rodger Olson, Buffalo-Red River Watershed District Representative Gerald Van Amburg, Fargo City Administrator Pat Zavoral, Cass County Administrator Keith Berndt, Moorhead City Administrator Michael Redlinger, Clay County Administrator Brian Berg, Fargo Director of Engineering Mark Bittner, Moorhead City Engineer Bob Zimmerman, Dirk Draper – CH2M (Ex-Officio).

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.

The meeting was called to order by Chair Dennis Walaker.

Agenda Review

There were no additions or amendments to the agenda.

Approve October 10, 2013 Minutes

Brian Berg moved the minutes from the October 10, 2013 meeting be approved. Rodger Olson seconded the motion. All the members voted aye and the motion was declared carried.

Hardship Review Committee Report

Eric Dodds said one hardship application has been received since the last meeting. It is a rural home in Clay County, he said, directly east of Oxbow adjacent to the river and includes 30 acres of woodland. He stated the Hardship Review Committee found that it meets the criteria and recommends approval of the application. Due to the property being in Minnesota, he said, the acquiring agent will remain the Diversion Authority rather than the Cass County Joint Water Resource District (CCJWRD). He said the Committee also recommends adding Mark Brodshaug, Chair of the CCJWRD, to the Hardship Review Committee.

Pat Zavoral moved that this committee forward its recommendation to the Diversion Authority to proceed with an appraisal on the property and that Mark Brodshaug be added to the Hardship Review Committee. Keith Berndt seconded the motion. All the members voted aye and the motion was declared carried.

Agricultural Impacts Mitigation Plan

Eric Dodds said the draft decision paper identifying that flowage easements and supplemental crop insurance will be included as mitigation has been previously presented and generally approved; however, it has never been formally adopted. He said he recommends this Committee approve the plan regarding mitigation for agricultural impacts and forward it to the Diversion Authority Board for approval.

In response to a question from Mark Bittner regarding delayed planting impacts, Mr. Dodds said the discussion in the Agricultural Subcommittee was for crop insurance to cover when planting is prevented or for losses to growing crops. Flowage easements would likely cover damages to delayed plantings, he said, recognizing that if a crop can be planted before the late planting dates, federal crop insurance can be obtained. He said the policy acknowledges that flowage easements are required and will be done in accordance with the Corps policy, and that it is prudent to provide supplemental crop insurance, the details of which will be worked out.

Darrell Vanyo said the action now is for approval of the generalized concept that flowage easements and crop insurance are supported as an avenue of mitigation. This adds more commitment that mitigation is moving forward, he said.

Keith Berndt said that had the diversion been in place this past spring, there likely would have been more benefit than detriment due to better drainage provided in much of the project area.

Mr. Zavoral said this motion is not to establish dollar amounts, it is to set parameters and the details will be worked on.

Rodger Olson moved the Agricultural Impacts Mitigation Plan, which includes providing flowage easements and supplemental crop insurance for lands impacted by the project, be forwarded to the Diversion Authority Board with a recommendation for approval. Jon Evert seconded the motion. All the members voted aye and the motion was declared carried.

Crop Insurance Study

Eric Dodds said the Program Management Consultant (PMC) team requested and received a proposal from Watts and Associates, Inc. (W&A), an economic specialist in the crop insurance industry. He said the PMC team is proposing to hire W&A as a subcontractor to prepare a report documenting options to address the impacts of the project on agricultural lands. They will identify advantages and disadvantages, potential implementation costs and expected timeframes, he said, and will likely have something back to him in a couple months.

Mark Bittner moved to support the crop insurance study. Keith Berndt 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 presented a list of acquisitions in process. He said letters were sent last week to 56 property owners of 79 parcels in the Oxbow area advising them of the intent to acquire their property to construct and operate the ring levee and that they can expect a call from a land acquisition company. He said most of the properties are residences either in the footprint or outside the Oxbow/Hickson/Bakke levee, which need to be acquired at some point. The Country Club owns nine parcels and Ulteig Engineers will do the golf course appraisal through an experienced subcontractor, he said, and ProSource will handle the bulk of the remaining appraisals. He said there may be a shortage of appraisers, so working closely with the City of Oxbow, a priority schedule will be compiled. Acquisitions will likely happen over several years, he said; however, it is important to first identify those who most likely want to stay within the community and to work with them first.

Mark Bittner suggested a policy may be needed for selling properties that are acquired before needed and he cautioned that this committee may be faced with the issue of quick-take in the future.

Mark Brodshaug said the Finance Committee will approve resale of properties. Cases will arise in which rental may be part of the negotiations between the land acquisition company and the homeowner, he said. Each situation will be different, he said, and an ironclad policy would be difficult. He said circumstances will be addressed as best they can. The idea is to start now and sort out issues before the properties are absolutely needed, he said.

Pat Zavoral said a series of things need to be worked out in Oxbow such as solidifying the golf course design, configuration of the golf course/lots/streets, and decisions on annexation and acquisition of new lots.

Eric Dodds said the City of Oxbow has formed a steering committee to address issues with development and design.

Rodger Olson complimented Mark Brodshaug on his recent editorial in The Forum he wrote about flood storage. He said it was well done and informative.

Right of Entry Status & Cultural Resources Easement Acquisition Update

Lyndon Pease said Phase I Cultural Resource Surveys have been completed on the north end of the diversion and for Oxbow/Hickson/Bakke, as well as for some of the in-town levee in the Fargo area. Phase II Cultural Resource Surveys were completed around the Maple River aqueduct area and a report will be issued next spring, he said. Work continues for rights of entry for utility surveys in Oxbow/Hickson/Bakke for design and utility relocation, he said, as well as geotechnical boring work. Three different easement locations need to be coordinated for instrumentation monitoring equipment in Oxbow/Hickson/Bakke, he said.

In response to a question about the progress made with cemeteries in the staging area, Terry Williams said a report from Jonathan Sobiech is expected in about a

month. She said he visited sites in the staging areas and conducted interviews and that information will feed into developing a mitigation plan. Nearly all those interviewed seem to prefer ring levees over relocation, she said.

Other Business

In response to a question from Darrell Vanyo about whether the Agricultural Subcommittee has discussed looking at the availability of agricultural land for swapping, Rodger Olson said the topic has been touched on. He said he has heard from a couple of people who have indicated they would be okay with the project if replacement land can be mitigated.

Mark Bittner said the technical work group discussed what the next steps may be in obtaining authorization and how to make this project stand out against others competing for federal funds. He said there may be something this group can do to speak to the benefits or something that can be done with the Corps.

Pat Zavoral said the first piece is to determine when authorization will be forthcoming. He said he, Keith Berndt and Mike Redlinger had a phone call with Congressional delegation staff recently and were advised to continue with the same strategies and to keep engaging the Corps. Minnesota and North Dakota Senators met with the Office of Management and Budget (OMB) Director to request funding for FY 2015, he said, and the House recently determined which members will meet with Senate representatives on the Water Resource Development Act (WRDA). The Congressional delegation staff indicated that the semiannual visit to DC would best be scheduled during the second week in January, he said.

Mark Bittner said the resolutions include delivery of finished projects and time limitations. He suggested a pilot project to continue working jointly with the Corps be considered.

Brett Coleman said the Corps is open to suggestions to move the project forward. He said they need to work within the rules set forth, and assistance with authorization and funding will be appreciated.

Mr. Zavoral said he feels good about being on the right track. He said within what the Corps has already presented to the OMB there is a range of funding opportunities. The figure the Corps presented to the OMB is about \$210 million in projects, he said, which include Reaches 1 through 5. Some defined activities within that were presented to the Congressional staffers, he said, who will present them to OMB and that will trigger a project partnership agreement.

The next meeting will be Thursday, December 19, 2013 at 2:00 p.m.

The meeting adjourned at 2:48 p.m.