

**METRO FLOOD DIVERSION AUTHORITY
MAY 25, 2017—3:30 PM**

1. MEETING TO ORDER

A meeting of the Metro Flood Diversion Authority was held Thursday, May 25, 2017, at 3:30 PM in the Fargo City Commission Room with the following members present: Fargo City Mayor Tim Mahoney; Fargo City Commissioner Dave Piepkorn; Fargo City Commissioner Tony Grindberg; Cass County Commissioner Mary Scherling; Cass County Commissioner Chad M. Peterson; Cass County Commission representative Darrell Vanyo; Moorhead City Council Member Chuck Hendrickson; Moorhead City Council Member Joel Paulsen; Clay County Commissioner Kevin Campbell; Clay County Commissioner Grant Weyland; Cass County Joint Water Resource District Manager Mark Brodshaug; and West Fargo City Commissioner Mike Thorstad. Moorhead City Mayor Del Rae Williams was absent.

2. MINUTES APPROVED

MOTION, passed

Mr. Weyland moved and Mr. Hendrickson seconded to approve the minutes from the April 27, 2017, and May 11, 2017, meetings as presented. Motion carried.

3. AGENDA ORDER

MOTION, passed

Mr. Piepkorn moved and Mr. Campbell seconded to approve the order of the agenda. Motion carried.

4. MANAGEMENT UPDATE

Program management consultant (PMC) report

Randy Richardson from CH2M provided an update on activities over the last month, which include supporting activities to secure funding; Oxbow levee construction design and home removals; continued engagement with the Minnesota DNR through the formal working group; continued land acquisitions with a focus on Phase 1 and Phase 2 properties; and work on the P3 RFP with the expectation that the “near final” version will be completed by the end of June. Priority areas for the next month include refining the P3 RFP to identify cost savings and reduce bidder contingency; continued land acquisitions; and monitor ongoing litigation and provide support for legal responses.

Robert Cowen provided a brief financial update on the overall program status and said \$360 million has been expended to date.

Ty Smith from CH2M provided a construction update on continued work at the 4th Street North pump station generator building, which is almost complete, and the Oxbow home demolition and relocation project. He said upcoming projects include the final two phases of Oxbow home demolition and relocations, and Oxbow levee construction. The scope will be modified and re-bid for the Oxbow City Park relocation.

5. ADMINISTRATIVE/LEGAL UPDATE

Executive Director search process

Mrs. Scherling said CPS HR Consulting, Inc. began the first screening of applications and will provide a written report to the board at the June 22nd meeting.

6. PUBLIC OUTREACH UPDATE

Committee report

The Public Outreach Committee met on May 24th. Rocky Schneider from AE2S said there has been an increase in outreach to the diversion website after notices were sent regarding the special assessment district hearing. The website also has information on the closure of County Road 17 near the inlet construction site south of Horace and related detour information. The committee discussed the Conditional Letter of Map Revision (CLOMR) through FEMA, which is expected to be approved soon. Letters have been sent to 31 different entities asking for comments on the CLOMR. This information is also available on the website.

Mrs. Scherling suggested additional public outreach be done with townships and with local legislators to keep them informed about the project. Mr. Paulsen suggested public meetings be held so local entities may attend and ask questions regarding the CLOMR. Mr. Schneider said letters will be sent to affected residents after the CLOMR is approved and one-on-one meetings will be offered.

Business Leaders Task Force

Tom Dawson from the Chamber of Commerce Business Leaders Task Force said members continue to be available to provide support to the board.

7. LAND MANAGEMENT

The Land Management Committee met on May 24th. Mrs. Scherling said the committee discussed biotic surveys being conducted and Phase 2 acquisitions.

Mr. Vanyo asked about building permits and how they may be handled for construction in the diversion channel and southern alignment. Mr. Shockley said at this time there is not any type of moratorium on building, and permits would be issued through the city or township. There was discussion on how to proceed since any buildings that may be constructed in this area would have to be purchased by the Diversion Authority.

Mr. Campbell said Clay County has created overlay districts in the past to prevent development from occurring in an area, and this may be an option with building on the Minnesota side of the diversion project.

Mr. Shockley suggested planners from the area meet to discuss a moratorium on building. Jason Benson, Cass County Engineer, said under North Dakota law, cities and townships have zoning authority. The county oversees the platting process but does not control zoning. He said the only exception would be if the township specifically turns over its zoning authority to the county. He will discuss this issue with the Cass County Planner to set up a meeting with affected townships and cities to discuss a moratorium on building in the channel and southern alignment.

Property Acquisition Status Report – Quick Take Process

Mrs. Scherling briefly reviewed the map showing the status of property acquisitions. She said a change in law becomes effective August 1st regarding the quick take process, which will involve the Cass County Commission in addition to the Cass County Joint Water Resource District. Eric Dodds from AE2S said currently it is a 45 to 60-day process and with the changes, will become an eight-month process. He said the prescribed steps are outlined in the new law.

8. FINANCE UPDATE

Committee report

The Finance Committee met on May 24th. Mr. Grindberg briefly discussed the financial report and said the cash outlays are in line with the budget. Also, the committee rejected bids for the Oxbow City Park relocation project, which will be re-bid with a different scope of work.

MOTION, passed

Mr. Peterson moved and Mr. Weyland seconded to receive and file the financial report as presented. Motion carried.

Refinancing of Wells Fargo Loans

Michael Montplaisir, Cass County Auditor, said Fargo and Cass County each have two \$50 million loans through Wells Fargo with two loans due in 2017 and two due in 2018. Staff have been working with Wells Fargo to combine and refinance all four loans so the city and county each have one \$100 million loan. The refinancing will extend the due date for the loans to 2019. He said interest rates will be less and this will allow more flexibility for other financing.

MOTION, passed

Mr. Vanyo moved and Mr. Grindberg seconded to endorse the plan to refinance the loans through Wells Fargo as presented and as approved by the Finance Committee. On roll call vote, the motion carried unanimously.

Voucher approval

The bills for the month are with Cass County Joint Water Resource District (CCJWRD) for costs associated with the Metro Flood Diversion, in-town levees, Diversion Project Assessment District, OHB levee, and Oxbow Country Club golf course construction; Dorsey & Whitney LLP for legal services; Civil Design, Inc. for professional engineering fees; Ohnstad Twichell, P.C. for legal services; and Erik R. Johnson & Associates, Ltd. for legal services.

MOTION, passed

Mr. Piepkorn moved and Mr. Vanyo seconded to approve the vouchers received through May 18, 2017, in the amount of \$1,526,370.61. On roll call vote, the motion carried unanimously.

Recommended Contracting Actions

Ty Smith discussed a change order, which was approved by the Technical Advisory Committee and Finance Committee:

- Industrial Builders, Inc. (Change Order 02 – 2nd Street Floodwall North of Pump Station)—asphalt paving, BNSF railroad ties, floodwall cap, traffic control, additional differing subsurface conditions and unit rate quantity adjustments in the amount of \$55,605.75.

MOTION, passed

Mr. Grindberg moved and Mr. Brodshaug seconded to approve the outlined change order. On roll call vote, the motion carried unanimously.

Recommended Contract Awards

Mr. Smith discussed a construction contract, which was approved by the Technical Advisory Committee and Finance Committee:

- Landwehr Construction, Inc. (WP 43E.2F – Oxbow Riverbend Road Home Removals)—demolition and removal of homes in the amount of \$234,593.50.

MOTION, passed

Mr. Grindberg moved and Mrs. Scherling seconded to approve the appropriation of funds for the outlined contract award. Discussion: Mr. Peterson wants to ensure the home removal process goes smoothly and that the Oxbow Mayor and City Council are aware of the contract. The contractor has worked on other home removal projects for the diversion and is familiar with the process. Also, Oxbow is aware of the contract award for the removal of the homes along Riverbend Road. On roll call vote, the motion carried with Mr. Grindberg, Mrs. Scherling, Mr. Mahoney, Mr. Peterson, Mr. Vanyo, Mr. Campbell, Mr. Weyland, Mr. Hendrickson, Mr. Paulsen, Mr. Brodshaug and Mr. Thorstad voting “Yes”; Mr. Piepkorn voting “No”.

9. OTHER BUSINESS

Preliminary Agreement with Western Area Power Administration

Mr. Richardson said a request was received from Western Area Power Administration (WAPA) for \$30,000 to relocate transmission lines. Mr. Shockley said third party agreements will be needed with over 30 companies for transmission facilities located in the project footprint. Utility companies require fees to be paid upfront for engineering and design costs. Mr. Shockley said prior to financial close of the P3 contract, the Diversion Authority is responsible for paying third party agreements.

MOTION, passed

Mr. Grindberg moved and Mr. Piepkorn seconded to approve a preliminary agreement with Western Area Power Administration at a cost not to exceed \$30,000. Discussion: Mr. Peterson asked how the cost was figured. The estimate was provided by their engineers. If the cost is more than this figure, the item will need to be reconsidered by the board. On roll call vote, the motion carried unanimously.

Oxbow City Park Relocation Bids

Mr. Shockley said the board should make a formal motion to reject the bids for the Oxbow City Park relocation project.

MOTION, passed

Mr. Peterson moved and Mr. Grindberg seconded to reject all bids for the Oxbow City Park relocation project. On roll call vote, the motion carried unanimously.

10. NEXT MEETING DATE

A special meeting will be held on Tuesday, May 30, 2017, with Major General Donald E. Jackson Jr. and Deputy Assistant Secretary Let Mon Lee to discuss federal funding for the project. The next regularly scheduled meeting will be held on Thursday, June 22, 2017.

11. ADJOURNMENT

MOTION, passed

On motion by Mr. Peterson, seconded by Mrs. Scherling, and all voting in favor, the meeting was adjourned at 4:30 PM.