

METRO FLOOD DIVERSION AUTHORITY
SPECIAL MEETING
May 30, 2017 – 3:30 PM
Fargo City Commission Room
Fargo City Hall
200 3rd Street North

A special meeting of the Metro Flood Diversion Authority was held Tuesday, May 30, 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 Mayor Del Rae Williams; Moorhead City Council Member Chuck Hendrickson; Moorhead City Council Member Joel Paulsen; Clay County Commissioner Kevin Campbell; and Clay County Commissioner Grant Weyland.

Absent: Cass County Joint Water Resource District Manager Rodger Olson and West Fargo City Commissioner Mike Thorstad.

Others present: Major Gen. Donald E. Jackson Jr., Col. Sam Calkins, Aaron Snyder, Judy DesHarnais, Terry Williams and Jim Bodron, all with the U.S. Army Corps of Engineers; and Let Mon Lee, Office of the Assistant Secretary of the Army for Civil Works.

Mayor Mahoney called the meeting to order and Terry Williams handed out copies of the USACE St. Paul District monthly update. Mayor Mahoney said the meeting would be a discussion about funding and progress. He said the Diversion Authority initially requested \$70 million from the federal government for this year's portion of the Diversion construction; however, the Diversion Authority received only \$20 million and a portion of those funds will be used to continue planning and other important work. He said there was another discussion earlier today about the project which included an update on the Public Private Partnership (P3), how it works and where the Diversion Authority wants to see this go in the future. He stated the voters felt very strongly about protecting the community and he is pleased with the partnership and relationship with the Corps.

Major Gen. Jackson said his responsibility is civil and emergency operations dealing with water, whether before or after an emergency. He said there are many opportunities as this project moves forward into construction including job creation. He said the P3 is the wave of the future and the Corps is looking to leverage more private capital financing to deliver big infrastructure projects such as the Diversion project. He said the current administration is looking hard right now on how more projects can be done like the Fargo-Moorhead Diversion project. He said he became aware of this project in October 2015 when the Corps started putting together the work plan for FY16. He said the Corps worked hard with the Office of Management and Budget to get money in the 2017 budget; however, that did not happen, yet they got it in the 2016 work plan. He said the Corps will continue to push this project to try to meet the federal funding commitments. He said this is a unique project and the Corps partners with communities on many projects, typically at a standard federal/non-federal 65/35 cost share. He said the Corps has not had a P3 project before and he has never seen a community that has stepped up like the Fargo-Moorhead area to meet the non-federal requirement. He said this is an extremely important project and very significant for the region. He had an opportunity to get in the air today to see just how huge this project is and it was helpful to understand the considerable commitment this region has made such as relocations and real estate acquisitions, and to get this done requires a tremendous amount of work.

Col. Calkins said there was some disappointment with the budget that just came out. He said there is no money in the 2018 budget for the project and the FY17 work plan was not more than FY16. He said the Corps is going to advocate for this project, which is a poster child for a community that steps up in a federal process more efficiently than the federal model. He said Commanding

General and Chief of the Army Corps of Engineers Todd Semonite has the talking points down on this project, and he uses them frequently on behalf of this community. He said no one will leave this room today thinking the Army Corps of Engineers is not committed to partner with this project and deliver it to completion. He said there are policy items to work through, including how the federal government looks at public/private partnerships from a policy perspective as it pertains to budgeting. He said members of Congress and the administration are trying to understand and improve this and are using the F-M Diversion project as a case study on how to do it right. He said the Economic Council is looking at the P3 as a way to deliver the infrastructure needed. He said Special Assistant to the President for Infrastructure D.J. Gribbin is an advocate of P3 work. He said the Corps has been able to work closely with Mr. Gribbin about road, rail and runway projects, as well as transportation and flood risk management, which falls in line with what the Corps is doing in Fargo-Moorhead. He is looking forward to answering questions as well as assuring the Diversion Authority the Corps is committed to this project and will continue to work to get it delivered. He said this is a split delivery project with the federal government responsible for the southern embankment and its associated control structures, and the Diversion Authority and the P3 contractor are responsible for the Diversion channel itself and the associated infrastructure. He said the entire project is clearly a federal project and as far as the coordination and oversight, the Corps is involved on the P3 side. He said this is a new process and the Corps' first P3 project and they are learning as they go. He said the Corps is open to comments and suggestions on how to do it better. For example, he said, with real estate issues, the Corps has the ultimate authority, and with permitting, the Corps is used to doing that; however, when applied to a P3 project, it takes some adjustment, flexibility and creativity. He said the President's FY18 budget and the Corps' FY17 work plan came out last week and there was no money for the project in the FY18 budget. He said the same thing happened last year; however, the Corps did get \$20 million in the work plan. He said he expects something similar this year. He said the \$20 million will help continue the planning and design work. He said the Diversion inlet control project awarded \$46 million to Ames Construction, who is currently at the site doing a lot of work. He said as the group was flying over the site, Terry Williams said it was a big effort to design that inlet control structure; however, the Corps is using lessons learned for the Wild Rice control structure and the Corps expects more of this as the project continues. He said the Corps will get more efficient as the project continues and will have better products and hopefully compress the build time. He said the Corps is hopeful when the FY18 work plan comes out in a few months, contracts can be awarded and they are able to stay on the timeline.

In response to a question from Mr. Grindberg as whether the project gets a line item in the President's budget or whether funding comes through a normal allocation, Mr. Lee said the President's budget is about \$5 billion with no earmarks. He said Congress gave the Corps a little more than \$1 billion in FY17; however, those are the unnamed earmarks Congress feels the President has shortchanged the Corps, so they added that money in. He said whatever projects come out of the work plan are the projects most likely not budgeted in the President's budget.

Major Gen. Jackson said Congress gives the Corps beyond what the President allocates; however, Congress cannot say what projects the Corps spends it on. He said Congress can put the money into bins and tell the Corps to spend so much on navigation projects, so much on flood risk management projects or ecosystem restoration projects; however, what projects the Corps actually does have to go through the same process as budget development. He said in some cases, the administration will give additional funding to what they had already funded as a line item in the President's budget and in other cases, they may opt to fund a project that for whatever reason did not meet budget guidelines for budget development. He said a big test is the benefit to cost ratio. He said many of the projects that get funded in the work plan are great projects; however, they do not have the benefit to cost ratio that makes them budgetable by the administration's policy guidance for the President's budget development. He said the Corps does not have to wait on a surplus in an appropriations bill. He said the Corps is using the work plan allocation to get the funding needed to move forward. He would like to get it in the budget for a lot of reasons, including when there are different types of financial situations, such as a financial resolution, it is helpful to have it as a line item if Congress appropriates it.

Mrs. Scherling said there was a lot of last minute confusion when County Road 17 closed. She said there have since been conversations with the county engineer, and she thinks they have come up with an alternative route that would be a shorter detour. She said the more the Diversion Authority can get out in front of these things, the better. She said it is not just road closures, also with opportunistic land sales, to let people know what is going to happen. She said many people just want to know how this will affect them personally. She said there are other road closures in the county; however, they do not get the kind of attention as anything related to the Diversion project.

Terry Williams said the work near County Road 17 was scheduled for about a month. She said the Corps will strive to do a better job getting the word out on work that will be done with the southern embankment project.

Major Gen. Jackson said better integration of meetings with contractors and getting the city involved so everyone knows the sequence of work in real time will give people a chance to ask questions and understand the magnitude of disruptions.

Ms. Scherling said it was hoped the bypass would be completed prior to construction starting; however, that project will not be done until October.

Mayor Mahoney said during a big City of Fargo project on 19th Avenue North, there were many complaints. He said this year and with new construction projects, there has been much more communication with the public and thus less complaints. He said the City can work with the team on how to best notify the public when Diversion work is being done. He said there is no such thing as over-communicating.

Mr. Campbell said Clay County will need time to work with landowners and the Highway Department, much like what Mrs. Scherling said, to avoid potential road closures. He said better planning is needed as many in the County are not fond of this project and anything the Diversion Authority can do to lessen that burden is welcomed. He said it is important for local governments to have access to plans further in advance so they know how to proceed.

Mrs. Scherling said as Chair of the Land Management Committee, there has been a lot of talk about land acquisitions. She said the sooner things can get rolling the better and years ahead of time is not too soon. The biggest question from everyone is "how this project is going to affect me." She said people want to know valuations and then the committee can do some opportunistic purchases. She said people are ready to sell for whatever reason; therefore, why not move forward and make it as painless as possible.

Mr. Peterson said he is pleased the validation is there. He said people in the areas Mr. Campbell referenced are convinced this is not a project and it will not be built. It was invaluable having Col. Calkins at the North Dakota State Capitol because a message from the Colonel is substantively different. When the Colonel walked into the Capitol and was told this was not a project and he said, "Sir, it is," all of sudden, the conversation changed, the dialogue changed, the attitude changed, even the postures in the chairs changed. He said the more reinforcement given through messages from the Corps brings credibility.

Mr. Paulsen said he has been engaging with many at State Legislature meetings to clarify what the project is all about. He was surprised legislators had very little knowledge about the project. He said legislators he talked to were very interested and some of his efforts led to questions about the Minnesota DNR. He will continue to advocate for the Diversion project with the Minnesota Legislature and support from Corps would dovetail with Diversion Authority efforts.

Maj. Gen. Jackson said he would like to send a strong statement of solidarity and would be more than willing to obligate the Corps to participate in any engagement with the State of Minnesota.

Mayor Williams said the Chairman the of capital improvement group in Minnesota was interested in learning more about the project. She said a busload of legislators tour Minnesota in the fall to see projects they are reading about. She said this would be good timing to have some of the St. Paul people participate.

Mr. Campbell said Clay County is the only county in Northwest Minnesota to show future growth and part of that has to do with Clay County's neighbors. It goes to the economic importance of the region, he said, and not only is the Diversion going to save some homes, the legislators need to understand the economic significance of this project. He said Clay County Commissioners will do what they can to work with that as well.

The meeting adjourned at 4:03 p.m.

Minutes prepared by Dianna Baumann, Principal Office Associate, Fargo City Commission