

**DIVERSION AUTHORITY
Land Management Committee
City Commission Room
Fargo City Hall
Wednesday, August 23, 2017
3:00 p.m.**

Present: Cass County Commission Representative Mary Scherling (via teleconference); Clay County Commission Representatives Kevin Campbell and Jenny Mongeau; Moorhead City Engineer Bob Zimmerman; Fargo Division Engineer Nathan Boerboom; Cass County Joint Water Resource District Representative (CCJWRD) Rodger Olson; Moorhead Mayor Del Rae Williams; and Fargo City Commissioner John Strand.

Others present: Eric Dodds (via teleconference) and Dean Vetter - AE2S; Mark Brodshaug - CCJWRD; and Fargo Assistant City Administrator Michael Redlinger.

Absent: Fargo City Administrator Bruce Grubb; Cass County Commission Representative Chad Peterson; Moorhead City Council Representative Heidi Durand; and Oxbow Mayor Jim Nyhof.

The meeting was called to order by Committee Member Rodger Olson.

Agenda Review

Mr. Strand moved to approve the agenda. Second by Mr. Campbell. All the members present voted aye and the motion was declared carried.

Minutes Approved

Mr. Zimmerman moved the minutes from the July 26, 2017 meeting be approved. Second by Mr. Campbell. All the members present voted aye and the motion was declared carried.

Property Acquisition Report

Mr. Vetter said there were a few changes on the property acquisition status report. He said the bio-geo monitoring sites not affected by other construction factors were added and now appear in yellow. He said the shaded area indicates the future flowage easements and below the southern embankment and east of the spillway, the count now shows 688 parcels. He said there are some fringe properties just south of the southern embankment and east of the spillway around Oxbow and Comstock that have more immediate needs as far as land acquisitions. He said next month the count will include the total number of parcels needed for flowage easements. He said Page 3 of the report shows the three Diversion inlet control structure properties. He said negotiations are ongoing with one of the property owners, a purchase agreement will be coming soon and he is hopeful others will follow. On Page 4, he said, there is information about the cultural mitigation site. He said the Drain 14 site is still in negotiations due to the fact the Corps is still working on some contractual issues.

Mr. Boerboom said the Corps will be looking at some mitigation of the site this fall and will begin full mitigation in the spring.

Mr. Vetter said the Minnesota parcels are still on hold as the legal conversation continues. On the Diversion channel, he said, under Phase 1, purchase agreements pending were added and those are the dollars that will soon move to the green category, which will give some foresight on the dollars being expended there as the process continues. He said the upstream mitigation area on the flowage easements was updated and those will be modified again. He said he is not playing a shell game; however, some numbers had to be sanctified due to the fact the count dropped down and the team had to find out the reason why.

In response to a question from Mr. Olson about the seven easements acquired in the upstream mitigation area and if the Diversion Authority owns the land, Mr. Vetter said the Authority owns the land and four parcels were from the Volk property that was auctioned, two parcels were organic land in Clay County and another parcel was a hardship acquisition.

CCJWRD Update

Mr. Brodshaug said the Corps is far enough along in the design of the Wild Rice Control Structure to start acquiring parcels in the southern alignment, which will be the focus this winter. He said there has been a lot of success this summer with Phase 1 properties; however, with some acquisitions, he said, things are not moving fast enough therefore deadlines may have to be set and court processes may be needed.

Mr. Vetter said there have been many opportunistic calls over the past few months and he said a land acquisition directive will be brought to the Finance Committee regarding those calls.

In response to a question from Mr. Olson about how many calls have been received, Mr. Vetter said there is one property in the Butcher Block development, four parcels in the upstream mitigation area as well as property in the Paul Bunyan Tree Service area.

USACE Rights of Entry Request

Mr. Dodds said the Corps is going to be asking for rights of entry along the southern embankment in Minnesota that are needed to do surveys to advance the design of the southern embankment. A letter has not been sent; however, he wanted it on the agenda for awareness. He said he recently talked with Terry Williams of the Corps and she has not yet sent the official request. He said the letter in the information packet is what the official request will look like. He said Diversion Authority partners in Minnesota are anxiously awaiting the judge's decision so they can move forward with discussions on rights of entry and land acquisitions.

In response to a question from Mr. Campbell about the letter from Peter Crary, which was not dated, Mr. Dodds said the letter is only a preview, it has not been officially sent; however, when the official letter is sent, which will be soon, it will certainly have a date and signatures.

Mr. Dodds said a letter was received from the Corps stating in 2011 the local sponsors assumed the duties of maintaining and updating the right of entry database and sending letters to landowners requesting ROEs required for surveys. The letter also requests that the Authority consider the ROE access requests for 2018. He said the Corps will focus survey efforts in 2018 on the southern embankment in Minnesota. These surveys had previously been deferred and are now needed as the project progresses into detailed design. The Corps is requesting ROEs for land, topsoil, Phase 1 cultural, historical buildings/visual impacts, geotechnical borings, topsoil surveys and hazardous, toxic and radioactive waste surveys. He said the letter requests that ROEs be obtained by May 1, 2018, and to allow for at least two field seasons for survey work to be completed; therefore, they are requesting an expiration date of December 31, 2020.

USACE ROW Request for Wild Rice Control Structure

Mr. Dodds said two of the necessary four parcels have been acquired for the Wild Rice Control Structure; however, two others impacted by the structure have not. He said with this Corps right of way request, he wants the committee to be aware of this and that the Authority is working to process those acquisitions into the system, starting on appraisals and approaching property owners. He said the Corps has finalized the right of way map drawing required for the Wild Rice Control Structure Project. The map delineates the acreage and estate interest required for the construction of a portion of the project. He said if sufficient federal funding is provided in 2018, a construction contract will be awarded in September 2018. He said the Corps is requesting the Authority secure the acreage needed for the temporary work area on or before April 25, 2018 for a period of 60 months.

Mr. Olson said the state Legislature has new rules for the Committee doing the acquiring of North Dakota properties as of August 1, 2017 and the new rules add time. He said the Corps is aware of the Committee's limits on acquiring property and the Committee will make requests accordingly.

Cultural Mitigation Update

Mr. Strand said representatives from the Corps and the Native American Commission, including Willard Yellowbird and Ruth Buffalo, are generally in communication. He said in early October there will be a presentation to the Authority. In the meantime, he said, there is outreach to tribal leaders; however, it is a lot get their arms around.

Other Business

In response to a question from Ms. Scherling about the evaluations for flowage easements, Mr. Dodds said the Request for Quotes is still out, it has been advertised for the past last three weeks and proposals are due September 7th. He said once the proposals are received, the Authority will review them and will make recommendations at the meeting in September. He said the CCJWRB is the entity that will retain the appraiser firm.

In response to a question from Mr. Olson about the North Dakota State Water Commission, Mr. Dodds said he was at a meeting in Bismarck with the new Commission, which has all new members due to the fact that all of the previous members were not reappointed. He said Governor Doug Burgum was at the meeting and asked many

questions so he and the new members can get up to speed on the variety of water topics across the state. He said Fargo Mayor Tim Mahoney and Cass County Commissioner Chad Peterson gave updates on the Diversion project and other fundamental information. He stated another meeting will be held in October where the Diversion Authority will apply for its cost share of the money for the biennium, which is \$66 million.

Mr. Zimmerman moved the meeting be adjourned. Second by Mr. Boerboom. All the members present voted aye and the motion was declared carried.

The meeting adjourned at 3:21 p.m.

The next meeting will be September 27, 2017 at 3:00 p.m.