

**METRO FLOOD DIVERSION AUTHORITY
JANUARY 23, 2019—5:09 PM**

1. MEETING TO ORDER

A meeting of the Metro Flood Diversion Authority was held Wednesday, January 23, 2019, at 5:09 PM in the Fargo City Commission Chambers with the following members present: Cass County Commissioner Mary Scherling via conference call; Cass County Commissioner Rick Steen; Fargo City Commissioner Tony Grindberg via conference call; Fargo City Commissioner Dave Piepkorn; 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 Roger Olson; and West Fargo City Commissioner Mike Thorstad. Cass County Commissioner Chad Peterson; Fargo City Mayor Tim Mahoney; and Moorhead City Mayor Johnathan Judd were absent.

Tom Dawson, Chair of the Chamber Business Leaders Task Force, was also present.

2. NOMINATION OF VICE CHAIR

MOTION, passed

Mr. Weyland moved and Mr. Steen seconded to nominate Kevin Campbell, Clay County Commissioner as Vice Chair of the Metro Flood Diversion Authority. Motion carried.

3. DESIGNATION OF SECRETARY

MOTION, passed

Mr. Weyland moved and Mr. Steen seconded to designate Heather Worden as the Secretary of the Metro Flood Diversion Authority. Motion carried.

4. MINUTES APPROVED

MOTION, passed

Mr. Steen moved and Mr. Paulsen seconded to approve the minutes from the December 20, 2018, and January 3, 2019, meetings as presented. Motion carried.

5. AGENDA ORDER

MOTION, passed

Mr. Steen moved and Mr. Hendrickson seconded to approve the order of the agenda amended to include Item 5c. regarding a permit application to the Buffalo Red River Watershed District. Motion carried.

6. MANAGEMENT UPDATE

Kim Daily from Jacobs provided an update on activities over the last month which include receipt of the MDNR Dam Safety and Public Waters Work Permit; Request for Proposals (RFP) for appraisal services as part of resuming the land acquisition program; request to the Corps of Engineers Assistant Secretary of the Army to amend the Project Partnership Agreement (PPA) to secure additional federal funding; and testimony to the North Dakota Senate appropriations committee.

Priorities include participation in a North Dakota Senate hearing on January 24th regarding the project funding request; trip to Washington, D.C. on February 5-7 to meet with the Congressional Delegation, Corps of Engineers Assistant Secretary of the Army, and Office of Management and Budget; coordination with local entities to secure state grants and loans as part of the financing plan; continued coordination with legal counsel, MDNR and Corps of Engineers with the objective to dismiss litigation and remove injunction; resuming land acquisition and impacted property mitigation activities; and selection of a qualified team of appraisers.

Ms. Daily said the project cost-to-date is \$453 million and \$37.9 million has been spent out of the FY2018 cash budget of \$82.6 million.

7. BUFFALO RED RIVER WATERSHED DISTRICT, Authorize permit application to be submitted

Attorney John Shockley said under the MDNR Findings of Fact from the Dam Safety and Public Waters Work Permit, the Diversion Authority needs to apply for a permit through the Buffalo Red River Watershed District for infrastructure within their jurisdiction. He said updates on the permitting process will be presented to the board at future meetings.

MOTION, passed

Mr. Weyland moved and Mr. Hendrickson seconded to authorize Diversion Authority staff and consultants to submit a permit application to the Buffalo Red River Watershed District (BRRWD) for items of the project under the BRRWD permitting jurisdiction. On roll call vote, the motion carried unanimously.

8. ADMINISTRATIVE/LEGAL UPDATE

Adopt meeting schedule for 2019

Pursuant to Section 5.11, subsection (b) of the Joint Powers Agreement, at the first meeting in January, the board needs to adopt a meeting schedule for the upcoming year. The board decided at the last meeting to set meetings on the second and fourth Thursdays of each month.

MOTION, passed

Mr. Steen moved and Mr. Thorstad seconded to adopt the meeting schedule for the Metro Flood Diversion Authority for 2019. Motion carried.

Committee appointments

Committee appointments were approved earlier today by each committee and recommended for approval by the Diversion Authority.

MOTION, passed

Mr. Steen moved and Mr. Paulsen seconded to adopt the Resolution Confirming Recommendations and Appointments to the Diversion Authority Board, Finance Committee, Land Management Committee, and Public Outreach Committee of the Metro Flood Diversion Authority. Motion carried.

MetroCOG cost share agreement

Michael Redlinger, Co-Executive Director and Assistant Fargo City Administrator, discussed a cost share agreement with the Fargo-Moorhead Metropolitan Council of Governments (Metro COG) to update the recreation plan, which was completed back in 2012. Planning work will be done in 2019 and 2020. Grants will be sought to provide additional funding opportunities to cover the costs. The Finance Committee approved the agreement at their meeting today.

MOTION, passed

Mr. Steen moved and Mr. Thorstad seconded to approve a cost share agreement with the Metropolitan Council of Governments to update the recreation plan with a 50% cost share estimate of \$115,000. On roll call vote, the motion carried unanimously.

9. PUBLIC OUTREACH UPDATE

Committee report

The Public Outreach Committee met earlier today. Mr. Olson said the committee discussed the recent MDNR permit decision and associated timeline. Public outreach activities include presentations at the Red River Basin Commission conference and Chamber Eggs & Issues. He said letters will be sent to three different groups of land owners to acquire land, flowage easements, and land purchases for the channel and mitigation.

Business Leaders Task Force

Mr. Dawson said a project update was given at the Chamber Eggs & Issues event last week. He said meetings of the task force will be held every other week to monitor legislative issues.

10. LAND MANAGEMENT

The Land Management Committee met earlier today. Mr. Campbell said the committee heard information on land acquisitions, property rights, and the process to acquire land. Also discussed were the differences between the process to acquire land in North Dakota versus Minnesota. The committee approved a task order for property acquisition services extending over an eight-year period, and two land acquisition directives.

11. FINANCE UPDATECommittee report

The Finance Committee met earlier today. Mr. Steen briefly discussed the financial report and said the net cash position is \$84.8 million.

Voucher approval

The bills for the month are Cass County Joint Water Resource District (CCJWRD) for costs associated with the Metro Flood Diversion, OHB levee, and in-town levees; Dorsey & Whitney for legal services; Erik R. Johnson & Associates, Ltd. for legal services; and Ohnstad Twichell, P.C. for legal services.

MOTION, passed

Mr. Steen moved and Mr. Piepkorn seconded to approve the vouchers received through January 18, 2019, in the amount of \$244,667.80. On roll call vote, the motion carried unanimously.

Recommended Contracting Actions

Two task orders were discussed as follows:

- CH2M Hill Engineers, Inc. (Task Order 02, Amendment 02 – Interim Program Management Services)—extend period of performance to April 30, 2019, and modify Task C to develop an overall program schedule in the amount of \$1,750,000.

Mr. Shockley said he and both Co-Executive Directors reviewed this task order, which was approved by the Finance Committee.

MOTION, passed

Mr. Steen moved and Mr. Olson seconded to approve Task Order 02, Amendment 02 with CH2M Hill Engineers, Inc. for \$1,750,000. On roll call vote, the motion carried unanimously.

- CH2M Hill Engineers, Inc. (Task Order 04 – Property Acquisition Services)—manage the acquisition of property rights and approve period of performance from January 24, 2019, to December 31, 2026, in the amount of \$21,180,600.

Eric Dodds from AE2S provided a presentation on the organizational structure for the project and a diagram of the master land acquisition work flow. He said there is a property rights acquisition program in place and around 200 parcels have been acquired to date. He discussed the lands program, which will involve the acquisition of property rights for the channel, southern embankment, upstream mitigation, and environmental mitigation. The project will require acquisition of approximately \$500 million in property rights. This task order includes an agreement between Jacobs (formerly CH2M Hill) and AE2S to manage property right acquisitions and mitigation of all impacted properties. Mr. Dodds said the work involved will take from six to eight years to complete.

The task order was developed based on expectation that the Cass County Joint Water Resource District will assume the role of acquiring the necessary property rights in North Dakota. It was also based on the expectation that the City of Moorhead and Clay County will form a new joint powers authority, Moorhead-Clay County Joint Powers Authority (MCCJPA), to assume the role of acquiring the necessary property rights in Minnesota.

Mr. Shockley said outreach to impacted property owners will also be part of the work outlined in this task order. Property acquisitions and public outreach efforts have been on hold during the injunction issued by the federal court. The task order will help to maintain a critical path for the project and will include management of impacted properties, mitigation, and acquisition of all property rights necessary to build and operate the project. Approximately 1,200 parcels will need to be purchased for the project. This task order covers costs for eight years of work.

Mr. Shockley said he and both Co-Executive Directors reviewed this task order, which was approved by the Land Management and Finance Committees.

MOTION, passed

Mr. Steen moved and Mr. Paulsen seconded to approve Task Order 04, Amendment 00 with CH2M Hill Engineers for \$21,180,600. On roll call vote, the motion carried unanimously.

12. NEXT MEETING DATE

The next meeting will be held on Thursday, February 14, 2019.

13. ADJOURNMENT

MOTION, passed

On motion by Mr. Steen, seconded by Mr. Weyland, and all voting in favor, the meeting was adjourned at 6:10 PM.