

**FLOOD DIVERSION BOARD OF AUTHORITY
JUNE 14, 2012—3:30 PM**

1. MEETING TO ORDER

A meeting of the Flood Diversion Board of Authority was held on Thursday, June 14, 2012, at 3:30 PM in the Fargo City Commission Room with the following members present: Cass County Commissioner Darrell Vanyo; Cass County Commissioner Scott Wagner; West Fargo City Commissioner Mike Thorstad; Cass County Joint Water Resource District Manager Rodger Olson; Fargo City Commissioner Tim Mahoney; Fargo City Commissioner Brad Wimmer; and Clay County Commissioner Kevin Campbell. Also present was ex-officio member Gerald Van Amburg, Buffalo-Red River Watershed District.

Fargo City Mayor Dennis Walaker and Moorhead City Council Member Nancy Otto were absent.

Staff members and others present: Cass County Administrator Keith Berndt; Fargo City Administrator Pat Zavoral; Clay County Administrator Brian Berg; Fargo City Engineer Mark Bittner; Fargo City Engineer April Walker; Cass County Engineer Jason Benson; Moorhead City Engineer Bob Zimmerman; Tom Waters, Program Manager, CH2MHill; Bruce Spiller, CH2MHill; Brett Coleman, Project Manager, Corps of Engineers; and Terry Williams, Project Manager, Corps of Engineers.

2. MINUTES APPROVED

MOTION, passed

Mr. Wagner moved and Mr. Thorstad seconded to approve the minutes from the May 10, 2012, meeting as written. Motion carried.

3. AGENDA ORDER

MOTION, passed

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

4. PROTOCOL TO ESTABLISH POSITION ON NON-TECHNICAL DESIGNS

Tom Waters, Program Manager from CH2MHill, discussed the need for protocol to establish project positions on non-technical features or requirements that may affect the design. Non-technical requirements include functional or public aspects, and with the magnitude of this project, non-technical input must be provided to the Corps of Engineers in a timely manner.

Non-technical issues that will require review by the Board of Authority or its committees include:

- 1) Non-technical requirements that may result in a potentially significant cost or savings;
- 2) Non-technical requirements that may significantly change land requirements for the project;
- 3) Unique owner maintenance or operational requirements;
- 4) Non-technical requirements that involve a high level of public interest.

Mr. Vanyo said the protocol will ensure a process is in place for all aspects of the project handled by the Board of Authority and its related committees.

MOTION, passed

Mr. Wimmer moved and Mr. Olson seconded to approve the protocol to establish positions on non-technical features or requirements of the project. Motion carried.

5. PROGRAM MANAGEMENT FIRM UPDATE

The following items were presented to the board:

Program manager consultant update

Mr. Waters provided an update on the activities over the last month, including work on the initial draft of the Land Management plan; final review of the Pre-Project Partnership Agreement (PPA) Hardship Policy; and continuation of Work-In-Kind (WIK) efforts on design of the low flow channel, modeling updates, increased flows through town studies, alignment alternatives, and local drainage plans.

National context for FM Diversion Project

Mr. Waters discussed the need for the diversion because of the more frequent and severe flooding that threatens the FM metropolitan area, which is considered an economic center for major health, educational, cultural and commercial industries.

Mr. Waters said the President's budget for FY2013 Pre-Construction Engineering and Design (PED) includes \$5 million allocated to the FM Metro Area Flood Risk Management Project. He highlighted other projects throughout the country that are also included in the FY2013 budget.

Summary presentation of Task Orders and Authority Work Directives

Bruce Spiller from CH2MHill provided a summary on the following task orders with Houston-Moore Engineering Group (HMG) totaling approximately \$1.2 million:

- Task Order No. 7 – Recreation and Use Master Plan and Design \$240,000
- Task Order No. 8 – Work-In-Kind (WIK) \$669,300
- Task Order No. 9 – Hydrology and Hydraulic Modeling \$194,341
- Task Order No. 10 – Utilities Design \$ 94,000

A revision is also requested for AWD-00004 (Authority Work Directive) with Moore Engineering for the Rush and Lower Rush River connection to the diversion channel.

6. TASK ORDERS, Approved

MOTION, passed

Mr. Mahoney moved and Mr. Wimmer seconded to approve the award of Task Orders 7 through 10 to HMG with possible revisions to the scope as necessary to meet Corps of Engineers requirements; and to approve AWD-00004 Revision 1. Motion carried.

7. UPDATES FROM COMMITTEES

Land Management Committee

Mr. Vanyo provided an update on the following topics discussed at the Land Management Committee meeting held earlier this afternoon:

Land Management Plan update

Mr. Vanyo said the Land Management plan has been drafted and members are welcome to submit any comments. The goal is to finalize the plan as soon as possible.

Hardship Review Subcommittee update

A meeting was held on June 5th to review eight hardship applications received from county residents and recommended approval of three buyouts in the City of Oxbow. The subcommittee also recommended the Land Management Committee authorize appraisals be done on the three qualifying properties.

The same Federal policy regarding appraisals will be used on the three properties, similar to other flood buyouts.

MOTION, passed

Mr. Wimmer moved and Mr. Wagner seconded to proceed with the buyout of three homes in the City of Oxbow and authorize appraisals to be done on the properties. Motion carried.

Agricultural Advisory Subcommittee update

Mark Lambrecht from CH2MHill said an initial meeting was held on May 30th at the Dakota Ag Coop in Kindred. The subcommittee will meet again in July and will be working to develop a charter for actions taken by their group.

The subcommittee approved the following recommendations:

- evaluate the effect of the diversion channel on local drainage outside the channel;
- request an opinion regarding the narrowing of a cross section of the diversion channel through creation of a higher excavated material berm on the outside of the channel and relocating the drainage channel closer to the edge of the berm (with this option, an estimate of over 1,000 acres of crop land would not need to be purchased, allowing as much existing land to continue to be in production);
- research crop insurance options for consideration by the subcommittee.

MOTION, passed

Mr. Campbell moved and Mr. Mahoney seconded to support the recommendations as approved by the Agricultural Advisory Subcommittee. Motion carried.

Early Acquisition Subcommittee update

Pat Zavoral said the first meeting was held June 11th and a preliminary draft charter was approved. The Early Acquisition Subcommittee approved the recommendation of the Hardship Review Subcommittee to purchase three homes in the City of Oxbow. He said funding was discussed with the recommendation that all acquisitions be considered Board of Authority expenses.

Mr. Zavoral said once the appraisals on the three homes are completed, the Board of Authority will be able to make offers to the residents. The Board of Authority will own the properties. The proposed plan is to lease the properties to the City of Oxbow, so the homes and lots may be maintained.

MOTION, passed

Mr. Wagner moved and Mr. Campbell seconded to approve the recommendations of the Early Acquisition Subcommittee as follows: all early acquisitions be considered Board of Authority project expenses with the Finance Committee tracking the dollars accordingly for future billing to appropriate North Dakota or Minnesota entities; a general policy to negotiate a lease back plan with the applicable jurisdiction be developed; and if jurisdictions in which the acquired properties are located are unable to assume responsibility of managing and maintaining properties, the Board of Authority may proceed with removal of the structures. Motion carried.

Public Outreach Committee

Mr. Olson said the Public Outreach Committee met on June 13th, and the following activity updates were presented:

E-newsletter update

Daron Selvig from Advanced Engineering and Environmental Services (AE2S) said the e-newsletter will be distributed on June 18th.

Upstream banks and appraiser education

Eric Dodds from AE2S said meetings were held with local banks and appraisers regarding the land acquisition process and associated requirements. Those who attended the meetings appreciated the information and understood the details regarding the process.

Presentation to Homebuilders Association

Mr. Dodds said a meeting was held with the Homebuilders Association, whose members are interested and very supportive of the diversion project.

Website update

Mr. Selvig said links will be provided to the e-newsletter on the website. Also, the hardship policy and application forms are included on the website.

Finance Committee

Michael Montplaisir, Cass County Auditor, said the Finance Committee met on June 11th, and reviewed the Springsted Report, which is a summary of projections on the bonding capacity based on sales tax revenues. The committee discussed other funding options and agreed sales taxes help generate dollars, but may not provide as much security to issue debt for financing the project as special assessments and general obligation backed bonds. The goal would be to pay back any special assessments using sales tax dollars. He said Brian Neugebauer will discuss the special assessment process at the next board meeting.

Accelerated FY2013 funding letter

Tom O'Hara from CH2MHill provided information on a letter sent to the Corps of Engineers regarding the plan to accelerate sponsors funding beginning in FY2013. He said the funds may be accelerated up to the maximum allowable local cost share for pre-construction engineering, and design (PED), Work-In-Kind (WIK) services and related activities. He said the letter is non-binding and allows the flexibility to study other alternatives. The exact amount and supported tasks will be included in the design agreement which needs to be signed by September 30th.

JPA re-authorization update

Mr. Zavoral said the limited Joint Power Agreement (JPA) needs to be re-authorized by September 30th. He anticipates either a new or amended draft JPA will be available for review at the next board meeting in July with final approval in August. The JPA will then be forwarded to all participating agencies for their approval.

Insurance coverage for diversion

Erik Johnson, Fargo City Attorney, has been working with CH2MHill to study different options on various types of insurance coverage for the project. He said the plan is to advertise for "Request for Information" (RFI) asking for information, qualifications and an explanation of approaches regarding the control of risk, cost management for claim administration, ease of claim administration, and best method for coverage and arrangement of claims on administration matters. He said after the RFI's are received, the next step would be to prepare Request for Proposals (RFP).

Mr. Wagner asked how this differs from the coverage received from the North Dakota Insurance Reserve Fund (NDRIN). Mr. Johnson said this is to provide insurance for the design officials and contractors and would extend beyond the coverage provided by NDRIN, which insures the Diversion Authority Board.

Finance Committee membership

Mr. Vanyo said two more members have been added to the Finance Committee, and he is asking the board to formally approve the appointments.

MOTION, passed

Mr. Campbell moved and Mr. Wagner seconded to approve the appointments of Brad Wimmer, representing the City of Fargo, and Mark Brodshaug, representing the Cass County Joint Water Board, to the Finance Committee. Motion carried.

8. CORPS OF ENGINEERS STATUS UPDATE

Terry Williams said the Corps of Engineers led-design efforts are on schedule and under budget; an agreement was executed with BNSF for railroad bridge design; planning continues for the "Construction Industry Day and Contracting Seminar", which will be held June 27-28 at the Fargo Holiday Inn; a public open house will be held June 26th to present updates on the Outlet/Reach 1 design; and analyses continue on whether the southern alignment must follow Corps levee or dam design criteria.

9. VOUCHERS, Approved***MOTION, passed***

Mr. Mahoney moved and Mr. Wimmer seconded to approve the vouchers as presented. Motion carried.

10. NEXT MEETING DATE

The next meeting will be held on Thursday, July 12, 2012, at 3:30 PM.

11. ADJOURNMENT

MOTION, passed

On motion by Mr. Wagner, seconded by Mr. Campbell, and all voting in favor, the meeting was adjourned at 5:23 PM.

Minutes prepared by Heather Worden, Cass County Administrative Assistant