

**FLOOD DIVERSION BOARD OF AUTHORITY
MAY 9, 2013—3:30 PM**

1. MEETING TO ORDER

A meeting of the Flood Diversion Board of Authority was held Thursday, May 9, 2013, at 3:30 PM in the Fargo City Commission Room with the following members present: Cass County Commissioner Darrell Vanyo; Cass County Commissioner Ken Pawluk; West Fargo City Commissioner Mike Thorstad; Fargo Mayor Dennis Walaker; Fargo City Commissioner Tim Mahoney; Fargo City Commissioner Brad Wimmer; Cass County Joint Water Resource District Manager Mark Brodshaug; Clay County Commissioner Kevin Campbell; and Moorhead City Council Member Brenda Elmer. Also present was ex-officio member Gerald Van Amburg, Buffalo-Red River Watershed District.

Staff members and others present: Cass County Administrator Keith Berndt; Moorhead City Manager Mike Redlinger; Clay County Administrator Brian Berg; Fargo City Director of Engineering Mark Bittner; Fargo City Engineer April Walker; Moorhead City Engineer Bob Zimmerman; Cass County Engineer Jason Benson; Tom O'Hara, Program Manager, CH2MHill; Bruce Spiller, CH2MHill; Aaron Snyder, Branch Chief for Project Management & Development, Corps of Engineers; Brett Coleman, Project Manager, Corps of Engineers; and Terry Williams, Project Manager, Corps of Engineers.

2. MINUTES APPROVED

MOTION, passed

Mr. Campbell moved and Mr. Walaker seconded to approve minutes from the March 14, 2013, meeting as written. Motion carried.

3. AGENDA ORDER

MOTION, passed

Mr. Walaker moved and Mr. Wimmer seconded to approve the order of the agenda as presented. Motion carried.

4. SUMMARY OF 2013 FLOOD FIGHT

Rocky Schneider, diversion consultant, said 8,346 people volunteered to help with the flood efforts, logging 43,239 hours of time.

City and county staff reported on the 2013 flood efforts and associated costs. Mr. Berndt said Cass County spent around \$900,000; Ms. Walker said Fargo has spent \$2.5 million so far and removal of clay levees and sandbags will be completed in the next few days; Mr. Zimmerman did not have a cost estimate for Moorhead, but said four properties were sandbagged, and no clay levees were needed; Mr. Berg said Clay County spent \$50,000.

5. NORTH DAKOTA LEGISLATIVE SESSION UPDATE

Mr. Schneider provided an update on HB1020, which was signed into law on May 2nd. The legislation includes State Water Commission funding for projects throughout the entire state, including \$100 million for Fargo flood control projects for the biennium beginning July 1, 2013, through June 30, 2015.

The law also outlines four requirements that must be met before funds may be spent on the diversion project: federal authorization; execution of a project partnership agreement; federal appropriation for project construction; and approval by the State Water Commission for a diversion budget.

Mr. Mahoney thanked Mr. Vanyo for his efforts during the legislative session. Mr. Vanyo thanked staff, business leaders, agencies, legislators, and elected officials for their assistance.

6. **PROGRAM MANAGEMENT FIRM UPDATE**

Program manager consultant monthly report

Tom O'Hara provided an update on activities over the last month including Oxbow/Hickson/Bakke levee alignment outreach; on-going technical and design activities; participation in the Minnesota EIS public scoping meeting held on May 8th; and work with hardship acquisitions on a third property, and negotiations on a fourth property.

Corps of Engineers status update

Brett Coleman said Corps of Engineers staff continues to work on the National Environmental Policy Act (NEPA) process to address project modifications; provided support at landowner meetings on April 10-12; and worked on an amendment to the design agreement, originally approved on September 12, 2011, to allow non-federal sponsors to accelerate funds to the Corps, and to add the Diversion Authority as a non-federal sponsor.

Mr. Coleman discussed the NEPA timeline and said today, the board will submit its preference regarding either buyouts or construction of a ring levee in the Oxbow/Hickson/Bakke area. The Environmental Assessment (EA) document will be released in June with a 30-day comment period.

Mr. Coleman discussed federal funding for the project, and said \$5 million is included in the President's budget for 2014. He said the Water Resources Development Act (WRDA) is on the Senate floor this week, and includes 27 projects that meet the criteria for funding. He said the Fargo-Moorhead Metro diversion is one of the top four projects and includes \$810 million allocated for the project.

Task Orders and Authority Work Directives

Bruce Spiller discussed Task Orders (TO) and Authority Work Directives (AWD) for consideration by the board.

MOTION, passed

Mr. Mahoney moved and Ms. Elmer seconded to approve Task Order No. 9, Amendment 5 for Hydrology and Hydraulic Modeling with HMG in the amount of \$100,000. Motion carried.

MOTION, passed

Mr. Mahoney moved and Mr. Thorstad seconded to approve Task Order No. 1 for Cultural Resources Investigations with URS in the amount of \$495,000. Motion carried.

MOTION, passed

Mr. Mahoney moved and Mr. Campbell seconded to approve AWD-00029 for Phasing Plan Interim Modeling with HMG in the amount of \$90,000. Motion carried.

MOTION, passed

Mr. Campbell moved and Mr. Mahoney seconded to approve AWD-00030 for Minnesota EIS Scoping Document Comment Support with HMG in the amount of \$15,000. Motion carried.

MOTION, passed

Mr. Mahoney moved and Mr. Wimmer seconded to approve AWD-00031 for In-Town Levee Utility Relocations with HMG in the amount of \$50,000. Motion carried.

MOTION, passed

Mr. Campbell moved and Mr. Mahoney seconded to approve a reimbursement to the City of Fargo in the amount of \$46,920 for the cost to install stage gages to collect river level data. Motion carried.

Mr. Spiller also reviewed the status of existing Task Orders and Authority Work Directives with the board.

7. **UPDATES FROM COMMITTEES**

Retention efforts update from Red River Basin Commission

Lance Yohe was present to provide an update from the Red River Basin Commission on the retention study. He discussed the Halstad Upstream Retention (HUR) project, and said the snow melt progression grid, sub-watershed retention/detention site identification, and synthetic model runoff variations have been completed.

Land Management Committee

Mr. Walaker said the Land Management Committee met earlier this afternoon, and discussed the following topics:

Oxbow/Hickson/Bakke area levee alignment

Mr. Berndt discussed the Oxbow/Hickson/Bakke area levee alignment, which will provide 500-year protection to 196 properties at a cost of \$65 million while maintaining the tax base of the Kindred Public School District. Also, this will provide residents with some certainty about their homes sooner than the other alignment options, and will protect the church, community center, and other businesses in Oxbow and Hickson.

Mr. Berndt said other options include an Oxbow only levee that would protect 106 properties at a cost of \$90 million and an Oxbow/Hickson levee that would protect 139 properties at a cost of \$85 million. A buyout of all properties would cost \$74 million.

Mr. Vanyo said the board is faced with making a decision to protect the entire area or destroy part or all of the area through buyouts. The full alignment option keeps residents in the Kindred School District, and the state of limbo will be remedied because residents will know what to expect in the future. The ring dike is an important part of the process to protect the communities and put the needs of the residents first.

MOTION, passed

Mr. Pawluk moved and Mr. Thorstad seconded to select the full Oxbow/Hickson/Bakke alignment as the recommended alignment for the Oxbow Area Levee with the recommendation to be forwarded to the Corps of Engineers for inclusion in the upcoming Environmental Assessment (EA) documentation. Discussion: Mr. Mahoney asked if the concerns of the Hickson and Bakke residents will be addressed. Mr. Coleman said there will be a comment period after the draft EA is released. The motion today is to allow this to be submitted as the preference for the EA document. Mr. Campbell supports the motion and asks that the same consideration is given to Comstock and Wolverton on the Minnesota side when the levee concept moves forward in those areas. On roll call vote, the motion carried unanimously.

Purchase agreement for hardship property

Eric Dodds from AE2S said an agreement has been reached for a third hardship property in Oxbow. The Finance Committee and Land Management Committee both approved the purchase.

MOTION, passed

Mr. Walaker moved and Mr. Mahoney seconded to approve the agreement to purchase a residential property determined to be in compliance with the conditions of the Hardship Policy adopted by the Hardship Review Committee for the purchase contract of not less than \$350,000 based on the “completed” appraisal, plus \$6,000 to compensate for relocation expenses for a total not less than \$356,000; and authorize the Fargo Finance Director or Cass County Auditor to execute the closing papers. Discussion: Mr. Pawluk asked why the Flood Diversion Board paid for a third appraisal since there were issues with the individual who completed the second appraisal. Mr. Dodds said the appraiser did not follow the yellow book standards required by the Corps, and this type of situation will not be an issue again. Mr. Dodds said the process to acquire this property has been long negotiated, and feels it is in the best interest of the board to move forward with the purchase. On roll call vote, the motion carried unanimously.

Public Outreach Committee

Mr. Campbell said the Public Outreach Committee met on May 8th, and discussed the inclusion of additional lots within the ring levee to offer to impacted residents as a relocation option.

Mr. Dodds said the committee has been busy with outreach activities. He said 57 individual landowner meetings were held last month with residents in the staging area. The intention is to meet with Minnesota residents this summer regarding the Comstock area ring levee. Also, a draft outreach plan has been developed for the biennium to help address how information will be distributed to the public. Some feedback has been received on the plan, which the committee has incorporated into the document.

Finance Committee

Michael Montplaisir, Cass County Auditor, said the Finance Committee met on May 8th. He said \$19.5 million has been spent since 2011. The committee reviewed the FY2013 program budget status, and \$13.7 million of the \$29 million is remaining for the year. The committee also discussed work projects over the next two years and possible financing options.

The Diversion Project Assessment Committee (DPAC) continues to meet to study the special assessment option to fund local costs for North Dakota with the goal to use the sales tax to pay for any assessments.

Corps of Engineers supplemental funding

Mr. O'Hara said technical reviews for the expanded in-town levees and Oxbow/Hickson/Bakke levee designs were not included in the 2013 work plan of the St. Paul District Army Corps of Engineers and were not funded for this fiscal year. The reviews will cost approximately \$350,000 and are critical to retain the components within the federal program. The cost was included in the \$29 million budget of the Diversion Authority for 2013.

MOTION, passed

Mr. Mahoney moved and Mr. Thorstad seconded to approve \$350,000 in funding to the St. Paul District Army Corps of Engineers for technical reviews required to complete the in-town levees and the Oxbow/Hickson/Bakke levee designs. On roll call vote, the motion carried unanimously.

8. VOUCHERS, Approved***MOTION, passed***

Mr. Mahoney moved and Mr. Pawluk seconded to approve the vouchers for March and April, 2013. On roll call vote, the motion carried unanimously.

9. NEXT MEETING DATE

The next meeting will be held on Thursday, June 13, 2013, at 3:30 PM.

10. ADJOURNMENT***MOTION, passed***

On motion by Mr. Mahoney, seconded by Mr. Walaker, and all voting in favor, the meeting was adjourned at 5:04 PM.