

**FLOOD DIVERSION BOARD OF AUTHORITY
APRIL 10, 2014—3:30 PM**

1. MEETING TO ORDER

A meeting of the Flood Diversion Board of Authority was held Thursday, April 10, 2014, at 3:30 PM in the Fargo City Commission Room with the following members present: Cass County Commissioner Vern Bennett; 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 Rodger Olson; and Moorhead City Council Member Nancy Otto. Clay County Commissioner Kevin Campbell was absent. 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 Michael 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; Bruce Spiller, CH2MHill; Tom Dawson, Chamber of Commerce Business Leader Task Force for Permanent Flood Protection; Brett Coleman, Project Manager, Corps of Engineers; and Terry Williams, Project Manager, Corps of Engineers.

2. MINUTES APPROVED

MOTION, passed

Mr. Thorstad moved and Mr. Wimmer seconded to approve minutes from the March 13, 2014, meeting as presented. Motion carried.

3. AGENDA ORDER

MOTION, passed

Mr. Wimmer moved and Ms. Otto seconded to approve the order of the agenda. Motion carried.

4. MANAGEMENT UPDATE

Program management consultant (PMC) report

Bruce Spiller provided an update on activities over the last month including ongoing design work on the Oxbow/Hickson/Bakke (OHB) levee; work on the in-town levee designs in coordination with the new Fargo City Hall building; and on-going process with the Minnesota EIS (Environmental Impact Statement). He said levee permitting and acquisitions are underway for the OHB levee with bids to be opened May 6th and anticipated construction to begin July 1st.

Corps of Engineers report

Brett Coleman provided an update of activities by Corps of Engineers staff including continued work on the Maple River aqueduct physical modeling; continued coordination and support provided to the Minnesota DNR during their EIS process; participation in weekly meetings on the OHB levee; and continued coordination on the in-town levee design. The Corps continues to await federal authorization for the project.

5. ADMINISTRATIVE/LEGAL UPDATELawsuit update

Erik Johnson, Attorney, provided an update regarding the lawsuit filed by the Richland-Wilkin Joint Powers Authority v. Corps of Engineers. He said a hearing was held on April 3rd in Duluth regarding a motion to dismiss three of the four claims within the case. He provided the chronology associated with the case and said the judge withheld a decision in advance to allow the plaintiff the opportunity to amend the three claims. He said there was talk of an injunction being filed to stop construction on the OHB levee; however, nothing has been received to date.

6. TECHNICAL UPDATEDesign Contracts / Task Orders / Authority Work Directives (AWD)

Mr. Spiller reviewed Authority Work Directives (AWD) as follows: AWD-00036 for Maple River Aqueduct technical support at a cost of \$25,000 with Houston-Moore Group (HMG), and AWD-00037 for Wild Rice Dam Phase 1 cultural investigation at a cost of \$60,000 with URS Corporation. Both of the items are part of the on-call services budget and do not affect the overall budget.

MOTION, passed

Mr. Wimmer moved and Ms. Otto seconded to approve AWD-00036 with HMG and AWD-00037 with URS Corporation for a total cost of \$85,000. On roll call vote, the motion carried unanimously.

7. PUBLIC OUTREACH UPDATECommittee report

The Public Outreach Committee met on April 9th. Mr. Olson discussed numerous outreach activities including work with the Corps to address questions from the public; joint production of a flyover video with the Corps showing the project alignment, which is available on the diversion website; work with the Corps to schedule a site visit in August of the Maple River aqueduct physical model; and continued communication with federal congressional offices regarding project authorization through the WRDA/WRRDA legislation.

Business Leaders Task Force update

Tom Dawson said the task force will meet sometime in the next month for an update on the project.

8. LAND MANAGEMENT UPDATECommittee report

Mr. Walaker said the Land Management Committee met earlier this afternoon. He said one of the items discussed by the committee was property and farmland acquisitions.

CCJWRD update

Mark Brodshaug provided an update on land acquisitions completed through March 31, 2014. He said negotiations for the Oxbow Golf and Country Club are expected to begin in two weeks, and appraisals are underway for numerous properties associated with the OHB ring levee. He said notice of intent letters have been sent to all property owners identified for the in-town levee, and appraisals are also underway.

9. FINANCE UPDATE

Committee report

Michael Montplaisir, Cass County Auditor, said the Finance Committee met on April 9th. He said about \$9.7 million has been spent in 2014, and there was \$1.6 million in cash disbursements for the month of March.

Property Sales

Mr. Montplaisir discussed the sale of properties owned by the Diversion Authority as follows: property at 105 Oxbow Drive for \$199,000; property at 121 Oxbow Drive for \$200,000; and two lots in Hayden Heights for \$40,000 and \$39,500.

MOTION, passed

Mr. Walaker moved and Mr. Pawluk seconded to authorize the sale of 105 Oxbow Drive in Oxbow for \$199,000 with \$4,959 being escrowed for removal of the sunroom, and authorize Kent Costin to sign the closing documents with Michael Montplaisir as an alternate signer if Mr. Costin is unavailable on the date of closing; and authorize the sale of 121 Oxbow Drive in Oxbow for \$200,000—the property is sold “as is” with no repairs or warranties, and it is noted that the buyer is aware of the Oxbow ring dike project, and authorize Kent Costin to sign the closing documents with Michael Montplaisir as an alternate signer if Mr. Costin is unavailable on the date of closing. On roll call vote, the motion carried unanimously.

MOTION, passed

Mr. Pawluk moved and Mr. Thorstad seconded to authorize the sale of Lot 10 Block 2 Hayden Heights Subdivision for \$40,000 and Lot 10 Block 1 Hayden Heights Subdivision for \$39,500 and authorize Kent Costin to sign the closing documents with Michael Montplaisir as an alternate signer if Mr. Costin is unavailable on the date of the closing. Discussion: Mr. Walaker asked about selling lots in this area, which is in the City of West Fargo. Mr. Berndt said with the change in the alignment, the lots are buildable and are able to be sold by the Diversion Authority. On roll call vote, the motion carried unanimously.

Mr. Montplaisir said the Diversion Authority owns 21 lots in Hayden Heights Subdivision. He anticipates there will be additional lots sold in the upcoming months.

Voucher approval

The bills for the month are for legal services with Erik Johnson & Associates and Dorsey Whitney, and right of entry and land acquisition work with Ohnstad Twichell.

MOTION, passed

Mr. Wimmer moved and Mr. Walaker seconded to approve the vouchers for March, 2014. On roll call vote, the motion carried unanimously.

Finance Committee recommendations

Mr. Berndt discussed two recommendations approved by the Finance Committee at the meeting yesterday. He said during the cultural resource investigation it was determined that one of the properties located in Reach 1 of the project will require cultural mitigation. It is necessary to complete this work before construction of the channel. Therefore, the Finance Committee recommends negotiating the purchase of this property.

MOTION, passed

Mr. Walaker moved and Ms. Otto seconded to direct the Cass County Joint Water Resource District to begin negotiations on acquiring the property for Reach 1. Motion carried.

Mr. Berndt said the committee approved a recommendation to proceed with the advertisement and set the bid opening for May 6th for the first OHB work package. This includes construction of 5,690 feet of levee running along the east and south sides of the replacement golf course holes and home sites. Non-federal funding for the OHB project will be limited to North Dakota state and local entities. The committee also recommends that the Cass County Joint Water Resource District be asked to serve as the contracting agency for this phase of the work.

MOTION, passed

Based upon the explanation provided including recognition that non-federal funding of the OHB levee project will come from North Dakota state and local entities, Mr. Pawluk moved and Ms. Otto seconded that the Diversion Board of Authority request the Cass County Joint Water Resource District to serve as the contracting and management agency for the construction of the Oxbow, Hickson, Bakke Levee and related work packages. On roll call vote, the motion carried unanimously.

10. NEXT MEETING DATE

The next meeting will be held on Thursday, May 8, 2014, at 3:30 PM.

11. ADJOURNMENT***MOTION, passed***

On motion by Mr. Walaker, seconded by Mr. Wimmer, and all voting in favor, the meeting was adjourned at 4:26 PM.