

**FLOOD DIVERSION BOARD OF AUTHORITY
NOVEMBER 13, 2014—3:30 PM**

1. MEETING TO ORDER

A meeting of the Flood Diversion Board of Authority was held Thursday, November 13, 2014, at 3:30 PM in the Fargo City Commission Room with the following members present: Cass County Commissioner Darrell Vanyo; Cass County Commissioner Vern Bennett; West Fargo City Commissioner Mike Thorstad; Fargo City Commissioner Tim Mahoney; Fargo City Commissioner Melissa Sobolik; Cass County Joint Water Resource District Manager Rodger Olson; Clay County Commissioner Kevin Campbell; and Moorhead City Council Member Nancy Otto. Fargo Mayor Dennis Walaker was absent.

Staff members and others present: Cass County Administrator Keith Berndt; Moorhead City Manager Michael Redlinger; Clay County Administrator Brian Berg; Cass County Engineer Jason Benson; Fargo City Director of Engineering Mark Bittner; Fargo City Engineer April Walker; Moorhead City Engineer Bob Zimmerman; Bruce Spiller, CH2MHill; Tom Dawson, Chairman, Chamber of Commerce Business Leaders Task Force; Brett Coleman, Project Manager, Corps of Engineers; and Terry Williams, Project Manager, Corps of Engineers.

2. MINUTES APPROVED

MOTION, passed

Mr. Mahoney moved and Ms. Otto seconded to approve minutes from the October 9, 2014, meeting as presented. Motion carried.

3. AGENDA ORDER

MOTION, passed

Mr. Campbell moved and Ms. Sobolik 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 construction of the Oxbow-Hickson-Bakke (OHB) levee; submittal of a draft socio-economic analysis and draft operation plan to the Minnesota DNR for the Minnesota EIS (Environmental Impact Statement); beginning construction on the 2nd Street North pump station work; continued work on land acquisition activities and policies; completion of cultural fall field surveys; continued review of draft EIS sections and submittal of draft adaptive management and mitigations plans to the MDNR; and development of mitigation plans associated with impacted cemeteries.

Corps of Engineers report

Terry Williams provided an update of activities by Corps of Engineers staff including Maple River aqueduct physical modeling work; continued coordination to provide information to the Minnesota DNR for the EIS, which is a top priority; continuing work on the operation plan and adaptive management plan for the project; participation in weekly OHB levee coordination meetings; assistance with local efforts on the in-town levees; continuing to develop and review design products; and continuing to refine the project to reduce impacts.

5. ADMINISTRATIVE/LEGAL UPDATE

Lawsuit update

Attorney Erik Johnson provided an update regarding lawsuits filed by the Richland-Wilkin Joint Powers Authority. He said a scheduling conference was held on October 22nd for counsel to identify the timelines associated with the case, and that the record will be complete by mid-February 2015.

6. TECHNICAL UPDATE

Award construction contract for 4th Street North pump station

Mr. Spiller said bids were opened on October 28, 2014, for the 4th Street pump station and gate well, and 2nd Street flood wall south work package. He said CH2MHill recommends the board award the contract to ICS, Inc. in the amount of \$17,361,616.35 as it is the lowest and best bid.

MOTION, passed

Mr. Mahoney moved and Ms. Otto seconded to award the construction contract for the 4th Street pump station and gate well, and 2nd Street flood wall south work package to ICS, Inc. in the amount of \$17,361,616.35. Discussion: Mr. Berndt said the technical team met earlier this week and discussed how to separate the in-town work from the diversion work and said a map will be developed to show the projects. On roll call vote, the motion carried unanimously.

Task Orders / Authority Work Directives (AWD)

Mr. Spiller reviewed one authority work directive (AWD-00044) with Houston Moore Group (HMG) at a cost not to exceed \$20,000 for survey work to collect detailed culvert and bridge information near the staging area. Mr. Vanyo signed the document last week as it fell below the monetary threshold established by the board, and also because the work needed to be done before there was snow on the ground.

MOTION, passed

Mr. Campbell moved and Mr. Pawluk seconded to approve AWD-00044 with HMG totaling \$20,000. On roll call vote, the motion carried unanimously.

7. PUBLIC OUTREACH UPDATE

Committee report

Rodger Olson discussed numerous outreach activities including an open house to be held on November 17th to discuss the OHB ring levee project; community outreach meetings; work with the Business Leaders Task Force to provide their memberships in North Dakota and Minnesota with information about the diversion project; outreach with local legislators in anticipation of the upcoming legislative session; and e-newsletter and diversion website updates.

Business Leaders Task Force

Tom Dawson said the next meeting of the task force will be held on December 16th. He said a meeting will be held with North Dakota and Minnesota legislators on February 12, 2015.

Retention Projects

Mr. Olson said the outreach committee discussed retention projects. The Diversion Authority has earmarked \$25 million for retention efforts. He said these types of projects take years to build. He said the best location has to be found and then damage areas are studied, which makes for a complex process. He discussed the different funding available for retention projects, and said a commitment is needed from area water boards to make retention a priority. Mr. Campbell said one of the most difficult aspects in the process is obtaining permission from property owners to use their land to store water.

8. LAND MANAGEMENT UPDATECommittee report

Mr. Vanyo said the Land Management Committee met earlier this afternoon. He said work continues on the Ag Risk Evaluation for Temporary Water Retention Easement Values and Crop Insurance by the NDSU Agribusiness and Applied Economics Department. The committee reviewed farm land that is owned by the Diversion Authority and managed by Pifer Group. He said \$188,000 has been generated through farm land rental agreements.

CCJWRD update

Mark Brodshaug provided an update on land acquisitions completed through October 31, 2014. He reviewed a handout with information on completed acquisitions, budget figures, and completed negotiations. Purchase agreements and replacement housing agreements have been signed with six residential property owners in Oxbow, and appraisals continue for properties associated with the OHB levee and in-town levee. He said purchase and relocation negotiations are underway with Oxbow Country Club.

Eric Dodds from AE2S provided a brief presentation on land management acquisitions and the scope of work. He said the process for a typical acquisition is to confirm the need for the property; authorize the acquisition; conduct an appraisal; negotiate with the owner for acquisition; coordinate the relocation; and close on the property. He said some of the challenges with acquisitions are the availability of appraisers, consistency of quality, unique property circumstances, and the complex structure of the local sponsor. He said future actions to help the acquisition process include searching for additional appraisers, CH2MHill or AE2S to retain an appraiser, start design as early as possible, and anticipate issues in advance.

9. FINANCE UPDATECommittee report

Michael Montplaisir, Cass County Auditor, said the Finance Committee met on November 12th. The board continues to operate on borrowed money from the \$20 million loan, which is being used to pay the monthly bills to allow for Fargo and Cass County sales tax funds to build up reserves. He said a decision will need to be made in December or January whether to consider another draw down of the loan or to use sales tax funds for monthly expenses.

Contract for lobbyist

Mr. Montplaisir said the Finance Committee approved a contract for a lobbyist to assist with the Minnesota EIS process and work with the MDNR. He said the board also needs to approve the contract to move forward with their services.

MOTION, passed

Mr. Pawluk moved and Ms. Otto seconded to approve a contract with Fredrickson & Byron, P.A. in the amount of \$36,000 for lobbyist services. On roll call vote, the motion carried unanimously.

Voucher approval

The bills for the month are for legal services with Erik Johnson & Associates and Dorsey & Whitney LLP; access work for in-town and OHB levees with the Cass County Joint Water Resource District (CCJWRD); and relocation of fiber optic cables with Enventis and 702 Communications. Mr. Montplaisir said the bills total \$3.9 million with \$3.5 million for the work done by the CCJWRD.

MOTION, passed

Mr. Mahoney moved and Mr. Olson seconded to approve the vouchers in the amount of \$3,901,340.15 for October, 2014. On roll call vote, the motion carried unanimously.

10. NEXT MEETING DATE

The next meeting will be held on Thursday, December 11, 2014, at 3:30 PM.

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

On motion by Mr. Mahoney, seconded by Ms. Sobolik, and all voting in favor, the meeting was adjourned at 5:00 PM.