

**FLOOD DIVERSION BOARD OF AUTHORITY
JANUARY 8, 2015—3:30 PM**

1. MEETING TO ORDER

A meeting of the Flood Diversion Board of Authority was held Thursday, January 8, 2015, at 3:30 PM in the Fargo City Commission Room with the following members present: Cass County Commissioner Ken Pawluk; Cass County Commissioner Chad M. Peterson; West Fargo City Commissioner Mike Thorstad; Fargo City Mayor Tim Mahoney; Fargo City Commissioner Mike Williams; Fargo City Commissioner Melissa Sobolik; Cass County Joint Water Resource District Manager Rodger Olson; Clay County Commissioner Grant Weyland; and Moorhead City Council Member Nancy Otto. Also present was ex-officio member Gerald Van Amburg, Buffalo-Red River Watershed District.

Staff members and others present: Cass County Administrator Keith Berndt; Fargo City Administrator Pat Zavoral; 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; Bruce Spiller, CH2MHill; Mark Nisbet, Chamber of Commerce Business Leaders Task Force; Brett Coleman, Project Manager, Corps of Engineers; and Terry Williams, Project Manager, Corps of Engineers.

Mr. Mahoney welcomed Colonel Dan Koprowski, St. Paul District Commander, Corps of Engineers, to the meeting. Col. Koprowski thanked the Diversion Authority for their work, and said the project is one of the top priorities within the St. Paul District.

2. MINUTES APPROVED

MOTION, passed

Mr. Olson moved and Mr. Thorstad seconded to approve minutes from the December 11, 2014, meeting as presented. Motion carried.

3. AGENDA ORDER

MOTION, passed

Mr. Pawluk moved and Ms. Sobolik seconded to approve the order of the agenda. Motion carried.

4. ELECTION OF CHAIR AND VICE CHAIR FOR 2015

MOTION, passed

Mr. Pawluk moved and Mr. Peterson seconded to nominate Darrell Vanyo as Chairman and Tim Mahoney as Vice Chairman of the Flood Diversion Board of Authority for 2015. The motion carried with eight members voting “Yes” and Mr. Williams voting “No. Mr. Williams said Darrell Vanyo has done a good job as chairman, but he feels the position should be held by an elected official. Mr. Mahoney said a few of the reasons to support the nomination is that Mr. Vanyo will be able to assist with legislative issues as well as the pending lawsuit.

5. MANAGEMENT UPDATEProgram management consultant (PMC) report

Bruce Spiller provided an update on activities over the last month including work on the in-town levees, 2nd Street North pump station, 4th Street pump station, and 2nd Street South flood wall; OHB levee design work; Minnesota EIS (Environmental Impact Statement) work products; continued work on land acquisition activities and policies; and right of entry work on impacted cemeteries.

Mr. Spiller said the first preliminary draft of the MN EIS for internal review is expected in mid-March with the draft EIS released for public comments on May 28, 2015.

Corps of Engineers report

Brett Coleman provided an update of activities by Corps of Engineers staff including Maple River aqueduct physical modeling work; continued coordination with the Minnesota DNR for the EIS; continued work on the cemetery mitigation plan; work on the operation plan and adaptive management plan for the project; participation in weekly OHB levee coordination meetings; assistance with levee design and support of construction efforts on the in-town levees; and continued development of alternative resourcing and delivery plan for expedited implementation of the project.

6. ADMINISTRATIVE/LEGAL UPDATELawsuit update

Attorney Erik Johnson provided an update regarding lawsuits filed by the Richland-Wilkin Joint Powers Authority. The administrative record needs to be complete by February 23, 2015. He said oral arguments are expected to be scheduled in April.

7. TECHNICAL UPDATEChange Order No. 2

Mr. Spiller discussed Change Order No. 2 (CO2) to the 2nd Street North pump station project to incorporate costs associated with removal of an unknown subsurface concrete structure discovered during construction activities; and to provide a “Not to Exceed” (NTE) budget for the contractor to remove and dispose of potentially hazardous fill material discovered near the subsurface concrete structure.

MOTION, passed

Mr. Pawluk moved and Mr. Peterson seconded to award Change Order No. 2 (CO2) for the 2nd Street North pump station project in the amount of \$67,397.00 for a total contract value of \$8,203,317.00. On roll call vote, the motion carried unanimously.

8. PUBLIC OUTREACH UPDATECommittee report

Rodger Olson said the Public Outreach Committee met January 7th and discussed several issues including: upcoming public meetings to explain the voting process for the special assessment district; a request from Hickson and Bakke residents for help with drainage along County Highway 25, and the need for access to do survey work on owners’ properties; the need for public education on the new flood plain maps in Fargo; and e-newsletter and diversion website updates.

April Walker said the City of Fargo conducted an aggressive campaign to notify homeowners about changes to flood plain maps, which become effective January 16th.

Ms. Walker said letters were sent to around 300 homeowners regarding the changes, and were given a deadline to respond to allow the city access to properties to conduct surveys. She said 221 appeals were sent to FEMA and many of the appeals were granted and the properties were removed from the flood plain. The deadline has passed to submit appeals, so homeowners will have to submit a letter of map revision, which costs \$1,000. There was a suggestion that the issue be discussed by the Fargo City Commission to try and help residents.

Business Leaders Task Force

Mark Nesbit said the task force met on December 16th with North Dakota legislators. He said February 12th is “Chamber Day” at the North Dakota State Capitol, so the Chamber of Commerce has arranged for buses for task force members and other officials to visit with state legislators regarding the project.

9. LAND MANAGEMENT UPDATE

Committee report

Mr. Mahoney said the Land Management Committee met earlier this afternoon. He said work continues on the Ag Risk Evaluation by NDSU Agribusiness and Applied Economics Department; however, hydraulic data needs to be updated.

CCJWRD update

Mark Brodshaug provided an update on land acquisitions completed through December 31, 2014. He reviewed a handout with information on completed acquisitions, budget figures, and completed negotiations. He said work continues on purchase offers and negotiations with the replacement housing process for Oxbow homeowners, and appraisals continue for properties associated with the OHB levee and in-town levees. He said negotiations have concluded with the Oxbow Country Club for the purchase and relocation of the golf course with the closing on the property scheduled for next week.

10. FINANCE UPDATE

Committee report

Kent Costin, Fargo Finance Director, discussed recommendations that were approved by the Finance Committee at their meeting held on January 7th regarding project financing:

Contract with Ernst & Young

Mr. Costin said the committee discussed a scope of services with Ernst & Young to help develop long-range alternative financing options for the project as part of public/private partnerships (P3). The estimated cost for a three-month period is \$175,000 to \$350,000 with work to be billed on an hourly basis.

MOTION, passed

Ms. Otto moved and Mr. Pawluk seconded to approve Ernst & Young as the P3 financial advisor for the FM Diversion Authority, and approve a three-month scope of work to be billed on an hourly basis. On roll call vote, the motion carried unanimously.

Federal Highway Administration loan application

Mr. Costin said the committee discussed a loan fund administered by the Federal Highway Administration as a partial funding source for transportation-related elements of the diversion project.

The program provides low interest loans with a repayment period of up to 35 years. The application fee is \$100,000, and the intent is to work with Ernst & Young to complete the application.

MOTION, passed

Mr. Pawluk moved and Ms. Sobolik seconded to approve the submission of an application for Federal Highway Administration loans for eligible components of the FM Diversion project, and approve the application filing fee of \$100,000. On roll call vote, the motion carried unanimously.

Voucher approval

The bills for the month are for government relation services with Fredrikson & Byron, P.A.; legal services with Dorsey & Whitney LLP; 2nd Street North pump station work; 4th Street pump station work; and 2nd Street South floodwall work.

MOTION, passed

Mr. Peterson moved and Mr. Olson seconded to approve the vouchers in the amount of \$1,398,344.16 for December, 2014. On roll call vote, the motion carried unanimously.

11. OTHER BUSINESS

Mr. Mahoney discussed Senate Bill No. 2076 which would request the State Water Commission to contract for a study on the impact of the diversion project. He referred to the feasibility study completed by the Corps of Engineers and the MN EIS being done by the MN DNR to consider the impacts of the project, and questioned the necessity of another study.

Ms. Otto asked for comments from Corps of Engineers staff regarding recent information released by the MN DNR which concluded that retention projects are not a viable alternative to the FM diversion project. Ms. Williams and Mr. Coleman said the Corps of Engineers is very confident in their work product and appreciate that another agency has come to the same conclusion.

12. NEXT MEETING DATE

There was discussion regarding the next regularly scheduled meeting on February 12th, which is the same day that the Chamber of Commerce will be taking tour buses to the State Capitol to meet with the legislators. Some board members may want to travel to Bismarck that day.

MOTION, passed

Mr. Peterson moved and Ms. Sobolik seconded to change date of the next meeting to Thursday, February 5th at 3:30 PM. Motion carried.

13. ADJOURNMENT

There being no further business, the meeting was adjourned at 4:30 PM.