

**FLOOD DIVERSION BOARD OF AUTHORITY
APRIL 9, 2015—3:30 PM**

1. MEETING TO ORDER

A meeting of the Flood Diversion Board of Authority was held Thursday, April 9, 2015, at 3:30 PM in the Fargo City Commission Room with the following members present: Cass County Commission representative Darrell Vanyo; Cass County Commissioner Ken Pawluk; 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 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; Fargo City Administrator Pat Zavoral; Moorhead City Manager Michael Redlinger; Clay County Administrator Brian Berg; Cass County Engineer Jason Benson; Moorhead City Engineer Bob Zimmerman; Fargo City Director of Engineering Mark Bittner; Fargo Engineer April Walker; Tom Dawson, Chairman, Chamber of Commerce Business Leaders Task Force; Bruce Spiller, CH2MHill; Brett Coleman, Project Manager, Corps of Engineers; and Terry Williams, Project Manager, Corps of Engineers.

2. MINUTES APPROVED

MOTION, passed

Mr. Mahoney moved and Mr. Thorstad seconded to approve minutes from the March 12, 2015, meeting as presented. Motion carried.

3. AGENDA ORDER

MOTION, passed

Ms. Elmer moved and Mr. Mahoney 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 work on the in-town levees and OHB levee and pump design work; MNDNR Environmental Impact Statement (EIS) review of work products; continued work on land acquisition activities and policies; and cultural surveys on impacted cemeteries in the staging area. Mr. Spiller said there are four cemetery sites that have not allowed right-of-entry (ROE) on the property to conduct cultural surveys.

Corps of Engineers report

Brett Coleman provided an update of activities by Corps of Engineers staff including work on the operation plan and adaptive management plan; development of the cemetery mitigation plan with a draft to be released in June; preparation for 2015 construction projects; OHB and in-town levees design and construction support; cultural surveys for cemetery sites in the staging area; continued coordination with the MNDNR to review and provide information needed for the EIS process; updates to the Maple River aqueduct physical model; and work on the alternative resourcing and delivery plan for expedited implementation of the project.

There was discussion on the four cemeteries that have not granted right-of-entry access and how this will affect the mitigation plan. Ms. Williams said the cemeteries will still be included in the plan, but any mitigation efforts will not be done until after ROE is allowed so cultural surveys may be conducted at the sites.

5. ADMINISTRATIVE/LEGAL UPDATE

Lawsuit update

Attorney Erik Johnson provided an update regarding lawsuits filed by the Richland-Wilkin Joint Powers Authority. A hearing was held on Thursday, March 26th at Federal District Court in Minneapolis. He said arguments were heard on motions filed by both parties and the judge took the matter under advisement. He said a ruling is expected within the next one to three months.

Buffalo-Red River Watershed District action on Diversion Authority budget

Mr. Johnson said in September each year the fiscal budget is considered by the six-member entities. Last month, the Buffalo-Red River Watershed District only approved \$1.5 million in funding to complete the MN EIS. This year the Diversion Authority budget is \$211 million. There was discussion on how to proceed with expenditures when one member entity has not approved the budget. Mr. Johnson said the project is being paid with funds from North Dakota entities. And as an interim measure, the separate JPA entity made up of members from Fargo, Cass County and Cass County Joint Water Resource District (CCJWRD) that currently exists could approve expenditures. The ND JPA could meet immediately after the Diversion Authority Board meetings to ratify actions taken by the board.

6. TECHNICAL UPDATE

Task Orders and Authority Work Directives

Mr. Spiller discussed task order amendments with Houston Moore Group (HMG) totaling \$265,000 as follows:

- Task Order No. 7 Amendment 3 with HMG—provide berm design for the Maple River Aqueduct and between the diversion inlet and Sheyenne River; and design for Oxbow Park relocation in the amount of \$90,000;
- Task Order No. 8 Amendment 10 with HMG—work-in-kind to provide additional support for MN EIS preparation; cemetery assessment team support; additional support for large structure team; and hydraulics structures aesthetics evaluation in the amount of \$175,000.

Mr. Mahoney asked about the total spent to date on the MN EIS. Mr. Spiller said he will review the figures and present a total at the next board meeting.

MOTION, passed

Mr. Mahoney moved and Mr. Pawluk seconded to approve task orders with Houston-Moore Group totaling \$265,000. On roll call vote, the motion carried unanimously.

7. PUBLIC OUTREACH UPDATE

Committee report

Rodger Olson said the Public Outreach Committee met April 8th and discussed several topics including flood insurance rates and the special assessment district vote.

Mr. Olson said the committee discussed the impact to flood insurance rates in new areas of Fargo as a result of updated FEMA flood maps. He said FEMA will likely begin remapping the area's flood plain in five years and if Corps of Engineers data for a 100-year flood is used, around 19,000 homes in Fargo and 800 homes in Moorhead will be added to the 100-year flood plain.

Mr. Olson said ballots were mailed out last month to vote on a \$725 million special assessment district. He said three informational meetings and one public hearing were held in March. Ballots must be returned by April 30th to be counted. He said the sales tax is intended to pay toward the costs, and an intergovernmental agreement is being drafted with Fargo, Cass County and CCJWRD to outline the arrangement.

Daron Selvig from AE2S said the FMDiversion.com website has seen a significant increase in traffic since information on the special assessment district was posted. He said the e-newsletter will be sent within the next two weeks and will include an article on areas outside of Fargo that will benefit from the diversion project.

Business Leaders Task Force

Mr. Dawson said the task force will meet again in the next two months. He said members have been active in the legislative session and have sent correspondence to state legislators on legislation regarding the diversion project.

8. LAND MANAGEMENT UPDATE

Committee report

The Land Management Committee met earlier this afternoon. Mr. Vanyo said the committee discussed the decision by the Buffalo-Red River Watershed District (BRRWD) to approve \$1.5 million to complete the MN EIS, which is a small portion of the \$211 million total budget for the Diversion Authority. He said in light of the budget issues and the MNDNR EIS process, the following decisions were made: 1) action on one medical hardship case in Minnesota is pending; 2) action on one opportunistic land purchase in Minnesota is pending, although discussions with the individual will continue; and 3) action on the funding request for a retention project submitted by BRRWD has been tabled.

Mr. Pawluk asked about the reason behind the BRRWD decision to approve a portion of the budget. Mr. VanAmburg said some board members are under pressure from project opponents in the southern portion of the watershed district in addition to board members being told by MNDNR personnel to not approve the budget. Mr. VanAmburg is hopeful that the board will consider approval of the entire budget.

Mr. Mahoney said he would like to consider moving forward with the medical hardship case. Mr. Olson said the appraisal on the property is on-going. Eric Dodds from AE2S said results from the appraisals are expected shortly. Mr. Vanyo suggested this issue could be discussed at the next BRRWD meeting. Mr. Vanyo said there is more within the Diversion Authority budget that affects Minnesota than the MN EIS process.

Ms. Elmer asked about the board membership of the BRRWD. Mr. VanAmburg said there are seven watershed managers consisting of three from Clay County, two from Wilkin County, one from Becker County, and one from Ottertail County.

CCJWRD update

Mark Brodshaug provided an update on land acquisitions completed through March 31, 2015. He reviewed information on completed acquisitions, budget figures, and completed negotiations. Negotiations continue with Oxbow homeowners as part of the replacement housing process with 11 offers made to residents. One opportunistic farmland purchase was completed and a purchase agreement was signed on another one. He said relocations from the Park East apartment complex continue to move forward with around 60% of the residents who have vacated or have plans to relocate.

NDSU Ag Study Amendment No. 1

The committee approved an amendment to the NDSU Ag Study to expand the scope of work. Mr. Olson said the initial analysis was limited to a small number of impacted areas. The amendment will add 97 properties which will provide a more accurate model to study the impacts of storm water on farmland. Cost of the additional analysis is \$26,712.

MOTION, passed

Mr. Mahoney moved and Mr. Thorstad seconded to approve Amendment No. 1 for the NDSU Ag Study in the amount of \$26,712. Discussion: Mr. Vanyo said this is another example of support services from other resources to assist in obtaining information that will be used by the MN DNR for its EIS preparation. On roll call vote, the motion carried unanimously.

9. FINANCE UPDATECommittee report

The Finance Committee met on April 8th. Michael Montplaisir, Cass County Auditor, said \$99 million has been spent so far on the diversion project. He also reviewed total revenues, budget report summary, state aid, and in-town levee work.

Special Assessment District Vote

Mr. Montplaisir said the Diversion Authority was sent 32 ballots for a total vote of \$732,200.33. At their meeting yesterday, the committee recommended to vote “yes” on the ballots.

MOTION, passed

Mr. Mahoney moved and Mr. Pawluk seconded to authorize the Chairman of the Flood Diversion Board of Authority to sign and vote 32 Diversion ballots for the FM Flood Risk Management District No. 1 with a “yes” vote. On roll call vote, the motion carried unanimously.

Loan Draw Request No. 4

The Finance Committee approved the fourth and final draw down request from the \$50 million loan with U.S. Bank, which was taken out by Cass County in July, 2014.

MOTION, passed

Mr. Pawluk moved and Ms. Sobolik seconded to authorize Cass County to initiate a draw request for loan funds from U.S. Bank in the amount of \$4,939,800 to pay construction and other expenses of the Diversion Board of Authority. On roll call vote, the motion carried unanimously.

U.S. Bank Loan - Second Phase

Mr. Montplaisir said the original proposal from U.S. Bank was for \$100 million in temporary financing. The first \$50 million loan was taken out by Cass County, and the second \$50 million loan will be taken out by the City of Fargo. The committee authorized Fargo to negotiate with U.S. Bank on the terms. The plan is to submit the loan request to the Diversion Authority Board for consideration next month.

Houston-Moore Group LLC rate schedule

Mr. Montplaisir said last month the committee tabled a request from Houston Moore Group (HMG) to adjust their rates to further review cost comparisons on different tasks. At the meeting yesterday, the committee approved a 4% increase to HMG rate schedule.

MOTION, passed

Mr. Pawluk moved and Ms. Elmer seconded to authorize the chairman to sign a revised rate schedule for Houston Moore Group. Discussion: Mr. Mahoney asked when the last rate increase was approved. Jeff Volk from Moore Engineering said the board approved a rate increase in January, 2014. On roll call vote, the motion carried unanimously.

Buffalo-Red River Watershed District Retention Project Funding Request

Last month a funding request was received from the Buffalo-Red River Watershed District for Stoney Creek FDR and Restoration Project. The project was referred to the Technical Advisory Committee and Red River Retention Authority for review. It was determined that it met the criteria and goals to provide retention; however, the Finance Committee voted to table the proposal at this time due to the MN EIS still in progress and lack of budget approval by the Buffalo-Red River Watershed District.

Voucher approval

The bills for the month are with Fredrikson & Byron, P.A. for government relation services; North Dakota Water Users Association for membership dues; U.S. Geological Survey for water level information; Dorsey & Whitney LLP for legal services; and City of Fargo for 2nd Street utility relocation costs.

MOTION, passed

Mr. Mahoney moved and Ms. Elmer seconded to approve the vouchers in the amount of \$153,614.38 for March, 2015. On roll call vote, the motion carried unanimously.

10. NEXT MEETING DATE

The next meeting will be held on Thursday, May 14, 2015, at 3:30 PM.

11. ADJOURNMENT**MOTION, passed**

On motion by Mr. Pawluk, seconded by Mr. Olson, and all voting in favor, the meeting was adjourned at 5:15 PM.