

**FLOOD DIVERSION BOARD OF AUTHORITY
APRIL 28, 2016—11:30 AM**

1. MEETING TO ORDER

A meeting of the Flood Diversion Board of Authority was held Thursday, April 28, 2016, at 11:30 AM in the Fargo City Commission Room with the following members present: Cass County Commission representative Darrell Vanyo; Cass County Commissioner Mary Scherling; 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 Kevin Campbell; and Moorhead City Council Member Nancy Otto. Also present was ex-officio member Breanna Paradeis-Kobiela, Buffalo-Red River Watershed District.

Staff members and others present: Cass County Administrator Keith Berndt; Fargo City Administrator Bruce Grubb; Clay County Administrator Brian Berg; Fargo City Director of Engineering Mark Bittner; Fargo City Engineer April Walker; Moorhead City Engineer Bob Zimmerman; and Mark Nisbet, Chamber of Commerce Business Leaders Taskforce.

2. MINUTES APPROVED

MOTION, passed

Mr. Campbell moved and Mr. Williams seconded to approve the minutes from the April 14, 2016, meeting as presented. Motion carried.

3. AGENDA ORDER

MOTION, passed

Mr. Williams moved and Mrs. Scherling seconded to approve the order of the agenda with one revision to move Item 8. Executive Session after Item 4. Administrative/Legal Update. Motion carried.

4. ADMINISTRATIVE/LEGAL UPDATE

Attorney John Shockley gave a brief update on the Project Partnership Agreement (PPA). He said staff are working with the Corps of Engineers on the PPA, which will include a Memorandum of Understanding to incorporate the Public Private Partnership (P3) elements.

Mr. Shockley provided board members with a draft copy of the Joint Powers Agreement (JPA), which is 98% complete. He reviewed the substantive changes that have been made as a result of the comments received from member entities. The plan is for the Diversion Board to consider the document at the May 12th meeting, and then member entities will need to consider approval of the JPA.

Mr. Shockley said one more informational meeting with the six member entities will be held before the Diversion Board approves the JPA. There was discussion by board members about holding the meeting in the evening so board members who work during the day have an opportunity to attend.

5. EXECUTIVE SESSION

Attorney Erik Johnson said the board is allowed under North Dakota state law to meet in private session to consult with legal counsel. There are two issues to discuss regarding Project WP-42A.1/A.3 which may result in civil litigation; and the existing and pending federal lawsuit with the Richland-Wilkin JPA.

MOTION, passed

Mrs. Scherling moved and Ms. Otto seconded to meet in executive session as authorized by North Dakota Century Code 44-04-19.1 to consult with its attorneys to discuss a matter, namely Project WP-42A.1/A.3, which may reasonably be anticipated to result in civil litigation, and to discuss the existing and pending federal lawsuit brought by the Richland-Wilkin JPA. Motion carried.

Flood Diversion Board members, key administrative and engineering staff, Attorney Erik Johnson and Attorney John Shockley moved to the River Room at 11:45 AM.

The executive session ended at 12:40 PM and the meeting was re-opened to the public.

6. TECHNICAL UPDATE**Recommended Contract Actions Summary**

Keith Berndt discussed the following task order amendment and change order:

Task Order Amendment

- Houston-Moore Group, LLC Task Order No. 15 Amendment 4 (Draft Operations Plan)—add scope and budget to support development of USACE Draft Water Control Manual in the amount of \$79,000.

Change Order

- Reiner Contracting Inc. Change Order 1 (El Zagal Area Flood Risk Management Phase 2)—add time and cost for asbestos containing material abatement and add time for utility disconnects in the amount of \$26,997.30.

MOTION, passed

Mr. Mahoney moved and Ms. Otto seconded to approve the appropriation of funds for the task order amendment and change order as outlined; and recommend approval of the appropriation of funds by the Dakota Metro Flood Board for the Diversion Authority. On roll call vote, the motion carried unanimously.

7. NEXT MEETING DATE

The next meeting will be held on Thursday, May 12, 2016, at 3:30 PM.

8. ADJOURNMENT***MOTION, passed***

On motion by Ms. Sobolik, seconded by Ms. Otto, and all voting in favor, the meeting was adjourned at 12:46 PM.