

**METRO FLOOD DIVERSION AUTHORITY
OCTOBER 26, 2017—3:30 PM**

1. MEETING TO ORDER

A meeting of the Metro Flood Diversion Authority was held Thursday, October 26, 2017, at 3:30 PM in the Fargo City Commission Room with the following members present: Fargo City Commissioner Tony Grindberg; Fargo City Mayor Tim Mahoney via conference call; Cass County Commissioner Mary Scherling via conference call; Cass County Commissioner Rick Steen; Cass County Commission representative Darrell Vanyo; Moorhead City Mayor Del Rae Williams via conference call; Moorhead City Council Member Chuck Hendrickson; Moorhead City Council Member Joel Paulsen; Clay County Commissioner Kevin Campbell; Clay County Commissioner Grant Weyland; Cass County Joint Water Resource District Manager Mark Brodshaug; and West Fargo City Commissioner Mike Thorstad. Fargo City Commissioner Dave Piepkorn was absent.

2. MINUTES APPROVED

MOTION, passed

Mr. Brodshaug moved and Mr. Paulsen seconded to approve the minutes from the October 12, 2017, meeting as presented. Motion carried.

3. AGENDA ORDER

MOTION, passed

Mr. Paulsen moved and Mr. Weyland seconded to approve the order of the agenda. Motion carried.

4. MANAGEMENT UPDATE

Program management consultant (PMC) report

Randy Richardson from CH2M provided an update on activities over the last month. As a result of the injunction ruling by the federal court, a Governors' Task Force was formed by North Dakota Governor Doug Burgum and Minnesota Governor Mark Dayton to hold discussions on permanent flood protection. The first meeting of the task force was held on October 23rd, and the next meeting is scheduled for November 1st.

OHB levee construction continues in accordance with a stipulated agreement allowing construction through 2017 with concurrence from the MN DNR. New in-town levee construction, County Road 16 and 17 realignment construction, P3 procurement activities, and land acquisitions are on hold as a result of the injunction.

Robert Cowen from CH2M provided a brief financial update on the overall program status and said \$393 million has been expended to date. He said \$59.5 million has been expended out of the \$240 million FY2017 budget.

Mr. Cowen provided a construction update on continued work on in-town levees, landscaping and plantings, and Oxbow home demolition and relocation projects. Construction has been suspended on the County Road 16 and 17 realignment project; however, the County Road 17 bypass is expected to open for traffic next week.

5. CORPS OF ENGINEERS UPDATE

Terry Williams, Corps of Engineers Project Manager, provided a brief update and said as a result of the injunction, the Corps conducted an orderly shutdown of construction at the inlet control structure site on September 8th. She said the Corps will support the efforts of the Governors' Task Force as needed.

6. ADMINISTRATIVE/LEGAL UPDATEInterim Project Management Plan

Michael Redlinger, Co-Executive Director and Assistant Fargo City Administrator, said in an effort to reduce costs during the injunction, there has been a reduction in program management activities and staffing. He said an interim project management plan will be brought to the Finance Committee and Diversion Authority in the upcoming weeks for consideration.

7. PUBLIC OUTREACH UPDATECommittee report

The Public Outreach Committee met on October 25th. Rocky Schneider from AE2S said staff have been working with the Governors' offices to include information on the fmdiversion.com website regarding the task force. Mr. Vanyo said a link to the video of the October 23rd meeting is on the website.

8. LAND MANAGEMENT UPDATE

The Land Management Committee met on October 25th. Mr. Brodshaug said the committee discussed the flowage easement valuation study. Four proposers submitted RFQs; however, due to the injunction, a decision to award a contract was put on hold. The committee discussed possible changes to the project that may occur as a result of the task force and recommended staff talk with a few of the proposers about submitting a more defined proposal to bring back to the Land Management and Finance Committee for review.

9. FINANCE UPDATECommittee report

The Finance Committee met on October 25th. Mr. Grindberg briefly discussed the financial report.

2018 Budget

Mr. Cowen discussed a handout on the FY2018 budget which includes figures on the program budget with existing commitments; FY2017 cash budget and year-end estimated costs; and FY2018 draft budget with cash budget (pre-injunction plan) and stand down budget.

Recommended Contracting Actions

Mr. Cowen discussed the following contracting actions, which were approved by the Finance Committee and Technical Team:

- Hoffman & McNamara (WCD 01 In-Town Levees General Landscaping and Plantings)—work change directive at no cost to move site furnishings to 2018;
- Meyer Contracting (WCD 02 OHB Ring Levee – Phases C and D)—work change directive in the amount of \$71,000.00 to removal unsuitable organic material from the north pond borrow site;
- Industrial Builders, Inc. (Change Order 18 2nd Street North/South of Pump Station)—change order for a reduction of \$147,981.32 to modify the generator connection wire quantity, add fiber optic wire and conduit on 1st Avenue North, balance unit price quantity, and final completion of the time extension;
- Schmidt & Sons (Change Order 01 OHB Home Removal)—change order to provide a time extension to allow for a home removal at no cost;
- Landwehr Construction, Inc. (Change Order 01 OHB Home Removal)—change order to allow a substantial completion time extension for a home removal at no cost.

MOTION, passed

Mr. Vanyo moved and Mr. Steen seconded to approve the work change directives and change orders as outlined. On roll call vote, the motion carried unanimously.

Voucher approval

The bills for the month are with the Cass County Joint Water Resource District (CCJWRD) for costs associated with the Metro Flood Diversion, Diversion Project Assessment District, OHB levee, Oxbow Golf and Country Club, and in-town levees; Dorsey & Whitney LLP for legal services; Erik R. Johnson & Associates, Ltd. for legal services; and Ohnstad Twichell, P.C. for legal services.

MOTION, passed

Mr. Vanyo moved and Mr. Steen seconded to approve the vouchers received through October 19, 2017, in the amount of \$2,884,234.85. On roll call vote, the motion carried unanimously.

10. NEXT MEETING

The next meeting will be held on Thursday, November 16, 2017.

11. EXECUTIVE SESSION

North Dakota state law allows the board to meet in private session to consult with legal counsel to discuss ongoing litigation.

MOTION, passed

Mr. Steen moved and Mr. Vanyo seconded that the Metro Flood Diversion Authority meet in executive session pursuant to N.D.C.C. § 44-04-19.1, subsections 2 and 9, to consult with its Attorneys regarding the ongoing litigation in the matters of Richland/Wilkin JPA and MNDNR v. the United States Army Corps of Engineers and Fargo Moorhead Flood Diversion Authority as Intervenor, Civil File No. 0:13-cv-02262-JRT-LIB and the contested case hearing before the Minnesota Office of Administrative Hearings regarding the MNDNR permit for Metro Flood Diversion Authority. On roll call vote, the motion carried unanimously.

Diversion Authority board members, key administrative staff, Attorney Robert Cattnach, and Attorney John Shockley moved to the River Room at 3:50 PM.

The executive session ended at 4:43 PM, and the meeting was re-opened to the public.

12. ADJOURNMENT***MOTION, passed***

On motion by Mr. Campbell, seconded by Mr. Weyland, and all voting in favor, the meeting was adjourned at 4:45 PM.