

**METRO FLOOD DIVERSION AUTHORITY
DECEMBER 20, 2018—3:30 PM**

1. MEETING TO ORDER

A meeting of the Metro Flood Diversion Authority was held Thursday, December 20, 2018, at 3:30 PM in the Fargo City Commission Room with the following members present: Moorhead City Mayor Del Rae Williams; Moorhead City Council Member Chuck Hendrickson; Moorhead City Council Member Joel Paulsen; Clay County Commissioner Kevin Campbell; Clay County Commissioner Grant Weyland; Fargo City Mayor Tim Mahoney; Fargo City Commissioner Tony Grindberg; Fargo City Commissioner Dave Piepkorn; Cass County Commissioner Mary Scherling; Cass County Commissioner Rick Steen; Cass County Commissioner Chad Peterson; West Fargo City Commissioner Mike Thorstad; and Cass County Joint Water Resource District Manager Dan Jacobson. Mark Nisbet from the Chamber Business Leaders Task Force was also present.

2. MINUTES APPROVED

MOTION, passed

Mr. Mahoney moved and Mr. Campbell seconded to approve the minutes from the meetings held October 25, 2018, and December 3, 2018, as presented. Motion carried.

3. AGENDA ORDER

MOTION, passed

Mr. Weyland moved and Mr. Paulsen seconded to approve the order of the agenda with the removal of the cost share agreement with Metropolitan Council of Governments. Motion carried.

4. MANAGEMENT UPDATE

Martin Nicholson from Jacobs provided an update on activities over the last month, which include review and comments on the MDNR Supplemental Environmental Impact Statement (SEIS); continued work with the MDNR and other parties to advance the permit application review; acceptance of Plan B estimated cost and endorsement of financial proposal with direction given to staff and consultants to pursue additional funding; briefing to Business Leaders Task Force on project status; work plans to resume land acquisition and outreach after permit and environmental approvals; and coordination with Diversion Authority leadership on pre-legislative briefings.

Priorities for next month, pending Minnesota permit decision, include coordination with local entities to secure state grants and loans as part of the financing plan; submitting a request to amend the Project Partnership Agreement (PPA) to secure additional federal funding; and resuming land acquisition and impacted property mitigation activities.

5. ADMINISTRATIVE/LEGAL

Memorandum of Understanding – Generator

Attorney John Shockley discussed a Memorandum of Understanding (MOU) between the City of Fargo and the Diversion Authority to share the cost of maintenance and operation of a generator to serve Fargo Storm Sewer Lift Station #23 and backup power for Fargo City Hall. Fargo has approved the MOU. The term is for ten years and will automatically renew for an additional ten years. The Diversion Authority will be responsible for 35% of the cost and Fargo will be responsible for the remaining 65% of the cost.

MOTION, passed

Mr. Mahoney moved and Mr. Paulsen seconded to approve the Memorandum of Understanding between the City of Fargo and Metro Flood Diversion Authority. On roll call vote, the motion carried unanimously.

2019 Meeting Schedule

Eric Dodds from AE2S discussed the 2019 meeting schedule for the board to consider. The Diversion Board is scheduled to meet the fourth Thursday of each month with the exception of November and December.

The board discussed scheduling a meeting on the second Thursday in the event additional business needs to be handled. If there is no business, this meeting would be cancelled.

Mrs. Scherling discussed holding a special meeting on January 14th with an executive session. A final determination on a meeting date will be made after a decision is received regarding the Minnesota permit.

6. PUBLIC OUTREACH UPDATECommittee report

The Public Outreach Committee met on December 19th. Rocky Schneider from AE2S said the focus is on the funding plan and outreach to legislators.

Business Leaders Task Force

Mr. Nisbet said the task force is prepared to help with lobbying efforts and testimony at the upcoming legislative session in support of the project.

7. LAND MANAGEMENT

The Land Management Committee met on December 19th. Mrs. Scherling said the committee received the results from Phase 1 of the Flowage Easement Study. Phase 2 will review the affected parcels in further detail so the process is done accurately, fairly and scientifically.

8. FINANCE UPDATECommittee report

The Finance Committee met on December 19th. Mr. Grindberg provided a brief financial update on the overall program status. The project cost-to-date is \$450 million and statement of net position is \$83.1 million.

Voucher approval

The bills for the month are with Dorsey & Whitney for legal services; North Dakota Water Users Association for membership dues; and Ohnstad Twichell, P.C. for legal services.

MOTION, passed

Mr. Grindberg moved and Mr. Mahoney seconded to approve the vouchers received through December 14, 2018, in the amount of \$93,902.43. On roll call vote, the motion carried unanimously.

Recommended Contracting Actions

Mr. Nicholson discussed three task order amendments for \$120,290.00 and one change order for a deduction of \$228.00 approved by the Co-Executive Directors. He also discussed two task order amendments as follows:

- Houston-Moore Group, LLC (Task Order 1, Amendment 13 – Project Management)—add budget subtasks for 2019 activities, reallocate unused portions of subtask budgets, and extend the period of performance to December 31, 2019, in the amount of \$771,640.00;
- Houston-Moore Group, LLC (Task Order 23 Amendment 1 – WP-43 pump station)—reallocate unused portions of subtask budgets, add WP-43CD SDC and PM budget, and extend the period of performance through June 30, 2019, in the amount of \$137,188.54.

MOTION, passed

Mr. Jacobson moved and Mr. Piepkorn seconded to approve the task order amendments as outlined. On roll call vote, the motion carried with Ms. Williams, Mr. Hendrickson, Mr. Paulsen, Mr. Campbell, Mr. Weyland, Mr. Mahoney, Mr. Piepkorn, Mrs. Scherling, Mr. Peterson, Mr. Jacobson and Mr. Thorstad voting “Yes”; Mr. Grindberg and Mr. Steen voting “No”.

Q1 2019 Budget

Mr. Grindberg said the Finance Committee approved a budget for the first quarter (Q1) of FY 2019 as a placeholder for project funding.

MOTION, passed

Mr. Steen moved and Mr. Grindberg seconded to approve the FY 2019 Q1 Budget in the amount of \$8,458,000. On roll call vote, the motion carried unanimously.

9. OTHER BUSINESS, Outgoing board member

Mrs. Scherling and Mr. Mahoney presented gifts to Mayor Del Rae Williams, whose term ends this year. They thanked her for her service on the board the last four years and for her efforts with the Governors’ Task Force.

10. NEXT MEETING DATE

The next regular meeting will be held on Thursday, January 24, 2019.

11. EXECUTIVE SESSION

North Dakota state law allows the Board to meet in private session to consult legal counsel to discuss ongoing litigation and contract negotiations.

MOTION, passed

Mr. Piepkorn moved and Mr. Peterson seconded that the Metro Flood Diversion Authority meet in Executive Session pursuant to 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.

Diversion Authority Board members, key administrative staff, and Attorney John Shockley moved to the River Room at 4:30 PM.

The Executive Session ended at 5:00 PM, and the meeting was re-opened to the public.

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

On motion by Mr. Campbell, seconded by Mr. Peterson, and all voting in favor, the meeting was adjourned at 5:01 PM.