

**METRO FLOOD DIVERSION AUTHORITY
MARCH 28, 2019—3:30 PM**

1. MEETING TO ORDER

A meeting of the Metro Flood Diversion Authority was held Thursday, March 28, 2019, at 3:30 PM in the Fargo City Commission Chambers with the following members present: Cass County Commissioner Mary Scherling; Cass County Commissioner Chad Peterson; Cass County Commissioner Rick Steen via conference call; Fargo City Mayor Tim Mahoney; Fargo City Commissioner Tony Grindberg; Fargo City Commissioner Dave Piepkorn; Moorhead City Mayor Johnathan Judd; 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 Rodger Olson; and West Fargo City Commissioner Mike Thorstad.

2. MINUTES APPROVED

MOTION, passed

Mr. Piepkorn moved and Mr. Weyland seconded to approve the minutes from the regular meeting held February 28, 2019, and special meeting held March 19, 2019, as presented. Motion carried.

3. AGENDA ORDER

MOTION, passed

Mr. Campbell moved and Mr. Paulsen seconded to approve the order of the agenda with the addition of an amended cost share reimbursement agreement with the North Dakota State Water Commission. Motion carried.

4. MANAGEMENT UPDATE

Kim Daily from Jacobs provided an update on activities over the last month, which include execution of Amendment 1 to the Project Partnership Agreement (PPA); coordination with the Buffalo-Red River Watershed District on review of the permit application; submission of a brief to the Federal Court requesting partial lifting of the injunction; distribution of letters to all property owners whose land will be affected by the project; and contracting with seven appraisal service firms through the Cass County Joint Water Resource District (CCJWRD).

Priorities include attending the Federal lawsuit hearing scheduled for April 1st with the objective to dismiss litigation and remove the injunction; continued outreach to local entities and MDNR regarding permit status; advertise for rural structure removals associated with land purchases; continue with early and voluntary land acquisitions; initiate appraisals for remaining properties in the channel; and scoping for the next phases of agricultural impacts and flowage easement studies.

The project cost-to-date is \$457 million and \$3.1 million has been spent out of the FY2019 first quarter cash budget of \$8.5 million.

5. ADMINISTRATIVE/LEGAL UPDATE

Robert Wilson, Co-Executive Director and Cass County Administrator, said an advisory group made up of staff and board members met earlier today to discuss resuming the search for an Executive Director. The plan is to work with Pam Derby from CPS HR Consulting, the company hired by the Diversion Authority who assisted in the previous searches. Mr. Wilson said there are no additional costs at this time, but if an Executive Director is hired, the Diversion Authority will need to pay \$10,000 to CPS HR Consulting.

Mr. Wilson discussed the timeline, which includes a review of the recruitment brochure by the advisory group the first week of April, advertisement of the position on April 8th with review and screening of candidates through the middle of May, and interviews to be scheduled the first two weeks of June.

There were no concerns or objections from the board to resume the search for an Executive Director.

6. PUBLIC OUTREACH UPDATE

Committee report

The Public Outreach Committee met on March 27th. Mr. Olson said the committee received updates on legislative activities and land outreach efforts. He stressed the importance of the work done by officials and staff with the North Dakota and Minnesota legislative sessions to obtain project funding.

Tammy Jo Taft from AE2S showed a new public outreach video with Jon Riewer, President and CEO of Eventide Senior Living, regarding the effect floods have had on their residents, and the need for permanent flood protection. All of the videos may be found on the Diversion You Tube channel.

7. LAND MANAGEMENT

The Land Management Committee met on March 27th. Mrs. Scherling said staff are responding to phone calls from residents after letters were sent regarding the land acquisition process. The committee discussed crop insurance and impacts to cultural areas and cemeteries.

8. FINANCE UPDATE

Committee report

The Finance Committee met on March 27th. Mr. Hendrickson reviewed the financial report and said there is \$91,074,820 in cash available. The net cash position is \$90,750,279.

Recommended Contracting Actions

Ms. Daily discussed task order amendments approved by the Co-Executive Directors for material testing services, draft operations plan, cultural investigations, and property appraisal services.

MOTION, passed

Mr. Mahoney moved and Mr. Grindberg seconded to approve the contracting actions as presented. On roll call vote, the motion carried unanimously.

2019 Braun Intertec Corporation billing rates

Braun Intertec provides materials testing services for the OHB ring levee project. The proposed rates have been reviewed and verified that they do not exceed the 3.5% maximum annual rate increase as outlined in the Master Services Agreement with the contractor.

This item was tabled by the Finance Committee at their meeting yesterday in order to receive additional information on the rate increase. No action was taken today.

Amended Cost Share Reimbursement Agreement

Michael Redlinger, Co-Executive Director and Assistant Fargo City Administrator, discussed Amendment I to the Agreement for Cost Share Reimbursement for the Metro Flood Area Flood Risk Management Project with the North Dakota State Water Commission (SWC). The amendment provides an additional cost share up to \$66,500,000 to reimburse 50 percent of actual eligible costs. He said this will allow coding of expenditures for reimbursement.

Mr. Mahoney asked if the process to obtain reimbursements will remain the same. Currently, Fargo, Cass County and Cass County Joint Water Resource District separately approve reimbursement requests before they are submitted to the SWC.

Attorney John Shockley said he will draft a resolution that will need to be approved by all three entities to authorize the Diversion Authority to approve and issue reimbursement requests. After approval of the resolution, reimbursements will be approved by the Diversion Authority and submitted to the SWC.

MOTION, passed

Mr. Mahoney moved and Mr. Peterson seconded to approve Amendment I to the Agreement for Cost Share Reimbursement with the North Dakota State Water Commission. On roll call vote, the motion carried unanimously.

Voucher approval

The bills for the month are Cass County Joint Water Resource District (CCJWRD) for costs associated with the Metro Flood Diversion, OHB levee, and in-town levees; Dorsey & Whitney for legal services; Ohnstad Twichell, P.C. for legal services; Erik R. Johnson & Associates, Ltd. for legal services; City of Fargo for operation and maintenance of Lift Stations #18 and #23 in 2018; City of Fargo for work completed in 2018 on complementary in-town flood protection projects; and Warner and Company Insurance for renewal of commercial general liability insurance policy.

MOTION, passed

Mr. Grindberg moved and Mr. Mahoney seconded to approve the vouchers received through March 22, 2019, in the amount of \$10,523,705.68. On roll call vote, the motion carried unanimously.

9. OTHER BUSINESS, Task Orders 5 and 6

Ms. Daily discussed Task Order No. 5 for the continuation of Program Management services, which will include the Public-Private Partnership (P3) scope, and Task Order No. 6, which would engage the P3. She said more will be known about how to proceed with the task orders after the court hearing is held and a decision is made on the injunction.

10. NEXT MEETING DATE

The next meeting is scheduled for Thursday, April 11, 2019. The meeting will be cancelled if there are no contracting actions, and the board would then meet on Thursday, April 25, 2019.

11. ADJOURNMENT

MOTION, passed

On motion by Mr. Peterson, seconded by Mr. Weyland, and all voting in favor, the meeting was adjourned at 4:08 PM.