

**METRO FLOOD DIVERSION AUTHORITY
JANUARY 30, 2020—3:32 PM**

1. MEETING TO ORDER

A meeting of the Metro Flood Diversion Authority was held Thursday, January 30, 2020, at 3:30 PM in the Fargo City Commission Chambers with the following members present: Fargo City Mayor Tim Mahoney; Fargo City Commissioner Tony Grindberg; Fargo City Commissioner Dave Piepkorn; Moorhead City Council Member Chuck Hendrickson; Moorhead City Council Member Shelly Carlson; Cass County Commissioner Mary Scherling; Cass County Commissioner Chad Peterson; Cass County Commissioner Ken Pawluk; Clay County Commissioner Kevin Campbell; Clay County Commissioner Grant Weyland; and West Fargo City Commissioner Mike Thorstad. Moorhead City Mayor Johnathan Judd; Cass County Commissioner Rick Steen; and Cass County Joint Water Resource District Manager Rodger Olson were absent.

2. NOMINATION OF VICE CHAIR

MOTION, passed

Mr. Campbell moved and Mr. Peterson seconded to nominate Johnathan Judd, Moorhead City Mayor, as Vice Chair of the Metro Flood Diversion Authority. On roll call vote, the motion carried unanimously.

3. DESIGNATION OF SECRETARY

MOTION, passed

Mr. Weyland moved and Mr. Campbell seconded to designate Heather Worden as the Secretary of the Metro Flood Diversion Authority. Motion carried.

4. MINUTES APPROVED

MOTION, passed

Mr. Piepkorn moved and Mr. Weyland seconded to approve the minutes from the December 19, 2019, meeting as presented. Motion carried.

5. AGENDA ORDER

MOTION, passed

Mr. Campbell moved and Ms. Carlson seconded to approve the order of the agenda. Motion carried.

6. EXECUTIVE DIRECTOR REPORT

Joel Paulsen, Executive Director, said the overall cost-to-date is \$525 million. He reviewed information available on the financial dashboard to help track costs in real time.

Mr. Paulsen reviewed task orders approved by the Cass County Joint Water Resource District (CCJWRD). Moorhead Clay County Joint Powers Authority (MCCJPA) did not have any task orders.

Mr. Paulsen discussed activities and achievements, which include bidding for the Hickson Main Avenue storm sewer project, OHB wetland mitigation, and Property Structure Mitigation for Phase B this winter; current construction projects for the 2nd Street South and Main Avenue flood mitigation, OHB pump station and levee, and Property Structure Mitigation for Phase A; and incorporation of WIFIA requirements and other comments into Draft 4 of the P3 Request for Proposals (RFP).

Mr. Paulsen discussed short-term priorities, which include the issuance of Draft 4 of the P3 RFP's to proposers on February 19th; completion of the NDSU Ag Impacts study update to

reflect Plan B; securing remaining rights-of-entry for Southern Embankment design in North Dakota and Minnesota; FEMA approval of the Conditional Letter of Map Revision (CLOMR); and negotiation of the scope for Phase 2 Flowage Easement Valuation study.

Mr. Paulsen discussed long-term priorities, which include additional outreach to upstream property owners; assistance with legal efforts for the June contested case hearing; and issuance of Draft 5 of the P3 RFP's in May.

7. CORPS OF ENGINEERS UPDATE

Terry Williams, Project Manager from the Corps of Engineers, provided an update, which include pile driving and load testing at the Diversion inlet structure construction site; preconstruction conference for the Wild Rice River structure; physical modeling of the Red River structure design; geotechnical borings and ongoing design to incorporate Plan B into the Southern Embankment; and design review of I-29 road raise by Houston-Moore Group to begin in March.

Mr. Grindberg asked if the Corps' project is on time and within budget. Ms. Williams said the project is both on time and within budget.

8. ADMINISTRATIVE/LEGAL UPDATE

WIFIA events update

Attorney John Shockley provided a monthly update on the schedule of events associated with the Water Infrastructure Finance and Innovation Act (WIFIA) loan through the Environmental Protection Agency (EPA). He said three years of financials are needed as part of the WIFIA application, which needs to be submitted by the end of March. The Finance Committee discussed this issue at its meeting yesterday, and approved to hire Eide Bailly to conduct the audit for the Diversion Authority. Fargo and Cass County both have three years of financials completed to submit with the application. Mr. Grindberg said a policy will be developed to include a RFP process for the future, but considering the application deadline, the Finance Committee approved to move forward with Eide Bailly.

MOTION, passed

Mr. Grindberg moved and Mr. Campbell seconded to approve the hiring of Eide Bailly to conduct an audit for the Diversion Authority. On roll call vote, the motion carried unanimously.

Adopt meeting schedule for 2020

Pursuant to Section 5.11, subsection (b) of the Joint Powers Agreement (JPA), at the first meeting in January, the board needs to adopt a meeting schedule for the upcoming year. Board meetings will be held the fourth Thursday of each month, and committee meetings will be held the Wednesday before board meetings.

Mr. Campbell said the MCCJPA meeting for next month needs to be changed from February 27th to February 20th.

MOTION, passed

Mr. Campbell moved and Mr. Peterson seconded to adopt the meeting schedule for the Metro Flood Diversion Authority for 2020 with the one change to the MCCJPA meeting date in February. Motion carried.

Committee appointments

Committee appointments are outlined in the Joint Powers Agreement and need to be appointed and confirmed by the Diversion Authority.

Mrs. Scherling said she would like equal representation between Fargo and Cass County on the Finance Committee. Currently, Cass has three members and Fargo has five members.

Two of the Fargo members (Mr. Mahoney and Mr. Grindberg) are Diversion Authority appointments with the other three recommended by the City of Fargo. She asked if one of Fargo’s representatives could be replaced with a county representative.

Mrs. Scherling asked about the terms of committee chairs, which Mr. Shockley said is also outlined in the JPA.

Mr. Mahoney said there is longevity with the current makeup of the committee. Mr. Piepkorn is not supportive of making any changes. Mr. Grindberg said this is the first he has heard of this issue and believes the current makeup works well.

MOTION, failed due to lack of a second

Mrs. Scherling moved to appoint Ken Pawluk as one of the Diversion Authority appointments. Discussion: Diversion Authority appointments that serve on the committees need to be Diversion Authority Board members. Mr. Pawluk is an alternate, not a board member. Mrs. Scherling realized this is not an option because of this requirement.

MOTION, passed

Mr. Grindberg moved and Mr. Piepkorn seconded to table action on any changes to the Finance Committee membership. On roll call vote, the motion carried unanimously.

MOTION, passed

Mr. Grindberg moved and Mr. Campbell seconded to adopt the Resolution Confirming Recommendations and Appointments to the Diversion Authority Board, Finance Committee, Land Management Committee, and Public Outreach Committee of the Metro Flood Diversion Authority as presented. Discussion: Members discussed whether committee membership can be changed at a different time. Mr. Shockley said committee members recommended by a member entity may be changed any time during the year; however, committee members that are appointed by the Diversion Authority may only be considered annually. Mr. Piepkorn asked Mr. Paulsen to provide the board with sales tax figures generated by Fargo and Cass County for the project. On roll call vote, the motion carried unanimously.

9. PUBLIC OUTREACH UPDATE

Committee report

The Public Outreach Committee met on January 29th. Rocky Schneider from the Program Management Consulting team said the committee continued to review the development of a new communications plan. Surveys will be sent in the next few weeks to determine how the public receives news, i.e. television, websites, social media.

10. LAND MANAGEMENT

Committee report

The Land Management Committee met on January 29th. Mrs. Scherling said Watts and Associates has been hired to review supplemental crop insurance mitigation programs. She said the CCJWRD is working on land acquisitions and appraisals. Mr. Schneider said 42 parcel appraisals were approved, and five parcels were acquired since the last meeting.

Property Acquisition Status Report

The Property Acquisition Status Report is updated monthly and shows the status of all parcels required for the project. The information is helpful to understand all the land purchases taking place and to monitor their progress.

11. FINANCE UPDATECommittee report

The Finance Committee met on January 29th. Mr. Grindberg referred to the financial report and said the net cash position is \$86 million.

Voucher approval

The bills for the month are with Cass County Joint Water Resource District (CCJWRD) for costs associated with the Metro Flood Diversion right-of-entry and land acquisitions, OHB levee, and in-town levees; Dorsey & Whitney for legal services; Ohnstad Twichell, P.C. for legal services; Cass County for reimbursement of Executive Director expenses; and Marsh & McLennan Agency, LLC for general liability insurance premium.

MOTION, passed

Mr. Grindberg moved and Mr. Peterson seconded to approve the vouchers received through January 24, 2020, in the amount of \$930,218.14. On roll call vote, the motion carried unanimously.

12. RECOMMENDED CONTRACTING ACTIONS

Mr. Paulsen reviewed the recommended contracting actions, which were approved by the Finance Committee as follows:

- Jacobs Engineering Group, Inc. (Amended Master Services Agreement)—professional and program management services for a seven- year term through December 31, 2026, with costs to be paid per task order based on hourly rate schedule provided in the MSA;
- Houston-Moore Group, LLC (Task Order 23 Amendment 3 OHB Ring Levee)—add engineering services during bidding scope and budget for Hickson Main Avenue Storm Sewer and OHB wetland mitigation; add scope and budget for engineering services during construction for Hickson Main Avenue Storm Sewer and OHB wetland mitigation; add program management scope and budget for Hickson Main Avenue Storm Sewer and OHB wetland mitigation; and extend period of performance to December 31, 2020 in the amount of \$252,945;
- Houston-Moore Group, LLC (Task Order 26 Amendment 3 Work-in-Kind)—additional budget for Southern Embankment and Associated Infrastructure (SEAI) local drainage update; add scope and budget for SEAI transportation update; additional budget for SEAI utilities update; add scope and budget for SEAI hydraulic modeling support; and extend period of performance to December 31, 2020, in the amount of \$570,074.

MOTION, passed

Mr. Grindberg moved and Mr. Peterson seconded to approve the amended Master Services Agreement with Jacobs Engineering Group. On roll call vote, the motion carried unanimously.

MOTION, passed

Mr. Grindberg moved and Mr. Campbell seconded to approve Task Order 23 Amendment 3 and Task Order 26 Amendment 3 with Houston-Moore Group as presented. On roll call vote, the motion carried unanimously.

13. OTHER BUSINESSExecutive Session Policy

Mr. Paulsen discussed a proposed policy to address Executive Sessions, which is needed to maintain the integrity of P3 procurements as well as confidential information regarding on-going litigation. The policy outlines who can attend and participate in the sessions. Attendance will be limited to the Diversion Authority Board members, Executive Director and Diversion Authority legal counsel. Anyone else would need to be invited by the Executive Director to participate.

MOTION, passed

Mr. Peterson moved and Mr. Pawluk seconded to approve the Executive Session Policy as presented. On roll call vote, the motion carried unanimously.

Travel Reimbursement Policy

Mr. Paulsen said individual member entities have been reimbursing staff and public officials for travel related to the project. He discussed a policy and reimbursement form created to provide guidelines when submitting expenses. Costs shall be reimbursed if travel is requested by the Executive Director, is more than 100 miles one-way from the Fargo-Moorhead area, and if the purpose is to attend a meeting or conference related to the project.

Ms. Carlson asked about whether the federal per diem rate will be included in the policy. She wants to ensure everyone is fiscally conscious and responsible when traveling for Diversion business. Mr. Paulsen said the policy could be amended to include the federal per diem rate.

MOTION, passed

Mrs. Scherling moved and Mr. Weyland seconded to approve the Travel Reimbursement Policy with an amendment to include the federal per diem rate. On roll call vote, the motion carried unanimously.

Envision Resilience and Sustainability Program Overview

Quin McKenzie, Co-Founder and Consultant from Luceo was present to discuss the Envision Resilience and Sustainability Program. Envision is a nationally recognized platform that uses a holistic approach to provide a framework for planning, evaluating, and rating benefits of infrastructure projects. Mr. Paulsen said Envision would enhance communication and public outreach for the project.

Ms. McKenzie provided examples of the opportunities that Envision may provide, which include facilitating public education on construction, conducting an economic evaluation during the lifecycle of the project, reviewing and enhancing community and public outreach, and improving infrastructure integration.

Mr. Paulsen said one of the benefits of using Envision is the potential cost savings through creating efficiencies. He understands work needs to be done to show the board how this program will save money. He drafted an Authority Work Directive (AWD) in the amount of \$40,000 for Luceo to conduct preliminary work.

MOTION, passed

Mr. Grindberg moved and Mr. Hendrickson seconded to approve the Authority Work Directive in the amount of \$40,000 for Luceo to conduct preliminary work. Discussion: Mr. Grindberg said the Finance Committee discussed this issue at great length and questioned how the value of any savings could be defined. He wants to see if the P3 proposers are supportive of the Envision Resilience Program. Mr. Peterson asked about cost savings examples to quantify what Luceo has done for other projects. Ms. McKenzie said with one project there was a 40% cost savings because of land optimization. She said early contractor involvement and scope agreements to identify redundancies have proven to be cost effective. Mr. Paulsen said Envision will focus on processes that will deliver the project and act almost as an audit on project implementation. Mr. Hendrickson supports the concept and wants to see the benefits offered by Envision. Mr. Grindberg said the intent of his motion is to provide this funding to allow Luceo to include language within the Draft P3 RFP about Envision and work with the

P3 proposers to see if this would be valuable for the project. His intent is not to come back and approve additional funding at the next meeting. On roll call vote, the motion carried with Mr. Grindberg, Mr. Hendrickson, Ms. Carlson, Mr. Mahoney, Mr. Piepkorn, Mr. Campbell, Mr. Weyland, Mrs. Scherling, and Mr. Thorstad voting “Yes”; and Mr. Peterson and Mr. Pawluk voting “No”.

Public Private Partnership Overview – Risk Transfer

This item was tabled until next month.

14. NEXT MEETING DATE

The next meeting is scheduled for Thursday, February 27, 2020.

15. ADJOURNMENT

MOTION, passed

On motion by Mr. Peterson, seconded by Mrs. Scherling, and all voting in favor, the meeting was adjourned at 5:11 PM.