



**DIVERSION AUTHORITY
Land Management Committee
City Commission Room
Fargo City Hall
Thursday, November 13, 2014
2:00 p.m.**

1. Agenda review
2. Approve October 9, 2014 minutes
3. CCJWRD Land Management Summary
4. Land Acquisition Management Update (Presentation)
5. Farmland Property Management Report
6. Agricultural Risk Economic Evaluation Study Update
7. Right of Entry Status & Cultural Resources Easement Acquisition Update
8. Other business
9. Next meeting Thursday, December 11, 2014

**DIVERSION AUTHORITY
Land Management Committee
City Commission Room
Fargo City Hall
Thursday, October 9, 2014
2:00 p.m.**

Committee Members Present: Oxbow Mayor Jim Nyhof, Moorhead City Council Member Heidi Durand, Cass County Commission Representative Darrell Vanyo, Fargo City Administrator Pat Zavoral, Cass County Administrator Keith Berndt, Moorhead City Administrator Michael Redlinger, Clay County Administrator Brian Berg, Fargo Director of Engineering Mark Bittner, Moorhead City Engineer Bob Zimmerman, Fargo City Engineer April Walker, Cass County Joint Water Resource District Representative Mark Brodshaug.

Others Present: Eric Dodds - AE2S; Terry Williams and Brett Coleman - US Army Corps of Engineers; Lyndon Pease - Moore Engineering.

The meeting was called to order by Darrell Vanyo.

Agenda review

Darrell Vanyo requested an item be added to the Agenda under "Other Business" to discuss the Oxbow/Hickson/Bakke ring levee.

Approve September 12, 2014 Minutes

Heidi Durand moved the minutes from the September 12, 2014 meeting be approved. Mark Bittner seconded the motion. All the members voted aye and the motion was declared carried.

CCJWRD Land Management Summary

Mark Brodshaug shared the Land Management Summary and pointed out that four more appraisal reviews have come back from the Corps and were approved at the Joint Water Resource District Meeting earlier today. There are more in the queue, he said; two more Oxbow residential appraisals have been submitted to the Corps, as have a couple more agricultural appraisals. He said ProSource met with the homeowners of the first seven Oxbow properties that need to be purchased in the spring. So far a purchase agreement has only been entered into on one of the homes needed, he said, and those residents moved to Fargo. It is somewhat concerning that more haven't been purchased, he said, hopefully the pace can be picked up and some progress can be made in the next couple weeks. He said part of the problem is that three parties are involved: the homeowner, builder and the negotiator. Some of the difficulties incurred in coming to an agreement is that the same house cannot be replicated today and conform to code. He said the builder needs to break down the costs enough so the parties involved can negotiate what aspects are considered betterments; therefore, he said there is a lot of back and forth involved.

Jim Nyhof said it would be helpful if ProSource could be more engaged; promises have been made for several weeks that they would be here and there are homeowners ready to talk with the negotiator. He said earlier the hope was to process 5 or 6 appraisals per week, now it seems the expectation is down to 2 or 3 per week.

Eric Dodds said there has been a round of phone calls made to all property owners in Oxbow, and he has been told by ProSource that they wait for information from builders as well. He said there have been discussions about having ProSource here every few weeks.

In response to a question from Pat Zavoral about whether more appraisers are needed to get this done and whether a template has been developed to make the process more efficient, Mark Brodshaug said that the appraisers know what the Corps wants for the 40 houses in Oxbow so what they are working with is close to being a template. However, he said, the rest of the properties are so individualized or specialized that each is a separate case. He said there is a problem getting appraisers with the necessary specialized credentials.

Darrell Vanyo asked Eric Dodds to work with Mark Brodshaug to develop an outline, whether it be a presentation or some kind of document, identifying more clearly where the problem lies. He said he hears many reasons why and where the problems may be; however, he is not comfortable knowing if any are correct and would like to identify it more clearly.

Pat Zavoral said the same problems exist for the in-town acquisitions too because most were expected to be done by July. He said he does not look at the Joint Water Resource District Board as the problem and he feels more than just Oxbow should be studied. He said the appraisers seem to be taking a long time.

Keith Berndt said this may be an ongoing issue in Oxbow and there is a high percentage of residents planning to build new houses. He said an insurance company can quickly come up with a replacement value on property with just some info on basic characteristics of a home. He said it seems there must be a way to establish a figure to streamline the process and avoid the complex appraisal issue. He said perhaps a percent of the taxable value could be used.

In response to a question from Mark Bittner about whether there is resistance from builders, Eric Dodds said it has been left to the homeowner in Oxbow to identify and engage their builder in the process. The appraiser sets the value of the current house and the builder sets the cost to build the replacement house.

Mark Bittner said perhaps a negotiator working on behalf of the Diversion Authority whose task would be to work with the appraisers could help the process.

Eric Dodds said there is a separation between the negotiators and appraisers; however, they are third party contracts. He said Mr. Bittner has a good point and that is why the PMC has started becoming more involved in the process. He said his team can help but will still want to rely on properly certified folks.

Mark Brodshaug said experienced professionals have been relied on to keep things fair. He said perhaps now with the problem of getting things done, things could be looked at again.

Owned Property Management Update

Eric Dodds said one hardship property of about 15 acres that was purchased in Minnesota has had structures removed and staff has been discussing whether access or hunting should be allowed. He said Clay County allows access following DNR rules on these types of properties. When looking at allowing access, he said, it was realized that some cleanup from structures being removed still needs to be done. Work is being done to get a contractor out there to clean it up, he said, and the property will be posted for no access this fall. After it is cleaned up, he said, the decision can be made about future access.

Agricultural Risk Economic Evaluation Study Update

Eric Dodds said the Agribusiness Department at NDSU was hired to work on the crop insurance study. They gave a presentation on their proposed approach for the project, he said, and the Ag Committee felt comfortable that the group had a good grasp on the impacts to agriculture and are working to quantify those. He said they are looking forward to getting draft results in mid-December.

Mark Brodshaug said NDSU is zeroing in on the impacts to farming from the diversion operation and not the reduction in value to land from the development right standpoint. The point was made that insurance implies a deductible and that someone pays a premium, he said, and they are looking at both an insurance product and another type of replacement product.

Right of Entry Status and Cultural Resources Easement Acquisition Update

Lyndon Pease survey activity is elevated during fall and spring because it is the best time to access land with minimal intrusion on crops. He said currently the only activity on the diversion channel portion itself is around the Maple River where the USGS will do some sediment discharge and water surface elevation sampling in the area of the proposed aqueduct around Maple River. Access to 18 parcels has been identified as necessary, he said, and the process to acquire access is just beginning. He said along the southern alignment/staging area 70-80 parcels on the North Dakota side were identified as needing a variety of surveys. He said about 40 of the agreements have been returned and survey crews are expected to work on cultural resource Phase 1 surveys next week. Work is underway to obtain access to 15 parcels within the staging area along the southern alignment, he said. Some work for geotechnical borings is expected to begin soon in that area, he said, and will likely be ongoing for several months. In the Oxbow/Hickson/Bakke ring levee area, access is needed for some topographic surveys to supplement some of the ditch and drainage designs, he said, and the intent is to get that done this fall. Also, as part of the cemetery mitigation plan, he said, access to 11 cemeteries will be needed for minimally intrusive cultural resource surveys. He said 6 of the cemeteries are in North Dakota and 5 are in Minnesota. Letters and access agreements were sent to the owners of the North Dakota properties last week, he said, and so far one has been returned granting access.

In response to a question from Pat Zavoral about the percentage of completion of all the cultural research, Terry Williams said it is approximately 50 percent. She said after doing the southern embankment, about half the area in the staging area will have to be looked at. She said once the western channel alignment is optimized there will need to be more cultural resource surveys and borings done there.

Other Business

Darrell Vanyo said he has exchanged letters with Governor Dayton and in one letter he indicated to the Governor that the Diversion Authority could take up lowering the work next year to the 100 year certified protection level without the diversion, rather than where it is at this year which is with the diversion. He said the difference is about six feet from where the top of the levee is on the south end to where it goes on the west and north ends. He said the thought behind that comes from discussions at the Diversion Authority meeting when the DNR was present and Randall Doneen indicated there would not be any issues with Minnesota state law in doing that. He said a response from the Governor indicated he is not able to comment due to the matter being in litigation. He said in the spirit of staying in the good graces of Minnesota, he would like this group to weigh in on that. He said this effort to work through the process would have additional costs involved with doing some things now and then coming back and doing it again later.

In response to a question from Mr. Vanyo about whether this is problematic for Oxbow, Jim Nyhof said he is hesitant to agree with putting off flood protection for Oxbow and finds it concerning to think this could delay things two years. He said he would like to know how this affects the timeline of the levee and the project overall. He said while delaying flood protection is a hard thing to swallow, he understands this may be necessary and wants to be cooperative, but would like a hard look taken at how this impacts the timeline.

Mr. Vanyo said he sees the work done on the south end of the levee as the most critical due to the homes going in that area. The 100 year certified protection is being provided if the current levels are continued, he said. He said after the EIS is completed and all that goes into getting permits, it could be a year or possibly 2016 before it could be put to current levels. He hopes people see that as being protected in today's environment, in terms of not having a diversion, he said, and they would be protected if the diversion proceeds.

Keith Berndt agreed that if the delay is that it can only be built to that height in the 2015 construction season there should not be an issue; however, if it goes into the 2016 construction season it might be another story.

In response to a question from Heidi Durand about the level of protection for Oxbow from a previous levee project, Keith Berndt said there may be practical protection to perhaps a 50 year level from a previous noncertified project; however, gaps had to be left in that levee along the river and emergency measures would be needed to plug holes.

Ms. Durand said she is from the Minnesota side and has heard quite loudly the DNR's request to honor the EIS. She said there is not a clear answer from the DNR and it is not clear that this action will help, and for that reason she will not vote in favor.

Darrell Vanyo said Kent Lokkesmoe and Randall Doneen of the DNR attended a meeting of the Diversion Authority and Mr. Doneen clearly stated that this move would meet Minnesota state law. He said he understands Ms. Durand's issues; however, he is comfortable moving ahead.

Jim Nyhof added that the original letter the City of Oxbow received from the DNR confirmed in writing that they would support certifiable protection to the 100 year level.

Jim Nyhof moved this committee forward its recommendation to the Diversion Authority to support constructing the remainder of the Oxbow/Hickson/Bakke Ring levee to the reduced, but still certifiable 100 year flood protection level, and to remain on the current timeline at the new reduced flood protection level until such time as the DNR analysis is complete and the Diversion Authority proceeds with the project. Pat Zavoral seconded the motion. All the members voted aye, except Heidi Durand who voted nay, and the motion was declared carried.

The next meeting will be Thursday, November 13, 2014 at 2:00 p.m.

The meeting adjourned at 2:56 p.m.



1506 29th Ave S, Moorhead, MN 56560

877.700.4099 • 218.477.1968

www.pifers.com

November 7, 2014

Metro Flood Diversion Authority - Pifer's Land Management Update

Pifer's Land Management as of July 24, 2014, has sent out the following cash rent leases to tenants and cash rents payments for 2014 have been collected.

Prior Owners – Dennis and Vicki Rust

Tenants

- Brent Rust – NW ¼ Section 11-140-50 and S ½ Section 25-141-50
Raymond Township
3 year lease – **Rent Collected \$60,179.00**
- Brian Rust – NW ¼ Section 1-140-50
3 year lease – **Rent Collected \$17,234.00**

Prior Owner – Wayne Diekrager

Tenants

- Brent Rust – NE ¼ Section 11-140-50
Raymond Township
3 year lease – **Rent Collected \$23,757.00**

Prior Owner – James and Ann Ueland

Tenants

- James and Ann Ueland – SE ¼ Section 11-140-50
Raymond Township
3 year lease – **Rent Collected \$21,500.00**

Prior Owner – Diane Maier & Lucille Sorby

Tenants

- Mark Hyatt – SE ¼ and S ½ NE ¼ lying S of Wild Rice River, building site & driveway, N ½ SW ¼, E ½ SE ¼ SW ¼ Section 2-137-49
Raymond Township
2 year lease – **Rent Collected \$35,051.80**

Prior Owner – Keith Monson, Flex Rental Agreement

Tenant

- Keith Monson – NW ¼ Section 36-141-50
Berlin Township
5 year Flex Rent Contract – Base Rent collected **\$15,892.00**
Flex amount due November 30, 2014

Prior Owner – Wayne Hogle, Flex Rental Agreement

Tenant

- Wayne Hogle – SW ¼ Section 11-140-50
Raymond Township
5 year Flex Rent Contract – Base Rent collected **\$8,456.32; this was prorated based on the calendar year. Base rent for 2015 – 2018 will be \$15,032.00**
Flex amount due November 30, 2014

Prior Owner – Wayne Hogle, Flex Rental Agreement

Tenant

- Wayne Hogle – NW ¼ Section 14-140-50
Raymond Township
5 year Flex Rent Contract – Base Rent collected **\$2,880.95; this was prorated based on the calendar year. Base rent for 2015 – 2018 will be \$15,356.00**
Flex amount due November 30, 2014

Prior Owner – Cheryl Gorder

Tenants

- Mark Hyatt – W ½ SE ¼ SW ¼ and SW ¼ SW ¼ Section 2-137-49
Pleasant Township, approximately 49.72+/- acre
2 year lease – collected **\$2,858.90; this was the second ½ of the rent due for 2014, the first half payment was paid directly to Cheryl Gorder.**

Financial recap based on the above rental amounts are as follows:

Rental Income	\$187,809.97
Management Fee	(15,024.80)
Withholding for RE Taxes	(28,771.17)
5% withholding for misc. operating and misc. expense	(8,611.66)
Net Rent	<u>\$135,402.34</u>

Pifer's Land Management has dispersed the above amount to the Metro Flood Diversion Authority on November 7, 2014.

Harvest is complete and fall work is underway. The Metro Flood Diversion Authority has two existing leases that have an additional flex rental agreement attached. They are for Keith Monson and Wayne Hoglund. Both Keith and Wayne will be providing their production history to Pifer's in the upcoming weeks which will determine if there will be any additional rent due. These reports are due on or before November 30th. Additional rent if any will be collected in December 2014.

Enclosed you will find the P&L and Balance Sheet for the Diversion Authority Year to Date.

Sincerely,



Dwight Hofland
Senior Land Manager
The Pifer Group, Inc.