

**DIVERSION AUTHORITY
Land Management Committee
City Commission Room
Fargo City Hall
Wednesday, March 22, 2017
3:00 p.m.**

Present: Cass County Commission Representative Mary Scherling; Clay County Commission Representative Kevin Campbell; Clay County Commission Representative Jenny Mongeau; Moorhead City Engineer Bob Zimmerman; Assistant Fargo City Administrator Michael Redlinger; Fargo Division Engineer Nathan Boerboom; Cass County Commission Representative Chad Peterson; Cass County Joint Water Resource District Representative Rodger Olson.

Others present: Eric Dodds - AE2S; Mark Brodshaug - Cass County Joint Water Resource District (CCJWRD), Robert Wilson - Cass County Administrator.

Absent: Moorhead Mayor Del Rae Williams; Moorhead City Council Representative Heidi Durand; Oxbow Mayor Jim Nyhof.

The meeting was called to order by Chair Mary Scherling.

Agenda Review

Bob Zimmerman moved the Order of Agenda be approved. Kevin Campbell seconded the motion. All the members voted aye and the motion was declared carried.

Minutes approved

Chad Peterson moved the minutes from the February 22, 2017 meeting be approved. Nathan Boerboom seconded the motion. All the members voted aye and the motion was declared carried.

Property Acquisition Report

Eric Dodds said the Property Acquisition Status Report includes a series of pages with maps and an updated format of the acquisition progress. He said the first page outlines the areas of key acquisitions with subsequent pages providing more details of each. Appraisals north and east of I-29 will be presented to the FM Diversion Board of Authority at their meeting tomorrow, he said. Most of the appraisals for Phase I are complete, he said, and the offers are being considered, with negotiations ongoing. He said he is hopeful the appraised values will be well received; however, farmland values have decreased significantly over the past few years. He said the first parcels were purchased in 2013 where I-29 crosses the Diversion embankment knowing they would be needed, and soon a number of calls were received from other property owners offering to sell. Most were acquired in 2014, he said, with a few purchased in 2015 so they have been owned for some period of time. The top value purchased was around \$6,300.00 per acre, he said.

(Fargo City Commission Representative John Strand present.)

Mr. Dodds said the areas needed for cultural mitigation must be acquired soon so the Corps can begin that work this summer and fall. He said the environmental monitoring areas, and monitoring for biotic and geomorphic conditions, is now at the point of acquiring rights of entry. He said easements will be needed, and the Minnesota parcels are on hold. The intention is to update and produce this report on a monthly basis, he stated.

Ms. Scherling said a budget diagram would be helpful for illustrating the status of property acquisition activities.

CCJWRD Update

Mark Brodshaug said the CCJWRD is mostly involved in monitoring a demo/house move project in Oxbow, which is going very well. He said the intention for future construction and demolition projects in Oxbow is to have the Diversion Authority as owner, meaning the CCJWRD will not be owners in future construction projects. This follows through with the change to have all of the construction management contracts with the Diversion Authority, and not the CCJWRD.

In response to a question from Ms. Scherling about whether it is the contractor who puts everything back together following demolition or construction, Mr. Brodshaug said yes, it is a part of the contract to fill the foundation, remove debris, and properly compact and fill. He said sites will be leveled and seeded.

Ms. Scherling said her personal experience with some flood lots has been that they become a tangle of weeds and do not get maintained. She said she would encourage an eye be kept on that, and that there is a noxious weed officer at Cass County if a service like that is needed or desired.

In response to a question from Rodger Olson about the status of homes being relocated or demolished in Oxbow, Mr. Dodds said 10 of the 11 homes are being repurposed.

Draft Mitigation Plan Adoption

Ms. Scherling said she spent quite a bit of time reviewing the plan and she said while it contains a few items that are no longer relevant, such as committee names, it is a well-rounded document and she complimented the team on it.

Mr. Dodds said substantial effort went into the draft Mitigation Plan with an original goal of producing it to submit to various agencies for feedback and/or negotiation. He said that interaction has not happened as was expected. He said he would like this group to adopt the plan as a draft, and with the acknowledgement that a meeting of the Agricultural Policy Subcommittee will be set up, hopefully before planting season. He said it would be helpful if some members of this group could attend such a meeting. Prior to the last meeting, which was held some time ago, members were asked if they would like to continue to participate and the response was about 50/50, he said. Invites may also be extended to groups such as Farm Bureau and Farmers Union, he stated.

Mr. Peterson said he would like to be kept in the loop about the meeting dates and encouraged Land Management members to attend the meetings. He said the plan is being drafted with the intention of starting something not ending something, and with the hope that neighbors and fellow partners are willing to engage.

Ms. Scherling said the opportunity exists to tweak the document if needed as things progress.

Mr. Peterson moved the Land Management Committee support the draft Mitigation Plan and recommend its approval to the Metro Flood Diversion Authority. Mr. Zimmerman seconded the motion. All the members present voted aye, except Jenny Mongeau who voted nay, and the motion was declared carried.

Ms. Scherling introduced Robert Wilson, the new Cass County administrator.

Upstream Impacts & Mitigation

Mr. Dodds pointed out two pages that are the outcome of a mapping effort to show the project-induced impacts during a 100-year flood in Richland County and Wilkin County. The informational sheets list impacts, mitigation, and benefits for each of the two counties. He said the information is being shared with all the committees and the Board this week. He said the count of structures listed is for residential, five in Richland and six in Wilkin. There may be nonresidential structures also impacted, he said. This is Phase 8, the most recent hydrology, he said, and the analysis is getting more and more refined. It is being reviewed by FEMA for the Letter of Map Revision (LOMR) process and as FEMA reviews continue there is a chance of revisions; however, no substantial changes are expected.

Mr. Olson said the project has gone through several changes to lessen impacts to the upstream area. He said there may be value to overlay the current project with what it would look like if the first alignment were used. There is value in supporting the efforts to minimize impacts, he said, which included things like moving a higher level of water through Fargo/Moorhead, moving the alignment and other changes. There are many people who do not realize those efforts have been made, he stated.

Other Business

Disposal of Project Owned Property

Eric Dodds said the property in question is a property purchased in Clay County a couple years ago as a hardship property. It is a rural residential property, he said, consisting of four separate parcels that had one owner. The house and structures have been removed and the mitigation work is done, he said, and now there is interest from neighboring property owners in purchasing it. He said the question has come up whether the Diversion Authority needs to own this land and whether it can be disposed of. He said the result of investigating that is it does not need to be owned; however, flowage easements are needed because it is so close to the river and will ultimately be in the floodway. He said there will be restrictions on building on the site; however, two of the parcels are tillable and two are woodland. He said there were discussions with Pifer's Land Management, the Corps and appraisers for guidance about whether attaching an easement then selling it sets a precedent for the value of a flowage

easement. Feedback indicates it could set a precedent for similar properties, he said, however, there are few similar properties and even if there is a precedent, it is not an overriding concern. He said the recommendation is to turn to Pifer's and have them auction the parcels in two packages, one for the two parcels north of the access road and one for the two parcels south. He said Pifer's recommends starting the process soon since longer marketing timeframes attract more interested parties. He said he would like this group to weigh in since the anticipated path for other parcels of similar nature, whether in the staging area or excess land along the channel or other areas, is to likely turn to Pifer's to auction off excess lands at the point it is known they are not needed.

In response to a question from Mr. Olson about whether there may be an exchange value to these parcels, Mr. Dodds said perhaps; however, this is not a lot of acreage. He said the location is just south of Oxbow, adjacent to the river on the Minnesota side

Mr. Peterson said prior to now when purchasing some of these properties the intention was for swap or use as utility somewhere else; however, the problem with these parcels is the footprint is so small that likely only adjacent landowners will show up for the auction. He said he is not concerned about setting a precedent and any flowage easements since they would be low as there would be little in damages. He favors this, he said, and feels if land gets purchased and is not needed, it should be returned to be productive rather than sit idle and growing weeds.

In response to a question from Mr. Strand about structure removal costs, Mr. Dodds said this was auctioned off through a county auction sale with around a \$5,000.00 to \$6,000.00 profit. A contractor demolished the foundation and removed the septic, etc., which typically is around \$30,000.00 to \$40,000.00 per site, he said, and with additional structures it may have been around \$50,000.00, although he does not recall the exact amounts for this property. He said these costs exist whether it is sold or not.

Mr. Strand said he does not see a reason to rush into a decision, it would be good to learn firsthand the implications of flowage easements to value, and even though this is a small parcel and mostly woods, the process will be educational on the value effect to properties. He said it could be good to experience what landowners experience on a larger scale.

In response to a question from Ms. Scherling about what the value in waiting may be, Ms. Mongeau said she has had inquiries about the land from constituents and also, from a township perspective, the property has been an area where nuisance parties have occurred. She said she would pose the question to this committee about whether it is wise to be owners of rental property. If residents have an interest in taking care of the property, she said she would prefer that they have it.

Mr. Olson said with the parcels so close to a residential area and having good habitat, the property may be worth more than expected. He said neighbors may hope to purchase it for less than a hunter may bid, and he would suggest lumping it together as one unit since it may bring more as one unit rather than separate. He said it would depend on if the goal is to maximize dollars or maximize the use of it later.

Kevin Campbell said he agrees if it is not needed, it should be sold and let the market take it for what it is; however he would like assurance that it will not come back to be needed later for something else. It was known when the property was purchased there would be significant expenditures and there would never be a return on it, he said, that is built into the overall protection of the project. He said this should not be precedence setting for any flowage easements.

Mr. Dodds said from staff perspective he is confident the project does not need the property. He said the best state of knowledge today, with all of the local staff, in talking with the Corps team, project management and environmental mitigation folks, nobody has suggested this land needs to be kept.

In response to a question from Mr. Strand on how the property was acquired, Mr. Dodds said the owner applied through the medical hardship program. He said it was concluded the property was in an area that would eventually need to be bought out and the medical hardship existed enough that buying the property now would help the owner get out of their hardship.

Mr. Olson said he previously suggested selling the parcels together. He would withdraw that comment to defer the land sale to Pifer's since they are the experts on how best to sell the land.

Mr. Campbell moved to forward the following recommendations for the parcels in question to the Diversion Authority Board:

- Retain Pifer's to sell the parcels via auction.
- Auction parcels 1805 and 1806 as one package and 1674 and 1675 as a second package.
- Conduct the auction sale soon as it could impact the need for rental agreements for spring 2017 on the farmland included in these parcels.
- Attach the Flowage Easement to the parcels prior to auction sale.

Mr. Peterson seconded the motion. All the members present voted aye, except Mr. Strand who voted nay, and the motion was declared carried.

Mr. Peterson moved the meeting be adjourned. Mr. Zimmerman seconded the motion. All the members present voted aye and the motion was declared carried.

The meeting adjourned at 3:51 p.m.

The next meeting will be April 26, 2017 at 3:00 p.m.