

**METRO FLOOD DIVERSION AUTHORITY  
MAY 3, 2018 1:30 PM**

**1. MEETING TO ORDER**

A special meeting of the Metro Flood Diversion Authority was held Thursday, May 3, 2018, at 1:30 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 via conference call; Fargo City Mayor Tim Mahoney; Fargo City Commissioner Tony Grindberg; Fargo City Commissioner Dave Piepkorn; Cass County Commissioner Mary Scherling; Cass County Commissioner Chad Peterson; Cass County Commissioner Rick Steen; and West Fargo City Commissioner Mike Thorstad. Cass County Joint Water Resource District Manager Roger Olson was absent.

**2. INTRODUCTIONS**

Board members, staff and dignitaries went around the table and introduced themselves. Present were U.S. Senator John Hoeven; North Dakota Governor Doug Burgum; Colonel Sam Calkins, Commander of the U.S. Army Corps of Engineers, St. Paul District; Judy DeHarnais, Corps of Engineers Deputy District Engineer; Terry Williams, Corps of Engineers Project Manager; Jason Benson, Cass County Engineer; Nathan Boerboom, Fargo City Division Engineer; and Bob Zimmerman, Moorhead City Engineer.

**3. OPENING REMARKS**

Mayor Williams, Commissioner Scherling, Senator Hoeven, Governor Burgum and Colonel Calkins provided opening remarks about the Diversion project.

Senator Hoeven said \$35 million in federal funding has been requested for FY18 but still needs approval from the Office of Management and Budget (OMB). He said permitting issues and legal challenges still need to be addressed, but he believes they will be resolved in order to keep the project on track.

Colonel Calkins said the Diversion project is critical for the region to provide permanent flood protection. He spoke with MN DNR officials this week who have said that a decision on the permit for Plan B should be made by October or November.

**4. PLAN B PRESENTATION**

Rocky Schneider from AE2S provided a brief presentation on Plan B, which was submitted to the Minnesota DNR (MN DNR) on March 16<sup>th</sup>. He said over the last month, staff have provided around two dozen presentations to local entities. The new plan will allow an additional two feet of water through Fargo-Moorhead during a 100-year flood; will include a tie-back levee in Minnesota on the east side of the southern embankment; will revise the western tie-back levee alignment to the south and west of Horace; and will change the location of the southern embankment further to the north in North Dakota to balance the impacts between North Dakota and Minnesota, and to reduce impacts to Richland and Wilkin Counties.

*Financial Overview*

Mr. Grindberg said project costs continue to increase due to inflation. He discussed funding and cost shares of each entity as follows: North Dakota \$570 million or 26%; Minnesota \$43 million or 2%; Federal \$450 million or 20%; and Local Share (Fargo and Cass County) \$1.1 billion or 52%. He said additional costs from potential project changes are unknown at this time.

Priorities for 2018-2019

The priorities for the Diversion Authority are to resolve the litigation; obtain the necessary permits for North Dakota and Minnesota, including environmental clearances from the Corps of Engineers and MN DNR; complete Phase 1 of the Flowage Easement Valuation Study; and continue in-town construction projects.

**5. CORPS OF ENGINEERS ACTIVITIES REPORT**

Colonel Calkins provided an update on activities. He said funding in the FY18 work plan will be used for engineering and environmental analysis of changes proposed in Plan B. He said the St. Paul District will prepare a Supplemental Environmental Assessment (SEA) for the project changes and impacts to the public. Col. Calkins said regular communication continues with the MN DNR including weekly and bi-weekly meetings. Survey markers will be permanently placed beginning this month for geomorphic monitoring with fieldwork anticipated to begin in the late summer. He said the Corps sent letters to affected landowners last month to let them know about the work to be done.

**6. COMMUNICATIONS FROM MN DNR**

Ms. Williams said a letter was sent from the MN DNR to the Metro Flood Diversion Authority confirming the receipt of the permit application for Plan B. In addition, the MN DNR determined that because of the substantial changes to the project, a Supplemental Environmental Impact Statement (SEIS) is needed prior to making a decision on the permit application.

DNR SEIS Income Agreement

Attorney John Shockley said a cost share agreement has been drafted to complete the SEIS with the term of the contract from May 3, 2018, through December 31, 2018 at a cost of \$445,489.00. He recommends the board approve the agreement today to begin the work as soon as possible.

The Finance Committee has not reviewed or approved the agreement. However, Mr. Grindberg said it is important to move forward on the SEIS process. He would like the SEIS to be done before the end of the year and suggested a deadline of November 1<sup>st</sup> for it to be completed.

***MOTION, passed***

**Mr. Campbell moved and Mr. Grindberg seconded to enter into an income agreement with the Minnesota Department of Natural Resources to prepare a Supplemental Environmental Impact Statement. On roll call vote, the motion carried unanimously.**

**7. LITIGATION STATUS UPDATE**

Mr. Shockley provided an update on three ongoing matters related to the lawsuits filed by the Richland-Wilkin Joint Powers Authority. This week Federal Judge John Tunheim ruled that work on the OHB ring levee and in-town levees may continue. The MN DNR did not object to work continuing on the two projects.

**8. RECESS**

The board recessed at 2:50 PM for a short break.

**9. RECONVENED**

The board reconvened at 3:05 PM.

**10. OXBOW LOT SALES & MAINTENANCE AGREEMENT**

Michael Redlinger, Co-Executive Director and Assistant Fargo City Administrator, said last week the Diversion Board reviewed an amendment to the Oxbow Memorandum of Understanding

(MOU) and Assignment of Master Agreement. The board did not approve the amendment and asked that the agreement include a certain number of lots be reserved for residents living in the staging area who will be displaced because of Plan B. The agreement now includes 10 lots that will be reserved.

Mrs. Scherling asked if the 10 lots are designated in the agreement. Mr. Redlinger said they have not been chosen out of the 33 lots that remain unsold. She believes residents displaced by the project should have the ability to reserve a lot even if they do not plan to relocate by 2020 as outlined in the agreement. Eric Dodds from AE2S said staff will work with individuals who may be interested in a lot but do not want to move right away. He believes the details regarding these types of requests can be resolved as they arise. Mr. Campbell suggested using a Memorandum of Understanding to allow lots to be reserved for individuals who express an interest in relocating to Oxbow.

***MOTION, passed***

**Mr. Campbell moved and Mr. Grindberg seconded to approve the Second Amendment to the Memorandum of Understanding between the City of Oxbow and Metro Flood Diversion Board of Authority. On roll call vote, the motion carried with Ms. Williams, Mr. Hendrickson, Mr. Paulsen, Mr. Campbell, Mr. Mahoney, Mr. Grindberg, Mrs. Scherling, Mr. Peterson, Mr. Steen, and Mr. Thorstad voting “Yes”; Mr. Piepkorn voting “No”.**

**11. NEXT MEETING DATE**

The next meeting will be held on Thursday, May 17, 2018.

**12. ADJOURNMENT**

***MOTION, passed***

**On motion by Mr. Peterson, seconded by Mrs. Scherling, and all voting in favor, the meeting was adjourned at 3:20 PM.**