

**Metro Flood Diversion Authority
Board of Authority
Meeting Minutes
3:30 PM – March 25, 2021**



A virtual meeting of the Metro Flood Diversion Authority Board of Authority was held on March 25, 2021. The following members were present: Shelly Carlson, Mayor, City of Moorhead; Dr. Tim Mahoney, Mayor, City of Fargo; Bernie Dardis, Mayor, City of West Fargo; Chad Peterson, Cass County Commissioner; Chuck Hendrickson, Moorhead City Council; Dave Piepkorn, Fargo City Commissioner; David Ebinger, Clay County Commissioner; John Strand, Fargo City Commissioner; Kevin Campbell, Clay County Commissioner; Mary Scherling Cass County Commissioner; Rick Steen Cass County Commissioner and Rodger Olson, Cass County Joint Water Resource District.

No members were absent.

1. CALL TO ORDER

Mayor Carlson called the meeting to order at 3:30 PM. Roll call was taken, and a quorum was present.

**2. APPROVE MINUTES FROM FEBRUARY 25, 2021 MEETING
MOTION PASSED**

Mr. Peterson moved to approve the February 2021 minutes as presented and Mr. Steen seconded the motion. Motion carried.

**3. APPROVE ORDER OF AGENDA
MOTION PASSED**

Mayor Dardis moved to approve the order of the agenda and Mr. Steen seconded the motion. On a voice vote, the motion carried.

**4. CONSENT AGENDA APPROVAL
MOTION PASSED**

Mr. Hendrickson moved to approve the consent agenda and Mr. Steen seconded the motion. On a roll call vote, the motion carried.

5. EXECUTIVE DIRECTOR REPORT

Mr. Paulsen provided the following update regarding the DA March activities.

Coordination with utilities & townships, etc.

- Working on MOUs and Agreements
- Wisner Township has agreed to an MOU

Communication with the public and legislators

- Responding to public comments and questions
- Coordination with the FMWF Chamber and the business leaders task force
- Legislative Testimony to Senate tax and finance on March 17, 2021
- Federal legislative outreach

P3 updates

- Last RFP Addendum sent out to proposers on March 9, 2021
- Technical proposals received on March 24, 2021
- Technical and financial review team training

Staff briefings with new Diversion Authority Board Chair

5. GENERAL COUNSEL UPDATE

ICS v. Metro Flood Diversion Authority Settlement Approval

Mr. Shockley provided an update regarding the litigation with ICS, Inc. ICS sued the MFDA in November 2018, following a payment dispute. The parties have reached a tentative settlement that would resolve the pending litigation and terminate the dispute.

ICS sought damages close to \$4 million, plus costs and interest. The MFDA extended a settlement offer of \$1.2 million to fully resolve the dispute pursuant to Rule 68 of the North Dakota Rules of Civil Procedure.

MOTION PASSED

Mr. Piepkorn moved to execute a settlement agreement consistent with the Rule 68 Offer with any changes deemed necessary by General Counsel and Mr. Steen seconded the motion. On a roll call vote, the motion carried.

6. USACE PROJECT UPDATE

Ms. Williams provided the following project update:

1 Diversion Inlet Structure Construction

Structure includes 3-50 ft. wide Tainter gates. Work resumed in late-February. Construction is 46% complete with a required completion date of 7 June 2023. Anticipated remaining schedule:

2020: Foundations/site work, control structure, dam walls.

2021: Complete dam walls, concrete piers, stilling basin and walls. Continue gate fabrication.

2022: Install bridge deck, gates, and operating machinery.

2023: Paint gates, seed.

2024: Turf established.

2 Wild Rice River Structure Construction

Structure includes 2-40 ft. wide Tainter gates. Work resumed in late-February. Construction is 21% complete with a required completion date of 22 October 2023. Anticipated schedule:

2020: Foundations/site work, control structure, dam embankment.

2021: Approach walls and apron, stilling basin and walls, preloads. Continue gate fabrication.

2022: Control building, dam embankment.

2023: Complete excavation, dam embankment, gate installation, seed.

2024: Turf established.

3 I-29 Raise Construction

Bid opening was held on 9 March and a construction contract award is anticipated by mid-April 2021.

4 Southern Embankment – Reach SE-1 (Western Tieback) Construction

Bid opening was held on 3 March and a construction contract award is anticipated late-March to early-April 2021.

5 Red River Structure Design

Structure includes 3-50 ft. wide Tainter gates. The design of this critical-path feature remains on schedule. The 95% review is scheduled to begin mid-May 2021. Final plans and specs are scheduled to be completed in late-August 2021.

6 Southern Embankment – Reach SE-1B Design

35% review scheduled to begin in early-June 21.

7 Southern Embankment – Reach SE-2A and 2B Design

The 95% design review is scheduled to begin mid-June 2021. Final plans and specifications are scheduled for November 2021. Reach SE-2B design began mid-March 2021.

8 Drain 27 Wetland Mitigation Project Design

The 95% design review began 8 March 2021 and final plans and specs are due 30 July 2021. Award of a construction contract was scheduled for September 2021 but will be delayed due to land acquisition.

9 Drayton Dam Mitigation Project Design

The design has re-commenced with the goal of having final plans and specs in August 2021. This mitigation project includes replacing the existing dam to incorporate fish passage. An Environmental Assessment was completed in 2013.

7. PUBLIC OUTREACH COMMITTEE UPDATE

Drone flyover of Diversion Inlet and Wild Rice Control Structure

Ms. Williams narrated drone flyovers of the Diversion Inlet and the Wild Rice Control Structure. Great progress continues to be made and the dam walls should be poured within the next few weeks.

Education Sessions for the P3

- Background
- Bid Criteria
- Bid Selection Schedule
- Technical Evaluation Criteria
- Technical Proposal Adjectival Ratings
- Financial Evaluation Criteria
- Evaluation, Selection and Award Process

Technical Proposals due	March 24
Tech Team reviews	March 26 –April 22
Financial Proposals due	April 23
MFDA Finance Team reviews	April 26 –May 7
Public Hearing prior to award	May 27
Board Meeting to Award	May 27

Updated MFDA Org Chart

Mr. Paulsen indicated that the org chart was updated to reflect current email addresses.

8. LAND MANAGEMENT COMMITTEE UPDATE

Mrs. Scherling stated that the Land Management Committee had a productive meeting and turned it over to Mr. Dodds for the report.

Property Acquisition Status Report

Mr. Dodds reported that 550 properties have been acquired as of March 16, 2021 and we are initiating the LRED process on a handful of properties.

Crown is working on flowage easement appraisals on 470 parcels and there are 169 properties currently in negotiations for environmental monitoring easements.

Mr. Olson indicated that the CCJRWD approved one purchase at their meeting. They have also been making contact with property owners regarding the flowage easements and things are going well in that regard.

Mr. Campbell indicated that the MCCJPA met and discussed the timing of the four properties needed by the USACE. He also indicated that the Tinjum MSA has been approved.

9. FINANCE COMMITTEE UPDATE

Mayor Dardis reported that the Land Disposition Policy was approved by the Finance Committee and that Mr. Paulsen provided an update on the executive director contracting actions, all of which were neutral or small dollars.

10. OTHER BUSINESS

Policy on the Disposition and Management of Comprehensive Project Lands

Mr. Nicholson turned the update over to Mrs. Scherling. Mrs. Scherling thanked Mr. Nicholson, Mr. Dodds and Mr. Shockley for their work on the policy. We now have a policy that will work on both sides of the river. Mrs. Scherling also stated that this was unanimously approved by the Land Management Committee.

MOTION PASSED

Mrs. Scherling moved to approve the Policy on the Disposition and Management of Comprehensive Project Lands and Mr. Campbell seconded the motion. On a roll call vote, the motion carried.

Luceo Presentation

Quin MacKenzie of Luceo gave a presentation on the work that Luceo has completed to date. This work includes:

RFP and Documentation Review

- Language that will support the ongoing tracking and reporting of project resilience has been embedded into project procurement documentation for the P3 RFP
- Reviewed and provided input on risk management, community engagement, and local workforce development

Resilience Program Development

- Project documentation across disciplines has been reviewed against industry best practices

- A framework for a Resilience Program has been created to monitor performance
The Resilience Program is now in place and an initial review of project documentation through a resilience lens has been conducted
- This has provided a baseline and allowed us to identify key successes and opportunities

This is important information that can be used to support Federal funding opportunities

- New administration is focusing on resilience and social equity
- Any type of discretionary grant or funding for infrastructure will require projects to demonstrate what they are doing for resilience, sustainability, and/or climate change mitigation and adaptation
- This aligns with the Resilience Program and the best practices referenced in building it, including Envision
- We will work closely with Matt Chiller to support funding applications
 - FEMA BRIC
 - Future Infrastructure Bill
 - Federal President's Budget

Next Steps

- Continue with ongoing tracking and reporting as part of the Quality Management Process
 - Review Resilience Program submittals and P3 compliance
- Support Federal funding opportunities
 - Work with Matt Chiller to provide supporting information and documentation to demonstrate alignment between Federal funding priorities and Resilience Program objectives
- Continue to support local workforce development strategies
- Ongoing coordination and meetings with P3 Team

Dr. Mahoney asked if economic information has been compiled on the project and if there is a summary of key outcomes. Mr. Paulsen stated that yes, Jacobs and Luceo are working with our communications team to compile legislative strategy. Additionally, costs are being tracked and Mr. Paulsen will email members a summary.

Mrs. Scherling asked what Luceo can provide us in terms of federal funding. Mr. Paulsen indicated that there would be more to come next month on that topic.

11. NEXT MEETING

The next meeting is April 22, 2021.

12. ADJOURNMENT



MOTION PASSED

Mrs. Scherling moved for adjournment and Mr. Ebinger seconded the motion.

Meeting adjourned at 4:47 PM.