

METRO FLOOD DIVERSION AUTHORITY VIRTUAL MEETING
October 22, 2020
3:30 PM

1. CALL TO ORDER

A virtual meeting of the Metro Flood Diversion Authority was held on October 22, 2020, at 3:30 pm with the following members present: Dr. Tim Mahoney, Mayor, City of Fargo; Johnathan Judd, Mayor, City of Moorhead; Bernie Dardis, Mayor City of West Fargo; Shelly Carlson, Moorhead City Council Member; Mary Scherling, Cass County Commissioner; Chad Peterson, Cass County Commissioner; Rick Steen, Cass County Commissioner; Chuck Hendrickson, Moorhead City Council Member; Dave Piepkorn, Fargo City Commissioner; Grant Weyland, Clay County Commissioner; John Strand Fargo City Commissioner and Rodger Olson, Cass County Joint Water Resource District Manager.

Member absent: Kevin Campbell, Clay County Commissioner.

Others present: Joel Paulsen and Kris Bakkegard, FMDA; John Shockley, Ohnstad Twichell, PC; Sadie Moen, Rocky Schneider and Eric Dodds, AE2S; Martin Nicholson, Program Advisor Services; Peggy Harter and Paul Barthel, Jacobs.

Mayor Mahoney called the meeting to order at 3:30 pm.

2. APPROVAL OF MINUTES

MOTION PASSED

Mayor Judd moved and Mr. Weyland seconded to approve the minutes from October 1, 2020. Motion carried.

3. APPROVAL OF ORDER OF AGENDA

MOTION PASSED

Mr. Peterson moved and Mrs. Scherling seconded to approve the order of the agenda as amended:

- **Addition to the agenda as Item 8b - Recommendation to Approve a Sale**

On a roll call vote, the motion carried.

4. CONSENT AGENDA APPROVAL

MOTION PASSED

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

5. USACE PROJECT UPDATE

Ms. Williams provided the following Project updates:

1. Diversion Inlet Structure Construction

Structure includes 3-50 ft. wide Tainter gates. The concrete approach and structure slabs are complete; placement of the downstream stepped slab is scheduled to begin the week of 26 Oct. Construction is 24% complete with a required completion date of 7 June 2023. Anticipated remaining schedule:

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

2021: Concrete piers/abutments, control building.

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. Concrete placement for the dam wall and control structure slabs scheduled to begin the week of 26 Oct. Construction is 10% complete with a required completion date of 22 October 2023. Anticipated schedule:

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

2021: Dam walls, control building, dam embankment.

2022: Control building, dam embankment.

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

2024: Turf established.

3. Red River Structure Design

Structure includes 3-50 ft. wide Tainter gates. The design of this critical-path feature remains on schedule. The 65% review by the DA began 19 October 2020. Final plans and specs are scheduled to be completed in September 2021.

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

The final design review is ongoing and plans and specs are scheduled to be available 31 October 2020. Construction contract award is scheduled for 2nd quarter FY21.

5. Southern Embankment – Reach SE-2A Design

Detailed design continues and the 65% design review by the DA is scheduled to begin late-January 2021. Final plans and specifications are scheduled for November 2021. Rock Island District is assisting with design for Reaches SE-2A, SE-2B and SE-4.

6. I-29 Raise Design

Being designed by Houston Moore Group (HMG) and constructed by the Corps. The final reviews are ongoing and final plans and specifications are scheduled to be available late November 2020. Award of a construction contract is anticipated in 2nd quarter FY21.

7. Drain 27 Wetland Mitigation Project Design

The 65% design review began 28 September 2020. The Environmental Assessment was completed 14 September 2020. Award of a construction contract is scheduled for September 2021.

8. Geomorphology Surveys

The final round of pre-project surveys are complete and a final report is due in Spring 2021.

6. EXECUTIVE DIRECTOR UPDATE

Executive Director Paulsen reviewed the following October happenings:

ND State Water Commission Agreements

Cost-Share Reimbursement for the Fargo Moorhead Metro Area Flood Risk Management Project rescind both the July 2016 Cost-Share Reimbursement Fargo Flood Control Project 2015-2017 Agreement in the amount of \$69,000,000 and the March 2019 Amendment I to the July 2016 Agreement in the amount of an additional \$66,500,000, and replace them with two separate Agreements for the cost-share dollars remaining under each of those specific approvals by the State Water Commission.

The first Agreement provides the Authority with cost-share of \$23,358,530.63, the amount remaining of the previous Agreement for \$69,000,000 as authorized under section 8 of S.B. 2020, 2015 Leg. This Agreement provides for reimbursement of eligible costs incurred after July 1, 2015 with specific limitations on the costs that are eligible for reimbursement.

The second Agreement provides the Authority with cost-share of \$59,850,000, the amount remaining of the previous Amendment I for \$66,500,000 as approved by the Commission on February 14, 2019 and authorized under section 9 of S.B. 2020, 2015 Leg. This Agreement provides for reimbursement of eligible costs incurred after July 1, 2017, with eligible costs as outlined in Commission's cost-share policy.

Director of Communications

Jennifer Darling has been hired as the director of communications; she will be starting on November 2nd.

P3 Update

Ramping up for Draft 6 RFP release on November 13, 2020. Keeping on schedule with Financial Proposals due in mid-March.

FY2021 Draft Cash Budget

The Finance Committee approved suspending the cash budget review until December 31, 2020, due to outstanding appraisals and lands purchases that should be finalized by year-end.

Survey to Finance Committee and Board Members

A survey will be sent out to get input into the use of electronic devices for Board and Committee meetings in the future.

7. GENERAL COUNSEL UPDATE – Dakota Carrier Network MOU

Mr. Shockley reviewed the Dakota Carrier Network MOU and was recommended by the Finance Committee for approval to that Committee forwarded to the Board of Authority for final approval. The MOU is required to relocate utilities across the channel. There will be a significant amount of these agreements forthcoming

MOTION, PASSED

Mr. Hendrickson moved and Mr. Steen seconded to approve the Dakota Carrier Network MOU. On a roll call vote, the motion carried.

WIFIA

Mr. Shockley indicated that he is waiting on the term sheet that will lock in the interest rate of the loan.

8. PUBLIC OUTREACH

CLOMR Mailing

The CLOMR mailing went out to 119 Minnesota property owners, 248 North Dakota property owners and 14 local government units.

A letter will be sent out in November to the property owners and townships that will not be impacted by the Project.

Construction Flyovers

Ms. Williams narrated the video flyovers at the inlet structure.

9. LAND MANAGEMENT

Mrs. Scherling gave an update on land management projects currently underway:

Property Acquisition Status Report

- Acquisitions – 6 parcels acquired since September meeting (9/23/2020 – 10/15/2020)
- Focus areas include: Diversion Channel, Southern Embankment Reach 1, and I-29 Road Raise
- Appraisals being conducted for Drain 27 Wetland and Red River Control Structure
- Cass County Commission has held four public meetings with property owners and authorized CCJWRD to utilize last resort eminent domain
- Post-CLOMR Outreach – mailed information packets to upstream property owners
- 700+ impacted parcels (~350 unique property owners)
- 1,300 non-impacted property owners
- Upstream local governments
- Bio/Geo Monitoring Program – USACE surveyors completed monitoring for 2020
- Flowage Easement Valuations – Scoping for Phase 2 study with Crown Appraisals, Inc.

- Crop “Insurance” Development – Received preliminary Phase 2 Report from Watts & Associates

Recommendation to Sell

The CCJWRD has acquired a large horse barn and several adjacent lots in northern Richland County.

With the approval of the CLOMR, the Project impacts on these properties have been solidified, and it is now known that only portions of the lots are impacted and more importantly the horse barn itself is not impacted.

Diversion Authority’s Land Management Committee recommends that the Diversion Authority’s Board authorize the CCJWRD to sell these properties via a public sale.

Mrs. Scherling made a motion to approve the sale of the horse barn and adjacent lots. Mayor Judd seconded the motion. Motion carried.

10. FINANCE

Mayor Dardis gave a brief update on the Finance Committee meeting. He reported that Mr. Shockley reviewed the Dakota Carrier MOU with the Committee. Mayor Dardis also reported that Mr. Paulsen gave an update on the State Water Commission Agreements Cost-Share Reimbursement and the removal of the 10% fee. Mayor Dardis recognized the great work of those involved to make this happen. Finally, Mayor Dardis also indicated that the cash budget review will be suspended until December 31, 2020, due to the pending appraisals and property purchases that should be finalized by year-end.

The Cost-Share Reimbursement for the Fargo Moorhead Metro Area Flood Risk Management Project rescind both the July 2016 Cost-Share Reimbursement Fargo Flood Control Project 2015-2017 Agreement in the amount of \$69,000,000 and the March 2019 Amendment I to the July 2016 Agreement in the amount of an additional \$66,500,000, and replace them with two separate Agreements for the cost-share dollars remaining under each of those specific approvals by the State Water Commission.

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Mayor Dardis reviewed and recommended the following contracting action for final approval:

- Houston Moore Group TO 17, Amendment 10 - \$255,000

MOTION PASSED

Mayor Dardis moved to approve the contracting action as above and Mr. Steen seconded the motion. On a roll call vote, the motion carried.

11. EXECUTIVE SESSION

MOTION PASSED

At 4:01 pm, Mayor Dardis moved to go into Executive Session and Mr. Steen seconded the motion. On a roll call vote, motion carried.

Board members rejoined the Board of Authority meeting at 5:42 pm and roll call was taken.

MOTION PASSED

Mr. Strand moved and Mr. Steen seconded to authorize the Executive Director and the Chair of the Metro Flood Diversion Authority to negotiate and execute a final Bind Term Sheet consistent with the terms and conditions discussed in the executive session with any changes deemed necessary by Executive Director and the Chair of the Metro Flood Diversion Authority. On a roll call vote, motion carried.

12. ADJOURNMENT

MOTION PASSED

Ms. Carlson moved to adjourn the meeting and Mr. Steen seconded the motion. Motion carried and the meeting adjourned at 5:55 pm.