

METRO FLOOD DIVERSION AUTHORITY VIRTUAL MEETING
December 17, 2020
3:30 PM

1. CALL TO ORDER

A virtual meeting of the Metro Flood Diversion Authority was held on December 17, 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; Chuck Hendrickson, Moorhead City Council Member; Dave Piepkorn, Fargo City Commission; Grant Weyland, Clay County Commissioner; John Strand, Fargo City Commissioner; Kevin Campbell, Clay County Commissioner; Mary Scherling, Cass County Commissioner; Rick Steen, Cass County Commissioner; Rodger Olson, Cass County Joint Water Resource District and Shelly Carlson, Moorhead City Council Member.

Member absent: Chad Peterson, Cass County Commissioner.

Mayor Mahoney called the meeting to order at 3:30 pm. Roll call was taken and a quorum was present.

2. APPROVAL OF MINUTES

MOTION PASSED

Mr. Piepkorn moved and Mr. Weyland seconded to approve the minutes from November 2020. Motion carried.

3. APPROVAL ORDER OF AGENDA

MOTION PASSED

Mr. Hendrickson moved and Ms. Carlson seconded to approve the order of the agenda as presented. On a roll call vote, the motion carried.

CONSENT AGENDA APPROVAL

MOTION PASSED

Mayor Dardis moved to approve the consent agenda as presented and Mayor Judd seconded the motion. On a roll call vote, the motion carried.

4. ANNUAL EXECUTIVE DIRECTOR REPORT

Mr. Paulsen gave a 2020 Year in Review highlighting the progress that has been made and the milestones that have been met:

- Three new staff members were hired. We are currently recruiting for a finance director and compliance manager and will continue to add staff as we move forward.
- The consultant contracts were reconfigured which resulted in a savings of \$6 million.

- A settlement agreement was reached with the upstream allowing the Project to move forward.
- A concerted commitment to project funding was made:
 - \$100 million USACE funding
 - \$569 million WIFIA loan
 - \$296 PABS allocation
 - \$44 million State of ND
- Federal construction continues
 - Commitment and partnership with USACE
- Permit and Regulatory Approvals
 - Commitment to the environment and mitigation
 - Multiple permits granted and ND OSE mitigation plan approval
 - FEMA issued CLOMR
- Reduce identified risks for P3
- Changed how we will implement the public outreach program
 - **Listen**
 - -engage, connect
 - -understand audience, needs and best ways to connect
 - -tell the story we're all a part of
 - **Best Practices and Cadence**
 - -evaluate resources and tools
 - -simplify and proactive planning
 - -set a baseline standard and maintain quality
 - **Forward View**
 - -dependable channels, unified messaging
 - -future narrative looking ahead from all perspectives
- Moving forward to 2021
 - Executive Director Leadership Team
 - Legislative commitment
 - Transition from procurement to implementation
 - Taking our Federal Partnership to the next level

5. **ENGINEERING DIRECTOR UPDATE**

Kris Bakkegard, director of engineering, provided the following update:

2020 was a monumental year in that we have now cleared the path to move the Project into full scale execution mode. The upstream settlement has allowed us to fully engage with all project entities with much more clarity and certainty.

2020 also saw continued construction of the USACE program with noticeable features present at both the Diversion Inlet Structure and the Wild Rice River Structure. The P3 procurement has progressed to a place where we are ready to enter the final leg of establishing our partnership with a proposer. We have spent countless hours coordinating with the development teams through one-on-one meetings, reviewing innovative technical concepts, answering clarification requests, and updating the technical requirements to give the proposers clarity around what we need built and how it should be operated and maintained.

We have worked to secure project related permits throughout 2020, evaluating the need for up to 20 different permits for each component of the project. Of note, we were able to coordinate with the USACE to secure the 404 permit for the P3 channel construction. We were also able to secure the channel construction permit from the ND State Engineer's office as well. Both of these permits, I believe, were the first of their kind to be issued to a P3 project.

Coordinating with our legal team, we have been preparing upwards of 2 dozen MOU's between the Diversion Authority and entities needing to interact with the overall project. In addition, we have been coordinating with utilities within the USACE project and staging area footprints.

I see 2021 to be a huge transitional year for the Diversion Project. We will move from being predominantly in planning/design mode to predominantly construction mode. By the end of 2021:

- P3 Developer under contract
- I-29 Grade Raise under construction
- Southern Embankment Segment 1 under construction
- Drain 27 Wetland Mitigation bid & awarded
- Red River Structure bid & awarded
- Drayton Dam Mitigation bid & awarded
- Multiple other City and County led projects

We will continue to support those projects and we will also begin looking out beyond construction to develop the policies needed for future operations and maintenance of the project.

6. GENERAL COUNSEL UPDATE

Mr. Shockley did not provide an update.

7. USACE PROJECT UPDATE

Ms. Williams provided the following Project update:

1 Diversion Inlet Structure Construction

Structure includes 3-50 ft. wide Tainter gates. Placement of right dam walls and H-pile driving in stilling basin continues. 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: 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 walls continues and the control structure slab is complete. Construction is 14% 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 is complete and the 95% is scheduled to begin late-April 2021. Final plans and specs are scheduled to be completed in September 2021.

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

The final plans and specs were approved on 30 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 also assisting with design for Reach SE-2B and detailed design is scheduled to start in January 2021.

6 I-29 Raise Design

Being designed by Houston Moore Group (HMG) and constructed by the Corps. The final plans and specifications were signed on 30 November 2020. The Prequalification of Sources was posted on 28 Oct. Award of a construction contract is anticipated in 2nd quarter FY21.

7 Drain 27 Wetland Mitigation Project Design

The 65% design review is complete and the 95% is scheduled to begin early-March 2021. 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.

8. PUBLIC OUTREACH UPDATE

Mr. Olson commented that the settlement with the Buffalo Red is very positive news and he is looking forward to getting the word out.

Mr. Olson also commented that 21 invites were sent to property owners to attend the CCJWRD meeting and 3 attended.

9. LAND MANAGEMENT

Mrs. Scherling reported on the following activities and achievements to date.

- Acquisitions – 31 parcels acquired since November meeting (11/12/2020 – 12/10/2020)
 - Focus areas: Diversion Channel, Southern Embankment Reach 1, and I-29 Road Raise
- Cass County Commission has held 8 public meetings with property owners and authorized CCJWRD to utilize last resort eminent domain
- Appraisal Work
 - Appraisals ordered for Drain 27 Wetland, Red River Control Structure, and Environmental Monitoring Easements
 - Contracting for Appraisals of Upstream Structure Sites (farmsteads, rural residential, etc.)
- Policy Discussion regarding Asset Lands
- 2021 Farmland Lease Agreements being developed consistent with P3 Procurement timeline

Post-CLOMR outreach with residents has been ongoing regarding address changes, other questions, etc.

The flowage valuation easements Phase II is underway with Crown Appraisals.

Mr. Olson commented that things are going pretty well and most property owners are concerned about the valuations of their property and what is fair.

Dr. Mahoney complimented Mr. Olson on his empathy for the landowners and what they are going through with their respective situations.

10. FINANCE

Mayor Dardis commented that the 2021 cash budget was reviewed at the finance meeting and it is a significant budget. The budget increased from \$178 million to \$219 million. Important line items are the \$35 million addition for the settlement agreement and \$34 million for the numerous utility relocations that will be forthcoming.

Mr. Olson inquired how the sales tax revenues come in. March and April were down but May, June and July were up. Dr. Mahoney was surprised by the increase of sales tax during the summer. We are hoping for an overall 3% receipt.

Mr. Steen reported that we are up a little over 2% from last year (through November) in receipts and we are heading in the right direction.

Mr. Shockley commented that the budget was created on a very prudent and conservative growth model at 1.5% so we are exceeding what is in the plan.

The sources of revenue for the budget are per the following table:

2021 revenue sources:

Sales Tax City of Fargo	\$32,000,000
Sales Tax Cass County	\$16,000,000
State of North Dakota	\$109,900,000
State of Minnesota	\$0
Investment Income	\$200,000
Property Income	\$500,000
Loan or Bond Proceeds	\$0
Cash Balance Carryover	\$61,312,490
Total Sources	\$219,912,490

MOTION PASSED

Mayor Dardis moved to approve the 2021 cash budget and Mr. Steen seconded the motion. On a roll call vote, the motion carried.

Contracting Actions

The following contracting actions were reviewed for approval:

- Ernst & Young Infrastructure Advisors - Scope of Work 5, Amendment 2 – P3 RFP Support - \$1,000,000
- Task Order 2, Amendment 0 – Phase 2 Flowage Easement Crown Appraisals, Inc. - \$649,000

MOTION PASSED

Mayor Dardis recommended that the Board approve the contracting actions as presented and Mr. Steen seconded the motion. On a roll call vote, the motion carried.

11. OTHER BUSINESS

Compensation Study

Mr. Paulsen is recommending that a consultant be retained to do a compensation study for open positions as well as current positions. Mr. Paulsen is recommending the approval of the Gallagher team to conduct the study. The intent is to have it completed by February or March of 2021.

MOTION PASSED

Mayor Dardis moved to approve the Gallagher proposal compensation study and Mr. Steen seconded the motion. On a roll call vote, the motion carried.

Asset Land Policy

Mr. Paulsen previewed the DRAFT Asset Land policy. There is a lot of guess work on how to properly and fairly dispose of asset lands and a policy needs to be put in place.

4. KEY PRINCIPLES

4.1. Land Sold via Public Sale. It is the Authority's intent that all sales of excess lands shall be done via public sale/auction such that there is transparent and abundant opportunity for all buyers to purchase the property.

4.2. Refrain from Selling Land at a Loss. It is the Authority's intent that excess land should not be sold at a loss. At the time of a possible sale, should the land be appraised at a value less than that paid to acquire the property, the Member Entity shall refrain from selling the property until such time as the value of the land increases to an amount greater than the amount paid for the property, taking into consideration the impact(s) of the project that affect the value of the excess land.

4.3. Preference to Sell Farmland to Adjacent Property Owner. Preference should be given to adjacent landowners interested in purchasing farmland. Each adjacent property owner should be provided with notice of the sale prior to it being made available to the general public.

4.4. Taxable Parcels. Excess property should continue to generate revenue for the county in the form of taxes. Consistent with the Authority's intent, Member Entity's will ensure the property will remain a taxable parcel by refraining from selling the property (other than at public auction) to parties not required to pay taxes on said property, such as other governmental entities and non-profit organizations unless approved otherwise by the Diversion Authority Board.

4.5. Option to Hold Certain Land Long-Term. Consistent with the Authority's intent to recoup its investment in real property, should the Member Entity determine that it would be in the best interest of the Authority to retain ownership of certain excess property for a period of time in order to increase its return on investment or manage its long-term risk, the Member Entity will refrain from selling said land until the determination is made that it is in the Authority's best interest to sell the land.

Mr. Paulsen has asked the Board for their input so that a policy can be brought to the Board in January for approval. We need to be fair to all that will be impacted.

Executive Director Review

Dr. Mahoney asked the members to complete their evaluations on Mr. Paulsen and submit them by Friday so he and Mr. Shockley can compile the results.

Farewell to Mr. Grant Weyland and Dr. Mahoney

Dr. Mahoney thanked and commended Mr. Weyland for his years of service on the Board and for all of his hard work. Mr. Weyland was grateful for the comments and indicated how he has enjoyed his service. He wished all well on the Project as it moves forward.

Mr. Paulsen thanked Dr. Mahoney for his service as the chair and for all of his accomplishments. Mayor Judd commented that as the incoming chair, he has some big shoes to fill.

12. NEXT MEETING

The next meeting will be January 28, 2021.

13. ADJOURNMENT

The meeting adjourned at 4:31 pm.