

**DIVERSION AUTHORITY  
Land Management Committee  
City Commission Room  
Fargo City Hall - River Room  
Wednesday, September 26, 2018  
3:15 p.m.**

Present: Clay County Commission Representative Kevin Campbell, Moorhead City Engineer Bob Zimmerman, Fargo Division Engineer Nathan Boerboom, Fargo City Administrator Bruce Grubb, Cass County Commission Representative Mary Scherling, Clay County Commission Representative Jenny Mongeau, City of Horace Mayor Kory Peterson.

Others present: Eric Dodds - AE2S, Dan Jacobson - Cass County Joint Water Resource District, Jeff Ebsch - Cass County, Joe Herbst - AE2S, John Albrecht - Jacobs Engineering (CH2M Hill), Chris McShane - Ohnstad Twichell, Gregg Thielman - Houston Moore Group.

Absent: Cass County Commission Representative Chad Peterson, Moorhead Mayor Del Rae Williams, Fargo Commissioner John Strand.

The meeting was called to order by Chair Mary Scherling.

Introductions

Introductions were done around the table. Ms. Scherling welcomed Horace Mayor Kory Peterson to his first meeting. Mr. Peterson is replacing Oxbow Mayor Jim Nyhof on the Committee. She also thanked Mr. Ebsch for his participation with the project. She said he is leaving his position with Cass County and it is always sad to lose engineers.

Agenda Review

Mr. Campbell moved to approve the agenda. Second by Mr. Boerboom. All the members present voted aye and the motion was declared carried.

Minutes Approved

Mr. Zimmerman moved the minutes from the May 16, 2018 meeting be approved. Second by Mr. Grubb. All the members present voted aye and the motion was declared carried.

Discussion Regarding Resuming Property Acquisitions:

Mr. Dodds said acquisitions have not actively been done for a while, but if a permit is issued, it will soon be time to think about resuming and prioritizing, especially for the channel as it relates to the P3 portion of the project. He said there was a table set up for property acquisition questions at last week's meeting for the DNR's public process and many asked about the process and how their property would be valued. The general theme indicates there is a need to think about how information will be shared and explain what the intentions are, their impacts and what will be done, he said.

CCJWRD Representative Rodger Olson present (via conference call).

Ms. Scherling said she has also had direct questions from people wondering exactly how they are going to be impacted and compensated. She said people want to know

individually; however, it takes manpower to talk to everyone, which may not be the best use of time. It is not good to let things fester without letting people know what is going on, and not knowing is hard on people. Farmsteads can be difficult due to so many individual circumstances, she said.

Mr. Campbell said this is somewhat a Catch 22; however, there are acquisition guidelines to follow for federal projects. He said it is difficult to immediately determine how many feet of water there will be on a property, which is what dictates the potential for a ring dike or buyout. Although not knowing the direct impact on a given parcel yet, he said, it could help to be able to say, "if you're in this category, this will be the process." He said the choice would be to sit and wait, or to spend extra money to tell people a process for their scenario. It seems property owners could have some idea whether they will be impacted by eight feet or by two feet, he said.

In response to a question from Ms. Scherling about letters sent to Stanley Township property owners, Mr. Herbst said the communication was good in that it allowed property owners who wanted information the opportunity to call, resulting in better communication.

Mr. Dodds said as he recalls, letters went to Stanley, Pleasant and Holy Cross Townships. He said it was mailed shortly after the permit submittal several months ago.

Mr. Campbell said while it may not be what they want to hear, it is important to be truthful with what is known and how they may be impacted.

Ms. Scherling said she does not want people to make plans that they otherwise would not have made, such as building a new outbuilding or putting their home on the market.

In response to a question from Mr. Grubb about what the obligations are in a case like the Sauvegeau family's as discussed earlier at the Water Commission meeting because there were protected under Plan A and now are impacted by Plan B, Mr. Dodds said some pretty good procedures are in place. He said he agrees with Mr. Campbell's point that information needs to be shared and many are documented and a link with good information on the process can be shared. He said cases like that will start with an appraisal valuing the real estate. In the case of a farmstead where there may be equipment that could be bought or moved, he said, that would be sorted out through an early determination of relocation benefits or acquisition. Relocation benefits can be substantial, he said, they include moving costs, replacement housing differential and the business components as well as residential. He said if meetings are not held with the Sauvegeau's and 30 to 40 of their neighbors, then land agents will need to be experts and brought up to speed to be able to work with the owners through the process. He said land agents are not sitting ready and waiting to go, although conversations are starting with land firms about getting them engaged. There will be a ramp-up period, he said, and perhaps some resources should be used to begin getting ready for when there is a permit.

Ms. Mongeau said perhaps the process that this committee talked about a year ago could be mirrored somewhat. She said discussions could start with the areas with no change and those that have not changed much from Plan A to Plan B.

Mayor Peterson said that in the Sauvegeau's case, as well as others, they were under the impression they would be protected, now suddenly under Plan B, they are not. He

said in some cases, it is anticipated that property would be developed down the road, which means they would expect more out of an appraisal.

Mr. Campbell said that appraisals can be required to be “highest and best use,” so that case could be made.

Ms. Scherling said development property will be valued higher and land values fluctuate. She said the first few properties appraised will really set the tone and once a price comes up, everyone will know what it is. Another thing to deal with is “fair, friendly and flexible,” she said.

Mr. Dodds said there were generally positive comments at last week’s Open House with the DNR/Corps and the DNR has evolved quite a bit in the last 6 to 9 months reviewing things like property mitigation plans, fish passages and permit issues.

Ms. Scherling said things are pretty limited until December and hopefully there will be further direction then. She likes the idea of more outreach, particularly contacting those who are known to have questions, she said, plus perhaps a more general mailing. It is something that should also be discussed at the Outreach Committee meetings, she said. There have been hardship acquisitions done in the past and there are more that have come up, so it would be good to start talking to those folks and get the ball rolling on those, she said.

Mr. Boerboom said it would be good to start putting a package together for land agents, which will take awhile to do, and have it ready to go by December.

In response to a question from Mr. Campbell about legal discussions on opportunistic acquisitions, Mr. Dodds said there was recent discussion about those situations at the DNR level and the direction was to get the attorneys to talking. He said early indications are they are willing to start conversations on those very limited opportunistic deals and while it is not known where that will land, there seems to be an initial positive vibe.

In response to a question from Mr. Campbell about the status of the property owners, Ms. Anderson and Mr. Carlson, who spoke at the last meeting about the difficult situations they are in and wanting answers, Ms. Scherling said their messages have been delivered to the DNR, and there are ongoing conversations and the direction is going in a positive way. She said it would be good to get back to those folks to let them know their cases are being actively pursued since sometimes it seems nothing is going on, yet there is a lot happening. She said all seemed to be in agreement that some sort of public relations engagement should be done to let people know how they might be affected. She said everyone is impatient; however, the challenge is to be respectful of the Minnesota process.

Mr. Dodds said he suggests being ready with an action plan of outreach steps.

#### Appraisal Services RFP

Mr. Dodds said some of those who work more closely with buying property rights have been thinking how to shore those up. One area was the success and failures with different appraisers, he said, and that it would be great to have more skilled appraisers ready to work on the project. Recognizing that a good appraisal is a good way to start the process and a bad appraisal is a good way to ruin the process, he said, perhaps it is

time to solicit proposals from different appraisal firms. He said the property rights needed are known, especially for the channel, and that could be broken down into four or five appraisal packages. He said it is something to get ready to do so perhaps in November the RFP could be issued, get proposals back by perhaps mid-December.

In response to a question from Ms. Mongeau about whether of Crown Appraisals was hired for land acquisition only, Mr. Dodds said Crown Appraisals is still working on flowage easement work and the acquisition RFP would be a different RFP.

Ms. Scherling said it is critical to get knowledgeable, experienced people out there, especially in the beginning to get the right numbers since it is not an exact science.

In response to a question from Mr. Campbell about the number of parcels that needing to be appraised and how many appraisers might be needed, Mr. Dodds right now the expectation is that the Cass County Joint Water Resource Board would issue the RFP and contract with the appraisers, how many are needed is not known. Likely, he said, the initial RFP would be limited to the channel and would hold the carrot out there that there are many more parcels to be appraised. He said maybe a portion of firms responding could be hired initially and retained, or something could be considered for the others for the future.

Mr. McShane said the other aspect of an appraisal is to make sure all the appraisers have the same information to work from. He said one problem seen is that some information could come from the City of Fargo or Cass County websites or FEMA and slightly different answers could come from those or an appraiser could say it is too hard to find information so I did not do it. He said to avoid those situations, he proposes putting together a packet to give all the appraisers so they have the same information for consistency in base information. Then, he said, from that base information, hopefully the range the appraisals come in at can be narrowed down. He said for example, an appraiser appraised one property at \$6,000/acre, while another had it at \$17,000/acre. He said without consistency, landowners could request one appraiser over another or refuse to settle because a neighbor got more. If an appraisal starts at two different places, the result will be two different numbers, he said. Staff at Cass County have worked from the County perspective on Ordinances, regulations and maps to get them all in one place. He said it is easier for them to do for the townships than for the project teams and they will do their best to work with other jurisdictions that have zoning or governance authority.

#### Flowage Easement Study Update

Mr. Dodds said Crown Appraisals was retained to work on Phase 1 of the Flowage Easement Study and they have delivered a rough draft. A review meeting will be set up soon, he said. He said they will also discuss Phase 2 which will be down to the parcel-by-parcel level which will have some nuances not accounted for in the first summary and more range. He said he anticipates inviting Crown to a future meeting.

#### CCJWRD Update

Mr. Olson said a major concern is about the people being bought out and how that is handled. Support will be necessary from this Committee initially, he said, and eventually the Diversion Authority to perhaps spend some money up front to be sure these people are well aware of what could happen. He said there is great concern that this gets handled fairly and to not leave the owners feeling left out of the process. He said there was discussion that perhaps a member of the CCJWRD Board could

accompany the land agent for the initial contact. He said while they do not want to get involved in the negotiations or get in the way, it could be helpful to put a local name/face on the project and let them know there are places they can get information. He said there was talk of public meetings so everyone hears the same information; however, it is important to make the individuals feel important in the process. He said everyone will be treated fairly in the process; however, not necessarily the same because each situation is different.

Mr. Jacobson said a public meeting can be held to start with; however, many people do not like to speak at those, however, everyone would hear the same information. Another thing to keep in mind, he said, is there are people who no longer live here who own land.

Ms. Scherling said it is difficult to have a meeting without being at the actual property. She said it is hard to get a good idea of specifics when sitting in a school gym. She said the sooner information can go out to people, the better and an information packet in writing is a good idea and it would be helpful to have email addresses to keep everyone updated.

Mr. Campbell said public meetings really do not get anywhere and only give certain people an opportunity to stand up, it really does not answer individual questions. He said from past flood projects he has learned that what people really want is answers to each individual question and want to deal one-on-one. He said bashing a project in a public meeting does not get anywhere.

In response to a question from Ms. Scherling on talk of the plan to do a sample negotiation, Mr. Jacobson said it would be a farmstead that is not involved and would go through the process.

#### Other Business

Mr. Dodds said auction season is starting for land sales and at a large auction held last week for 300 acres along the Wild Rice River, the average price was \$10,000/acre. He said they will be keeping track of trends.

Ms. Scherling said it is doubtful there be a meeting next month, the meeting today was due to not having had met since May. She said if the project gets permitted any time soon, this will be a busy committee.

Mr. Campbell said he will bring some of this conversation to the October Outreach Committee meeting.

Chair Scherling declared the meeting adjourned.

The meeting adjourned at 3:55 p.m.