



**DIVERSION AUTHORITY  
Land Management Committee  
City Commission Room  
Fargo City Hall  
Thursday, July 10, 2014  
2:00 p.m.**

1. Agenda review
2. Approve June 12, 2014 minutes
3. CCJWRD Land Management Summary
4. Property & Farmland Management Update
5. Agricultural Risk Economic Evaluation Consulting Assignment Plan
6. Right of Entry Status & Cultural Resources Easement Acquisition Update
7. Other business
8. Next meeting Thursday, August 14, 2014

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Thursday, June 12, 2014  
2:00 p.m.**

Committee Members Present: Fargo Mayor Dennis Walaker, Oxbow Mayor Jim Nyhof, Moorhead City Council Representative Heidi Durand, Cass County Commission Representative Darrell Vanyo, Cass County Joint Water Resource District Representative Rodger Olson, Cass County Administrator Keith Berndt, Moorhead City Administrator Michael Redlinger, Moorhead City Engineer Bob Zimmerman, Fargo City Engineer April Walker.

Others Present: Eric Dodds - AE2S; Aaron Snyder, Terry Williams and Craig Evans - US Army Corps of Engineers; Mark Brodshaug - Cass County Joint Water Resource District; Lyndon Pease - Moore Engineering.

The meeting was called to order by Chair Dennis Walaker.

Agenda Review

There were no additions or amendments to the agenda.

Approve May 8, 2014 Minutes

Rodger Olson moved the minutes from the May 8, 2014 meeting be approved. Darrell Vanyo seconded the motion. All the members voted aye and the motion was declared carried.

CCJWRD Land Management Summary

Mark Brodshaug said the appraisal process is taking more time than initially expected. Many appraisals have been completed, he said; however, not much progress has been made with purchases. There has been a combination of problems and a variety of small things that are slowing the process, he said, and he understands why Mayor Nyhof and the Oxbow residents faced with relocation are frustrated with the pace. He said some of the things taking time are contract negotiations that took longer than expected, legal discussions to sort out appraisal language, coordination of priorities and issues with the schedule for appraisal reviews by the Corps. The current hurdle may be the Corps review process, he said, although that has not been the entire problem.

Jim Nyhof said the slow progress is very frustrating and countless promises have been made on dates and appraisals. Now, he said, fingers are being pointed with much of it seeming to come back to the Corps process.

Aaron Snyder said it is always difficult to get a new process started; however, the process will get much smoother once it is figured out how everybody works together.

Terry Williams said now that the format of the first appraisal has been reviewed and approved, she expects the rest will go quickly. She said the hope is to expedite a number of appraisals at a time and to look outside their district to help.

In response to a question from Keith Berndt about whether hiring a private appraiser in place of utilizing the Corps would be a risk if the Corps doesn't have capacity, Aaron Snyder said the Corps really should be used and he is confident they have the manpower throughout the nation to get done what needs to be done.

Dennis Walaker complimented Cass County on the job being done removing homes from harm's way. He said he understands that Mayor Nyhof is getting a lot of pressure from Oxbow residents and that people are anxious to move ahead. He said often it is not understood that the federal process has to be followed in order to get reimbursed. He said at the Diversion Authority meeting later, he will give an overview of his trip to Washington, D.C for the June 10th signing of the Water Resources Reform and Development Act of 2014 by President Obama, which includes authorization of the FM Diversion project.

Mark Brodshaug said many issues encountered are one-time issues and many of the legal questions will have been answered as those problems are encountered, and that will speed things up if the problems occur again. He shared a color-coded map of the overall project area with highlighted blocks showing land acquisition status. He said he hopes much more can be done in the next five to six weeks now that the first appraisal has been approved by the Corps. Negotiations are just getting underway with the Oxbow Country Club, he said, to work through types of relocation benefits. Appraisals continue for both the Oxbow levee and the in-town levee with some additional properties being added at the request of the City of Fargo for the in-town levee. He said ProSource is prioritizing appraisals for seven homes along and north of Schnell Drive for storm sewer outfall. Construction this year will be in the open areas away from homes, he said; however, next year it will be in the area of those seven homes. He said CH2M Hill is preparing task orders for the acquisition process on the beginning phases of the channel construction roughly in the area of the Rush River intersection and northeast along the project. Those acquisitions could start this fall and winter, he said.

#### Property and Farmland Management Update

Eric Dodds said the report from Pifer's Land Management shows an additional rent payment made in the last month, which concludes the farmland rental agreements for this growing season. The sale on one lot in Hayden Heights was closed this month, he said, and the sale of two additional lots in Hayden Heights was approved. He said to date, five of the Hayden Heights lots have been sold. In response to a question about the farmland rent payments, Eric reported that funds collected by Pifer's are kept in a separate account and they retain a percentage for fees, expenses, specials and taxes, with the balance going to the City for reporting on project finance statements.

#### Right of Entry Status & Cultural Resources Easement Acquisition Update

Lyndon Pease said the Phase 1 Cultural Resources team conducted field work last month for the Wild Rice River Dam Mitigation Project north of County Road 14 in Cass County and determined there would be no need for additional cultural resource surveys there. During the end of June or beginning of July, a consultant will conduct indirect

visual surveys for the in-town levees, he said, and it is anticipated that work will be done from the public right-of-way with no written access needed. In the Reach 6 portion, north of County Road 20 in the Maple River area, the same team will be doing Phase 1 testing for two properties, he said. Access to some adjacent properties will be needed, he said; however, those surveys will be conducted after the property is acquired. Access agreements were mailed out in April for about 80 parcels needed for the southern alignment and the staging area on the North Dakota side with about 30 being returned. Follow up reminders will be done by the CCJWRD in the near future, he said. The intent for that access is to do surveys this fall for cultural resources, geotechnical work, land surveys and HTRW surveys, he said.

Heidi Durand said the Moorhead City Council discussed the Minnesota Right of Entry issues at their May 27th meeting and had concerns due to the land being outside their jurisdiction. She said they felt the City had no business granting that permission and there is an elected body in that area representing those landowners which seems more appropriate. She said the Council felt the Buffalo River Watershed District or Clay County Commission would be the more suitable agency to grant access. It was brought up that the prior Council did not have a problem granting such permission, she said; however, this is a new council with new concerns.

Mike Redlinger said those discussions are underway and it could be a longer range issue. He said the City of Moorhead had done this work previously and adequate time needs to be allowed if another party is now being asked to do it.

#### Other Business

In response to a question from Darrell Vanyo about the Agricultural Subcommittee's timeline and progress expected for flowage easements and insurance, Rodger Olson said discussions have continued even without scheduled meetings. Flowage easements and crop insurance were discussed with this group two months ago, he said, with an assumption there would be a positive effect on flowage easements if crop insurance was in place. He said to quantify that assumption, the Corps was asked to review it, and his group is now working on a process to gather information to help the Corps arrive at an answer. Being a farmer himself, he said, he does want it pursued; however, it may not make sense to have both if insurance has no positive effect on flowage easements. Insurance has a cost, as do flowage easements, he said, and he hopes to have a decision about what direction to take by the next meeting.

Darrell Vanyo said he understands this is a difficult and long process; however, the hope is to have enough progress made by the end of the year so options can be presented to the 2015 North Dakota Legislature.

The next meeting will be Thursday, July 10, 2014.

The meeting adjourned at 2:30 p.m.