

**DIVERSION AUTHORITY
Land Management Committee
Thursday, September 13, 2012
2:00 p.m.
City Commission Room
Fargo City Hall**

Committee Members Present: Fargo Mayor Dennis Walaker, Moorhead Mayor Mark Voxland, Oxbow Mayor Jim Nyhof, Cass County Commissioner Darrell Vanyo, Clay County Commissioner Jon Evert, Cass County Joint Water Resource District Representative Rodger Olson, Cass County Administrator Keith Berndt, Moorhead City Administrator Michael Redlinger, Clay County Administrator Brian Berg, Fargo Director of Engineering Mark Bittner, Moorhead City Engineer Bob Zimmerman, Tom Waters - CH2M (ex-officio).

Others present: U.S. Army Corps of Engineers Project Manager Brett Coleman, Eric Dodds – AE2S, Jon Diebel – CH2M, Lee Beauvais – Moore Engineering, Mark Lambrecht – AE2S.

Approve August 9, 2012 Minutes

Rodger Olson moved the minutes of the August 9, 2012 meeting be approved as written. Jon Evert seconded the motion. All the members voted aye and the motion was declared carried.

New Land Acquisition Contracts and Task Orders

Jon Diebel said two firms were selected earlier in the year to supplement Houston-Moore Group's (HMG) land acquisitions. He said in preparation for fiscal year 2013, contracts have been prepared for Ulteig Engineers, Inc. and ProSource Technologies, Inc. and he asked for this Committee's recommendation for approval of the Master Service Contract Agreements and Task Orders for each, in the amount of \$100,000.00.

Darrell Vanyo moved the new Master Service contract Agreement and Task Order No. 1 with Ulteig Engineers, Inc. in the amount of \$100,000.00 to provide land acquisition services be approved. Mark Voxland seconded the motion. All the members voted aye and the motion was declared carried.

Rodger Olson moved a new Master Service Contract Agreement and Task Order No. 1 with ProSource Technologies, Inc. in the amount of \$100,000.00 to provide land acquisition services be approved. Mark Bittner seconded the motion. All the members voted aye and the motion was declared carried.

Jon Diebel said URS Corporation has been under contract for some time doing cultural resource surveys. He said there are additional areas to survey now with alignment changes in addition to some areas that are not finished. The task order for \$125,000.00 continues their services under the existing contract, he said.

Mayor Voxland moved the Authority Work Directive with URS Corporation in the amount of \$125,000.00 be approved. Darrell Vanyo seconded the motion. All the members voted aye and the motion was declared carried.

Early Acquisition Subcommittee Report

Hardship Acquisition Update

Eric Dodds said the appraisals are taking some time because of the sensitivity of the first three hardship acquisitions in Oxbow. He said the internal review should be finished this week and is then subject to the approval of the Corps. Offers could be made to the property owners following authorization from the Corps, he said, and they would then have several other options if they choose not to accept the offer. He said he is hopeful the Corps review and approval will be completed in September with Board action in October.

Jim Nyhof said he understands the appraisal process takes time; however, perhaps there is more the Corps can do to speed up the process. The property owners already have medical reasons for the hardship acquisitions, he said, and if the process does not move quickly they could be living in that situation through the winter.

Brett Coleman said the review process is in place to assure fairness to both the landowner and the federal taxpayer. He said he can look into the process and make the appraiser aware of Mayor Nyhof's concerns about the timeline. He reminded the Committee that without an authorized project, the risk of acquisition lies with the sponsor.

Jon Diebel said the process can be long, although the expectation in these cases is that it should move quickly.

RFQ for Property Management Services

Eric Dodds said the Request for Proposals (RFQ) for property management services ad was placed in The Forum and two proposals were received, one from Coldwell Banker First Realty and the other from RKAK Realty and Property Management, Inc. The goal is to prepare a recommendation to the Land Management Committee after the RFQ's are reviewed, he said, and present them at the October 11th meetings.

Discussion of Hayden Heights

Eric Dodds said the Hayden Heights development in West Fargo is in the path of the current alignment of the diversion channel. He said the City of West Fargo is offering the Diversion Authority an opportunity to purchase twenty lots for the outstanding special assessment amounts. He said the development consists of thirty lots - nine privately owned lots, one bank owned, single-family house and twenty lots owned by the City of West Fargo through tax forfeiture. He said the western alignment is not finalized and will not be resolved soon. Most designs would still call for a buyout of Hayden Heights, he said, and if the western alignment were to shift, the lots could be sold.

Mayor Nyhof said early acquisition for medical hardship does not apply in this case and he questioned what criteria would allow for purchasing vacant lots.

Jon Diebel said throughout this process there will be medical and hardship early acquisitions, as well as some early acquisitions for cost savings. The Early Acquisition Subcommittee was formed to address such issues, he said, and that Subcommittee recommended the purchase of the Hayden Heights lots.

In response to a question from Mark Bittner about whether there is an opportunity to request from West Fargo a short moratorium from building on these lots because of the issues related to the alignment, Keith Berndt said he could not speak for them; however, in discussions with the West Fargo Administrator James Brownlee, he sensed a willingness to cooperate. He said they have pending building permits and offers from private individuals on some lots and were willing to wait for the outcome of their offer today but he did not know if they could wait any longer.

Mayor Voxland said with the building season coming to a close, West Fargo is likely getting pressure to proceed with sales of the lots.

Darrell Vanyo said West Fargo should be contacted about the issues brought up and if they are willing to hold onto the lots, the issue can be addressed at the October meeting.

Keith Berndt said he would try to contact Mr. Brownlee prior to the Diversion Authority meeting later today.

Darrell Vanyo moved to table the issue for 30 days or, depending on further discussion with the City of West Fargo, if they are not able to delay, the issue can be brought to the Diversion Authority Board this afternoon for action. Mark Bittner seconded the motion. All the members voted aye and the motion was declared carried.

Tom Waters said this is the kind of issue that will be faced in terms of early acquisition. He suggested asking the consultant to begin looking at Mayor Nyhof's concerns

Agricultural Policy Subcommittee Update

Mark Lambrecht said the location for the monthly meetings of the Agricultural Policy Subcommittee has been changed to the Cass County Highway building in West Fargo. He said Brian Rust, a farmer who has land on each side of the diversion, has been added as a member. The August 14th meeting was primarily informational with no formal recommendations brought forward, he said, and the September meeting was delayed a week to Tuesday, September 18th at 7:00 p.m.

Impact of Reduced Assessments in Oxbow

Mayor Nyhof said Oxbow requested a property tax break from Cass County due to the loss in value Oxbow property owners sustained due to the threat of the diversion. Cass County denied the request, he said, and the State Board of Equalization heard their appeal and granted a tax break for 2012, reducing property valuations by 20%. He said he would like this committee to address reimbursement of the resulting losses to the Kindred School District. He said he does not feel that making the school district whole is a lot to ask.

Darrell Vanyo said just prior to this meeting he received an email with dollar impacts for lost revenue for 2012 for the various entities. He said the figure for the Kindred School District is about \$53,000.00 and a number of other entities are also impacted including: Cass County, Weed Control, Vector Control, Soil Conservation, Garrison Diversion, State Medical, Horace Fire, Southeast Cass Water Resource District, Oxbow and Oxbow Park. He said the total comes to about \$90,000.00.

Mark Bittner said one option still exists that could keep Oxbow whole and perhaps the Committee wants to wait until that decision is made.

Rodger Olson stated impacts already exist because the taxes have been reduced and there will be a deficit for those affected.

Mayor Voxland moved any decision be delayed until next month to allow time to have the impacts spelled out more clearly. Rodger Olson seconded the motion. All the members voted aye and the motion was declared carried.

ROE Team Update

Lee Beauvais reported that ongoing rights-of-entry updates continue. Thirteen new parcels have been identified in the northwest area that border on township roads, west of the alignment. These roads will need to be upgraded from dirt to gravel, he said, to maintain connectivity and detours during construction, he said. The Corps is working on installing instrumentation for geotechnical design with nine locations identified, he said, and work continues on the biotic surveys as well.

Jon Diebel said early contact is being made in the Drayton area regarding construction access and potential staging.

Cultural Resources Easement Acquisition Status

Lee Beauvais said the Cass County Joint Water Resource District sent agreements to landowners for cultural resource easements, with a deadline to reply next week. He said the Corps will require access to those parcels to do their work as soon as the crops are off.

Other Business

Mayor Nyhof expressed disappointment in the recent announcement about options favored by the Corps. He said it removes much of the hope he had for Oxbow being spared.

The next meeting will be Thursday, October 11, 2012 at 2:00 p.m.

The meeting adjourned at 3:05 p.m.