

**DIVERSION AUTHORITY  
Land Management Committee  
City Commission Room  
Fargo City Hall  
Thursday, August 8, 2013  
2:00 p.m.**

Committee Members Present: Fargo Mayor Dennis Walaker, Moorhead Mayor Mark Voxland, Oxbow Mayor Jim Nyhof, Cass County Commission Representative Darrell Vanyo, Cass County Joint Water Resource District Representative Rodger Olson, Buffalo-Red River Watershed District Representative Gerald Van Amburg, Fargo City Administrator Pat Zavoral, Cass County Administrator Keith Berndt, Moorhead City Administrator Michael Redlinger, Clay County Administrator Brian Berg, Fargo City Engineer April Walker (Alternate), Tom O'Hara (Ex-Officio).

Others Present: Fargo City Attorney Erik Johnson, Eric Dodds - AE2S, US Army Corps of Engineers Project Managers Terry Williams and Brett Coleman, Mark Brodshaug - Cass County Joint Water Resource District, Lyndon Pease - Moore Engineering, Dirk Draper - CH2M,

The meeting was called to order by Chair Dennis Walaker.

Agenda Review

There were no additions or amendments to the agenda.

Approve July 11, 2013 Minutes with Amendments

Darrell Vanyo stated that there was discussion on the Oxbow Memorandum of Understanding (MOU) during the last meeting and he would like additional information included in the record. He said the July 11th minutes reflect that 61 residents voted to move forward with the MOU and 22 were opposed. Adding that 108 ballots were sent out and 83 votes were returned would make the minutes more complete, he said.

Darrell Vanyo moved the minutes from the July 11, 2013 meeting be amended to include in the Oxbow Memorandum of Understanding (MOU) Update that 108 ballots were sent out sent out to residents and 83 votes were returned. Mark Voxland seconded the motion. All the members voted aye and the motion was declared carried.

Darrell Vanyo moved the minutes of the July 11, 2013 meeting be approved as amended. Mark Voxland seconded the motion. All the members voted aye and the motion was declared carried.

Hardship Acquisition Program Update

Eric Dodds said there have been no new applications since the last meeting. He said two properties have been acquired and a third property closed last week and is being prepped for rental. A fourth property approved continues in negotiations, he said, and results of an appraisal are pending on a fifth.

### Oxbow Memorandum of Understanding (MOU) Update

Erik Johnson said the Diversion Board approved a draft of the Memorandum of Understanding with Oxbow at their June 13, 2013 meeting, recognizing there were still some processes to go through, such as obtaining public input from residents and the Oxbow Golf and Country Club (OG&CC). He said the MOU presented today is slightly revised from the draft. The Corps' legal staff wanted clarification on the level of the Corps' involvement in the ring levee project and the Corps' relationship with the nonfederal sponsors, he said. A clarification of funding with Oxbow for replacement lots/land includes a change in verbiage, he said, so that the advance of funds is more correctly structured as an advance rather than a loan. He reviewed the revisions suggested by the City of Oxbow as a result of their public input process as follows:

- Clarifies that while the Authority will offer to sell the holes on the wet side of the levee back to Oxbow at the current market rate, Oxbow is not bound to buy them back.
- Clarifies the Authority will be responsible for all the reasonable costs associated with modifying existing golf holes that must be adjusted to tie into new replacement golf holes.
- The Country Club wanted the qualities of the golf course recognized.
- Clarifies the Diversion Authority, not the City of Oxbow, will be the party with whom the OG&CC will be dealing with for acquisition and replacement of golf holes and clubhouse facilities.
- Recognizes the project is in the early stages and the intention is to sequence construction in a manner that will minimize interruption of business.
- Clarifies the funding to be provided to Oxbow for administrative, legal and related services and expenses (10% max) and the coverage for engineering and project management services (15% max) be derived from the total amount the Authority provides for purchase and development of infrastructure for the replacement properties.

Mark Voxland moved the revisions to the Oxbow Memorandum of Understanding be approved and the MOU be forwarded to the Diversion Authority for final approval. Darrell Vanyo seconded the motion. All the members voted aye and the motion was declared carried.

### Land Management Service Plan

Mark Brodshaug stated at a prior meeting this committee recommended the Cass County Joint Water Resource District (CCJWRD) serve as the primary agent for North Dakota lands related activities associated with the project. He said he worked on a proposal with legal staff, Dirk Draper, and Eric Dodds and that proposal is being presented today for this Committee's consideration and approval.

Dirk Draper said the FM Area Diversion Project North Dakota Lands-Related Services Plan and the Summary outline proposed actions and responsibilities including:

- Diversion Authority Responsibility:
  - Lead role for policy development and to develop lands and mitigation policies for consideration and implementation.

- Manage and oversee the Land Management Committee, Early Acquisition Subcommittee and Hardship Review Committee.
- Maintain a contract with the Program Management PMC for coordination and management of lands-related committee efforts.
- Manage and oversee the Agricultural Policy Subcommittee.
- Seek credits from USACE for land acquisitions and local cost share match.
- CCJWRD Responsibility:
  - Support role for policy development and to develop lands and mitigation policies for consideration and implementation.
  - Manage the ND early acquisitions and construction acquisitions for the project following USACE requirements.
  - Maintain a contract with the PMC for land related services management and coordination.
  - Maintain contracts with three land acquisition firms (HMG, ProSource and Ulteig) for appraisals, negotiations and maintaining a uniform data book.

Pat Zavoral said there have been discussions internally to have this contract include acquiring property within the City of Fargo relating to diversion eligible activities and he would like that included in the contract.

Mr. Brodshaug said that was not directly addressed; however, it can be incorporated.

In response to a question from Jim Nyhof about the distinction between early acquisition and voluntary acquisition, Mr. Brodshaug said the primary distinction is the timing. He said as the process moves ahead and the footprint is defined, there may be people who want their land acquired sooner. With input from the Land Management Committee and a process in place, those types of early acquisitions could be done, he said.

Mr. Zavoral said, following this first step of determining who will do the acquisitions, the next step is to wait for the Corps' completion of the Environmental Assessment (EA). After the release of the EA, he said, appraisals for properties in the route will be secured, which in the case of Oxbow/Hickson/Bakke is 40 units.

Mr. Walaker said he sees some challenges in dealing with these 40 pieces of property as to when, and if, property owners want to be relocated and how it will be determined who gets which of the newly formed relocation lots. He said it is likely some lots will be more desirable than others.

Jim Nyhof stated a steering committee has been formed, which will likely be broken up into several committees for community involvement, to look at conceptually how the lots will lay out in relation to the golf course and zoning, as well as identifying residents interested in particular areas. He said a construction management firm will be retained to oversee and manage the process.

Tom O'Hara said part of the overall design sequence of the project is that during the first year replacement locations will be established so there is a place for individuals who want to relocate to have a place to relocate to, with the actual relocations starting in the second year.

Darrell Vanyo moved the Cass County Joint Water Resource District Proposal for North Dakota Lands-Related Services for the Fargo-Moorhead Area Diversion Project be forwarded to the Diversion Authority with this Committee's recommendation for approval. Keith Berndt seconded the motion. All the members voted aye and the motion was declared carried.

#### Agricultural Policy Subcommittee Report

Eric Dodds said circumstances prevented an August meeting. Work continues on a crop insurance plan, he said, and the intention is to meet with Federal Crop Insurance reinsurers. The next meeting will likely be delayed until after harvest, he said.

#### Right of Entry (ROE) Status and Cultural Resources Easement Acquisition Update

Lyndon Pease said the Phase 2 Cultural Resource Study along the Sheyenne River, near Horace where a burial site had been reported, found no evidence of a burial site. He said the right of entry process for access has begun in the Oxbow/Hickson/Bakke area with letters being sent to landowners. The goal is to obtain access to the affected parcels in that area by October 1st, he said.

#### Other Business

There was no other business.

The next meeting will be Thursday, September 12, 2013 at 2:00 p.m.

The meeting adjourned at 2:31 pm.