

**DIVERSION AUTHORITY  
Land Management Committee  
Thursday, February 14, 2013  
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, Cass County Joint Water Resource District Representative Rodger Olson, Buffalo-Red River Watershed District Representative Gerald VanAmburg, Fargo City Administrator Pat Zavoral, Cass County Administrator Keith Berndt, Clay County Administrator Brian Berg, Fargo Director of Engineering Mark Bittner, City Engineer April Walker (alternate), Tom O'Hara, CH2M.

Others Present: U.S. Army Corps of Engineers Project Manager Brett Coleman, Eric Dodds – AE2S, Lyndon Pease – Moore Engineering.

Approve January 10, 2013 Minutes

Darrell Vanyo moved the minutes from the January 10, 2013 meeting be approved as written. Mark Voxland seconded the motion. All the members voted aye and the motion was declared carried.

Hardship Acquisition/Property Rental Status

Eric Dodds said one of the two acquired properties has been rented out and the second is on the market. A second appraisal on the third property was recently completed; however, it is significantly different than the first, he said, so the differences need to be reconciled.

Hardship Applications & Committee Report

Eric Dodds said another medical hardship applicant is in Oxbow, in the area proposed for buyout and in the path of the proposed ring levee. He said that property could be assessed at nearly \$300,000.00 and the Hardship Review Committee has approved the application.

Rodger Olson moved authorization be granted to proceed with an appraisal on the property. Mark Bittner seconded the motion. All the members voted aye and the motion was declared carried.

Oxbow/Hickson/Bakke Ring Levee Community Meeting Report

Brett Coleman gave an overview of the survey data from the public and individual meetings held January 8-10, including surveys distributed outside of the meetings and returned by mail. Twenty-three out of thirty-seven public meeting participants identifying themselves as Oxbow residents supported a ring levee, while twelve supported buyouts, he said, and six out of eight Bakke residents, or seventy-five percent, preferred a buyout. He said fifty-five percent of respondents inside the footprint of the ring levee said they would relocate, while 55 percent of the residents outside the footprint indicated they would remain within the protection of the levee. He said some comments

noted for the ring levee option were safety concerns, as well as the thought it may be advantageous to have a timeline for home values to return. Some also felt the process is unfair since some homes were built on high ground, he said. Comments concerning the buyout option were that the timeframe is too long and/or uncertain and property owners could be in limbo for a project that never gets authorized, he said. A positive comment was that appraisals are fair and help against a large loss on home values. He said fifty-seven mail-in surveys were received through Dennis Biewer, a Bakke resident and the Pleasant Township Supervisor on January 17th. With forty-seven of them being from Bakke residents, he said none of the surveys indicated support for a ring levee, eight were in support of a buyout and forty-nine indicated no answer/neither. Concerns expressed in the surveys included: timelines, levee safety, responsibility for completing/paying for it, the federal acquisition process, fair appraisals, having only one way out in the event of a flood, wave action and icy roads in the event of a flood, concern that the project may not be authorized and that communities will be stuck for operation and management costs. Going forward, he said, the Corps will review the full ring dike option and the Diversion Authority will refine the concepts, and engage Bakke and Hickson residents. A recommendation to the Corps on the ring dike option is expected at the April meeting, he said, followed by a public meeting and comment period in May.

Tom O'Hara said since the January Board meeting, the Oxbow City Council passed a Resolution In Support of the ring levee concept and formed a committee to oversee the development of the Memorandum of Understanding (MOU) and work with the Diversion Authority. He said survey results indicate Bakke residents are opposed to a ring dike option. The options are the base alignment around the three communities of Oxbow/Hickson/Bakke and two lesser alignments for Oxbow/Hickson only and Oxbow only, he said. There are very general concept diagrams, cost information, construction timelines and plus and minuses for those, he said. Between now and April there will be additional engagement with residents of Bakke and Hickson, he said, targeting one-on-one meetings. A 30-day delay in the Environmental Assessment (EA) Report will result if a ring levee for only Oxbow or Oxbow/Hickson is selected, he said.

Jim Nyhof said the Corps survey results are consistent with Oxbow's survey. He stated the City of Oxbow is comfortable in moving forward with the ring levee concept and the Memorandum of Understanding (MOU).

In response to a question from Mark Bittner on whether the Corps would accept partial ring dike options, Brett Coleman said yes, with the understanding the conclusion of the Environmental Assessment would be impacted/delayed.

#### Ag Impacts Mitigation Plan (Crop Insurance and Flowage Easements)

Eric Dodds reviewed the Ag Impacts Mitigation Plan which covers flowage easements and crop insurance. He stated flowage easements will be required as part of the project and crop insurance is being explored as an additional mitigation feature. Value of flowage easements will follow the federal process and be determined by appraisal, he said. The federal process defines it as a one-time payment determined by an appraisal made at the time the easement is acquired, he said, currently estimated to be 2020. He stated the feasibility study assumed flowage easements at 25 percent of land costs on

average. Federal crop insurance will apply if a crop can be planted before the established late planting dates, he said. The recommendation is that the Diversion Authority provide a policy to supplement federal crop insurance to cover damages to growing crops or delayed or prevented planting situations, he said. He stated the policy will be based on federal crop insurance programs administered by the Risk Management Agency (RMA), and RMA policies and procedures will be used to define coverage for damages caused by the Diversion project.

Rodger Olson stated that as a farmer he is comfortable with the mitigation plan. He said it keeps farmers insured and farmers will know if a loss is covered by the Federal Crop Insurance Policy or the Diversion Authority's supplemental insurance.

#### Cap-X Letter

Eric Dodds said as negotiations started with Oxbow, one item was alignment of the Cap-X Power Line. He said with the alignment of the power line established and the appeal process closed, from the Public Service's perspective, the alignment is set. He said a letter has been drafted to formally notify Cap-X that the alignment of the project has changed and a ring levee is being considered. He said he would like this committee to recommend approval of the letter.

Keith Berndt moved a letter formally notifying Cap-X about the FM Area Diversion Project changes be approved. Jim Nyhof seconded the motion. All the members voted aye and the motion was declared carried.

#### Assessment District Update

Eric Dodds said a Diversion Project Assessment Committee has been formed and one meeting has taken place. He said there will be monthly meetings and the group will review previous assessment district processes to see what has worked well.

#### Right-of-Entry Status and Cultural Resources Easement Acquisition Status Update

Lyndon Pease said there are continual updates to the Right-of-Entry database for legal access on to properties throughout the Diversion which are necessary for Cultural Resource and topographical surveys, and geotechnical borings. He said the access process is underway west of West Fargo where the route has shifted. Landowners will receive letters notifying them that the Diversion Authority is seeking access to their property, he said. Landowners of three properties in the Reach 1 area have been unwilling to allow access for cultural resource surveys, he said, and it will be necessary to go through the court process for the Diversion Authority to gain access. He said the majority of access has been obtained for 20-25 properties for the in-town area of the project around the Main Avenue/Burlington Northern area; however two areas have yet to be signed. He said some of the parcels belong to Burlington Northern Santa Fe Railroad which will involve a different procedure to obtain access. That process has begun, he said.

#### Other Business

The next meeting will be Thursday, March 14 at 2:00 p.m.

The meeting was adjourned at 2:30 p.m.