



**DIVERSION AUTHORITY
Land Management Committee
City Commission Room
Fargo City Hall
Wednesday, November 9, 2016
3:00 p.m.**

1. Agenda Review
2. Approve August 10, 2016 Minutes action
3. Mitigation Plan Summary information
4. CCJWRD Property Acquisition Update information
5. Other business
6. Next meeting December 14, 2016

These minutes are subject to approval of the Land Management Committee.

**DIVERSION AUTHORITY
Land Management Committee
City Commission Room
Fargo City Hall
Wednesday, August 10, 2016
4:00 p.m.**

Members Present: Cass County Commission Representative Mary Scherling; Cass County Commission Representative Chad Peterson; Clay County Commission Representative Kevin Campbell; Clay County Commission Representative Jenny Mongeau; Clay County Commission Representative Heidi Durand; Cass County Joint Water Resource District Representative Rodger Olson; Fargo City Commission Representative John Strand; Fargo Division Engineer Nathan Boerboom; Moorhead City Engineer Bob Zimmerman.

Others present: Rocky Schneider - AE2S; Joe Herbst - AE2S; Mark Brodshaug - Cass County Joint Water Resource District (CCJWRD); Keith Berndt - Cass County; John Albrecht - CH2M Hill.

The meeting was called to order by Mary Scherling.

Agenda Review

There were no additions or amendments to the agenda.

Jenny Mongeau moved the Order of Agenda be approved. Rodger Olson seconded the motion. All the members voted aye and the motion was declared carried.

Approve July 13, 2016 Minutes

Rodger Olson moved the minutes from the July 13, 2016 meeting be approved. Bob Zimmerman seconded the motion. All the members voted aye and the motion was declared carried.

Outreach Plan for Phase 1 Properties

Rocky Schneider reviewed the outreach plan. He said Phase 1 is the first 5 to 6 miles of the channel on the north end of the project and includes a couple properties along major structures. He said this is where land acquisition will need to start in the next couple of months. Once the P3 developer is on board, he said, there will be a robust, aggressive construction schedule in order to get the project done quickly and keep costs down. If land is not acquired in a timely manner, it will hold up construction and increase costs, he said. The spectrum of audience includes the specific impacted landowners, the townships where the impacted land is, and the general public that has interest in the land acquisitions, he said. The effort begins with letters being sent to individual property owners, he said, and shortly after that the assigned land agent will be in touch. Invitations will be extended for the township meetings being planned, he said, and Cass County Engineer Jason Benson is helping arrange the meetings and likely will be a lead speaker.

Outreach Plan for Occupied Properties

Mr. Schneider said the communications plan is for any of the impacted parcels in the staging area or what is occupied along the path of where construction is planned. It includes businesses, he said, which creates another layer of complexity. He said there were funds in the budget this year to work on opportunistic purchases in the staging area where people are ready to sell. He said there was a lot of interest; however, for a number of reasons, mostly the Minnesota EIS process, land acquisitions in that area were put on hold. He said a survey-type letter will be sent out letting those affected know the plans and to open up the option of early acquisition. Work would then be done with the CCJWRD staff to do follow up and to be sure everyone has been contacted.

In response to a question from Ms. Scherling about whether there would be an opportunity for property owners to do a sale then rent back, Mr. Schneider said that has been discussed and would be looked at. He said it has been done, renting to the same owner, and that has been successful; however, it would be different to purchase property and rent it out to the general public. A majority of this land is in the staging area and a flowage easement will also need to be applied to that land, he said, and language for that is being finalized within the same timeframe.

Elected Official Involvement

Mr. Schneider shared a draft informational sheet intended to help guide elected officials with tips on what may and may not be appropriate or helpful when dealing with questions from property owners regarding acquisitions. The role of the official is definitely to be sure the process is fair and that the people involved are being professional, he said; however, sometimes it is not helpful for elected officials to get in the middle of negotiations over dollar amounts. He said it can happen that one property owner gets an elected official involved, leaving another to be treated differently because no one stepped in on their behalf. He said this can leave a question about whether it is a fair process for both. He said when a land agent gets a call from an official, like a senator or commissioner about a specific property, there can be a danger of that negotiation being treated differently, even though it could be subconsciously. He said the trained professionals will continue to have strict oversight over the process with a goal of consistency.

Kevin Campbell said while it is important that officials understand the Federal Uniform Relocation Assistance and Real Property Acquisition Procedures Act and stay within those guidelines, the first person a constituent goes to is their elected officials. Nothing will not stop him from talking with a constituent, he said.

Ms. Scherling said there have been things that have changed along the way as the process has developed and likely there will be more changes. Some of the concerns may not be known if they do not get addressed through appropriate avenues, she said.

Mr. Schneider said that while individual land agents may feel it best that officials not get involved, the management team has been hired by the Diversion Authority, and concerns can first be brought to Eric Dodds or his team at AE2S before going to individual land agents.

Heidi Durand said this could send a wrong message to constituents. She said she knows the document is not intended for the general public; however, it could come across like the Diversion Authority is telling elected officials not to get involved. Perhaps if the intent is to have officials not get involved in the monetary details, the wording could be made more clear, she said.

Rocky Schneider said he feels there may have been unfair influence from elected officials in some cases. Officials have every right to be involved, he said; however, the document includes the professional opinion of those working on the land acquisitions. He said the document is a draft and some fine-tuning will be done to accommodate the concerns expressed.

Jenny Mongeau said elected officials are basically hired to be the professionals and they recognize their roles. She said being told by a hired firm what their role is goes against the vote of the people. The entities represented here all deal with buyouts and have actively purchased properties, she said, and officials hear comments all the time from neighbors with concerns about the process. She said they do not decide dollar amounts, there are the professionals hired to do that. It does not take a document telling officials how to think or act, and she finds it inappropriate and does not feel this is the avenue to take. This is another level that can upset people whose property may be acquired through the process, she said. While she does not want to be involved in small details, she said, if someone is not getting a fair amount, it is important to be able to advocate for them and perhaps the verbiage saying not to advocate on someone's behalf could be removed. She said she does not see the need for a published document on how to act.

Mr. Campbell said if a citizen cannot come to him with confidence and questions about a buyout, who can they go to?

Mr. Schneider agreed that officials are on the front lines and should listen to their constituents. He said the intent is not to stop that and if there is something in the document reading that way, it can be changed. This is a draft, he said, and some fine-tuning of the language will be done.

Chad Peterson said he does not feel the intent is to tell officials not to communicate with constituents and perhaps this is being taken too literally. He reads it as saying "stay out of the minute details" and let the experts be experts, he said, no more, no less.

CCJWRD Land Management Report

Mark Brodshaug said the format of the Land Management Summary is being reworked so there may be changes to it in the future. There are negotiations on 15 parcels for the inlet structure and related road realignments south of Horace and a signed purchase agreement has been completed on the first of that group. He said the Phase 1 acquisition process has begun with some surveys completed allowing appraisals to begin and work is being done for right of entries to complete other surveys. He said the land management tracking tool, ERSI's WMX, is operational and the online map is a wonderful tool. An outreach plan has been developed to respond to increasing inquiries from the public about the buyout process and schedule.

In response to a question from Nathan Boerboom about when the first appraisals are expected to be completed for Phase 1, Joe Herbst said appraisals have begun up north. He said there are some cases where the entire parcel is being acquired and the legal description is just what is being bought and surveys aren't needed, so appraisals can begin there. The agreement with the Corps has just been ironed out regarding appraisal reviews, he said, and the sales data book is being developed and expected soon. After that the appraisers can begin writing reports, he said.

In response to a question from John Strand on how much appraisal information is available for committee members to view, Mr. Herbst said the online tracking tool contains information surveys, progress, notes, history and appraisals. Committee members should get in touch with him if they desire access to the tracking tool, he said.

John Albrecht said the negotiations and appraisals in the online system are private documents. In North Dakota, he said, the owner is the first to get them and they are not made public until negotiations are complete.

Ms. Scherling said committee members can attend CCJWRD meetings which are held at the Cass County Highway Department building on the second and fourth Thursdays each month at 8:00 a.m. She said these meetings give a good overview of the process for those interested.

Other Business

The next meeting will be Wednesday, September 7, 2016 at 4:00 p.m.

Chad Peterson moved the meeting be adjourned. Kevin Campbell seconded the motion. All the members voted aye and the motion was declared carried.

The meeting adjourned at 4:44 p.m.