

**DIVERSION AUTHORITY  
Land Management Committee  
City Commission Room  
Fargo City Hall  
Wednesday, September 27, 2017  
3:00 p.m.**

Present: Cass County Commission Representative Mary Scherling; Clay County Commission Representatives Kevin Campbell and Jenny Mongeau; Moorhead City Engineer Bob Zimmerman; Fargo Division Engineer Nathan Boerboom; Cass County Joint Water Resource District Representative (CCJWRD) Rodger Olson (via teleconference); Fargo City Administrator Bruce Grubb; and Oxbow Mayor Jim Nyhof.

Others present: Eric Dodds - AE2S; and Mark Brodshaug - CCJWRD.

Absent: Cass County Commission Representative Chad Peterson; Fargo City Commissioner John Strand.

The meeting was called to order by Chair Mary Scherling.

Agenda Review

Mr. Zimmerman moved to approve the agenda. Second by Mr. Campbell. All the members present voted aye and the motion was declared carried.

Minutes Approved

Mr. Boerboom moved the minutes from the August 23, 2017 meeting be approved. Second by Mr. Campbell. All the members present voted aye and the motion was declared carried.

Ms. Mongeau said as a point of clarification, previous minutes have indicated Moorhead City Council Representative Heidi Durand was absent when in fact she is no longer on the committee.

Mr. Zimmerman said he will check to see if a replacement will be assigned from the City of Moorhead for Ms. Durand.

Property Acquisition Report

Mr. Dodds pointed out that in the packet's usual property status showing acquisitions, it says 'on hold' for the appraisals and negotiations that have been underway. He said this is a conscious decision because of the temporary injunction forcing construction work on the project to cease. He said while there may be legal authority to proceed with acquisitions, this shows an effort in good faith and willingness to sit down and make a game plan for the project with Minnesota and other partners. For the time being, he said, there is not much new to report. Efforts were made to negotiate purchase agreements with a variety of different property owners until recently, he said, and that has now been put on hold with a few minor exceptions. He said a storm sewer that needs to be constructed between Hickson and Oxbow to complete the work in that area was part of

the stipulation agreement previously agreed to so there are a few easements that need to be acquired and that work is ongoing. With the exception of that, he said, active acquisitions are pretty much shut down. Land agents are being encouraged to continue to take phone calls and meet with people if they are interested; however, things are not actively moving towards negotiations.

Moorhead Mayor Del Rae Williams present.

In response to a question from Ms. Scherling about whether there are property owners with medical hardships who are affected, Mr. Dodds said the original medical hardship program was put in place pre-Project Partnership Agreement and since the PPA was signed and there was officially a project, the hardship program became more of an opportunistic acquisition program and any acquisitions, medical hardship or otherwise could be entertained. From that context, no official medical hardships are underway, he stated, although there were a handful of opportunistic acquisitions out there. He said the land agents were asked to let those landowners know there will be a time-out, given current circumstances with the injunction.

In response to a question from Ms. Scherling about whether, besides that drain, the City of Oxbow would be OK if there were a big flood in the spring; Mr. Nyhof said there is still work to do on the north end where the road raise is located. He said that work should be done this year and once at that point, Oxbow could fight a flood.

Mr. Dodds said this is all fluid until there is more information, an agreement or whatever. He said the goal is to try to be in position to be responsive to requests and to ramp things back up. He said if there are eager property owners, acquisitions may be considered on a case-by-case basis, but would be circumstantial. If they have a flood today, he said, there could be consideration.

In response to a question from Ms. Scherling about flowage easements and the North Dakota State University (NDSU) study, Mr. Dodds said proposals from four different appraisal firms to conduct a flowage easement evaluation were received at about the same time as the word of the injunction. The submittals were reviewed, he said; however, the suggestion was to reach out to them and let them know that at this point, things cannot proceed. He said they will be contacted when more is known. There is a lot of interest in proceeding with that study or at least some version of it, he said; however, given uncertainty about the project and if or how it may change, it is another effort that is put in a time-out period.

#### Property Management Update

Mr. Dodds said there are a handful of rural properties owned that are scattered throughout the channel and staging area. He said preparations were underway for another round of home removal contracts; however, those properties may not need to be removed until there is more certainty about the project so the efforts now are going into weatherization. He said Pifer's is proceeding with farmland rentals.

#### CCJWRD Update

Mr. Brodshaug said there is not much news beyond Mr. Dodd's report on acquisitions and management. He said closing documents have been signed on the last home bought out in Oxbow. There are still several vacant lot properties that will need to be acquired, he said, and some easements along the front of the Knickerbocker Liquor Locker, plus a little farmland left to acquire to complete the levee. He said work is being done towards the transfer of ownership of in-town properties purchased by the Cass County Joint Water Resource District with the understanding that when everything was finished up, that transfer would happen.

In response to a question from Ms. Scherling on the number of homes being managed, Mr. Dodds said there are about a half dozen and some have rental agreements.

Mr. Nyhof said Oxbow is still actively selling lots and reimbursing the City of Fargo monthly.

Mr. Brodshaug said a monthly report is generated that shows the lots sold, those left to sell and the percentages going to the Diversion Authority and the Oxbow share. The lot sales are significant, something like \$10 million, he said, and that was part of the renegotiation when Oxbow offered to put up a bigger share.

#### Other Business

There was no other business.

Ms. Mongeau moved the meeting be adjourned. Second by Mr. Grubb. All the members present voted aye and the motion was declared carried.

The meeting adjourned at 3:18 p.m.

The next meeting will be October 25, 2017 at 3:00 p.m.