

Metro Flood Diversion Authority Board of Authority Meeting Minutes

3:30 P.M. – August 24, 2023

City of Fargo Commission Chambers

A regular meeting of the Metro Flood Diversion Authority Board of Authority was held on August 24, 2023. The following members were present: Dr. Tim Mahoney, Mayor, City of Fargo; Bernie Dardis, Mayor, City of West Fargo; Shelly Carlson, Mayor, City of Moorhead; Chuck Hendrickson, Moorhead City Council; Dave Piepkorn, Fargo City Commissioner; David Ebinger, Clay County Commissioner; John Strand, Fargo City Commissioner; Kevin Campbell, Clay County Commissioner; Mary Scherling, Cass County Commissioner; Rodger Olson, Cass County Joint Water Resource District and Larry Seljevold, Moorhead City Council.

Member(s) absent: Chad Peterson, Cass County Commissioner and Tony Grindberg, Cass County Commissioner.

1. CALL TO ORDER

Mayor Mahoney called the meeting to order at 3:30 PM. Roll call was taken, and a quorum was present.

2. APPROVE MINUTES FROM THE JULY 2023 MEETING

MOTION PASSED

Mr. Campbell moved to approve the minutes from the July 2023 meeting and Mr. Piepkorn seconded the motion. On a voice vote, the motion carried.

3. APPROVE ORDER OF AGENDA

MOTION PASSED

Mr. Strand moved to approve the order of the agenda and Mr. Ebinger seconded the motion. On a voice vote, the motion carried.

CONSENT AGENDA

MOTION PASSED

Mayor Dardis moved to approve the Consent Agenda and Mr. Hendrickson seconded the motion. On a roll call vote, the motion carried.

4. EXECUTIVE DIRECTOR REPORT

Mr. Paulsen provided the following updates:

Happenings

Presentations made to community and state groups:

- Broadband Association of ND on Aug. 15
- Fargo Rotary Club on Aug. 16
- ND Trades on Aug. 17
- American Association of Civil Engineers, ND Chapter, will take part in a presentation and tour Aug. 25
- Senator Tina Smith toured the project on Aug. 16

5. GENERAL COUNSEL UPDATE

Mr. Shockley did not have an update to report.

6. CONSTRUCTION PROJECT UPDATES

a. USACE Project Update

Mr. Bakkegard provided the following USACE update:

1 Diversion Inlet Structure (DIS) – Construction

Structure includes 3-50 ft. wide Tainter gates. Construction is 96% complete. Construction completion date is currently estimated to be in September 2023 due ongoing punch list items and installation of gate machinery. Painting, riprap placement, seeding and addressing punch list items ongoing.

Schedule for remaining primary features:

2023: Complete operating machinery install, seeding.

2024: Turf established.

2 Wild Rice River Structure (WRRS) – Construction

Structure includes 2-40 ft. wide Tainter gates. Construction is 95% complete and remains on schedule. The construction completion date is 3 December 2023. Constructing eastern earthen dam and bridge deck, painting gates, and completing gage well. Remaining schedule:

2023: Control building, dam embankment, seeding.

2024: Turf established.

3 I-29 Raise – Construction

Includes approximately 4 miles of interstate raise between County Roads 16 and 18. Construction is 84% complete. Borrow ditch bridges are complete. Traffic was switched to the new SB lanes on 4 August; paving of the NB continues. Current construction completion date is 1 January 2024.

4 Southern Embankment – Reach SE-1 (Western Tieback) - Construction

Construction was completed 10 November 2022. Partial turnover to the Diversion Authority for Operations and Maintenance occurred on 29 December 2022. O&M Manual was provided for review 9 August 2023.

5 Red River Structure (RRS) - Construction

Structure includes 3-50 ft. wide Tainter gates. Construction is 29% complete. Construction completion date is 19 March 2026. Concrete placement of stilling basin slabs is complete. Placement for approach wall foundations and abutments ongoing. Pile driving for retaining walls ongoing.

6 Drain 27 Wetland Mitigation Project Plantings - Construction

Native plantings 5-year contract awarded 17 May 2023. Completion date is 1 December 2027.

7 Drayton Dam Mitigation Project Design - Construction

Construction is 73% complete. Placement of the rock-arch rapids is ongoing. Construction completion is 30 September 2023.

8 Southern Embankment – Reach SE-2A - Construction

Construction is 65% complete. Inspection trench and embankment foundations complete. 112th Avenue permanently closed and removed. Scheduled completion date is 30 September 2024.

9 Southern Embankment Design – All remaining reaches are being designed.

SE-1B: BCOES review Aug 2023 Contract award: February 2024

SE-2B: BCOES review complete 9 June 2023 Contract award: April 2024

SE-3: 65% review starts Aug 2023 Contract award: January 2025

SE-4: 65% review starts Aug 2023 Contract award: May 2024

SE-5: 65% review starts Aug 2023 Contract award: January 2025

OHB Reach 43B: 95% review starts July 2023 Contract award: February 2024

b. SWDCAI Project Update

Mr. Bakkegard provided an update of the construction map that shows current work in progress, 30 and 60 day projected progress:

- I-29 & CR-81 – bypass pavement scheduled to start late August
- Maple River Aqueduct – test piles scheduled to start this week

Construction Look Ahead:

- New Features Under Construction
 - Drain 29 Inlet
 - Channel Reaches 4 and 5
 - BNSF KO
 - Drain 14C Inlet
- 30 to 60 Day Outlook
 - Channel Reaches 6 – 8
 - Raymond Township Drain Inlets
 - CR-20, CR-10, 38th St and 52nd Ave Crossings

c. Drone Footage Video

A drone video highlighting the progress that has been achieved since July was viewed.

7. COMMUNICATIONS UPDATE

Ms. Willson provided the following Communications update:

- Timelapse cameras installed at Maple River Aqueduct and I-29/BNSF bridge construction areas
- The Diversion Current received Honorable Mention in a national communications contest
- Media Relations: WDAY-AM, The Flag, The Forum + strong coverage of Sen. Smith's visit

8. LAND MANAGEMENT UPDATE

a. Property Acquisition Status Report

Ms. Smith provided the following property acquisition status report:

- 88.3% completion in the Construction Footprint
- 41.5% completion in the UMA Footprint
- 73.4% of the parcels in the Southern Embankment have been acquired
- 41.5% of the parcels in the Upstream Mitigation Area have been acquired
- 72.6% of the Environmental Easements have been signed
- 93.3% of the parcels in the Stormwater Diversion Channel have been acquired
- 97.4% of the Oxbow-Hickson-Bakke levee
- 100% MFDA constructed in-town levees and the Drayton Dam mitigation is completed

Key Activities:

- Continue negotiating settlement agreements for existing eminent domain actions
- In the last month, successfully closed 8 parcels / 6 landowners
- In the last month, agreement signed on 2 parcels / 2 landowners
- Recently approved settlement agreements for approximately 30 parcels
- Completed appraisals in MN (except for parcels immediately surrounding the planned Wolverton ring levee)
- Resumed focus on completion of appraisals for remaining property needs in ND UMA

9. FINANCE UPDATE

Finance Report

Mayor Dardis reported that the bills payable totaled \$9,724,134, the current net position is \$172,490,834, and \$80,572,555 are the FY 2023 costs to date.

a-c. Work Packages 47C, 47D and 47E

Mr. Bakkegard provided an overview of Work Packages 47C, 47D and 47E bid awards that were approved by the Finance Committee. The bids were awarded as follows:

47C - test holes and wells awarded to LTP Enterprises - \$438,600

47D - utility relocation – water system improvements awarded to J.R. Ferche, Inc., - \$315,515

47E – utility relocation awarded to Wagner Construction, Inc., - \$1,447,837

MOTION PASSED

Mayor Dardis moved to award the bids as presented and Mayor Carlson seconded the motion. On a roll call vote, the motion carried.

d. Lands Budget Update

Ms. Smith provided an update on the lands budget and indicated that it is tracking as expected. The estimated acquisition costs for the DCAI is \$24,000,500 and the estimated costs to acquire the necessary properties in the Southern Embankment is approximately \$14,000,000-\$15,000,000. Approximately 40% of the easements have been acquired within WP38 in the UMA.

e. RIMP Loan Budget Change Request

Ms. Smith provided the following RIMP update and request:

OVERVIEW

The need for the RIMP was identified in late 2019. Relocation benefits required by the Uniform Relocation Act (the “URA”) (and its state-level equivalents) are different for residential properties and business properties. Residential properties are eligible under the URA for the costs to acquire a substitute property, up to a certain amount. There is no similar URA benefit for commercial properties.

The differences between treatment of residential and commercial properties under the URA created challenges in negotiating with the owners of active farmsteads and rural businesses. Since these active farmsteads and rural businesses were each unique, the RIMP was developed. The RIMP is a 10-year forgivable loan for active farmsteads and rural businesses being displaced by the Comprehensive Project. The RIMP is a voluntary program being implemented by the Cass County Joint Water Resource District (CCJWRD) in North Dakota and the Moorhead Clay Count Joint Powers Agreement (MCCJPA) in Minnesota but is funded by the Metro Flood Diversion Authority (MFDA).

BOARD HISTORY

The RIMP process was brought to the Land Management Committee, the Finance Committee, and the Board in May of 2020.

A. Land Management Committee May 27, 2020:

- a. An overview of the Farmstead Reestablishment Program also called the RIMP was presented to the Committee and received positive feedback from Committee members.
- b. The Committee approved it unanimously.

B. Finance Committee May 27, 2020:

- a. An overview of the Farmstead Reestablishment Program also called the RIMP was presented to the Committee and received mixed feedback from Committee members.
- b. The RIMP was estimated to be \$5-10 million in cost and there were two properties identified over the next 6 months.
- c. Committee Chair was not comfortable with this cost range and suggested a phased approach.
- d. Committee approved to move forward on a phased approach for the two parcels identified with a cap of \$5 million.

C. Metro Flood Diversion Authority Board May 28, 2020:

- a. An overview of the Farmstead Reestablishment Program also called the RIMP was presented to the Board and received mixed feedback from Board members.
- b. The Board approved to move forward on a phased approach for the two parcels identified with a cap of \$5 million.

D. Metro Flood Diversion Authority Board April 29,2022

- a. An overview of the Farmstead Reestablishment Program also called the RIMP was presented to the Board.
- b. The Board approved \$10 million additional funding to RIMP.

PRAM

The RIMP was then included in Version 5 of the Property Rights Acquisition and Mitigation Plan that was approved by the State of North Dakota.

SETTLEMENT

Section 25 of the Settlement Agreement between the Metro Flood Diversion Authority and the Richland-Wilkin Joint Powers Authority, Buffalo-Red Watershed District, City of Wolverton, and City of Comstock includes the requirement for the RIMP.

TO DATE

The CCJWRD has approved 11 RIMP loans for 10 different qualifying business locations totaling approximately \$10.8 million in value for businesses along the SWDCAI.

FUTURE USE OF THIS PROGRAM

As the land agents are engaging with property owners in the UMA and during the recent financial re-baselining of the entire Program, the Director of Lands and the Land Program Management team reviewed the RIMP and identified a total of approximately 20 farmsteads and rural businesses, including the three that have been offered a RIMP loan, that are eligible for RIMP with a total cost of approximately \$20 million. Additionally, this team is developing a reporting mechanism for the CCJWRD, MCCJPA, and the Finance Committee.

BUDGET

Funding for the 2022 \$10M increase for RIMP was anticipated in the 2022 Lands budget and was approved in the 2022 Cash Budget pending this phased approval. The increase of \$5M is within the Program Budget, which was re-baselined in 2022, and has been included in the latest version of the Financial Plan.

ACTION

Since the RIMP was approved at the Finance Committee and Board in a phased approach in 2020, the Finance Committee and Board would need to approve additional funding for this next phase of the RIMP.

MOTION PASSED

Mr. Olson moved to approve the \$5,000,000 budget increase and Mr. Ebinger seconded the motion. On a roll call vote, the motion carried.

10. OTHER BUSINESS

a. MFDA and City of Fargo SE-1B Borrow Site Agreement

Mr. Shockley presented an overview and necessity for the indemnity agreement between the MFDA and the City of Fargo regarding the SE-1B borrow site for extra fill.

MOTION PASSED

Mayor Dardis moved to approve the agreement as presented and Mr. Hendrickson seconded the motion. On a roll call vote, the motion carried.

11. NEXT MEETING

The next meeting will be September 28, 2023.

12. ADJOURNMENT

Mr. Ebinger moved to adjourn, and Mr. Campbell seconded the motion. The meeting adjourned at 3:58 PM.