

# Metro Flood Diversion Authority Board of Authority Meeting Minutes

**3:30 PM – August 22, 2024**

**City of Fargo Commission Chambers**

A regular meeting of the Metro Flood Diversion Authority Board of Authority was held on August 22, 2024. The following members were present: Shelly Carlson, Mayor, City of Moorhead; Bernie Dardis, Mayor, City of West Fargo; Dr. Tim Mahoney, Mayor, City of Fargo; Chad Peterson, Cass County Commissioner; Chuck Hendrickson, Moorhead City Council; David Ebinger, Clay County Commissioner; Kevin Campbell, Clay County Commissioner; Mary Scherling, Cass County Commissioner; Tony Grindberg, Cass County Commissioner; Larry Seljevold, Moorhead City Council and Rick Steen, Cass County Joint Water Resource District.

Member(s) absent: Dave Piepkorn, Fargo City Commissioner and Denise Kolpack, Fargo City Commissioner.

**1. CALL TO ORDER**

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

**2. APPROVE MINUTES FROM THE JULY 25, 2024, MEETING**

**MOTION PASSED**

**Mrs. Scherling moved to approve the minutes from the July 25, 2024, meeting and Mr. Campbell seconded the motion. On a voice vote, the motion carried.**

**3. APPROVE ORDER OF THE AGENDA**

**MOTION PASSED**

**Mayor Mahoney moved to approve the agenda and Mr. Peterson seconded the motion. On a roll call vote, the motion carried.**

**4. APPROVE CONSENT AGENDA**

**MOTION PASSED**

**Mayor Mahoney moved to approve the Consent Agenda and Mr. Ebinger seconded the motion. On a roll call vote, the motion carried.**

**5. CO-EXECUTIVE DIRECTOR'S UPDATE**

**a. Approve MFDA Executive Director Application Screening & Interview Committee**

Mr. Wilson walked through the timeline for the recruitment of the executive director. The position was posted on July 26 and applications will be accepted through September 6. The screening and interview process will begin on September 9 and conclude on September 20. Non-public interviews will be conducted September 30 through October 4. It is anticipated that the final candidate will be selected around the

October 7 to October 18 timeframe. The selected candidate will be appointed at the October board meeting with an anticipated start of December 1, 2024, and no later than January 15, 2025.

**MOTION PASSED**

**Mayor Mahoney moved to approve the timeline as presented and Mr. Ebinger seconded the motion. On a roll call vote, the motion carried.**

**6. General Counsel Update**

**a. Resolution Authorizing Exchange of Temporary P3 Improvement Warrants**

Mr. Shockley provided an overview and summary of the above-referenced Resolution.

**MOTION PASSED**

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

**7. CONSTRUCTION PROJECT UPDATES**

**a. USACE Project Update**

Ms. Williams provided the following USACE update:

**1 Diversion Inlet Structure (DIS) – Construction**

Structure includes 3-50 ft. wide Tainter gates. Construction is 99% complete. Construction completion date will be revised pending outcome of modifications to the gate machinery design. Schedule for remaining work: 2024-2025: Complete operating machinery corrections; training and commissioning.

**2 Wild Rice River Structure (WRRS) – Construction**

Structure includes 2-40 ft. wide Tainter gates. Construction is 98% complete. Construction completion date will be revised pending outcome of modifications to the gate machinery design. Schedule for remaining work: 2024-2025: Complete operating machinery corrections; training and commissioning.

**3 I-29 Raise – Construction**

Includes approximately 4 miles of interstate raise between County Roads 16 and 18. Construction is 99% complete. Final inspection held 3 January 2024; turf establishment inspection pending. Preparation of O&M documents and turnover is ongoing.

**4 Red River Structure (RRS) - Construction**

Structure includes 3-50 ft. wide Tainter gates. Construction is 59% complete. Construction completion date is 19 March 2026. Embankment material being hauled across the Red River for use in east embankment. Tainter gate #2 components are being delivered.

**5 Drain 27 Wetland Mitigation Project Plantings - Construction**

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

**6 Drayton Dam Mitigation Project Design - Construction**

Construction is complete. Turnover to MFDA for O&M occurred on 28 Nov 2023. Turf and willow planting repairs being made due to flooding. Ribbon cutting to be held on site Wednesday, 25 September 2024.

**7 Southern Embankment – Reach SE-2A - Construction**

Construction is 69% complete. Contractor mobilization to complete work is ongoing. Scheduled completion date is 13 October 2024.

**8 FY2024 Contract Awards:**

OHB Ring Levee: Awarded 22 February and is 4% complete. Inspection trench and earthwork activities ongoing. Contract completion date is 31 August 2025.

Reach SE-1B: Awarded 27 February and is 15% complete. Stripping, hauling, road subgrade work ongoing. Contract completion date is 13 March 2026.

Reach SE-2B: Awarded 11 March and is 2% complete. Stripping, inspection trench, embankment placement ongoing. Contract completion date is 30 October 2025.

Forest Mitigation: Bid protest was denied. Contractor's schedule for getting back to work pending. Reach SE-4: Contract awarded 28 May 2024 to PWS, Inc., Brooklyn Park, MN. Contract completion date is 3 June 2026.

**9 Southern Embankment Design: Remaining Reaches:**

SE-3: Final reviews underway ..... Contract award: January 2025

SE-5: final reviews underway..... Contract award: January 2025

**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:

**30 to 60-Day Outlook**

- Channel Reach 11
- Channel Reach 12
- Drain 21C Inlet
- Drain 50 Inlet
- SE-4

**Misc. Highlights**

- CR-4/31
- I-29/BNSF Hillsboro/CR-81
- Lower Rush River Inlet
- BNSF KO
- I-94
- 52nd Ave W Crossing

**c. Project Safety Update**

Mr. Bakkegard provided the safety update for the period July 1, 2024, to July 31, 2024, and reported that there were two recordable injuries that required treatment.

**d. Drone Footage Video**

A drone video highlighting the progress that has been achieved since July 2024 was viewed.

**8. COMMUNICATIONS UPDATE**

Ms. Willson provided the following Communications update:

**Outreach Products**

**Faces of the Diversion:** Daniel Veillette, ASN Constructors general superintendent for bridges

**Event Facilitation:**

- Navy Week tour for Adm. Munsch
- ND Water Resources Institute presentations and tour

**Media Relations:**

- July Construction Update release

**9. LAND MANAGEMENT UPDATE**

**a. Property Acquisition Status Report**

Ms. Smith provided the following property acquisition status report:

- 97.0% completion in the Construction Footprint
- 52.7% completion in the UMA Footprint
- 91.0% of the parcels in the Southern Embankment have been acquired
- 52.7% of the parcels in the Upstream Mitigation Area have been acquired
- 75.5% of the Environmental Easements have been signed
- 100.0% completed: Stormwater Diversion Channel; Oxbow-Hickson-Bakke levee; in-town levees and the Drayton Dam mitigation

**Key Activities:**

- Continue negotiating settlement agreements for existing eminent domain actions
- In the last month, successfully closed 3 parcels / 3 owners in the UMA
- Continuing the process of disposing of Excess Lands
- 28 parcels / 313.37 acres have been approved as Excess Lands
- 13 parcels / 273.73 acres are moving through the Policy
- 15 parcels / 39.64 acres have been sold or pending closing
- For Minnesota properties, vacate dates for owners of occupied structures
- Deadline in Clay County = April 1st, 2025
- Deadline in Wilkin County = June 1st, 2025

**10. FINANCE UPDATE**

**Finance Report**

Mayor Dardis reported that the Resolution for the P3 Improvement Warrant, the Clara Cemetery agreement along with the Cass Rural Water Users District pipeline task order were all approved. Bills payable through August 15, 2024, totaled \$4,472,881, the net position is \$262,806,544, and the year-to-date revenues received are \$96,959,000.

**11. OTHER BUSINESS**

**a. Co-Executive Director’s Interim Compensation**

Mr. Peterson and Mr. Grindberg addressed the workload that Mr. Wilson and Mr. Redlinger have taken on with the departure of the executive director and recommend additional compensation. Mr. Peterson and Mr. Grindberg proposed to compensate the co-executive directors a flat rate based on the average of their respective hourly rates, assuming that the additional workload is consuming 20% of their time, monthly, retroactive to June 1, 2024, until the position is filled.

**MOTION PASSED**

**Mr. Grindberg moved to approve the proposed co-executive director’s interim compensation and Mrs. Scherling seconded the motion. On a roll call vote, the motion carried.**

**b. P3 Monthly Update**

Mr. Nicholson and Mr. Shockley presented a “draft” document that would provide a monthly summary of the P3 happenings, issues and ongoing construction. The document is not in its final format and input is welcomed. Please provide any suggestions to Mr. Nicholson by September 5.

**c. Minnesota Funding Update**

Mayor Carlson provided an update on the funding that the State of Minnesota and City of Moorhead have contributed to the Project. To date, Minnesota has contributed \$124,000,000. Mayor Carlson also indicated that per the JPA it states that the Minnesota partners are not to exceed \$100,000,000, in funding (2015 dollars), which equates to \$133,000,000, in 2024 dollars.

**12. CLOSED EXECUTIVE SESSION**

Closed executive session pursuant to N.D.C.C. § 44-04-19.1 (2) and (9) for Attorney Consultation and direction for negotiations regarding the dispute relating to Epoxy Coated Rebar and for a potential amendment to the Project Agreement for the Storm Water Diversion Channel and Associated Infrastructure.

**MOTION PASSED**

**Mayor Dardis moved to go into closed executive session to address the above-referenced item and Mrs. Scherling seconded the motion. On a voice vote, the motion carried.**

**13. CLOSED EXECUTIVE SESSION**

Closed executive session pursuant to N.D.C.C. § 40-04-19.1, subdivisions 5 and 9, to receive general counsel and external counsel's advice regarding the employment claims of Paulsen v. the Metro Flood Diversion Authority and to provide the negotiating directions to the Chair and counsel regarding the matter.

**MOTION PASSED**

**Mr. Ebinger moved to go into closed executive session to address the above-referenced item and Mr. Grindberg seconded the motion. On a voice vote, the motion carried.**

Members retreated to the Red River Room at 4:22 PM. A quorum returned to the Chambers at 5:20 PM and the following business was conducted:

Closed executive session pursuant to N.D.C.C. § 44-04-19.1 (2) and (9) for Attorney Consultation and direction for negotiations regarding the dispute relating to Epoxy Coated Rebar and for a potential amendment to the Project Agreement for the Storm Water Diversion Channel and Associated Infrastructure.

**MOTION PASSED**

**Mr. Peterson moved to approve the infrastructure agreement with RRVA and Mr. Grindberg seconded the motion. On a roll call vote, the motion carried.**

Closed executive session pursuant to N.D.C.C. § 40-04-19.1, subdivisions 5 and 9, to receive general counsel and external counsel's advice regarding the employment claims of Paulsen v. the Metro Flood Diversion Authority and to provide the negotiating directions to the Chair and counsel regarding the matter.

**MOTION PASSED**

**Mayor Mahoney moved to approve the separation agreement with Mr. Paulsen and Mr. Grindberg seconded the motion. On a roll call vote, the motion carried.**

**14. NEXT MEETING**

The next meeting will be September 26, 2024.

**15. ADJOURNMENT**

Mr. Peterson moved to adjourn, and Mrs. Scherling seconded the motion. The meeting adjourned at 5:25 PM.