

Metro Flood Diversion Authority Board of Authority Meeting Minutes

3:30 PM – September 26, 2024
City of Fargo Commission Chambers

A regular meeting of the Metro Flood Diversion Authority Board of Authority was held on September 26, 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; Rick Steen, Cass County Joint Water Resource District; Dave Piepkorn, Fargo City Commissioner and Denise Kolpack, Fargo City Commissioner.

Member(s) absent: no members were absent.

1. CALL TO ORDER

Mayor Carlson called the meeting to order at 3:31 PM. Roll call was taken, and a quorum was present.

2. APPROVE MINUTES FROM THE AUGUST 22, 2024, MEETING

MOTION PASSED

Mrs. Scherling moved to approve the minutes from the August 22, 2024, meeting and Ms. Kolpack seconded the motion. On a voice vote, the motion carried.

3. APPROVE ORDER OF THE AGENDA

MOTION PASSED

Mr. Grindberg moved to approve the order of the agenda, amending it to remove item 4.c.i., from the Consent Agenda and placing it under item 10., finance update. Mayor Mahoney seconded the motion and on a voice vote, the motion carried.

4. APPROVE THE CONSENT AGENDA

MOTION PASSED

Mayor Mahoney moved to approve the Consent Agenda as amended and Ms. Kolpack seconded the motion. On a roll call vote, the motion carried.

5. CO-EXECUTIVE DIRECTOR'S UPDATE

a. MFDA Executive Director Search Update

Mr. Wilson reported that six candidates will be interviewed for the executive director position, virtually, on October 4, in an executive session of the Planning Committee. Upon conclusion of the interviews, the Planning Committee will return to an open public meeting to identify three finalists.

The three finalists will be interviewed in person by the full Board on October 18, with the finalist being appointed at the October 24 Board meeting.

b. MFDA Governance Policies

Mr. Redlinger provided an update on the changes to the Governance Policies as a result of the July 19 Board of Authority workshop. The proposed changes were approved by the Planning Committee and upon approval by the Board, the updated document will be distributed.

MOTION PASSED

Mr. Steen moved to approve the Governance Policies as updated, and Mr. Peterson seconded the motion. On a roll call vote, the motion carried.

6. General Counsel Update

a. Cass County HR MOU Amendment 1

Mr. Shockley provided a summary of the above-referenced MOU.

When this item was discussed by the Planning Committee, there was also a discussion of options for determining a yearly Cost of Living Allowance (COLA) for Diversion Authority employees. As currently drafted, COLA determinations for Diversion Authority employees would be the same as COLA determinations for Cass County employees. If the Board of Authority would like to adopt a different formula, the MOU can be amended to reflect that direction.

MOTION PASSED

Mr. Steen moved to approve the MOU as written and revisit it for a potential amendment upon completion of the salary survey, steps, etc. Mayor Mahoney seconded the motion and on a roll call vote, the motion carried.

b. Resolution Requesting that Clay County Acquired Road Right of Way for SE-4

Mr. Shockley provided an overview and summary of the above-referenced resolution and the need for its implementation.

MOTION PASSED

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

c. Resolution Requesting that Cass County Acquire Road Rights of Way for SE-2B and SE-3

Mr. Shockley provided an overview and summary of the above-referenced resolution and the need for its implementation.

MOTION PASSED

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

d. Resolution Amending the Appointment of Members to the MFDA Committees and Board

Mr. Shockley provided an overview and summary of the above-referenced resolution and the need for its implementation.

MOTION PASSED

Mr. Grindberg moved to approve the resolution as presented and Mr. Steen seconded the motion. On a roll call vote, the motion carried.

e. Novel Energy Solutions General Release Letter Amendment

Mr. Shockley provided an overview and summary of the above-referenced general release letter amendment. There were no modifications to the amendment but rather updating the document to reflect a current date.

MOTION PASSED

Mayor Dardis moved to approve the general release letter amendment as presented and Mr. Ebinger seconded the motion. On a roll call vote, the motion carried.

f. Release and Liability Waiver for Volunteer Services Related to the Project

Mr. Shockley provided an overview and summary of the above-referenced release and liability waiver and the need for its implementation.

MOTION PASSED

Ms. Kolpack to approve the liability waiver as presented and Mrs. Scherling seconded the motion. On a roll call vote, the motion carried.

7. CONSTRUCTION PROJECT UPDATES

a. USACE Project Update

After a brief message from Colonel Swenson, 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 held 29 August. 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 63% complete. Construction completion date is 19 March 2026. 400,000 cy of embankment material continues to be hauled across the Red River for use in east embankment. Tainter gate #2 is being assembled on site.

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 and road repairs being made due to flooding. Dedication ceremony 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 11% complete. Inspection trench, earthwork and storm sewer activities ongoing. Contract completion date is 31 August 2025.

Reach SE-1B: Awarded 27 February and is 23% complete. Stripping, hauling, road subgrade and box culvert work ongoing. Contract completion date is 13 March 2026.

Reach SE-2B: Awarded 11 March and is 7% complete. Stripping, inspection trench, embankment placement ongoing. Contract completion date is 30 October 2025.

Forest Mitigation: 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:

New Features Under Construction

- Channel Reach 11
- Channel Reach 12

30 to 60-Day Outlook

- Drain 21C Inlet
- Drain 50 Inlet
- SE-4

Miscellaneous Highlights

- Channel Excavation
- Channel Reaches 1, 2, & 3
- I-29/BNSF Hillsboro/CR-81
- I-94

c. Project Safety Update

Mr. Bakkegard provided the safety update for the period August 1, 2024, to August 31, 2024, and reported that there was one recordable event where the individual went to the emergency room for treatment and observation; a CT scan was conducted, and the individual was released back to work.

d. Drone Footage Video

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

8. COMMUNICATIONS UPDATE

Ms. Willson provided the following Communications update:

Event Facilitation:

- FM Realtors Group presentation
- Red River Basin Commission meeting
- Water Topics Overview Committee tour

Outreach Products

Faces of the Diversion: Jon Norstog and Cole Peterson, P3 lands

Media Relations:

- August Construction Update release
- Q&A: Hunting and Recreation Opportunities on FM Area Diversion Land

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
- 53.6% completion in the UMA Footprint
- 91.1% of the parcels in the Southern Embankment have been acquired
- 53.6% 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 on 5 parcels / 5 owners
- Continuing the process of disposing of Excess Lands
 - 28 parcels / 313.37 acres have been approved as Excess Lands
 - 10 parcels / 188.66 acres are moving through the Policy
 - 18 parcels / 124.71 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 bills payable through September 18, 2024, totaled \$8,860,276, and the grand total net position is \$285,046,327. All the contracting actions that were presented were approved.

Mayor Dardis also reported that the preliminary “draft” 2025 cash budget was presented, reflecting a significant increase from 2024 due to the anticipated milestone payments in 2025. Updates will be presented in coming months for final approval in December. Mayor Dardis also noted that the net cash position of \$285,046,327 is not included in the funding sources and needs to be addressed as to how these dollars are applied in relation to the 2025 cash budget.

Clay County 37-Foot MOU

Mr. Grindberg addressed the efforts in obtaining funding from our Minnesota constituents. Mr. Campbell stated that per the JPA, any Minnesota-related projects require funding from the State of Minnesota. The JPA also states that the City of Moorhead and Clay County will actively pursue funding from the State of Minnesota. The 37-foot work can be delayed for now to allow the City of Moorhead and Clay County more time to address the funding needs with St. Paul.

MOTION PASSED

Mr. Grindberg moved to approve the MOU and delay the Clay County 37-foot work and revisit it after an update from the Minnesota legislative session in July 2025. Mr. Campbell seconded the motion and on a roll call vote, the motion carried.

11. OTHER BUSINESS

a. P3 Monthly Update

Mr. Barthel presented the monthly P3 update. The intent of update is to provide a progress report on the overall project status. Please provide any input or additional areas to be addressed to Mr. Barthel.

b. Requests made by Mr. Grindberg

Mr. Grindberg requested the following items to be discussed at the October meeting:

- 1) A list of all active contracts by contractor and scope, and the amount being paid. Further discussion will be held in November, addressing the needs in 2025 with the project being 50% complete.
- 2) A refresher update on the ND sales taxes and the tax being used for the project. Mayor Dardis has volunteered to facilitate the discussion.

12. NEXT MEETING

The next meeting will be October 24, 2024.

13. ADJOURNMENT

Mr. Peterson moved to adjourn, and Mr. Ebinger seconded the motion. The meeting adjourned at 4:47 PM.