

Metro Flood Diversion Authority Board of Authority Meeting Minutes

3:30 PM – February 27, 2025
City of Fargo Commission Chambers

A regular meeting of the Metro Flood Diversion Authority Board of Authority was held on February 27, 2025. The following members were present: Bernie Dardis, Mayor, City of West Fargo; Dr. Tim Mahoney, Mayor, City of Fargo; Chuck Hendrickson, Moorhead City Council; David Ebinger, Clay County Commissioner; Jim Kapitan, Cass County Commissioner; Duane Breitling, Cass County Commissioner; Tony Grindberg, Cass County Commissioner; Lisa Borgen, Moorhead City Council; Rick Steen, Cass County Joint Water Resource District; Dave Piepkorn, Fargo City Commissioner; Shelly Carlson, Mayor, City of Moorhead; Kevin Campbell, Clay County Commissioner and Denise Kolpack, Fargo City Commissioner.

Member(s) absent: no members were absent.

1. CALL TO ORDER

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

2. APPROVE THE MINUTES FROM THE JANUARY 23, 2025, MEETING

MOTION PASSED

Mr. Hendrickson moved to approve the minutes from the January 23, 2025, meeting and Mayor Dardis seconded the motion. On a voice vote, the motion carried.

3. APPROVE THE ORDER OF THE AGENDA

MOTION PASSED

Ms. Kolpack moved to approve the order of the agenda, amending it to remove item 9. b., and Mr. Breitling seconded the motion. On a voice vote, the motion carried.

4. APPROVE THE CONSENT AGENDA

MOTION PASSED

Mayor Carlson moved to approve the consent agenda and Mr. Breitling seconded the motion. On a roll call vote, the motion carried

5. EXECUTIVE DIRECTOR UPDATE

Mr. Benson reported that Mr. Grindberg, Mayor Carlson, Mr. Ebinger, Ms. Mongeau and himself attended the St. Paul legislative visits and meetings with the legislators were well received; Mr. Grindberg and Mr. Benson also attended the Local Government Day at the North Dakota Legislature in Bismarck.

6. GENERAL COUNSEL UPDATE

a. Resolution to Repeal the Fargo-Moorhead Diversion Authority Detention Funding Policy

Mr. Shockley provided an overview of the detention funding policy that was developed in 2015. Mr. Shockley asked for a motion to repeal the current policy and adopt a new policy that is consistent with the upstream coalition settlement agreement.

MOTION PASSED

Mr. Campbell moved to repeal the current policy and adopt a new policy that is consistent with the upstream coalition settlement agreement and Mr. Breitling seconded the motion. On a roll call vote, the motion carried.

b. Technical Dispute Resolution Board Update

Mr. Shockley reported that the TDRB board members have resigned, citing they do not feel they can function as a board based on the North Dakota Attorney General's opinion dated January 10, 2025. The MFDA is seeking potential new members.

7. 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 100% complete. Partial turnover to MFDA occurred on 20 December and preparation of O&M documents is ongoing.

4 Red River Structure (RRS) - Construction

Structure includes 3-50 ft. wide Tainter gates. Construction is 73% complete. Construction completion date is 29 April 2026. Tainter gate #3 delivery and bay 3 winter enclosure construction ongoing. Concrete placements in January for approach apron and dam walls.

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. OMRRR manual will be finalized once MFDA provides comments.

7 Southern Embankment – Reach SE-2A - Construction

Construction is 76% complete but continues to be behind schedule. Scheduled completion date of 13 October 2024 was not met. Revised schedule and completion date pending.

8 FY2024 Contract Awards:

OHB Ring Levee: Awarded 22 February and is 12% complete. Contract completion date is 24 September 2025.

Reach SE-1B: Awarded 27 February and is 29% complete. Contract completion date is 13 March 2026.

Reach SE-2B: Awarded 11 March and is 37% complete. CR 16 is open for winter. Contract completion date is 23 August 2026.

Forest Mitigation #1: Contractor is preparing lands for additional planting next season.

Reach SE-4: Awarded 28 May and is 5% complete. Contract completion date is 3 June 2026.

9 FY25 Contract Awards:

SE-3: Awarded 2 January 2025. Contract completion date is 11 September 2026.

SE-5: Contract was awarded on 30 January 2025 to BCSS, LLC of Tempe, AZ for \$10,097,097.

Forest Mitigation #2: Bids were received 6 February - award pending.

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:

Misc. Highlights

- Channel Excavation
- Red River Structure
- SWDCAI Crossings/Structures

30 to 60-Day Outlook

- Channel Reach 14
- Southern Embankment Projects

c. Project Safety Update

Mr. Bakkegard provided the safety update for the period January 1, 2025, to January 31, 2025. He reported that there was one recordable incident as a result of a slip/fall that required minor treatment. There were no other incidents to report.

d. P3 Monthly Update

Mr. Barthel provided an update in the P3 commercial area:

Compensation and Relief Events

By the end of January 2025, RRVA had submitted notices of 32 (thirty-two) Compensation Events and 2 (two) Relief Events.

Change Requests

A change request (CR) can be initiated by the Authority or RRVA, and it is the mechanism set out in the Project Agreement to modify the Technical Requirements to resolve issues, clarify requirements, or modify the scope of RRVA's work.

There have been 23 (twenty-three) Authority-initiated change requests (ACRs) through the end of the reporting period with 2 (two) pending issue by the Authority. 12 (twelve) have been agreed to and progressed to agree upon change orders, totaling a cost to the Authority of \$8,355,700.38 and a credit to the Authority of \$950,000. 3 (three) ACRs were withdrawn, and 6 (six) are pending negotiation with RRVA.

There have been 55 (fifty-five) developer-initiated change requests (DCRs) through the end of the reporting period. 34 (thirty-four) have been agreed to and progressed to agreed-upon change orders, totaling \$3,712,553.63 cost to the Authority. 1 (one) is pending negotiation with RRVA.

Please reach out to Mr. Barthel if you have any questions regarding the report.

e. February 2025 Drone Video

A video highlighting the progress that has been achieved since January 2025 was viewed.

8. COMMUNICATIONS TEAM UPDATE

Ms. Willson provided the following communications update:

Media Relations:

- January construction update
- Welcoming Jason Benson as ED
- Media availability
- Federal funding freeze
- Tariffs impact
- TDRB resignations
- Jodi's contract

Events:

- North Dakota Association of County Engineers Conference

Materials:

- Faces of the Diversion: John Schmidt
- The Diversion Current: Structure moving

9. LAND MANAGEMENT UPDATE

a. Property Acquisition Status Report

Ms. Smith provided the following property acquisition status report:

- 98.4% completion in the Construction Footprint
- 58.1% completion in the UMA Footprint
- 95.3% of the parcels in the Southern Embankment have been acquired
- 58.1% of the parcels in the Upstream Mitigation Area have been acquired
- 77.6% 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:

- Continued negotiating settlement agreements for existing eminent domain actions
- In the last month, successfully closed on 2 parcels / 2 owners in the UMA
- Completing appraisal reports for Christine area flowage easements and Horace Mobility Improvements
- Continuing the process of disposing of Excess Lands
 - 39 parcels / 684.22 acres have been approved as Excess Lands
 - 16 parcels / 544.93 acres are moving through the Policy
 - 23 parcels / 139.29 acres have been sold or pending closing
- Finalizing farmland leases for 2025
- Vacate dates for occupied Minnesota properties (unless otherwise negotiated)
 - Deadline in Clay County = April 1st, 2025
 - Deadline in Wilkin County = June 1st, 2025

10. FINANCE UPDATE

a. Sales Tax Update 2024 Collections

Mayor Dardis reported that the February bills payable totaled \$2,809,184, and the current grand total net position is \$321,945,635. Mayor Dardis also reported that all the contracting actions presented were approved.

Mayor Dardis reported it is anticipated that \$66,000,000, will be received from sales tax revenues in 2025 based on a 2% growth projection. It is also anticipated that \$234,000,000, in milestone payments will be due to the developer in 2025 and advised that spending should be closely monitored.

11. OTHER BUSINESS

John Shockley's birthday is February 28.

12. CLOSED EXECUTIVE SESSION

Closed Executive Session pursuant to N.D.C.C. § 44-04-19.2 and N.D.C.C. § 44-04-19.1 (2) and (9) for attorney consultation and direction to General Counsel and the Executive Director regarding mediation and if mediation is not successful, commencing litigation to enforce the terms and conditions of the Separation and Release Agreement between Joel Paulsen and the Metro Flood Diversion Authority dated August 21, 2024.

MOTION PASSED

Mayor Mahoney moved to go into executive session and Mr. Steen seconded the motion. On a roll call vote, the motion carried.

The board retreated to the Red River Room at 4:02 PM.

A quorum of the board returned to the City Commission Chambers at 4:57 PM.

13. NEXT MEETING

The next meeting will be on March 27, 2025.

14. ADJOURNMENT

Mr. Campbell moved to adjourn, and Mr. Steen seconded the motion. The meeting adjourned at 4:58 PM.