

CLAY COUNTY BOARD OF COMMISSIONERS

Tuesday, May 17, 2016

8:30 a.m.

County Board Room – 3rd Floor – Courthouse

MINUTES

The Clay County Board of Commissioners met in regular session with all Commissioners present: Campbell, Gross, Ingersoll, Mongeau, and Weyland. County Administrator Brian C. Berg, Chief Assistant County Attorney Jenny Samarzja, and Senior Administrative Assistant Vicki Reek were also present.

APPROVAL OF AGENDA

On motion by Weyland, seconded by Mongeau, and unanimously carried, the agenda was approved as presented.

APPROVAL OF FUNDING THROUGH SHIP, UCARE COMMUNITY GRANT, AND
COMMUNITY WELLNESS GRANT

By consent agenda, the Board approved agreements for pre-approved strategy funding as follows:

- Perham Community Food Shelf – purchase of a cooler to promote healthy eating – Statewide Health Improvement Project (SHIP) and UCare Community Grant.
- Concordia College – purchase of physical activity equipment for worksite wellness – Community Wellness Grant

APPROVAL OF STATE OF MN COMMUNICATIONS FACILITY USE AGREEMENT

By consent agenda, the Board approved the State of Minnesota Communications Facility agreement (#1003268) to add an antenna to the MN DOT Tower (Moorhead Tower) in preparation for the ARMER system, for a fee of \$400 per year.

APPROVAL OF LIQUOR LICENSE RENEWAL FOR GALAXIE LIQUORS

By consent agenda, the Board approved renewal of the liquor license for Galaxie Liquors, Barnesville, MN.

APPROVAL OF LIQUOR LICENSE RENEWAL FOR CITY OF BARNESVILLE D/B/A WILLOW
CREEK GOLF COURSE

By consent agenda, the Board approved renewal of the liquor license for the City of Barnesville, d/b/a Willow Creek Municipal golf course.

APPROVAL OF CITY OF MOORHEAD ABATEMENT REQUEST (LINSALATA)

By consent agenda, the Board approved an abatement request for Marilyn Linsalata, c/o Alexander Linsalata, parcel #58.459.0330, for a reduction of tax of \$282 (incorrect taxable market value due to clerical error).

CITIZENS TO BE HEARD

There were no citizens present who wished to address the Board.

APPROVE PAYMENT OF BILLS AND VOUCHERS

On motion by Campbell, seconded by Ingersoll, and unanimously carried, the bills and vouchers were approved for payment.

APPROVE MINUTES OF MAY 3 & 10, 2016

On motion by Weyland, seconded by Campbell, and unanimously carried, the minutes of the May 3 & 10, 2016 meeting were approved as printed.

PRESENTATION RE: CORRECTIONAL FACILITIES PROJECT

Commissioner Gross expressed his appreciation to Commissioner Campbell, Commissioner Weyland, County Administrator Brian Berg, and Klein McCarthy Architects for their presentation to the Moorhead City Council Committee of the Whole regarding the Correctional Facility/Law Enforcement Center project.

Matthew Keenan, Klein McCarthy Architects, presented an updated floorplan of the Correctional Facility, described the various department locations, and informed the Board of the cost saving measures which have been implemented, reducing the project by \$1.6M, to \$29.4M. Additionally, there will be soft costs to include design fees, soil borings, furnishings, etc. Land acquisition costs are not included.

County Administrator Brian C. Berg reminded the Board that initially a 188 bed Correctional Facility had been planned for and has now increased to 208, roughly a \$2 million increase in cost for beds.

Meetings have taken place with the City of Moorhead Engineering department regarding the master plan of the County Campus, street vacations and road closures to increase parking availability, infrastructure, rezoning areas to institutional, etc.

The Law Enforcement Center design is moving forward, with plans for a two-story building facing the east. The garage area will be designed for a second story for future expansion.

Commissioner Mongeau felt it is not necessary to put staff workout areas in both the LEC and the Correctional Facility. Commissioner Campbell indicated that this issue had been discussed at the Correctional Facility Design, Construction and Operations Committee meeting, and some adjustment will be made to these spaces, as well as to the Training Room size.

BID OPENING FOR CR 95 GRADING PROJECT CP 14-095-004

Due to technical difficulties, opening of the CR95 grading project bids was delayed to 10:00 a.m. County Engineer David Overbo informed the Board that the Engineer's estimate for the project is \$1,780,787.25. Bids were opened as follows:

Dennis Drewes Inc.	\$1,037,947.70
H & S Contracting Inc.	\$1,140,716.62
R.J. Zavoral & Sons Inc.	\$1,295,758.25
Gladden Construction Inc.	\$1,381,381.32 (on line)
Sellin Brothers Inc.	\$1,408,939.30
Midwest Contracting LLC	\$1,468,589.35 (on line)

Knife River Materials	\$1,475,690.40
Central Specialties	\$1,635,615.67
Hough, Inc.	\$1,945,950.90

On motion by Mongeau, seconded by Campbell, and unanimously carried, the Board awarded the bid to Dennis Drewes Inc. for the apparent low bid of \$1,037,947.70, contingent upon there being no errors in the bid.

BID OPENING FOR JOINT HIGHWAY/LANDFILL SHOP CONSTRUCTION

County Engineer David Overbo opened sealed bids for the Joint Highway/Landfill shop construction and noted that the estimate for the project is \$1.4 million:

Gast Construction	\$1,307,500
Foltz Buildings	\$1,179.878
Spring Prairie Precast (General only)	\$ 782,620

The bids will be reviewed and a recommendation for award made at the May 24, 2016 meeting.

APPROVAL TO ADVERTISE FOR CSAH 6 GRADING PROJECT SAP 14-606-007

On motion by Campbell, seconded by Ingersoll, and unanimously carried, the Board authorized advertisement for the CSAH 6 Grading project to be opened June 21, 2016, at 9:00 a.m.

APPROVAL TO ADVERTISE FOR FOUR CONCRETE BOX CULVERT PROJECTS

On motion by Mongeau, seconded by Weyland, and unanimously carried, the Board authorized advertisement for four concrete box culvert projects to be opened June 21, 2016 at 9:00 a.m.

APPROVAL OF RIGHT OF WAY EASEMENT TO WILD RICE ELECTRIC COOPERATIVE

County Engineer David Overbo requested execution of a Right of Way Easement to allow Wild Rice Electric Cooperative access for the installation of power to the new Landfill/Highway building (S 500' of the E 500' of the NE 1/4 of Section 19, Township 139, Range 45).

On motion by Weyland, seconded by Mongeau, and unanimously carried, the Board approved execution of the above mentioned Right of Way Easement contingent upon review by the County Attorney's office.

APPROVAL OF QUOTE FOR ASBESTOS ABATEMENT FOR BUYOUT PROPERTIES

Maintenance Supervisor Joe Olson informed the Board that two quotes were received for asbestos abatement for eight of the buyout properties: Horsley Specialties, \$25,455; Mavo Systems, \$15,945. Four of the remaining properties do not contain asbestos, and test results have not come in yet for the other four.

On motion by Campbell, seconded by Ingersoll, and unanimously carried, the Board accepted the quote of Mavo Systems, \$15,945, for asbestos removal and agreed to conduct the remaining abatement on a Professional Services basis.

CONSIDERATION OF MOU WITH WILKIN COUNTY FOR LICENSING ACTIVITIES
THROUGH SOCIAL SERVICES

Social Services Director Rhonda Porter informed the Board that Wilkin County is seeking Clay County's consideration to enter into a Memorandum of Understanding to assist them with licensing activities for foster care homes, day cares, and adult foster care sites. She would recommend the MOU be for a six month time frame, at a \$93/hour rate (revenue would offset costs), with further evaluation.

Discussion took place regarding Social Services' staffing challenges, the hesitancy of the County's licensors to handle this additional work, and whether or not it is wise to take on issues for another county.

Commissioner Ingersoll moved to enter into an MOU with Wilkin County as described above. Commissioner Mongeau seconded the motion for discussion and subsequently withdrew it. The motion failed for lack of second.

Ms. Porter felt she would like to assist Wilkin County in some manner if possible. Assistant County Attorney Jenny Samarzja suggested that if Ms. Porter is contemplating a short term, temporary arrangement (i.e., two months or less), an agreement should be developed. This request will be addressed at a future meeting.

RESOLUTION FOR FLOOD DAMAGE REDUCTION FUNDING THRU MN DNR

Planning Director Tim Magnusson presented a resolution for the Board's consideration to be eligible to apply for Flood Damage Reduction Grant assistance from the MN DNR. This funding could assist in mitigating floodplain issues in Spring Prairie Township discussed earlier this month. The adoption of the resolution does not financially obligate the County but informs the DNR that the County may be applying for grant funds. A match would be required for a grant, likely from Clay County and the Buffalo-Red River Watershed District. Other possible grant programs are being explored.

On motion by Mongeau, seconded by Weyland, and unanimously carried, the following resolution was adopted:

RESOLUTION 2016-20
Resolution for FDR Grant Assistance

BE IT RESOLVED, that the County of Clay, hereinafter referred to as the "Applicant" act as legal sponsor for the project contained in the Flood Damage Reduction Grant Assistance Program Application to be submitted on or about June 1, 2016 and that Brian C. Berg, County Administrator, is hereby authorized to apply to the Department of Natural Resources for funding of this project on behalf of the Applicant.

BE IT FURTHER RESOLVED, that the Applicant has the legal authority to apply for financial assistance, and the institutional, administrative, and managerial capability to ensure adequate acquisition, maintenance and protection of the proposed project.

BE IT FURTHER RESOLVED that the Applicant has the financial capability to provide any required matching funds.

BE IT FURTHER RESOLVED that the Applicant has not incurred any costs, and has not entered into any written agreements to purchase property proposed by this project.

BE IT FURTHER RESOLVED that the source of Applicant's matching funds shall not include other State funds.

BE IT FURTHER RESOLVED that the source of Applicant's matching funds shall be from Clay County and the Buffalo Red River Watershed District.

BE IT FURTHER RESOLVED that the Applicant hereby pledges to complete the project or phase it if it exceeds the total funding provided by the Department of Natural Resources and any required local match.

BE IT FURTHER RESOLVED that the Applicant has not violated any Federal, State, or local laws pertaining to fraud, bribery, graft, kickbacks, collusion, conflict of interest or other unlawful or corrupt practice.

BE IT FURTHER RESOLVED that upon approval of its application by the State, the Applicant may enter into an agreement with the State of Minnesota for the above-referenced project, and that the Applicant certifies that it will comply with all applicable laws and regulations as stated in the contract agreement.

NOW, THEREFORE BE IT RESOLVED that Brian C. Berg, County Administrator, is hereby authorized to execute such agreements as are necessary to implement the project on behalf of the Applicant.

UPDATE OF COUNTY ABATEMENT POLICY

County Assessor Nancy Gunderson presented a draft of an amended County Abatement Policy, which is consistent with Minnesota Statutes, in that only abatements for correction of clerical errors in valuation and classification are considered and may be granted as they relate to taxes payable in the current year and two prior years. The Department of Revenue has also requested that counties have a section on Hardship to deal with those occurrences as well.

On motion by Ingersoll, seconded by Mongeau, and unanimously carried, the Board approved the amended Abatement Policy as included in Attachment "A".

ACCEPT \$600,000 CAPITAL ASSISTANCE GRANT FROM MPCA FOR DESIGN/ENGINEERING OF NEW TRANSFER STATION AND COLLOCATING ELECTRONICS RECYCLING AND HHW FACILITIES

On motion by Campbell, seconded by Weyland, and unanimously carried, the Board accepted a \$600,000 Capital Assistance Grant from MPCA for design and engineering of a new transfer station, and collocating electronics recycling and HHW facilities. The required match will come from Solid Waste Management budget reserves.

2016 REVENUE/EXPENSE UPDATE

County Administrator Brian C. Berg presented an update of the 2016 Revenue and Expenses, noting that for the first four months, most expenses are on track at 33%. Court Administration is showing 73% expenditures due to the number of evaluations conducted.

COMMITTEE REPORTS/COUNTY ADMINISTRATOR UPDATE/DISCUSSION

Commissioner Mongeau attended meetings of Cass Clay Food Systems, FM Diversion Land Management, FM Diversion Cemetery Mitigation, Soil & Water Conservation District. The EMS/Fire personnel recognition takes place May 16-20.

Commissioner Weyland attended meetings of Beyond the Yellow Ribbon, FM Economic Development Corporation, Radio Board, Correctional Facility Construction Committee, and Moorhead City Council Committee of the Whole to present information regarding the Correctional Facility/LEC project.

Commissioner Ingersoll attended meetings of the Campus Improvement Committee and Lake Agassiz Regional Library.

Commissioner Campbell attended meetings regarding FM Diversion, Solid Waste, Prairie Lakes, Correctional Facility Construction Committee, and Moorhead City Council Committee of the Whole to present information regarding the Correctional Facility/LEC project.

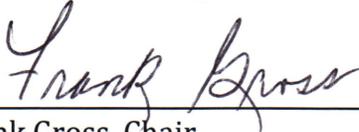
Commissioner Gross attended meetings of the Campus Improvement Committee, Wild Rice Watershed, EMS presentation, Ulen City Council, and Moorhead City Council.

County Administrator Brian C. Berg attended many of the meetings mentioned above, as well as a meeting concerning the use of the buyout properties for fire training, FM Diversion meetings, Chamber of Commerce Public Affairs, Law Enforcement Memorial event, and Correctional Facility/LEC meetings.

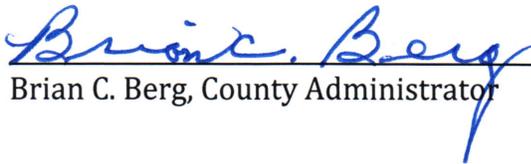
Discussion took place regarding the possibility of meeting with the elected officials in the County communities to hear about activities in their respective areas and provide information regarding County projects and events.

ADJOURN

The meeting adjourned at 10:45 a.m.



Frank Gross, Chair
Clay County Board of Commissioners



Brian C. Berg, County Administrator

ABATEMENT POLICY
Clay County Board of Commissioners
Abatement of Ad Valorem Taxes

Adopted 7/3/90

Amended 4/11/93, 9/7/93, 12/30/97, 02/04/2014

Amended 5/2016

The intent of this policy is to provide equitable treatment of taxpayers' abatements while exercising prudence with the levy dollars of the County, Cities, Townships and School District. The Clay County Board of Commissioners will consider and grant abatement of property classification, value, taxes, penalty, interest and costs consistent with Minnesota Statutes. Abatements are for correction of **clerical errors in valuation and classification**. Abatements are only considered and may be granted as they relate to taxes payable in the current year, and the two prior years for documented cases of clerical errors or hardship. Abatement criteria defined in this policy will be consistently practiced to ensure all taxpayers are treated equitably.

General

Minnesota Statute 375.192 Reductions or Abatements of Valuation or Taxes

- Upon written application by the owner of any property, the County Board of Commissioners may grant a reduction or abatement of estimated market valuation or taxes, and penalties, interest or costs on them as the board deems just and equitable.
- All applications must be approved by the County Assessor/Moorhead City Assessor and by the County Auditor before consideration by the County Board, except that part of the application which is for the abatement of penalty or interest must be approved by the County Board.
- On any reduction or abatement when the reduction of taxes, costs, penalties and interest exceed \$10,000 the County Board shall give notice within twenty (20) days to the school board and the municipality in which the property is located. The notice must describe the property involved, the actual amount of the reduction being sought and the reason for the reduction.

The definitions of hardship and clerical error as detailed in this policy are applied by the County Assessor and County Auditor in considering whether abatements are approved.

Details

Application for Abatement: Applicants for abatements are encouraged to pay the full payment of the tax, and any penalty, interest or cost while the abatement application is pending. If the abatement is denied the applicant will be responsible for any unpaid tax along with any penalty, interest or cost that has accrued. Abatements will not be considered if social security number(s) of the applicant(s) is not provided.

Application for Homestead or Exemption: Failure to submit the necessary application on a timely basis to the County Assessor's/Moorhead City Assessor's Office does not constitute a basis for abatement. Homestead or Exemption abatements are based upon ownership, qualifying use and occupancy within statute-specific dates. Notices are published regarding applying for homestead classification. Banks, Realtors, Closing Agencies and Attorneys are or should be aware of the need to apply and should remind new property owners of the application requirements. When property transfers, the new owner must apply for homestead since homestead applications are no longer sent to each homestead each year. The occupancy deadline is December 1 of the assessment year and the taxpayer must submit an application to the appropriate Assessor's Office by December 15 of the assessment year. Staff will continue to do the original first mailing and a second homestead application if needed. No certified mail will be sent. Failure to respond with a homestead application will not qualify the property for an abatement. Changes implemented for Payable 2014 and forward.

Changes of occupancy by the owner of non-homestead classified property (including existing property, new construction and mobile homes) to a homestead classified property shall require the timely filing of the a homestead application. The property owner must contact the Clay County Assessor's Office or Moorhead City Assessor's Office and make application to receive homestead on or before December 15 of the current assessment year. Failure of owner to notify and file a homestead application with the Assessor's Office will not qualify the property for an abatement.

Clerical Error: The determination of whether a clerical error exists is to be made by the County Assessor or Moorhead City Assessor on a case-by-case basis. A clerical error does not involve judgment or conclusions made by staff as it relates to the assessment of the property. Examples of clerical errors include, but are not limited to, data entry errors, transcription errors, computer system errors by the county/city or by county/city business partners, and significant arithmetic errors. The following are not considered clerical errors – grading, condition, arrived at estimated market value and/or modifications to land and/or building sizes.

Conflict of Interest: Members of the County Board shall disclose any financial interest in abatement or any family relationship with an abatement applicant, and shall abstain from voting on the application presented to the County Board for approval. This should be noted in the County Board minutes.

Current Tax Year: Year in which property taxes are considered payable.

Disaster Abatement: As referred to in section 273.1233, a reduction of taxes on property that has been accidentally or unintentionally damaged due to a disaster that renders property uninhabitable or unusable and the damage is at least fifty percent of the structure value and not be usable or occupied. The loss in valuation due to unintentional damage will be handled as a current assessment year valuation reduction through the Board of Equalization process or clerical change. The "reduction" will be available for all property classes.

A new damaged valuation will be calculated utilizing a weighted average of the number of months at the old undamaged value and the number of months at the post damage valuation. One (1) day of occupancy/use within a month is considered a full month.

If Clay County is declared a disaster area – other steps will be taken to deal with that event.

Hardship: Hardship, as referred to in section 375.192, is defined as any event or circumstance beyond the control of the applicant which precludes the applicant from filing for a reduction or an adjustment of the property taxes in a timely manner. Examples of hardship include, but are not limited to, a lengthy medical condition, mental incapacity, or the death of the property owner or member of the family, which prevents the property owner from filing a timely appeal of the value or classification of the property. This must be documented in some fashion. Items such as foreclosures, divorce actions or even a weather event do not qualify under the hardship test.

Hardship does not apply to business entities unless documentation is also presented that demonstrates that no other persons, such as associates, partners, consultants or accountants, other than the applicant are involved in or have responsibility for property tax matters. Financial hardship does not meet the statutory test. Claims of a lost check must be accompanied by a copy of a dated stop payment order filed with the claimant's bank.

Market Value: An abatement is not a method to appeal an estimated market value. The normal appeal process of the Local Board of Appeal & Equalization and the County Board of Appeal & Equalization must be used by the taxpayer for any issue other than clerical errors. These appeal meetings occur each and every spring and is the correct avenue for hearing property owners concerns/appeals.

Refund: Approved abatements are refunded to whoever paid the taxes.

Records: Since the Assessor, the Auditor and County Board will be in a position to reject abatements, a central filing system will be kept by the County/City Assessor's Office for rejected abatements. Copies of approved abatements will be kept on file in the County Auditor's Office.

Restrictions: No abatement will be considered if a petition has been filed with tax court and the outcome is still pending. No abatement will be considered if a confession of judgment for delinquent taxes has been signed by taxpayer/applicant.

Special Assessments: The County Board or the County Auditor do not reduce or refund any special assessment made or levied by any municipal for local improvements unless that municipality also approves such reduction, abatement or refund.

Tax Payment: Failure to receive a tax statement, inadvertently omit a parcel when making payment or forgetting to pay on time does not constitute a basis for abatement of penalty, interest or cost.

Approval Authority

County Board has final review of the abatement. If the County Board denies the abatement, it is rejected and there is no further means of appeal.

2015 Minnesota Statutes

Authenticate

375.192 REDUCTIONS OR ABATEMENTS OF VALUATION OR TAXES.

Subdivision 1. [Repealed, 1990 c 604 art 3 s 65]

Subd. 2. **Procedure, conditions.** Upon written application by the owner of any property, the county board may grant the reduction or abatement of estimated market valuation or taxes and of any costs, penalties, or interest on them as the board deems just and equitable and order the refund in whole or part of any taxes, costs, penalties, or interest which have been erroneously or unjustly paid. Except as provided in sections 469.1812 to 469.1815, no reduction or abatement may be granted on the basis of providing an incentive for economic development or redevelopment. Except as provided in section 375.194, the county board may consider and grant reductions or abatements on applications only as they relate to taxes payable in the current year and the two prior years; provided that reductions or abatements for the two prior years shall be considered or granted only for (i) clerical errors, or (ii) when the taxpayer fails to file for a reduction or an adjustment due to hardship, as determined by the county board. The application must include the Social Security number of the applicant. The Social Security number is private data on individuals as defined by section 13.02, subdivision 12. All applications must be approved by the county assessor, or, if the property is located in a city of the first or second class having a city assessor, by the city assessor, and by the county auditor before consideration by the county board, except that the part of the application which is for the abatement of penalty or interest must be approved by the county treasurer and county auditor. Approval by the county or city assessor is not required for abatements of penalty or interest. No reduction, abatement, or refund of any special assessments made or levied by any municipality for local improvements shall be made unless it is also approved by the board of review or similar taxing authority of the municipality. On any reduction or abatement when the reduction of taxes, costs, penalties, and interest exceed \$10,000, the county board shall give notice within 20 days to the school board and the municipality in which the property is located. The notice must describe the property involved, the actual amount of the reduction being sought, and the reason for the reduction.

An appeal may not be taken to the Tax Court from any order of the county board made in the exercise of the discretionary authority granted in this section.

The county auditor shall notify the commissioner of revenue of all abatements resulting from the erroneous classification of real property, for tax purposes, as nonhomestead property. For the abatements relating to the current year's tax processed through June 30, the auditor shall notify the commissioner on or before July 31 of that same year of all abatement applications granted. For the abatements relating to the current year's tax processed after June 30 through the balance of the year, the auditor shall notify the commissioner on or before the following January 31 of all applications granted. The county auditor shall submit a form containing the Social Security number of the applicant and such other information the commissioner prescribes.

Subd. 3. **Homestead status.** Subject to the approval of the commissioner of revenue, the county board shall authorize the county auditor to grant the classification denied under section 272.115, subdivision 4, if a certificate of value has been filed with the county auditor. The county board shall not hear any requests under this subdivision after May 31 of the year in which the taxes are payable.

Subd. 4. **Delegation by county board.** Notwithstanding any law to the contrary, the county board may delegate to the county auditor any authority, power, or responsibility assigned to the county board in this section. If delegation is granted under this subdivision, the county board shall prescribe the conditions for the delegation and may revoke delegation without good cause or prior notice. If the county auditor holds elective office,

no delegation shall be made under this subdivision unless the county auditor concurs in the delegation.

History: 1949 c 76 s 1; 1949 c 485 s 1; 1963 c 591 s 1; Ex1967 c 32 art 8 s 4; 1973 c 582 s 3; 1977 c 423 art 4 s 3; 1980 c 607 art 3 s 8; 1Sp1981 c 1 art 8 s 17; 1984 c 629 s 2; 1986 c 444; 1988 c 719 art 5 s 84; art 6 s 16; 1989 c 277 art 2 s 58; 1989 c 329 art 13 s 20; 1990 c 604 art 3 s 38; 1991 c 291 art 12 s 21; 1992 c 511 art 2 s 34; art 4 s 22; 1993 c 375 art 5 s 31; 1995 c 264 art 3 s 26; 1996 c 471 art 3 s 36; 1997 c 231 art 2 s 32; 1999 c 243 art 13 s 19; 2014 c 275 art 1 s 107

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