

CLAY COUNTY BOARD OF COMMISSIONERS

Tuesday, February 26, 2013

9:15 a.m.

County Board Room - 3rd Floor - Courthouse

M I N U T E S

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

APPROVAL OF AGENDA

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

CITIZENS TO BE HEARD

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

REQUEST APPROVAL TO HIRE 1.0 FTE PUBLIC HEALTH EMPLOYEE USING GRANT FUNDS

Public Health Administrator Kathy McKay requested the Board's approval to hire a 1.0 FTE project manager to work on requirements for the Community Transformation Grant and Statewide Health Improvement Project grant, involving the counties of Clay, Wilkin, Otter Tail and Becker. The position will be placed on Grade 18 of the Clay County Salary Grid and will continue as long as grant funds are available.

On motion by Weyland, seconded by Evert, and unanimously carried, the Board approved hiring a 1.0 FTE project manager in the Public Health Department as described above.

REQUEST FOR SUPPORT TO INCREASE GENERAL LEVY -
BUFFALO-RED RIVER WATERSHED DISTRICT

Buffalo-Red River Watershed District (BRRWD) Administrator Bruce Albright requested the Board's support of a request for a legislative administrative/general fund levy increase. He explained that their administrative revenue is currently capped at \$250,000, despite the fact the size of the BRRWD has increased by 450 square miles and expenditures have increased proportionately.

Commissioner Weyland indicated he was supportive of this request, but expressed concerns with the BRRWD's reluctance to rejoin the Red River Watershed Management Board (RRWMB). He requested discussion on this topic be delayed one week. Commissioner Evert agreed and found it troubling that the BRRWD has a source of revenue via the RRWMB, but refuses to re-join that organization.

Commissioner Campbell left the meeting at 9:25 a.m.

2013 PETITIONS FOR TAXING AUTHORITY PER M.S.A. 103d.905, SUBD. 3 –
BUFFALO-RED RIVER WATERSHED DISTRICT

Buffalo-Red River Watershed District (BRRWD) Administrator Bruce Albright presented three petitions for the County Board's consideration concerning taxing authority by the BRRWD in 2013. The petitions involve:

- \$378,731 for a variety of projects/programs, including financial support for the Red River Basin Commission and River Keepers, development and implementation of total maximum daily load analysis for water quality, waterway log jam removal, flood damage reduction projects, farmstead ringdikes, retention studies, etc.
- \$200,000 for wetland restoration mitigation site in Elkton Township.
- \$270,000 for partial funding of office building project, planning for update of Revised Watershed Management Plan, to help construct the Manston Slough Restoration project.

Consensus of the Board was that discussion of this request be delayed one week.

APPROVAL OF AFFIDAVIT OF PUBLICATION & RESOLUTION FOR
ALTERNATE METHOD TO DISSEMINATE BIDS

County Engineer David Overbo requested the Board's approval of an alternative method to advertise road projects because the Construction Bulletin is no longer in business. Mr. Overbo informed the Board that, per Minnesota Statute 331A.12 Subd. 2, counties are allowed to use their web sites as alternative means to disseminate solicitation of bids, requests for information and requests for proposals. The Highway Department will continue to advertise in the County's legal paper and The Forum.

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

RESOLUTION 2013-15

WHEREAS, Minn. Statute 331A.12 Subd. 2, allows a county to use its website or recognized industry trade journals as an alternative to disseminate solicitations of bids, requests for information and requests for proposals;

NOW, THEREFORE, the Clay County Board of Commissioners hereby resolves:

BE IT RESOLVED, that from this day forward, the County of Clay may use the Clay County website, www.co.clay.mn.us, as an alternative means to disseminate solicitations of bids, requests for information, and requests for proposals for transportation related construction and maintenance projects.

BE IT FURTHER RESOLVED, that for the first six (6) months after this designation of an alternative means of dissemination, the county shall continue to publish solicitations of bids, requests for information and requests for proposals in the same official newspaper of the county in addition to the alternative method and that the publication in the official newspaper must indicate where to find the designated alternative method.

BE IT FURTHER RESOLVED, that any dissemination by alternative means must be in substantially the same format and for the same period of time as a publication would otherwise be required under Minn. Statute § 331A.03 Subd. 3.

APPROVAL TO ADVERTISE FOR CR 100 ROAD
RECONSTRUCTION PROJECT IN GEORGETOWN

On motion by Evert, seconded by Weyland, and unanimously carried, the Board authorized advertisement for the County Road 100 road reconstruction project in Georgetown, said bids to be opened April 2, 2013 at 10:00 a.m. This project was necessitated by flood damage in 2009 and 2010, and will be partially funded by FEMA dollars.

APPROVAL OF MPCA MEMORANDUM OF UNDERSTANDING FROM CITY OF DILWORTH

County Engineer David Overbo requested the Board's approval of a Memorandum of Understanding between Clay County and the City of Dilworth to create consistency and satisfy Minnesota Pollution Control Agency requirements with respect to Mandatory Small Municipal Separate Storm Sewer System permits (MS-4s), via the City of Dilworth's Ordinance 05-03.

On motion by Gross, seconded by Evert, and unanimously carried, the Board authorized execution of the Memorandum of Understanding as included in Attachment "A".

Chief Assistant County Attorney Jenny Samarzja informed the Board that a similar ordinance is also being developed for Clay County.

BID OPENING FOR CR 94 BRIDGE REPLACEMENT

County Engineer David Overbo opened and read sealed bids for the County Road 94 Bridge Replacement project, SAP 14-598-009, as follows:

Robert R. Schroeder Const. Inc.	\$707,773.90
Duininck Bros, Inc.	\$749,280.00
Swingen Construction, Inc.	\$763,511.40
Redstone Construction Co Inc.	\$823,890.20
Industrial Builders, Inc.	\$829,969.95

On motion by Weyland, seconded by Evert, and unanimously carried, the Board awarded the County Road 94 Bridge Replacement project to the apparent low bidder, Robert R. Schroeder Construction, Inc., \$707,773.90, contingent upon there being no errors in the bid following tabulation.

APPROVAL OF BILLS AND VOUCHERS

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

COMMITTEE REPORTS

Commissioner Weyland attended meetings of the Economic Development Authority Recommending Committee and Beyond the Yellow Ribbon.

Commissioner Evert attended meetings of the Heritage & Cultural Society of Clay County and Lakeland Mental Health.

Commissioner Gross attended meetings of Lakeland Mental Health, Hawley City Council, Family Healthcare, FM MetroCOG, Moorhead Wellhead Committee, Georgetown Township, and Agassiz Recreational Trails.

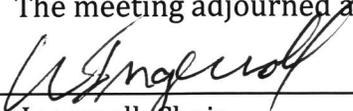
Commissioner Ingersoll attended meetings of the Local Advisory Council for Adult Mental Health, FM MetroCOG, and Lake Agassiz Regional Library Executive Committee.

UPDATE RE: SALE OF 10 ACRE PARCEL IN ELKTON TOWNSHIP

Planning & Environmental Programs Director Tim Magnusson informed the Board of an issue concerning the proposed sale of a 10 acre parcel in Elkton Township, thought to be owned by the County. It has been discovered that the County only owns 7/15 of the parcel. An attorney has been retained to attempt to resolve the ownership issues. The parcel will be re-advertised if/when ownership has been determined.

ADJOURN

The meeting adjourned at 10:15 am



Wayne Ingersoll, Chair
Clay County Board of Commissioners

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING, is made and entered into this 11th day of February, 2013 (hereinafter referred to as "the effective date") by and between the City of Dilworth, a Statutory City, 2 First Avenue SE, Dilworth, MN 56529 (hereinafter referred to as "the City"), and the County of Clay, a political subdivision of the State of Minnesota, 807 11th Street North, Moorhead, MN 56560 (hereinafter referred to as "the County").

WHEREAS, Minnesota Rules, Chapter 7090 designates both the City and the County as Mandatory Small Municipal Separate Storm Sewer Systems (hereinafter referred to as "MS4's") and as such requires both the City and the County to hold a MS4 permit to ensure compliance with these rules; and

WHEREAS, both the City and the County currently hold a MS4 permit which mandates the development, implementation and enforcement of a program to detect and eliminate illicit discharges into the MS4. Such permit also requires both the City and the County to establish a regulatory mechanism providing enforcement procedures and actions in the event of non-storm water discharges into the MS4; and

WHEREAS, the County's Urbanized Area, is defined by the 2010 Census, and defines the County's MS4 boundary. The County's MS4 boundary nearly encompasses the entire MS4 boundary of the City; and

WHEREAS, the City has jurisdiction over planning and zoning activities within City limits; and

WHEREAS, the City and the County strive to ensure compliance with the MS4 permitting requirements and believe an opportunity exists to reduce duplicative regulatory oversight, thus improving efficiency; and

WHEREAS, pursuant to the terms and conditions of this Memorandum of Understanding, the City and the County concur that the City's regulatory mechanism relating to Storm Water Management, Dilworth Ordinance 05-03, will be enforced within the City's MS4 boundary as they are the rightful authority for all planning and zoning regulations within their jurisdiction, regardless of ownership of the outfall or facility affected.

NOW THEREFORE IT IS AGREED AS FOLLOWS:

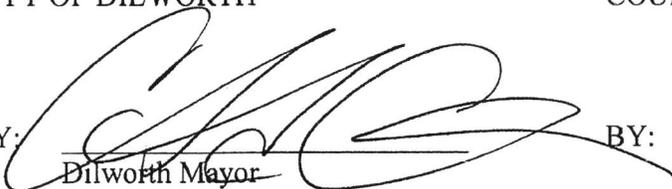
1. Purpose. This Memorandum of Understanding is made pursuant to Minn. Stat. § 471.59, which authorizes the joint and cooperative exercise of power common to the governmental parties. The intent of this agreement is to increase efficiencies and reduce jurisdictional discrepancies with respect to the enforcement of the MS4 permits held by both the City and the County.

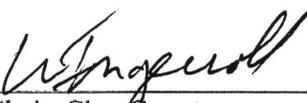
2. Term. This Memorandum of Understanding shall terminate in 2020, when new Census data becomes available. Either party may, however, terminate this agreement upon 60 days written notice to the other party.
3. Procedures. The City and the County agree that the following procedures will govern the enforcement of the MS4 permit within the City's jurisdiction:
 - Subd. 1. Utilization of the City's Ordinance. As jurisdictional authority of all planning and zoning issues within the City, the City is hereby authorized to enforce the City's Storm Water Management Ordinance, Dilworth Ordinance 05-03, within the City Limits when enforcement actions are necessary regardless of the facility or outfall affected.
 - Subd. 2. All other Permit Responsibilities. Other than utilization of the City's Storm Water Management Ordinance within City Limits, the County and the City will independently accomplish their respective responsibilities required by their MS4 permits.
 - Subd. 3. Costs to amend or modify the ordinance. The costs associated with amending or modifying the City's ordinance shall be the responsibility of the City.
4. Liability. For the purposes of the Minnesota Municipal Tort Liability Act (Minn. Stat. Ch. 466), the employees and officers of a party are deemed to be employees (as defined in Minn. Stat. § 466.01, subdivision 6) of that party. Under no circumstances shall a party, irrespective of whether it may have waived the limit on liability set forth in Minnesota Statutes, Chapter 466, be required to pay on behalf of itself or the other party, any amounts in excess of the limits on liability established in Minnesota Statutes, Chapter 466 applicable to any one party. The limits of liability for some or all of the parties may not be added or stacked together to determine a maximum amount of liability for each party.
5. Merger Clause. This agreement constitutes the entire agreement by and between the parties, and any other prior representations or agreements are deemed merged herein, and those not specified herein do not represent any agreements or promises or covenants or representations on the part of either party hereto.
6. Written Amendment Required. No amendment, modification, or waiver of any condition, provision or term shall be valid or of any effect unless made in writing signed by the party or parties to be bound, or a duly authorized representative, and specifying with particularity the extent and nature of such amendment, modification or waiver. Any waiver by any party of any default of another party shall not affect or impair any right arising from any subsequent default. Except as expressly and specifically stated otherwise, nothing herein shall limit the remedies and rights of the parties thereto under and pursuant to this Memorandum of Understanding.

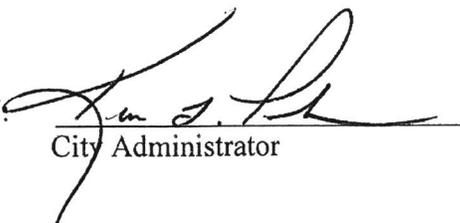
7. Grammatical Construction. Whenever the singular number is used herein, the same shall include the plural where appropriate, and the words of any gender shall include any other gender where appropriate.
8. Severability Clause. Each provision, section, sentence, clause, phrase, and word of this Memorandum of Understanding is intended to be severable. If any provision, section, sentence, clause, phrase, and word hereof is held by a court with jurisdiction to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Memorandum of Understanding.
9. Agreement Binding on Successors. This Memorandum of Understanding shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.
10. Minnesota Law Applies. This Memorandum of Understanding shall be controlled by the laws of the State of Minnesota, and any action brought as a result of any claim, demand or cause of action arising under the terms of this Memorandum of Understanding shall be brought in an appropriate venue in the State of Minnesota.
11. Execution in Counterparts. This Memorandum of Understanding may be executed in counterparts with both the City and the County having a fully-executed counterpart.

CITY OF DILWORTH

COUNTY OF CLAY

BY: 
 Dilworth Mayor

BY: 
 Chair, Clay County
 Board of Commissioners

BY: 
 City Administrator

BY: _____
 Asst. Clay County Administrator