

# Moorhead - Clay County Joint Powers Authority (MCCJPA)

## SPECIAL MEETING

Friday, May 15, 2020, 9:00 a.m.

*Virtual Meeting held through Conference Call*

### MINUTES

**1) CALL TO ORDER**

The meeting was called to order by Commissioner Campbell at 9:00 a.m.

**2) ROLL CALL**

City of Moorhead: Council Member Chuck Hendrickson  
Council Member Shelly Carlson  
Mayor Jonathan Judd (entered meeting at 9:13 a.m.)  
Clay County: Commissioner Kevin Campbell  
Commissioner Grant Weyland  
BRRWD Board: Manager Jay Leitch

Others Present:

Attorney John T. Shockley, Chris McShane, and Kat DelZoppo from Ohnstad Twichell Law Firm; Eric Dodds and Jessica Warren, AE2S; Pat Roberts, ProSource; Ken Helve, HMG-SRF; John Albrecht, Review Appraiser; Lori Johnson, County Auditor – Treasurer; Colleen Eck, Clay County staff; and Kevin and Kendra Binger, citizens.

**3) APPROVAL OF AGENDA**

**Motion was made by Manager Leitch and seconded by Commissioner Weyland to approve the agenda. Motion carried.**

**4) ACCESS PERMISSION LETTER TO USACE**

Mr. Dodds stated the first item is a permission letter for the U.S. Army Corps of Engineers (USACE) to access the property. The USACE has asked the Diversion Authority to secure access to a large number of parcels to conduct biotic and geomorphic monitoring of waterways. The proposed letter pertains to granting access to a Clay County property (OIN 1811 / Parcel #15.034.2000) which is owned by MCCJPA.

Motion was made by Commissioner Weyland and seconded by Council Member Hendrickson to approve the letter allowing the USACE access to Parcel #15.034.2000 for the purpose of conducting biotic and geomorphic monitoring of waterways. Motion carried.

**5) Appraisals**  
**a. OIN 253**

A cover memo was provided for appraisal of a portion of OIN 253 owned by Lisa Cowell and Kathleen Nichols. The property owners have asked to start the acquisition process for this parcel. The parcel map shows that it is bisected by a couple of drainage channels of Wolverton Creek. The proposal is to purchase the portion of the property that is west of Wolverton Creek.

Review Appraiser John Albrecht stated he prepared the appraisal review report and referred to pages 5-7 of the handouts for the details of the report and the accompanying certificate. The value before acquisition is listed at 223.18 ac @ \$3700/acre; and the value after acquisition at 115.33 ac @ \$3700/ac. The total estimate of compensation is \$395,000. The scope of work, including assumptions and conditions, was presented. The recommendation is to use this appraisal as the minimal needed for the acquisition.

Motion was made by Manager Leitch and seconded by Council Member Hendrickson to approve the estimate of \$395,000 as the minimal compensation needed for the acquisition. Motion carried.

**6) Property Acquisition**  
**a. OIN 9169 and 9170**

Mr. Dodds noted the property owners (Kevin and Kendra Binger) of OIN 9169 and 9170 are logged into the meeting. They have requested a full buy-out of these parcels that are located in the Upstream Mitigation Area of the Project. The parcels are rather unique and consist of approximately 50 acres along the Red River. There is a residence and some outbuildings on the site. Pat Roberts has been negotiating with the property owners and requested the special meeting today. The acquisition summary was included in the handouts.

Mr. Roberts stated he has been negotiating with the property owners through the process set forth. They have arrived at \$512,254 as an administrative settlement based on all the data points available. Today they are asking to eliminate some of the potential future costs and are requesting a single payment. In addition, Bingers are requesting a 20-year exclusive hunting/fishing rights of the land for their personal use. Attorney Shockley has reviewed the request and noted it could be added as a provision of the sale. He has not encountered leases such as this one on other buy-out properties for the Project. The restrictions on the properties have mainly been for structures. Hunting and fishing are typically allowed, but Bingers should be aware that something could change this in the future.

Council Member Hendrickson noted there may need to be a policy established to address these requests going forward. Manager Leitch was not aware of any other concessions made for sellers in respect to hunting on the buy-out properties. Commission Campbell stated he is sure the landowners are aware that a lot of times these provisions will fall under the powers of the DNR. Mr. Dodds noted this property seems like a good candidate for hunting and fishing. From a project standpoint, the property does not need to be owned long-term. After the purchase, the structures will need to be removed and a hunting and fishing lease could be honored until the time the land is resold. At that time, the Bingers may want to reacquire the property.

Kevin and Kendra Binger stated they understand the long-term concerns with the lease. They noted the valuation of the land is due to the woods and tree lines. They had planned to guide hunting and fishing at the site. They would like to be able to utilize these woods for their family after the buy-out.

Mayor Judd commented that he logged into the meeting at 9:13 and reviewed the meeting packet prior to the meeting.

Mr. Roberts noted that in addition to the lease request they will be coming back to this Board for moving expenses which is typical with the buy-out of properties for the Project. They will also be moving their Tri-State Construction business off the property. The purchase agreement should be drafted by next week.

Motion was made by Commissioner Weyland and seconded by Council Member Carlson for compensation of \$512,254 and a 20-year exclusive hunting/fishing lease for personal use to Kevin and Kendra Binger. Motion carried.

Motion was made by Mayor Judd to adjourn the meeting at 9:38 a.m.

  
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Stephen Larson, MCCJPA Secretary