

Moorhead - Clay County Joint Powers Authority (MCCJPA)

Thursday, May 28, 2020, 1:00 p.m.
Virtual Meeting held through Conference Call

MINUTES

1) **CALL TO ORDER**

The meeting was called to order by Commissioner Campbell at 1:06 p.m.

2) **ROLL CALL**

City of Moorhead: Council Member Chuck Hendrickson
Council Member Shelly Carlson (arrived at 2:00 p.m.)
Clay County: Commissioner Kevin Campbell
Commissioner Grant Weyland
BRRWD Board: *vacant*

Others Present:

Attorney John T. Shockley, Attorney Chris McShane, and Kat DelZoppo from Ohnstad Twichell Law Firm; Executive Director Joel Paulson, FM Area Diversion Project; Eric Dodds and Jessica Warren, AE2S; Stephen Larson, County Administrator; Lori Johnson, County Auditor – Treasurer; Bob Zimmerman, City of Moorhead Engineer; Pat Roberts, ProSource; Ken Helve, HMG-SRF; John Albrecht, Review Appraiser; and Colleen Eck, Clay County staff.

3) **APPROVAL OF AGENDA**

Motion was made by Commissioner Weyland and seconded by Council Member Hendrickson to approve the agenda. Motion carried.

4) **APPROVAL OF MINUTES**

Motion was made by Council Member Hendrickson and seconded by Commissioner Weyland to approve the Minutes from April 23 and May 15, 2020. Motion carried.

5) **PROJECT UPDATES**

a. Property Acquisition Status Report

Mr. Dodds referred to the Property Acquisition Status Report detailing the status of the land acquisitions for the project. On the Minnesota side, Environmental Monitoring will be done on 70 properties in Clay County and 10 in Wilkin County. Rights-of-entry agreements have been secured for the majority of those 80 properties. There are ongoing negotiations with two landowners in Wilkin County and several more with Clay County landowners. The first court hearing was canceled for the remaining property for obtaining right-of-way agreements. Action was filed in district court again

last Friday. They are awaiting a judge to be assigned and the next court hearing to be scheduled.

Mr. Dodds referred to page 15 of the handouts for the Southern Embankment properties and the targeted completion dates. The budget for hard costs paid to property owners for Southern Embankment and Control Structures was also reviewed. Flowage easements are needed on approximately 138 parcels without structures in the MN Upstream Mitigation Area and 33 more parcels with structures.

b. Landowner Outreach Planning

Mr. Dodds stated he anticipates the Conditional Letter of Map Revision (CLOMR) to be approved by FEMA within the next month. After that determination is in place there will be a robust outreach effort made to property owners. Letters and accompanying material will be sent to approximately 400 property owners for 620 parcels that will be impacted by the CLOMR. The packets will include overview maps, a map of their own property, an overview summarizing the plan, flowage easements, crop loss, etc. The letters and packet material will be brought to this Board for review before it is sent to the property owners. To avoid confusion, property owners upstream will be sent a more generic letter that refers them to the FM Diversion website.

c. Rural Impact Mitigation Program

The Rural Impact Mitigation Program was created to provide financial allowances to help rural businesses and farms that are impacted by the project. With necessary buyouts that involve a rural business or farmstead, there may be issues with the owner not being able to find another suitable farmstead site. There is a benefit to the region to keep those farm operations going. This program provides a forgivable loan to re-establish a rural business or farming operation. Attorney Shockley stated he has had success with offering forgivable loans on other projects. The loan would be transferable if the owner continues operating in the same fashion. They would need to establish a functionally equivalent replacement and more than likely it would be rebuilt differently today. Expertise from Extension, NDSU, and maybe architects, would be utilized to set the allowance for the replacement site. A map of the known farmsteads and commercial properties was presented in the handouts. The Land Management Committee has addressed this program and found it to be favorable. The Finance Committee pointed out that it is not specifically in the budget, but ultimately agreed with a phased approach to implement the program.

6) RIGHTS OF ENTRY

A. Status Update

Mr. Dodds stated that the City of Georgetown understood the request for rights-of-entry, had asked their attorney to review the easement, and gave their nod of support. Most recently, the Georgetown Auditor has not been willing to put the request on the City's agenda and has stated they are not supportive of the easement. Commissioner Campbell and Mr. Larson agreed to check into it.

7) LAND AGENT REPORTS

Pat Roberts noted that since the last meeting he received approval of a lump sum payment for the Binger property. He is still working through the details of an agreement with them for a hunting lease. The idea of the hunting lease is a way to bridge the buy-out because access is very important to Bingers. There are some washout areas on the site, and they may have to trespass onto Larry Dahlstrom's property to get around to this site.

Commissioner Campbell took a call today from Mr. Binger who was disappointed about the hunting lease. He believes he is somewhat restricted in his ability to hunt at the site. He may ask for more compensation or may not agree to the arrangement. Mr. Dodds commented a flowage easement is needed from the adjoining property owner, but he is not sure how we can be involved in an access agreement because we do not own the Dahlstrom property. Mr. Dodds mentioned that Bingers asked for the hunting lease and now seem to be digressing from that solution. He is hoping this situation can be resolved.

Ken Helvey commented that he is looking forward to working on some of the MN parcels.

8) PROPERTY ACQUISITION

a. OIN 253 Acquisition Summary

Mr. Dodds referred to a rural agricultural property that was recently appraised for acquisition. The appraisal has been presented to the owners and a map of the property was provided.

Mr. Roberts stated the landowners (Nichols/Crowell) live out of town and he is working with their representative, Wendell Herman. They had a lengthy discussion about the appraisal which Mr. Herman thought was low. Last Friday night, Mr. Herman provided Mr. Roberts with a counteroffer of \$470,000 (\$4357/acre), which correlates to a 19% increase over the original offer. The deadline for the counteroffer is set for tomorrow. If it is not approved, Mr. Roberts would actively market the property. In this case, the assessed and appraised values are very similar.

The committee discussed other acquisitions and prices per acre in the region. Typically, 10% over the appraised value has been allowed if there are adequate reasons. The request for 19% of the appraised value seemed high. The parcel has two draining channels running across it with Wolverton Creek being the most substantial channel. There are 108 acres west of Wolverton Creek. Mr. Roberts will have the property split into two separate parcels and will plan to market the land east of the creek.

Council Member Carlson entered the meeting (2:00 p.m.).

Motion was made by Commissioner Weyland and seconded by Council Member Hendrickson to approve and submit a counteroffer of 110% of the appraised value, consistent with other offers. Motion carried.

9) CONTRACT ACTIONS

a. HDR Land Firm Master Service Agreement (MSA)

Mr. Dodds stated the HDR Land Firm Master Service Agreement is consistent with the MSA that was approved in April with SRF. There has been no assignment of work yet. Attorney Shockley has reviewed the agreement.

Motion was made by Council Member Hendrickson and seconded by Commissioner Weyland to approve the HDR Engineering Land Firm MSA. Motion carried.

b. SRF Task Order 1 Amendment 0

Mr. Dodds referred to the parcels that will be divided between the two land firms. The land firms need to be under contract to work with the landowners. The SRF Task Order 1 Amendment 0 has been reviewed and approved by Attorney Shockley's team and Mr. Joel Paulson. The start-up budget allows for \$3,000 per parcel for each task order. The costs have fluctuated, and they go up if they are dealing with relocation. Some amendments may come back after the work starts. Cass County approved four task orders this morning with a similar process.

Motion was made by Council Member Carlson and seconded by Council Member Hendrickson to approve SRF Task Order 1 Amendment 0. Motion carried.

c. ProSource Task Order 1 Amendment 1

A brief description of the ProSource Task Order 1 Amendment 1 was provided.

Motion was made by Commissioner Weyland and seconded by Council Member Hendrickson to approve ProSource Task Order 1 Amendment 1. Motion carried.

10) PROPERTY MANAGEMENT

a. Acquired Property Insurance Update

Attorney Shockley stated the League of MN Cities Insurance Program has not provided an answer yet on whether they would provide insurance for MCCJPA. He hopes to have an answer by the next meeting.

11) OTHER BUSINESS

Attorneys Shockley and McShane provided background information on charges that were sent to Scott Blilie for data fees. Mr. Blilie had asked to be notified first if there were charges over \$50. Due to miscommunication with staffing coverage during the COVID-19 he was charged \$380.50 without prior authorization. Attorney Shockley asked the Board to waive those fees for Mr. Blilie. Mr. Dodds suggested waving the fees after Mr. Blilie signs the right-of-way documents.

Motion was made by Commissioner Weyland and seconded by Council Member Carlson to approve the request to waive the data fees contingent on Mr. Blilie signing the necessary documents. Motion carried.

Motion was made by Council Member Carlson to adjourn the meeting at 2:22 p.m.

Stephen Larson, MCCJPA Secretary