

Moorhead - Clay County Joint Powers Authority (MCCJPA)

Thursday, June 24, 2021, 1:00 p.m.

Clay County Courthouse, Third Floor Meeting Rooms
In Person Meeting with Microsoft Teams Option Available

MINUTES

1) CALL TO ORDER

The meeting was called to order by Chair Campbell at 1:00 p.m.

2) ROLL CALL

City of Moorhead: Mayor Shelly Carlson
Council Member Chuck Hendrickson
Council Member Larry Seljevold
Clay County: Commissioner Kevin Campbell, Chair
Commissioner Jenny Mongeau

Others Present:

Joel Paulson, Diversion Executive Director
Attorney John Shockley, Attorney Chris McShane, and Sharon Oliver, Ohnstad Twichell Law
Jessica Warren and Dean Vetter, AE2S
Bob Zimmerman, Moorhead City Engineer
Ken Helde and Lisa Kilde, HMG SRF
Scott Stenger and Dale Ahlsten, Prosource
Kylie Beard and Greg Thielman, HMG
Stephen Larson, County Administrator, and Colleen Eck, Clay County

3) APPROVAL OF AGENDA

Mayor Carlson moved and Council Member Seljevold seconded to approve the agenda with the addition of policies for organic farmland as part of 5A. Motion carried.

4) APPROVAL OF MINUTES

Mayor Carlson moved and County Member Seljevold seconded to approve the minutes from May 27, 2021. Motion carried.

5) PROJECT UPDATES

A. Property Acquisition Status Report

Mr. Vetter referred to the monthly property acquisition reports and noted that more detail is available if needed. Property acquired via eminent domain remains at 90 parcels. Negotiations and voluntary agreements continue as well.

Commissioner Campbell noted that a couple parcels with organic farmland had been purchased for the project but are now out of the project area. He believes the current Diversion Authority policy states the land is offered back to the original owner first and if they decline buying it back it would go to a public sale. Mr. Vetter stated the other levels of preference include a right of first offer; offering to a tenant who was involved prior to the purchase; and offering to those in the immediate area of the parcel.

Attorney Shockley commented that they will need to acquire some organic farmland parcels that are in the footprint of the southern embankment or immediately adjacent to it. He added that their policy is for disposal of any excess land that is no longer needed for the project. There are also requirements under MN DNR regarding organic farmland. Commissioner Campbell asked about acquiring organic farmland and leasing it back so it could be farmed until it is needed for the project. Attorney Shockley noted they refer to the Property Rights Acquisition and Mitigation (PRAM) for the procedures for organic farmland.

B. Drayton Dam Environmental Assessment Worksheet (EAW)

Mr. Thielman stated that MCCJPA is the Responsible Governmental Unit (RGU) for the Environmental Assessment Worksheet (EAW) for the Drayton Dam. The Drayton Dam project involves retrofitting the dam with rock and will allow fish passage. The U.S. Army Corps of Engineers (Corps) engineered the design for the project. The EAW was submitted to the Environmental Quality Board (EQB) for a 30-day comment period. A few comments were received from the Department of Natural Resources (DNR) and MN Pollution Control Agency (MCPA) during the comment period which ended on June 5. A Findings of Fact document was prepared to address those comments which were not specifically related to the environmental impact of the project. The Corps has reviewed the comments and findings. The next step is to determine if an Environmental Impact Statement (EIS) is required due to the potential for significant environmental effects. The recommendation is for approval of a negative EIS decision.

Commissioner Mongeau asked about input from the City of Drayton and that community and questioned why this board, a distance from Drayton, is making the decision. Mr. Vetter noted that the City of Drayton is the owner of the dam and will be the applicant on the permitting applications. There has been significant outreach with the city through the process. This Board was chosen to be the RGU for the EAW because it needed to be a MN entity. It was reported that the City of Drayton is in favor of the project because it should shore up some safety concerns and restore some erosion along the riverbank. Attorney Shockley added that they

are currently working through a Memorandum of Understanding (MOU) with the City of Drayton. Contact was also made with Kittson County.

Mayor Carlson moved and Council Member Seljevold seconded to approve a negative EIS decision on the Drayton Dam EAW based on the listed Findings of Fact. Motion carried with one opposing vote by Commissioner Mongeau.

C. Environmental Monitoring Easement Update

Mr. Vetter commented that Ms. Warren and the land agents are planning a meeting for July 7th to evaluate the status of Environmental Monitoring Easements (EMEs) and how to move forward. There have been 300 EMEs obtained and another 100 that still need to be obtained.

6) PROPERTY ACQUISITION

A. OIN 250 Hunting Lease and Purchase Agreement Modification

Mr. Stenger stated this is property needed for RRV control structure. The property owner added non-standard terms as listed:

- 1) The owner is requesting to adjust the Right of First Offer value from the appraised value to the appraised value adjusted by the flowage easement.
- 2) The owner is requesting to retain and remove a 11' by 16' building used by the business.
- 3) The owner is requesting reimbursement of attorney fees up to \$10,000.
- 4) The owner is requesting to maintain a farm lease on a portion of the property until they are displaced.
- 5) The owner is requesting a five-year hunting lease at \$1,500 on the property. All items have been discussed with staff and were found to be reasonable including the rate. This quantifies as personal use only and has minimal trees.
- 6) The owner is requesting to harvest some trees for personal use.

Mayor Carlson moved and Commissioner Mongeau seconded to approve the modified OIN 250 hunting lease and purchase agreement with the six negotiation items listed, subject to final legal review.

B. OIN 251 Negotiation Summary

Ms. Ahlsten referred to OIN 251, owned by Larry & AJ Dahlstrom. Negotiations have taken place with the property owner on 7.59 acres of the parcel that are needed for the Red River Valley control structure and a portion of the southern embankment. There was also discussion on purchasing the 7.15 acres that would be severed from the parcel on the north. The remaining 145 acres will be under the flowage easement in the future. The last written offer on May 25, 2021, was for \$150,000. A counteroffer from the property owner on June 14, 2021, was for

\$170,000 for the following: total of 14.74 acres; an appraised value of \$127,560; 25% above adjusted appraised value; includes future road right-of-way, flowage easement over 7.15 acres, appraisal fees, land agent, management, and legal fees. The owner has signed a purchase agreement for this settlement. The owner previously asked for \$150,000, then rescinded his offer and asked for \$170,000 to settle on all 14.74 acres. This owner has three other properties involved in the project, and his sister who is a real estate expert has five parcels that will be involved. The counteroffer seems reasonable and would stop the eminent domain process on this property. Commissioner Campbell noted that 25% above the adjusted appraised value is due to the specifics of this particular property.

Council Member Hendrickson moved and Council Member Seljevold seconded to approve the counteroffer of \$170,000 for 14.74 acres of OIN 251. Motion carried.

Attorney McShane stated there are just two parcels slated for eminent domain and the 90-day notices have been provided. No legal action has been started.

7) RELOCATION

A. OIN 8527 Relocation Cost Claim

Ms. Kilde stated this relocation item involves two claims; one for A-1 Services for the moving expenses and one for the landowners (Mike and Margaret Nelson) to reimburse their costs. The service company would be paid directly after the move is completed. A short summary of the costs was provided. Ms. Kilde recommended approval of these payments.

Council Member Seljevold moved and Commission Mongeau seconded to approve payment of \$12,625 to A-1 Services for their relocation services. Motion Carried.

Mayor Carlson moved and Council Member Seljevold seconded to approve a direct payment of \$1,655.47 to Mike and Margaret Nelson for actual moving and related expenses. Motion carried.

8) LAND AGENT REPORTS

Nothing further was reported.

9) CONTRACTING ACTIONS

A. Task Order 3, Amendment 1, Crown Appraisals

Mr. Vetter referred to pages 43-45 of the handouts. He recommended approval of Crown Appraisals, Inc. Task Order 3 Amendment 1 for Consulting Services. This

task order is for appraisal of organic farmland. One parcel was added to the scope of work.

Council Member Hendrickson moved and Council Member Seljevold seconded to approve Task Order 3 Amendment 1 for Crown Appraisals in the amount of \$2,000. Motion carried.

10) ADJOURN

The meeting adjourned at 2:00 p.m.

Stephen Larson, MCCJPA Secretary