

Moorhead - Clay County Joint Powers Authority (MCCJPA)

Thursday, September 22, 2022, 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 Shelley Carlson
Council Member Chuck Hendrickson
Clay County: Commissioner Kevin Campbell
Commissioner Mongeau
BRRWD: Member Gerald VanAmburg

Others Present or on Microsoft Teams:

Joel Paulsen, Executive Director, and Jodi Smith, Lands & Compliance Director, Diversion Authority
Attorneys John Shockley, Chris McShane, Lucas Andrud, and K DelZoppo, Ohnstad Twichell Law
Robert Zimmerman, City of Moorhead Engineer
Eric Dodds, Jessica Warren, AE2S
Scott Stenger and Dale Ahlsten, Prosource
Lisa Kilde, HMG SRF
Stephen Larson and Colleen Eck, Clay County staff

3) APPROVAL OF AGENDA

Commissioner Mongeau moved, and Council Member Hendrickson seconded, to approve the agenda. Motion carried.

4) APPROVAL OF MINUTES

Council Member Hendrickson moved, and Member VanAmburg seconded, to approve the minutes from August 25, 2022. Motion carried.

5) CITIZENS TO BE HEARD

There were no citizens to be heard.

6) PROJECT UPDATES

a. Property Acquisition Status Report

Ms. Smith referred to the new documents under Property Acquisition Progress for properties pertaining to the Minnesota side of the river. Overall, MCCJPA's completion for property acquisitions is at 35.4%. The Southern Embankment & Associated Infrastructure is 30.6% complete. The Upstream Mitigation Area is 14.4% complete. The Drayton Dam

Mitigation is 100% complete and the Environmental Monitoring Easements are 71% complete.

The key activities for September were listed as:

- Negotiating settlement agreements for existing eminent domain actions.
- Conducting appraisal reports and making purchase offers for SE-2B and Phase 3 Flowage Easement properties.
- Planning for sending Last Written Offers for Flowage Easements.
- Planning two UMA Crop Insurance and Flowage Easement public meetings in November. Invitations will be sent 2nd and 3rd.
- Presenting a new Irrevocable License Agreement option for unsigned Environmental Monitoring Easements.

b. Small Scale Flowage Easement Allowance Strategy

The Board was asked to approve the recommendation to offer an allowance to property owners with appraised values for flowage easements less than \$26,000. Approval of this allowance strategy should save time for the land agents in securing the flowage easements. Cass County just approved the same small scale flowage easement allowances.

Proposed Administrative Allowances are as follows:

- \$0 - \$5,000 = \$1,000 allowance
- \$5,000 - \$10,000 = \$1,500 allowance
- \$10,000 - \$20,000 = \$2,000 allowance
- \$20,000 - \$25,999 = \$2,500 allowance

Member VanAmburg moved, and Commissioner Mongeau seconded, to approve an allowance to property owners whose sum of appraised values for Flowage Easements is less than \$26,000 as presented.

c. Irrevocable License Agreement for Bio/Geo Monitoring

Ms. Smith provided an update on the U.S. Army Corps of Engineers' (USACE) biotic and geomorphic surveys on certain sections of watersheds around the Fargo Moorhead area. These are performed during and after construction the of FM Area Diversion Project. For guaranteed access to the sites for 50 years, landowners were approached with agreements for Environmental Monitoring Easement. About 72 percent of the easements were acquired; however, some of the remaining landowners have an issue with signing an easement. The Metro Flood Diversion Authority (MFDA) created an Irrevocable License Agreement as an option for landowners. The USACE approved this form of an agreement as an option for property owners. Basically, the license agreement provides access to the property but is not recorded on the property as a permanent easement.

d. Status of Relocation Appeals

Attorney McShane informed the Board that the resolution they approved at the last MCCJPA meeting was sent to the attorney involved with the relocation appeals. The decision on not being entitled to attorney's fees is not finalized.

7) ACQUISITION REVIEW

Ms. Dale Ahlsten informed the board that the landowners, Ms. Emmy Amble and Mr. Larry Dahlstrom are related and have properties next to each other and have negotiated together.

a. OIN 1633 1673 1806 1812 Amble Negotiation Summary

Ms. Ahlsten provided a summary of the negotiations for four properties in the UMA and flowage easement area owned by Ms. Amble. One of the properties is affected by the Southern Embankment and the design of that is not yet finished. Ms. Amble wishes to settle that property transaction as part of the settlement package. The first offers went out and counteroffers were made for each property. Ms. Ahlsten took Crown Appraisal's flowage easement appraisal numbers (\$7,000/acre) and adjusted them for the Southern Embankment. In turn, the property owner would now consider \$8,000/acre. Ms. Ahlsten acknowledged that the market has changed, and recent sales are higher so the increases would be reasonable for today. Ambles would like to close on three of the properties this year and wait to close on the Southern Embankment property in 2023 and keep their tenant on that property through 2023. Ms. Ahlsten commented that this is an opportunity to settle on all the Amble properties and would save on the cost of an appraisal later for the Southern Embankment property.

Council Member Hendrickson moved, and Member VanAmburg seconded, to approve just compensation of \$496,000 for Flowage Easement rights on OIN 1633, 1673, 1806, and 1812 and tenant rights for 2023 (Amble) properties.

b. OIN 251X 1634 1791 1803 Dahlstrom Negotiation Summary

Ms. Ahlsten stated that Mr. Dahlstrom would also like them to consider \$8,000/acre rather than \$7,000/acre for the flowage easements on the ag land. OIN 1634 is a wooded recreational property under joint Amble/Dahlstrom ownership with an appraisal of \$3,000/acre. That amount would also be increased using the same percentage as the other properties.

Council Member Hendrickson moved, and Member VanAmburg seconded, to approve just compensation of \$954,563 for flowage easements on OIN 251X, 1634, 1791, and 1803 (Dahlstrom) properties.

c. OIN 1840 Brandt Negotiation Summary

Ms. Ahlsten noted that the Brandt negotiation has the same parameters as last two items. Mr. Brandt had land on the ND side as well and this counteroffer for that land was approved for a settlement this morning. OIN 1840 is impacted by Flowage Easement and also impacted by the Southern Embankment. Brandt is also seeking \$8,000/acre for

flowage easement rights and \$8,500/acre for the footprint that is needed over their property.

Commissioner Mongeau commented that she would also like this landowner to have the option for tenant rights for 2023.

Commissioner Mongeau moved, and Member VanAmburg seconded, to approve the Just Compensation of \$1,064,118 for the property rights needed on OIN 1840 (Brandt) property and tenant rights to lease and/or farm in 2023.

8) LAND AGENT REPORTS

Ms. Ahlsten stated she has one closing tomorrow and one more coming. She is still working on Environmental Monitoring Easements and coming up with creative ideas to get folks on board.

9) RELOCATION AND RHDP REIMBURSEMENT REVIEW

a. OIN 250 Bye Reimbursement Request

Scott Stenger reported that Ken and Tina Bye have purchased a replacement house and have moved off their property. This is a partial fund settlement for closing costs and moving costs. Byes plan to move outbuildings off the site next year before MCCJPA takes final possession of the property.

Council Member Hendrickson moved, and Commissioner Mongeau seconded, to approve the Bye Relocation and Replacement Housing Reimbursement totaling \$3,536.

b. OIN 1834 Spanier Reimbursement Requests

Mr. Stenger noted that Micki L Spanier has moved to a new property. The closing costs were \$6,171 and owner's moving expenses were \$2,142. This is the final settlement claim.

Commissioner Mongeau moved, and Council Member Hendrickson seconded, to approve the Spanier Relocation and Replacement Housing Reimbursement totaling \$8,312.81. *The address on the relocation document will be corrected.*

10) PROPERTY MANAGEMENT

a. Conservation Reserve Program Contract for MCCJPA Property

Attorney Lucas Andrud stated there is one year remaining on the CRP contract for 2.7 acres in Section 8 Holy Cross Township. MCCJPA owns the property but is not eligible as a public entity to receive a CRP payment. Commissioner Mongeau noted that the payment was already issued to the prior landowner. If the contract is terminated early all payments would need to be refunded by the prior landowner.

Commissioner Mongeau moved, and Council Member Hendrickson seconded, to continue the 2.7 acre Conservation Reserve Program (CRP) contract until it expires on 9/30/2023.

b. Farmland Rental Rates for 2023

Dr. Dodds stated there was a meeting with Pifers a couple weeks ago. Pifer's has suggested that rent on the land currently under their management be adjusted from \$135 to \$150 per acre for 2023. This would still be below market, but many of the properties are oddly shaped. Cass County just approved the same increase. The lease agreements will need to come back to the board for their approval.

Commissioner Mongeau moved, and Member VanAmburg seconded, to approve the proposed 2023 Farmland Rental Rate of \$150 per acre.

11) **OTHER BUSINESS**

a. Combine MCCJPA Agenda and Packet Correspondence

Ms. Smith noted, with this proposed change, the full packet with the agenda will be sent on the Friday before the meeting.

Member VanAmburg moved, and Commissioner Mongeau seconded, to combine the MCCJPA agenda and packet and send it all together on the Friday previous to the meeting.

Ms. Smith acknowledged Lisa Kilde for all her work on the project and wished her well as she moves onto other employment.

ADJOURN

With no further business, the meeting adjourned at 2:00 p.m.

Stephen Larson, MCCJPA Secretary