

CLAY COUNTY BOARD OF COMMISSIONERS

Tuesday, December 20, 2005

8:30 a.m.

County Board Room - Courthouse

M I N U T E S

The Clay County Board of Commissioners met in regular session on Tuesday, December 20, 2005, with Commissioners Brunsvold, Campbell, Evert, and McCarthy present. Commissioner Waller was absent.

APPROVAL OF AGENDA

On motion by McCarthy, seconded by Campbell, and unanimously carried, the agenda was approved with the following addition: Citizen concerns from Mr. Jim Giedt.

CITIZENS TO BE HEARD

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

ADOPT RESOLUTION RE: UPDATED CLAY COUNTY  
LOCAL WATER MANAGEMENT PLAN

On motion by Campbell, seconded by Evert, and unanimously carried, the Board adopted the following resolution, approving the updated Clay County Local Water Management Plan:

RESOLUTION 2005-57

**WHEREAS, The Clay County Board of Commissioners has been notified by the Minnesota Board of Water and Soil Resources that the Clay County Comprehensive Local Water Management Plan has been approved according to Minnesota Statutes Chapter 103B.301;**

**NOW THEREFORE, BE IT RESOLVED, the Clay County Board of Commissioners hereby adopts and will begin implementation of its approved comprehensive water plan.**

**BE IT FURTHER RESOLVED, after the adoption of the local comprehensive water management plan, the Clay County Board shall amend existing water and related land resources plans and official controls as necessary to conform them to the applicable and approved comprehensive water plan.**

**BE IT FURTHER RESOLVED, after the adoption of the local comprehensive water management plan, Clay County shall notify local units of government within the County of the adoption of the plan or amendments to the plan. The local units of government are required to submit existing water and related land resources plans and official controls within 90 days to the County Board for review.**

**BE IT FURTHER RESOLVED, that within 180 days, the Clay County Board shall review the submitted plans and official controls and identify any inconsistencies between the local plans and official controls, and local comprehensive water management plan. The Clay County Board shall specify applicable and necessary measures to bring the local plans and official controls into conformance with the local comprehensive water management plan.**

**BE IT FURTHER RESOLVED, if a local unit of government disagrees with any changes to its plan, the local unit has 60 days after receiving the County's recommendations to appeal the recommendations to the Board of Water and Soil Resources.**

**BE IT FURTHER RESOLVED, after receiving the recommendations of the Clay County Board, or a resolution of an appeal, a local unit of government has 180 days to initiate revisions to its plan or official controls. The new or revised plans and official controls must be submitted to the Clay County Board for review and recommendations.**

PUBLIC HEARING: ADOPT AMENDED LAND DEVELOPMENT CODE

On motion by McCarthy, seconded by Campbell, and unanimously carried, the Public Hearing was opened regarding the adoption of the amended Land Development Code.

Assistant County Attorney Michelle Winkis informed the Board that this action is being taken to resolve irregularities in the previous Code Development process (a public hearing was not held at the July County Board meeting when the Development Code was adopted by the Board, the Notice of Intent to adopt the Code was not published, etc.). It was noted that a public hearing was held by the Planning Commission on June 29, 2005.

Ms. Winkis stated that the Board would be re-adopting the Development Code, and the proper documents would be signed, filed and recorded in the Recorder's Office.

Planning & Environmental Programs Director Tim Magnusson stated that only one proposal for a subdivision has been presented since July and that is still in the process.

Commissioner Campbell noted that there would be some minor changes that the Planning Commission would be looking at for the Development Code in the near future, as well as adoption of the State Building Code.

There were no citizens present who wished to comment the amended Land Development Code.

On motion by Campbell, seconded by McCarthy, and unanimously carried, the Public Hearing was closed.

On motion by Campbell, seconded by McCarthy, and unanimously carried, the following resolution was approved, adopting the Clay County Land Development Ordinance: Zoning & Subdivision Regulations:

**RESOLUTION NO. 2005-58**  
**ADOPTING THE CLAY COUNTY LAND DEVELOPMENT ORDINANCE:**  
**ZONING & SUBDIVISION REGULATIONS**

**WHEREAS, Clay County has recently amended its comprehensive plan in an ongoing effort to update it zoning and subdivision regulations;**

**WHEREAS, Clay County has been involved in a process for approximately the last year and a half to amend its existing development code, subdivision regulations and zoning map;**

**WHEREAS, this process has involved public hearing before the a task force designed to make recommendations to the planning commission and this board, in addition to hearings before the planning commission, and the Board of Commissioners;**

**WHEREAS, the Clay County Board of Commissioners desires to adopt the Clay County Land Development Ordinance: Zoning & Subdivision Regulations as attached hereto, additionally repealing the Development Code in effect at the time of this enactment;**

**THE BOARD OF COMMISSIONERS OF THE COUNTY OF CLAY, MINNESOTA HEREBY RESOLVES:**

**That the Clay County Land Development Ordinance: Zoning & Subdivision Regulations presented to the Clay County Board of Commissioners for adoption on July 19, 2005 and again on December 20, 2005 shall be enacted by ordinance. Further, the Land Development Code in effect at the time of adoption of the new Clay County Land Development Ordinance: Zoning & Subdivision Regulations on July 19, 2005, is repealed in it's entirety.**

On motion by Campbell, seconded by McCarthy, and unanimously carried, the Board approved the following resolution, adopting the Clay County Zoning Map:

**RESOLUTION NO. 2005-59**  
**ADOPTING THE CLAY COUNTY ZONING MAP**

WHEREAS, Clay County has recently amended its comprehensive plan in an ongoing effort to update it zoning and subdivision regulations;

WHEREAS, Clay County has been involved in a process for approximately the last year and a-half to amend its existing development code, subdivision regulations and zoning map;

WHEREAS, this process has involved public hearing before the a task force designed to make recommendations to the planning commission and this board, in addition to hearings before the planning commission, and the Board of Commissioners;

WHEREAS, the Clay County Board of Commissioners desires to adopt the Clay County Zoning Map as attached hereto, additionally repealing the Zoning Map in effect at the time of this enactment;

**THE BOARD OF COMMISSIONERS OF THE COUNTY OF CLAY, MINNESOTA HEREBY RESOLVE:**

That the Zoning Map presented on July 19, 2005 and then again on December 20, 2005, and separately signed, is hereby adopted, and shall be enacted by ordinance, and the previous zoning map in effect prior to the July 19, 2005 adoption, is hereby repealed.

**AUTHORIZATION OF JOINT CONTRACT WITH BECKER COUNTY AND CLAY COUNTY RURAL TRANSIT FOR HIGHWAY 10 COMMUTER ROUTE; AUTHORIZE FARE INCREASE FOR CLAY COUNTY RURAL TRANSIT**

On motion by Campbell, seconded by McCarthy, and unanimously carried, the Board authorized execution of a joint contract with Becker County and Clay County Rural Transit for the Highway 10 Commuter Route for the period January 1, 2006 through December 31, 2006.

The Board reviewed the proposed 2006 Fare Structure as recommended by the Clay County Rural Transit Committee (See Attachment "A"). Public Hearings will be held regarding the fare increases, prior to their proposed effective date of February 1, 2006.

On motion by McCarthy, seconded by Campbell, and unanimously carried, the Board approved the proposed 2006 Fare Structure for Clay County Rural Transit.

Rural Transit Coordinator Georgia Beaudry informed the Board that Richland and Wilkin Counties and the Cities of Wahpeton and Breckenridge have agreed to subsidize the commuter route to that area for another three months.

**ISSUES AFFECTING CLAY COUNTY HOUSING & REDEVELOPMENT AUTHORITY**

Ms. Dara Lee, Housing & Redevelopment Authority (HRA) Executive Director; and Ms. Barbara Sipson and Ms. Karen Vlam, HRA Board members, were present to discuss with the Board several issues affecting the Clay County HRA: financial difficulties affecting the HRA; the HRA's need to reduce its Payments in Lieu of Taxes from the historical 10% to the legally required 5%; and the HRA's interest in pursuing a grant to determine the viability of an HRA Tax Levy.

On motion by Evert, seconded by McCarthy, and unanimously carried, the Board adopted the following resolution in support of a grant application to the Greater Minnesota Housing Fund for an HRA Levy Initiative Technical Assistance Grant:

**RESOLUTION 2005-60**

WHEREAS, the Clay County Board of Commissioners supports the Housing & Redevelopment Authority of Clay County's application to the Greater Minnesota Housing Fund for an HRA Levy Initiative Technical Assistance Grant.

**WHEREAS, Clay County believes the information generated from the use of these grant funds will be important in determining the need for an impact of such assistance.**

**NOW, THEREFORE, BE IT RESOLVED, that the Clay County Board of Commissioners requests that the Greater Minnesota Housing Fund approve this application.**

**PROPOSED FEDERAL LEGISLATION THAT MAY AFFECT SOCIAL SERVICES**

Social Services Director Rhonda Porter addressed the Board regarding proposed Federal legislation that may have a devastating impact on the child support program, a reduction of \$100,000 annually to Clay County. The legislation prevents states from using the performance incentives to draw down the matching federal funds. Ms. Porter requested that the Board adopt resolutions seeking Minnesota Senators' negative vote on the proposed reconciliation legislation and the associated cost shifts to state and county taxpayers.

On motion by Evert, seconded by Campbell, and unanimously carried, the Board adopted the following resolutions:

**RESOLUTION 2005-55**

**RESOLUTION BY CLAY COUNTY URGING SENATE OPPOSITION TO FEDERAL BUDGET RECONCILIATION ACT (HR 4437) LANGUAGE**

**WHEREAS, the Conference Committee Report on the Federal Budget Reconciliation Act of 2005 (HR 4437) passed The House of Representatives December 19, 2005 and still remains before the Senate; and**

**WHEREAS, the Center of Law and Social Policy estimates a shift to our state and county taxpayers of \$47M over the next five years due to the Child Support Enforcement reform language; and**

**WHEREAS, the Center for Law and Social Policy estimates that \$2.9 billion in Child Support payments nationally will go uncollected over the next five years if the incentive match is eliminated; and**

**WHEREAS, Child Support Enforcement supports work, reduces poverty, saves the government money by reducing the need for public assistance, improves child well being and ensures that low-income children receive child support in Minnesota and Clay County; and**

**WHEREAS, early estimates project a cost shift for mandated Child Support services to Clay County taxpayers of approximately \$100,000/year; and**

**WHEREAS, the argument is made that the Reconciliation bill is closing an unintended loophole regarding the ability to draw down federal matching funds. However, the intent of the 1998 performance based incentive system was to create a pool of funds that would be available for states to improve their child support performance. This pool was designed to include both the incentive payments and the draw down on federal matching funds.**

**NOW, THEREFORE BE IT RESOLVED, that the Clay County Board of Commissioners opposes the language changes for Child Support Enforcement specifically the elimination of the federal matching and the reduction in Federal Financial Participation for paternity testing in the Conference Committee report of HR4437.**

**BE IT FURTHER RESOLVED, that the Clay County Board of Commissioners urges Minnesota's Senators to vote "no" on this bill.**

**RESOLUTION 2006-56**

**RESOLUTION BY CLAY COUNTY URGING SENATE OPPOSITION TO FEDERAL BUDGET RECONCILIATION ACT (HR 4437) LANGUAGE**

**WHEREAS, the Conference Committee Report on the Federal Budget Reconciliation Act of 2005 (HR 4437) passed The House of Representatives December 19, 2005 and still remains before the Senate; and**

**WHEREAS, the Minnesota Department of Human Services estimates a shift to our state and county taxpayers of \$121 M due to the Targeted Case Management reform language; and**

**WHEREAS, the Minnesota Department of Human Services estimates, "if this language (Third Party**

Recovery language changes) is enacted, Minnesota will lose millions in federal funding, and more importantly, will lose much of the progress that has been made over the last 20 years;"and

WHEREAS, these services are critical to: children in need of protection, vulnerable adults in need of protection, children and adults with mental illness, disabled adults and children, and the elderly in Minnesota and Clay County; and

WHEREAS, early estimates project a cost shift for mandated services to Clay County taxpayers of approximately \$1.6M/year; and

WHEREAS, the argument is made that this bill merely "slows the growth in the Medicaid budget", while in reality it disallows the state and local governments' ability to be reimbursed at any level for these mandated services.

NOW, THEREFORE, BE IT RESOLVED, that The Clay county Board of Commissioners opposes the language changes for targeted case management and 3<sup>rd</sup> party recovery in the Conference Committee report of HR 4437 that ends federal participation in federally mandated programs provided by Clay County for vulnerable populations.

BE IT FURTHER RESOLVED, that the Clay County Board of Commissioners urges Minnesota's Senators to vote "no" on this bill.

#### OPEN AND AWARD LAND RENTAL BIDS

County Auditor Lori Johnson opened and read the bids submitted for rental of Clay County land for 2006, 2007, and 2008:

**All of fractional Section 6, Keene Township:**

- Carl Shaw: \$75 per year for haying (\$225 total for three year period)

**All of fractional Section 31, Hagen Township:**

- Carl Shaw: \$25.00 per year for haying (\$75 total for three year period)

**NE 1/4 Section 3, Elkton Township:**

- Kenneth West: \$1750 per year (\$5250 for three year period)

- Gerald Stuhr: \$1050 per year (\$3150 for three year period)

**West 10 acres of N 1/2 of NE 1/4 and the E 30 acres of N 1/2 or NW 1/4 less 3.34 acres, Section 10, Riverton Township:**

- No bids received.

On motion by McCarthy, seconded by Campbell, and unanimously carried, the Board accepted the high bids for the Clay County rental property described above for the 2006, 2007, 2008 period.

#### DISCUSSION RE: CLOSING OF COURTHOUSE IN INCLEMENT WEATHER

County Administrator Vijay Sethi informed the Board that following the winter storm earlier this month, he had polled other counties in Minnesota as to their policies for closing of their Courthouses in inclement weather. To date, 32 responses have been received, 2/3 of which have reported that their policy is the same as Clay County's, to never close the County offices. These counties have policies similar to Clay County's, in that if employees feel the weather conditions require them to stay home from work or leave work early, they may use vacation, compensatory time, flex time, etc., to make up the time lost. He added that no employee has ever been reprimanded for not being at work in inclement weather, and they are urged to use their best judgment for their safety. It was noted that most counties that do close their offices require employees to take vacation, compensatory time or flex time for the hours the offices are closed.

The Board reviewed a letter received from personnel in Social Services requesting that the

County Board revisit the 'no close' policy, as they believe it puts County employees at risk, as well as the population served (See Attachment "B").

Commissioner Evert expressed his frustration with the policy, in that five years ago when it was adopted by the County Board he was unable to be at the meeting as he was stranded in Fergus Falls due to weather conditions. He was concerned for those people who are out driving on roads when the Sheriff has indicated no travel is advised.

Commissioner Campbell felt the issue is a pay issue as well as a safety issue, and that is the struggle for the Board.

County Auditor Lori Johnson commented that if the County offices are open, the Auditor's, Treasurer's, and Recorder's offices must be open. She felt the 'no-close' policy was a knee-jerk reaction to the extreme weather conditions of 1996-97.

Commissioner McCarthy noted that only one county pays their employees when County offices are closed. He felt employees should be reminded each Fall of the policy to not close County offices, and that they need to use their own best judgment as to whether or not it is safe for them to travel to work. He felt this takes out the component of grievances.

Human Resources Director Dawn Schlosser-Greuel noted that newer employees, who have not built up vacation, compensatory time, or flex time, should be given the opportunity to take unpaid leave, or to make up the time within the same pay period.

Kathleen Cardinal, Social Services, informed the Board that once she got to work last Tuesday, she found the parking lot was not cleared, and her car got stuck. She felt that if the Sheriff is asking citizens not to be on the road, the County is sending the community the wrong message by keeping the offices open. She felt the standard in the community is that everyone closes but Clay County.

Commissioner Brunsvold commented that according to the response from the other counties, the past practice of paying people for not coming to work and the subsequent grievances caused more problems than not closing the offices. He felt the existing policy should stay in place and employees should be reminded that they are entitled to make a judgment call on whether or not it is safe for them to travel to work.

Assistant County Attorney Michelle Winkis felt that some verbiage should be included in the policy regarding the appropriate authority for closing the offices in 'extreme' or 'rare' cases, i.e., city-wide black out, bomb threat, etc. She agreed that new employees should be given the opportunity to take time without pay for weather conditions.

On motion by McCarthy, seconded by Campbell, and unanimously carried, the Board referred the inclement weather policy to the Human Resources Director to clarify employee's rights, and for the inclusion of the authority to close in very rare circumstances as outlined above.

#### APPROVE PAYMENT OF MONTHLY BILLS AND VOUCHERS

On motion by Evert, seconded by McCarthy, and unanimously carried, the Board approved payment of the monthly bills and vouchers.

#### CITIZEN CONCERNS: MR. JIM GIEDT

Mr. Jim Giedt was present to reiterate concerns he has brought to the County Board in the past regarding the taxes on his property, water that is running on his property that affects the market value, etc.

County Engineer David Overbo stated that he and Commissioner Evert had been to the site last week and located the culverts under County Road 86. He did not see water running, but noted that Mr. Giedt had been able to bale the land. He commented that with the recent rains this fall, the water level is high in this area which may be traditional wetlands.

Mr. Bruce Albright, Buffalo-Red River Watershed District, was present to inform the Board this issues goes back 20 plus years. He commented that the region is in a wet cycle that started in 1993 and is still continuing. He suggested that when MnDOT regrades Highway 10 in the next few years, that they be requested to improve and/or enhance the drainage, which in turn should help the ground water issues near the Giedt home. He felt that problems also stem from the driveways which do not have culverts along County Road 86. When County Road 86 is regraded in 2007, he suggested that the BRRWD and the Highway Department implement a plan to move the water in the ditches.

Mr. Albright felt the drainage across Mr. Giedt's property is groundwater or spring water that is flowing through a natural water course across the property. He did not feel the water was coming from the nearby gravel pit.

Mr. Albright offered to work with the Highway Department and MnDOT on a long range plan to address the drainage for all homeowners along County Road 86.

Mr. Richard Berg, an area resident, felt the clay ridge in the aquifer has been broken and improperly filled/repared. He felt the culverts should be plugged so that sump pumps do not have to run all year.

Commissioner Campbell commented that the lowest assessment rate has already been assigned to Mr. Giedt's property, and there is no more the County can do for Mr. Giedt.

Mr. Albright commented that Mr. Giedt has been to the BRRWD meetings numerous times and the next meeting is January 9<sup>th</sup> at 7:00 p.m.

#### COMMITTEE REPORTS/COUNTY ADMINISTRATOR UPDATE

Commissioner Evert informed the Board that Lakeland Mental Health's financial condition is in very good shape, with increased goals for reserves.

Commissioner Campbell commented that the Anda property has been re-zoned.

With respect to the Jail planning process, Commissioner Brunsvold felt it would be to the County's advantage to not tie an architect to the consultant process. Commissioner Campbell agreed that that was the PONI recommendation as well.

The National Association of Counties meeting is March 4-8, 2006 in Chicago.

#### ADJOURN

The meeting adjourned at 11:30 am.

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Ben Brunsvold, Chair  
Clay County Board of Commissioners

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Vijay Sethi, County Administrator