

CLAY COUNTY BOARD OF COMMISSIONERS

8:30 A.M., TUESDAY, NOVEMBER 29, 2022

Rooms A/B, 3rd Floor, Courthouse

MINUTES

The Clay County Board of Commissioners met in regular session with the following Commissioners present: Jenna Kahly, Frank Gross, Jenny Mongeau, Kevin Campbell, and David Ebinger. Others present: County Administrator Stephen Larson, County Attorney Brian Melton, HR Director Darren Brooke, and Communications Coordinator Jacqueline Finck.

CALL TO ORDER

Chair Mongeau called the meeting to order at 8:30 a.m.

APPROVAL OF AGENDA

On motion by Commissioner Kahly, seconded by Commissioner Gross, and unanimously carried, the Board approved the agenda.

DONATION FROM DILWORTH FIREMAN'S RELIEF ASSOCIATION TO THE SHERIFF'S OFFICE DARE PROGRAM

By consent, the Board approved the donation in the amount of \$8,000 from the Dilworth Fireman's Relief Association to the Sheriff's Office DARE Program in Memory of Sheriff Bill Bergquist.

CITIZENS TO BE HEARD

There were no citizens to be heard.

APPROVAL OF PAYMENT OF BILLS AND VOUCHERS

On motion by Commissioner Gross, seconded by Commissioner Ebinger, and unanimously carried, the Board approved the payment of bills and vouchers totaling \$21,716,134 from 108 vendors. There were 41 warrants issued under \$2,000 (\$20,225) and the following 67 were over \$2,000:

Treas Of Moorhead City	\$10,796,316	Treas Of Hawley Twsp	\$40,963
Independent School Dist 152	\$ 3,419,195	Treas Of Morken Twsp	\$39,592
Treas Of Dilworth City	\$ 1,775,107	Treas Of Eglon Twsp	\$38,639
Treas Of Hawley City	\$ 716,581	Treas Of Elmwood Twsp	\$34,054
Treas Of Barnesville City	\$ 683,412	Treas Of Goose Prairie Twsp.	\$32,320
Treas Of Glyndon City	\$ 640,771	Ada-Borup-West ISD 2910	\$31,422
Independent School Dist 150	\$ 511,767	Treas Of Parke Twsp	\$30,688
Independent School Dist 2164	\$ 506,360	Treas Of Ulen Twsp	\$30,117
Buffalo-Red River Watershed	\$ 487,716	Treas Of Highland Grove Twsp.	\$29,404
Independent School District 146	\$ 439,908	Treas Of Kurtz Twsp	\$26,804
Independent School Dist 914	\$ 242,707	Treas Of Kragnes Twsp	\$25,786
Halliday, Watkins & Mann P.C.	\$ 160,152	Treas Of Elkton Twsp	\$24,942
Treas Of Ulen City	\$ 136,054	Magic Fund	\$23,897
Treas Of Sabin City	\$ 125,166	Treas Of Tansem Twsp	\$23,508
Treas Wild R W Shed/Treas Of	\$ 106,926	Treas Of Skree Twsp	\$23,361
Treas Of Oakport Twsp	\$ 46,655	Treas Of Georgetown Twsp	\$21,571
Treas Of Cromwell Twsp	\$ 42,875	Treas Of Hitterdal City	\$21,160

Treas Of Viding Twsp	\$20,450	Treas Of Spring Prairie Twsp	\$10,749
Independent School Dist Bc 2889	\$18,918	Treas Of Hagen Twsp	\$10,445
Stein's Inc	\$17,790	Treas of Flowing Twsp	\$ 8,615
Treas Of Georgetown City	\$17,468	Treas Of Riverton Twsp	\$ 8,517
Treas Of Moland Twp	\$17,121	Cross Properties	\$ 8,000
Historical & Cultural Society Of Clay Co	\$16,147	Treas Of Moorhead Twsp	\$ 7,043
JT Lawn Service	\$16,092	Treas Of Comstock City	\$ 6,453
Treas Of Glyndon Twsp	\$15,740	MN Life	\$ 6,172
Treas Of Barnesville Twsp	\$15,701	Schmidt/Shawn	\$ 6,000
Treas Of Felton Twsp	\$14,878	Toay/Brian P	\$ 6,000
Treas Of Humboldt Twsp	\$14,313	Trinity Services Group, Inc.	\$ 4,418
Treas Of Felton City	\$14,204	Braun Intertec Corp	\$ 4,350
Independent School Dist Otc 548	\$14,087	Family Healthcare Center	\$ 4,000
Treas Of Holy Cross Twsp	\$13,554	R Travelmart	\$ 3,460
Treas Of Alliance Twsp	\$12,377	Fremstad Law Firm PLLC	\$ 3,000

APPROVAL OF MINUTES FROM NOVEMBER 15, 2022

On motion by Commissioner Campbell, seconded by Commissioner Gross, and unanimously carried, the Board approved the minutes from November 15, 2022.

REQUEST FOR APPROVAL TO FILL VACANCY FOR OVERNIGHT JUVENILE WORKER POSITION

West Central Juvenile Detention Center had a recent resignation of an overnight juvenile worker. Director James O'Donnell requested to fill a vacancy for overnight juvenile worker position, with backfill, if necessary. Replacement will be hired as soon as possible.

Commissioner Kahly asked how many positions are available at the moment. Mr. O'Donnell stated there is one more full-time position and approximately 40 variable hour positions.

Commissioner Campbell asked if there has been an improvement with the positioned being filled overall. Mr. O'Donnell stated that they have been able to find qualified applicants, but the hiring pools continue to be smaller, particularly male applicants. Filling variable hour positions continue to be an issue. In the past, more male applicants utilized the counselor position as a means to gain experience for law enforcement or probation careers. The facility is receiving a higher volume of female applicants. Commissioner Campbell asked what the reasoning may be. Mr. O'Donnell stated he wasn't exactly sure, but felt compensation was an issue. He highlighted that the salary for variable hour staff will be increased salaries in the 2023 budget.

Commissioner Ebinger discussed in the past, those that went into law enforcement started their careers in juvenile corrections and that it's a great experience to start their career path for either enforcement or probation.

On motion by Commissioner Gross, seconded by Commissioner Ebinger, and unanimously carried, the Board approved to move forward with hiring an Overnight Juvenile Worker.

REQUEST FOR APPROVAL TO FILL VACANCY FOR NON-SECURE UNIT JUVENILE WORKER POSITION

West Central Juvenile Detention Center had a recent resignation of a juvenile worker in the non-secure unit. Mr. O'Donnell requested to fill a vacancy for a non-secure juvenile worker position, with backfill, if necessary. Replacement will be hired as soon as possible.

On motion by Commissioner Campbell, seconded by Commissioner Kahly, and unanimously carried, the Board approved to move forward with hiring a Non-Secure Juvenile Worker.

REQUEST FOR ARPA FUNDING FOR A PLACE FOR HOPE: RECOVERY AND WELLNESS CENTER & FOOD SHELF

A Place for Hope: Recovery and Wellness Center & Food Shelf (AP4H) provides a variety of services for Clay County residents including a mental health program “model of psychosocial rehabilitation by supporting people with a history of mental illness rejoin society”. AP4H was recently notified of a \$1,000 per month rent increase. Darrel Vasvick, Executive Director for A Place for Hope: Recovery and Wellness Center & Food Shelf, requested ARPA funding to address the increase in rent & operations.

Social Services Director Rhonda Porter discussed a shortfall of \$12,000 for rent in 2023. Mr. Vasvick reached out to the Adult Mental Health Initiative and due to underspending of 2022, they were able to allocate \$3,000. Mr. Vasvick also reviewed the 2022 budget and was able to reallocate an additional \$3,000. The ARPA committee is requesting \$6,000.

Commissioner Mongeau discussed how vital AP4H is for the community and that the ARPA committee reviewed this and recognized that the rent had not been increased for quite some time which is why the increase is significant.

Commissioner Campbell discussed the need for the program and voiced concerns regarding the sustainability of the increases in rent versus the budget moving forward.

Rhonda discussed that under the Adult Mental Health Act, the county does have obligations to provide services to the community and A Place for Hope is one of those programs that offer those services. A Place for Hope offers support, mental health services, social interaction, and schedules outings.

Commissioner Kahly mentioned that the location for the Food Shelf is rent free from the building owner that also rents to A Place for Hope and thanked them for their generosity.

On motion by Commissioner Campbell, seconded by Commissioner Kahly, and unanimously carried, the Board approved the ARPA funding of \$6,000 to address rent/operation needs for A Place for Hope.

REQUEST FOR ARPA FUNDING FOR SENIOR TRANSPORTATION SERVICE, CAPLP

CAPLP operates a senior transportation service called Rural Routes. Their 12-passenger handicap accessible minibus provides door to door transport for low-income seniors in rural Clay County on an income-based scale. This program offers door to door transports into Fargo/Moorhead for medical appointments, groceries, and vaccination appointments. Rural Routes has played an important role during COVID, allowing seniors to remain connected into the community. The Clay County Board of Commissioners approved \$50,000 in ARPA funding December 28, 2021. CAPLP is requesting additional ARPA funding.

Lori Schwartz, CAPLP Executive Director, discussed the barriers they’ve battled with getting this program up and running. The program is as at a point with Covid that they can do more outreach and have another soft launch.

Commissioner Mongeau discussed the importance of senior transportation for rural areas and is hopeful for more outreach and advertisement and to have another soft launch to push for the success of this program.

Commissioner Campbell discussed the need for rural transportation as well and asked the total cost to operate this program for one year. Ms. Schwartz stated that it costs approximately \$72,000 for salary, benefits, bus maintenance, and gasoline.

Commissioner Kahly discussed how this program was created as a direct response for the needs of the community and is part of aging well at home which the county wants to support.

Commissioner Gross asked how many citizens the program has provided services to. Ms. Schwartz stated to date, since June, the program has offered 76 rides. She mentioned how vital these rides have been for social interaction and getting seniors out of their homes. The program has found that many seniors have not been getting to their medical appointments or picking up their prescriptions, so this transportation service has helped with that.

Commissioner Ebinger strongly recommends the board approve the ARPA funding for this transportation service because our rural senior citizens need it, especially because of the distance and isolation there is in rural areas.

Commissioner Campbell asked if a CDL license is needed to drive the bus and how many people it fits. Ms. Schwartz stated the bus can fit 12 passengers and does not require a CDL license. Commissioner Campbell suggested to reach out the volunteer driver program of Clay County if they're in search of additional drivers.

On motion by Commissioner Kahly, seconded by Commissioner Ebinger, and unanimously carried, the Board approved to ARPA funding of \$51,500 for the CAPLP Senior Transportation Service.

REQUESTS FOR APPROVAL ON MNDOT LIMIT USE PERMIT (LUP) & RESOLUTION 2022-37 FOR SNOWMOBILE TRAIL

County Engineer Justin Sorum requested the approval of MnDOT LUP #1401-0014, Amendment 1.1. In 2002, on behalf of the local snowmobile clubs, Clay County submitted a LUP and Resolution for the purposes on constructing and maintaining snowmobile trails in the MnDOT right-of-way along Truck Highway 9, 10, 32, 75, and I-94. There has been a recent request to change the trail crossing due to BNSF not allowing the use of abandoned railroad property. The trail will utilize Highway 9 right-of-way from 80th Ave S to Downer. Due to this change the LUP #1401-00-14 must be amended.

On motion by Commissioner Campbell, seconded by Commissioner Ebinger, and unanimously carried, the Board approved Resolution 2022-37 for the construction and maintenance of snowmobile trails in the MnDOT right-of-way along Truck Highway 9, 10, 32, 75, and I-94.

On motion by Commissioner Gross, seconded by Commissioner Ebinger, and unanimously carried, the Board approved of the MnDOT Limit Use Permit (LUP) for the construction and maintenance of snowmobile trails in the MnDOT right-of-way along Truck Highway 9, 10, 32, 75, and I-94.

RESOLUTION 2022-37

WHEREAS, the Commissioner of Transportation of the State of Minnesota has made available certain Trunk Highway (TH) right-of-way as shown in red/green on Exhibit “A”, in the Limited Use Permit Snowmobile Trail Agreement (LUP #1401-0014 Amendment 1.1) made part thereof, for the purposes of constructing, maintaining and operating a snowmobile trail; and

WHEREAS, the County of Clay desires to make available to its citizens and visitors, such an area for the aforementioned purposes, in harmony and keeping with its recreational plan; and

WHEREAS, the County of Clay is willing to operate, maintain and safeguard the facility as set forth in the Limited Use Permits for the Snowmobile Trail Agreement,

IT IS FURTHER RESOLVED that Clay County Board of Commissioners does hereby approve said Limited Use Permit and authorizes and directs the County Board Chairperson and County Administrator to execute, on behalf of County of Clay, the aforesaid Limited Use Permit.

PUBLIC HEARING: CONSIDER ADOPTION OF ZONING MAP AND TEXT AMENDMENTS THROUGH PASSAGE OF ORDINANCE 2022-5 TO THE CLAY COUNTY DEVELOPMENT CODE AND ZONING MAP

On motion by Commissioner Campbell, seconded by Commissioner Kahly, and unanimously carried, the Board opened the public hearing.

At their November 15th, 2022, meeting, the Planning Commission held a public hearing on proposed amendments to the Clay County Zoning Map and Clay County Development Code Use Table 8-5-1 to make changes to the Resource Protection – Aggregate Overlay Zoning District and the list of permitted uses in this zoning district. The purpose of this overlay zoning district is to protect sand and gravel resources from incompatible development and ensure an accessible supply of aggregate resources into the future. However, this zoning district was applied in areas of the County that have either been developed or are in a zoning district that does not permit aggregate extraction. These proposed changes are to amend the zoning map to remove the Resource Protection – Aggregate Overlay Zoning District from these areas and update the Clay County Use Table 8-5-1 to allow more permitted uses that are compatible with aggregate extraction in this overlay zoning district.

After testimony and discussion of the request, including written and in-person comments by members of the public, a motion was to recommend approval of the zoning map and text amendments to the County Board of Commissioners passed unanimously.

Adoption of Ordinance 2022-5 is the procedure for amending the zoning map and the text of the Clay County Development Code. This procedure follows past amendments and prior public notice was given in the Clay County Union and Fargo Forum.

Planning and Zoning Director Matthew Jacobson presented the Resource Protection – Aggregate Overlay District Proposed Rezoning. The presentation covered the purpose for the rezoning and how they used the aggregate study completed by the MnDNR to develop the new overlay. The goal is to remove zoning districts in areas where it's not necessary and to remove hardship and burdens for landowners.

Ezra Baer, Planning Commission Chair, discussed the public hearing on November 15, 2022. After the Planning Commission presented the zoning map and text amendments in detail, the residents that attended the hearing agreed with the proposed changes.

Linda Berg, located in the Riverton Section, asked if aggregate companies have any restrictions on how deep they can mine and how much they can dewater their gravel pit, specifically Pit 21. Ms. Berg discussed her concerns regarding her sump pump running year-round. Mr. Jacobson stated that this public hearing is to address the changes to the Aggregate Overlay Zoning District. There has been concern regarding discharge from this pit in the past. The County does not have any authority over this gravel pit because it has been grandfathered in and precedes the County's permitting process. The MnDNR does hold a Groundwater Appropriations Permit which regulates the discharge for this gravel pit and the MPCA regulates the quality of the discharge with a National Pollution Discharge Elimination System Permit. Mr. Jacobson will touch base with Ms. Berg regarding contact information for the regulatory agencies regarding Pit 21. Richard Berg voiced his concern as well and is worried the water that is being discharged from Pit 21 is going to affect his septic and drain field.

Commissioners Mongeau and Campbell requested these concerns be brought to a Buffalo Red River Watershed District Board meeting and to have our county staff assist Linda & Richard Berg in getting connected with the appropriate regulatory agencies.

Commissioner Campbell discussed how important it is to protect our gravel resources, so they are easily accessible and nearby.

On motion by Commissioner Kahly, seconded by Commissioner Ebinger the Board closed the public hearing.

Commissioner Kahly thanked everyone who worked on updating the zoning map and text amendments.

Commissioner Mongeau read the Findings of Fact & Order:

1. **Effect of Use:** In granting a zoning district amendment, the Planning Commission shall consider the effect of the proposed use upon the health, safety, morals and general welfare of occupants of surrounding lands, existing and anticipated land uses, traffic conditions including parking facilities on adjacent streets and land, and the effect on agricultural usage and values of property and scenic view in the surrounding areas, and the effect of the proposed use on existing comprehensive plans.
2. **Burden on Public Utilities:** The development authorized by the rezoning will not create an excessive burden on any public facilities or utilities which serve or are proposed to serve the area.
3. **Related to Overall Needs:** The rezoning is reasonably related to the overall needs of the County and to the existing land use.
4. **Consistency with Ordinance:** The rezoning is consistent with the purposes of this Ordinance and the purposes of the zoning district in which the Applicant seeks classification.
5. **Conflict with Comprehensive Plan:** The rezoning is not in conflict with the comprehensive plans of any Township or City of the County or the County Land Use Plan.
6. **Prematurely Stimulate Public Investment in Utilities:** The rezoning will not either individually or cumulatively stimulate prematurely, public investment in the facilities and utilities described in subsection D.2.a of this Section.

On motion from Commissioner Campbell, seconded by Commissioner Kahly, and unanimously carried, the Board approved the Findings of Fact.

On motion by Commissioner Campbell, seconded by Commissioner Ebinger, and unanimously carried, the Board approved Ordinance 2022-5 of the adoption of Zoning Map and text amendments.

Commissioner Mongeau thanked Mr. Jacobson and his team for the work that went into this. She also thanked the public for attending the public hearings and stated how important it is for their voice to be heard.

PROPOSED FORMATION OF THE WEST CENTRAL REGIONAL WATER DISTRICT

Norman and Polk County are inquiring about Clay County's interest in creating a "West Central Regional Water District" (the "WCRWD" or "District"), and the establishment of multi-county public water system pursuant to Minnesota Statutes Chapter 116A, to ensure sustainable access to potable water for residents and businesses, benefit the public, and promote public health.

Norman County Engineer Keith Berndt, Sarah Sesselman with AE2S, and Flaherty & Hood attorney Daniel Marx joined via Teams to present and discuss the formation of the West Central Regional Water District. Mr. Berndt discussed the arsenic contamination in drinking water, infrastructure failures, and outdated systems for rural residents and communities located in Polk, Norman, and Clay counties. Norman County has been looking into forming a rural water district. Flaherty & Hood have been hired to provide legal guidance.

Ms. Sesselman discussed the interest from the rural residents and communities in Polk, Norman, and Clay Counties. This idea started with high arsenic contamination in the drinking water for the City of Climax. The cities, starting at Climax, that follow Highway 75 down to Georgetown, including Felton, have sent resolutions or letters of support for the formation of a rural water district. The biggest benefit of a rural water district is the long-term, high quality and safe potable water supply that also offers affordable water rates.

Commissioner Mongeau asked if there was cost included in the letters of interest that were sent to the rural communities. Ms. Sesselman discussed that after the district is formed, a preliminary engineering report would be completed. It would outline the water quality, the cost, and how each community would receive the water. A preliminary engineering report cannot be completed until there is a governing body established for the rural water district.

Commissioner Campbell asked about the process and implementation of a multi-county water district and what the representation would look like.

Mr. Marx discussed the resolution that Norman County adopted is to establish a rural water district and to then establish a rural water system which will then be governed by the rural water district. Because the district will potentially be multi-county, it will require judicial oversight in the process of establishing. The water district will have a Board of Commissioners who will be appointed by the counties with a total of seven commissioners (maximum of nine). The commissioners would be appointed by a per capita/population ratio. Once the district is formed, the counties would not be required to take advantage of the district's services. The rural communities themselves would then be able to contract with the district for services.

Commissioner Mongeau referred to the map in the attachment asking if there had been any arsenic tests complete in Clay County. Ms. Sesselman stated they didn't complete any tests in Clay County when the study was completed in January 2022.

Commissioner Campbell asked what the specific request of the board. Mr. Berndt stated that this was more informational and to find what additional information the board needed to move forward with making a decision on a potential resolution to establish a rural water district.

Commissioners Campbell and Mongeau discussed how they have not heard concerns from the rural residents and communities regarding their drinking water. They suggested giving additional presentations at a county level and to reach out to townships. Commissioner Mongeau also suggested Clay County hold a public meeting to have this information presented and to further discuss with rural residents and communities.

Ms. Sesselman discussed the outreach and meetings she has attended. She has also given presentations with great attendance and noted additional outreach would be beneficial. Senator Eken and Representative Marquart drafted this into a general application bond bill in January. Information has also been submitted to the US Army Corps of Engineers, PFA and different funding agencies but the biggest roadblock is that there is no governing body to continue the discussion.

Mr. Marx stated eventually the want would be for Clay County to adopt a resolution similar to Norman County which would be to be part of the formation of the rural water district itself and support/authorize the initiation of the public process through the district court.

In summary, Commissioner Mongeau stated the Board is curious and is interested in continued discussion and conversation. The Board is not ready to adopt a resolution today and would like to hear from rural Clay County residents and communities prior to making a decision on being a part of the formation of a West Central Regional Water District.

CLOSED SESSION – COUNTY ATTORNEY, BRIAN MELTON, AS PERMITTED BY MS SECTION 13D.05 SUBDIVISION 3 (B) ATTORNEY-CLIENT PRIVILEGE TO DISCUSS CLAY COUNTY TRANSFER STATION CONSRUCTION AND CONTRACTING

On motion by Commissioner Campbell, seconded by Commissioner Gross, and unanimously carried, the Board closed the public meeting for a closed session at 10:26 a.m.

On motion by Commissioner Gross, seconded by Commissioner Kahly, and unanimously carried, the Board reopened the public meeting at 11:13 a.m.

COMMITTEE REPORTS/COUNTY ADMINISTRATOR UPDATE/DISCUSSIONS

- Commissioner Ebinger did not have any meetings to report on.
- Commissioner Campbell reported on meetings for Clay County Substance Abuse Committee.
- Commissioner Gross did not have any meetings to report on.
- Commissioner Kahly did not have any meetings to report on.
- Commissioner Mongeau reported on meetings for Lakeland Mental Health Center; Clay County Substance Abuse Committee.
- Mr. Larson attended meetings for Clay County Substance Abuse Committee; Land Development Code with Matthew Jacobson.

The meeting was adjourned at 11:15 a.m.

Jenny Mongeau, Chair
County Board of Commissioners

Stephen Larson, County Administrator