CLAY COUNTY BOARD OF COMMISSIONERS

8:30 AM, TUESDAY, JANUARY 17, 2023

Meeting Room A / B – 3rd Floor – Courthouse

MINUTES

The Clay County Board of Commissioners met in regular session with the following Commissioners present: Paul Krabbenhoft, Frank Gross, Jenny Mongeau (8:32 a.m.), Kevin Campbell, and David Ebinger. Others present: County Administrator Stephen Larson, County Attorney Brian Melton, and Communications Coordinator Jacqueline Finck.

Call to Order

Commissioner Gross called the meeting to order at 8:30 a.m.

Approval of Agenda

On motion by Commissioner Ebinger, seconded by Commissioner Krabbenhoft, and unanimously carried, the Board approved the agenda with the following addition: Energy Legislation to Impact Waste Management.

Minnesota Lawful Gambling LG220 Application for Exempt Permit - Barnesville Rod & Gun

By consent, the Board approved the Minnesota Lawful Gambling LG220 Application for Exempt Permit for Barnesville Rod & Gun.

Minnesota Lawful Gambling LG220 Application for Exempt Permit - Barnesville Baseball Club

By consent, the Board approved the Minnesota Lawful Gambling LG220 Application for Exempt Permit for the Barnesville Baseball Club.

Amendment(s) to 5-10-22 Minutes to reflect accurate bid amount for the Mill & Overlay on CSAH 12 from R.J. Zavoral and Sons

By consent, the Board approved the amended meeting minutes from 5-10-2022 to reflect the accurate bid amount for the Mill & Overlay on CSAH 12 from R.J. Zavoral and Sons.

Citizens to be Heard

There were no citizens to be heard.

Approval of Payment of Bills and Vouchers

On motion by Commissioner Ebinger, seconded by Commissioner Campbell, and unanimously carried, the Board approved the payment of bills and vouchers totaling $1,004,253 from 103 vendors. There were 61 warrants issued under $2,000 ($47,621) and the following 42 were over $2,000;

Construction Engineers, Inc.	$	371,688	Streicher's	$	7,877
Sellin Bros Inc	$	113,483	Verizon-386550144	$	7,621
Advanced Correctional Healthcare, Inc.	$	57,266	Barnesville C-Store	$	7,291
Trinity Services Group, Inc.	$	41,395	Forum Communications Printing	$	6,550
Moorhead Public Service	$	41,018	Advanced Business Methods	$	5,876
High Point Networks, LLC	$	34,165	Amazon Capital Services	$	5,420
Lutheran Social Service Of Mn	$	31,141	Marco Technologies LLC	$	5,262
Petro Serve Usa-Hwy	$	20,220	WEX Bank	$	4,685
Clay Co Public Health	$	19,151	Best Buy Business Advantage Account	$	4,584
Xcel Energy	$	16,271	Psyclogics	$	4,515
Andrews/Joseph	$	15,426	Enterprise FM Trust	$	4,014
Metro Cog	$	15,244	Dakota Plains Mechanical, Inc.	$	3,897
ANJAAM HOLDINGS, LLC	$	12,846	Valley Mortuary Services	$	3,104
JT Lawn Service	$	12,289	Stellar Services, LLC	$	2,609
Otter Tail Public Health	$	11,495	Melanie Ferris Consulting, LLC	$	2,550
Sabin C Store	$	11,329	Radio FM Media	$	2,500
City Of Fargo	$	9,261	AIMM, LLC	$	2,308
Bytespeed, LLC	$	8,980	Thomson Reuters - West 231880	$	2,258
Barnesville Record-Review	$	8,514	Ramsey County Med Exam	$	2,140
Association Of Minnesota Counties	$	8,152	Maco - Aitkin	$	2,130
New Horizons MN	$	8,000	Pomp's Tire Service, Inc.	$	2,090

Approval of Minutes from January 3, 2023.

On motion by Commissioner Ebinger, seconded by Commissioner Krabbenhoft, and unanimously carried, the Board approved the minutes from January 3, 2023.

Request to fill vacated Detox LPN position: Public Health Administrator Kathy McKay and Detox Director Troy Amundsen

Public Health Administrator, Kathy McKay and Detox Director, Troy Amundsen requested to fill the vacated LPN position for Detox, to ensure coverage for the night and weekend shifts. This position is already included in the 2023 budget.

On motion by Commissioner Mongeau, seconded by Commissioner Campbell, and unanimously carried, the Board approved to fill the vacated Detox LPN position.

Amended Resource Recovery Center Agreement: Facilities Director Joe Olson

Solid Waste Manager Corey Bang requested approval of the amended service agreement between Clay County and the City of Moorhead for the new Resource Recovery Center. The first amendment included updated verbiage for section 7.2; each party shall be responsible for damages to or loss of its own equipment. Each party waives the right to sue the other party for any damages to or loss of its equipment, even if damages or losses were caused in whole or partially, by the neglect to the other party. The second, is to amend the date the contract would take effect, which will be February 6, 2023 rather than the original date of January 1, 2023.

Facilities Director Joe Olson stated that this service agreement had already been approved once. This contract was then sent by the City of Moorhead to their risk assessment attorney, who suggested adding this verbiage to the agreement.

Commissioner Gross asked if there had been a problem with a loss of tools. Mr. Bang explained that it was more for equipment, since both the City of Moorhead and Clay County own some of the equipment.

On motion by Commissioner Campbell, seconded by Commissioner Krabbenhoft, and unanimously carried, the Board approved the Amended Resource Recovery Center Agreement.

Substance Use Crisis Facility - Design Development Progress Update, Including Estimate, Scott Fettig & Ryan Weber, Klein McCarthy Architects, Steve Gehrtz & Dan Kleist, Principal Construction Manager

Klein McCarthy Architects President Scott Fettig, Project Manager Ryan Weber, Designer Zane Gayle along with Gehrtz Construction Services Principal Construction Managers, Dan Kleist and Steve Gehrtz presented the updated design development of the Substance Use Crisis Facility.

Mr. Fetting presented a recap of the progression of the project. Two of the three phases have been completed, with the second phase being the design development phase and construction documents. The design development estimate was discussed and presented and the construction documents will be ready to send out for bid by the end of February.

Mr. Kleist discussed that the estimate is based off the drawings that were put together for the design development. In the estimate, there was a small increase in the mechanical/electrical section with the B3 items now included, which was the biggest increase on the construction side. The B3 section of the estimate amounts to about $851,000 within the estimate that was provided. Commissioner Gross asked for clarification on the heating source for the facility. Mr. Kleist stated that is would be heated with geothermal wells.

Mr. Larson asked Mr. Weber to clarify the variance process that is taking place with B3. Mr. Weber discussed the three variants that are being sought out. The first being solar energy. Based on the discussions with the City of Moorhead, and the fact that their energy is already solar, wind powered, and sustainable, there is no need to add any solar aspects since this can be met through city power. Second is for the retention pond. Currently, there is an existing retention pond that was designed for the Resource Recover Center, which will drain that site. Therefore, a variance would allow for one retention pond, rather than adding an additional one. The last variance is for views and natural light. The state requires bedrooms to be on the exterior walls of the Behavioral Health Program. This doesn't allow for natural light into the building. Therefore, there is doubt about being able to meet that requirement without significant design changes.

Commissioner Campbell stated that skylights were incorporated into the designs. Mr. Weber confirmed that skylights were incorporated into the nurses' station and above the kitchen. However, this would still not meet the full requirement. Therefore, the variance would allow for not meeting the requirements to the full extent.

Commissioner Ebinger asked for clarification on the impact the variances would have on the $851,000. Mr. Weber stated that not getting the variances would require additional dollars in regards to the natural light, since this was not included in the design. Mr. Kleist confirmed that the retention pond was the only variance included in the $851,000 because it was shown on the drawing. However, if the retention pond was not needed, an additional $20,000 could be allocated elsewhere. Mr. Gehrtz confirmed that the variance for solar power was not included in the total at this point.

Mr. Larson asked Mr. Kleist to further discuss the design and construction contingency plan. Mr. Kleist further discussed that when completion nears, not much more will be added or removed from the project, therefore expecting those numbers to decrease. Typically, there is a design and construction contingency, on the chance that the owner decides to make changes, they have contingencies to pull from which are around 3-5%.

Commissioner Campbell followed up with clarification on contingencies and how they are shown. Design contingencies are similar to owner contingencies. The design contingency amount that gets spent is at the discretion of the county compared to the construction contingency. Mr. Kleist confirmed and stated that it's usually used when there is a discrepancy in the drawings.Commissioner Campbell stated that due to the B3 and updates on the FF&E, there is a shortage of about 1.3 million from where the financial plan had originally been.

A five-minute break took place between 8:55 - 9:00. After the break was complete, Mr. Weber gave a 3-D presentation of the building. Discussion ensued regarding the design of the building.

Commissioner Gross thanked everyone for being there and for the presentation.

Addition: Energy Legislation to Impact Waste Management

Commissioner Campbell brought forth the issue with legislation that is currently going through the House and the Senate in St. Paul with regards to waste energy facilities. The outcome would shut down waste energy facilities that produce electricity. The one facility that doesn't produce electricity is the Prairie Lakes Solid Waste (PLSW) facility, which produces steam. The concern being that if the other waste energy facilities are shut down, it will directly impact the PLSW facility. In addition, there are proposals that would require a carbon emissions tax. This would start at around $5 dollars per ton and could go up to $240 dollars per ton, which could amount to several million dollars per year in cost to our facility. The Clay County landfill has a limited capacity and it produces methane gas, which is worse than the carbon emissions. Commissioner Campbell continued stating that Clay County is 15% owner of the PLSW facility in Perham, Minnesota, and still has a share of debt on the facility in the amount of $4 million dollars.

On January 18, 2023, there will be a hearing in regards to this issue. Commissioner Campbell believes there should be some communication that expresses concern and how it would impact the Clay County facility.

Commission Mongeau discussed how important it is to understand that legislation like this is meant well, but it might not be doing what their full intent is hoping for. Going this route is not the answer to the problem.

On motion by Commissioner Campbell, seconded by Commissioner Mongeau, and unanimously carried, the Board approved to send a letter regarding the energy legislation that would impact waste management to Clay County's local legislatures, Chairs of the committees within the Senate and House of Representatives, and Governer Tim Walz and to send an excerpt of the video from today's Board meeting regarding the Energy Legislation to Impact Waste Management agenda item to Clay County's local legislatures.

Public Hearing: Solem Hills Final Plat Decision

On motion by Commissioner Ebinger, seconded by Commissioner Campbell, and unanimously carried, the Board approved to open the Public Hearing at 9:44 a.m.

Planning & Zoning Director Matthew Jacobson requested approval and gave a presentation on Solem Hills Final Plat Decision which was brought forward by Jason Gehrig and Gehrig Properties LLC, with Lowry Engineering doing the design.The applicant was seeking approval to plant an eight-lot subdivision in Tansem Townsip. The property is an 80 acre parcel and is zoned as special protection-shoreland and agricultural general. The land use on the parcel is agricultural, industrial and rural vacant. In the development code, if the subdivision of a parcel results in one or more residential lots, a plat is required. With this subdivision, it would require construction of a new public right-of-way, which was reviewed by the County Engineer and meets the requirements and standards of Clay County. With developing a new public right-of-way, the developer needs to enter into a road agreement with the township, which has been recorded with the Clay County Recorder. Once the road is constructed,Tansem Township would adopt that road as a township road. All lots meet the dimensional standards for shoreland requirements. There will be an internal road and each lot will be serviced by septic and a well. There will also be restrictive covenants, stormwater infrastructure, and a stormwater pollution prevention plan.

Commissioner Campbell questioned the condition of having the developer provide restrictive covenants. Governments do not acknowledge restrictive covenants, since it's between the land owners. Mr. Jacobsen stated the covenants would not be enforced by the county, but would provide the developers and property owners with a legal avenue to address any issues. It also gives any potential buyers expectations of what can be done on the properties and how they can be managed. Mr. Jacobson stated that having a covenant is part of our country's code as well.

Commissioner Gross asked if the gravel pit was operational. Mr. Jacobson stated that the gravel pit is closing. The land owners lease with the gravel company has ended. Commissioner Gross asked about the road that would be built and the maintenance. Mr. Jacobson confirmed that after discussion with the county engineer, Clay County would provide maintenance to the road, but will not provide snow removal.

Commissioner Krabbenhoft asked for clarification on the continuation of the road that was surveyed. Mr. Jacobson stated that there would be a dedicated right-of-way in the event that an additional road is added in the future.

John Lowry with Lowry Engineering came to the podium to introduce himself and to discuss how he has worked closely with the Planning Commission and the Township Board to ensure that everything is being done in a responsible manner.

On motion by Commissioner Campbell, seconded by Commissioner Ebinger, and unanimously carried, the Board approved to close the Public Hearing at 10:02 a.m.

Commissioner Campbell continued stating his concern regarding the covenants and how that language is being used, yet not being enforced by the county. Mr. Jacobson provided an analogy that a restricted covenant is similar to a condition that would be put on a permit for a gravel mine, where all the state permitting is completed. The county cannot enforce the state permit, but it is required.

Discussion ensued in regards to the technicalities of restricted convenants.

On motion by Commission Krabbenhoft, seconded by Commissioner Ebinger, and unanimously carried, the Board approved Solem Hills Final Plat.

Committee Reports/County Administrator Update/Discussions

- Commissioner Campbell reported on meetings for Red River Regional Dispatch Center - Board of Authority
- Commissioner Ebinger reported on meetings with Commissioner Krabbenhoft, Rori Beil and Kathy McKay to discuss funding for opioid addiction services; North West Emergency Communication Board; Beyond the Yellow Ribbon; and Red River Regional Dispatch Center - Board of Authority.
- Commissioner Krabbenhoft reported on meetings with Commissioner Ebinger, Rori Beil and Kathy McKay to discuss funding for opioid addiction services; Wildrice Watershed District; Clay Soil & Water Conservation; and GFMEDC.
- Commissioner Mongeau reported on meetings for Lakes & Prairie Community Action; Clay Soil & Water Conservation.
- Commissioner Gross reported on meetings for Beyond the Yellow Ribbon; Wildrice Watershed District.
- Mr. Larson reported on meetings with Derrick LaPoint; County Management; met with Justin Sorum; Ribbon Cutting Committee; Board of Authority; met with Commissioner Krabbenhoft; met with Michael Leeser, Kathy McKay, Kent Severson, Matt Jacobson and Justin Sorum; discussed with Brian Melton with county issues; noted legislation information from AMC and updates on FMLA and Legalization of Marijuana.

Mr. Larson requested the board approve the appointment of Commissioner Campbell and County Auditor-Treasurer Lori Johnson to the Budget and Finance committee.

On motion by Commissioner Mongeau, seconded by commissioner Ebinger, and unanimously carried, the Board approved the appointment of Commissioner Campbell and Lori Johnson to the Budget and Finance Committee.

Adjourn

The meeting was adjourned at 10:34 a.m.

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David Ebinger, Vice-Chair
County Board of Commissioners

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Stephen Larson, County Administrator