

Moorhead - Clay County Joint Powers Authority (MCCJPA)

Thursday, March 23, 2023, 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 1:03 p.m.

2) ROLL CALL

City of Moorhead: Mayor Shelly Carlson
Council Member Chuck Hendrickson
Clay County: Commissioner Kevin Campbell
Commissioner Jenny Mongeau
BRRWD: Council Member Larry Seljevoid
Member Gerald VanAmburg - present on-line, but due to inaccessibility of video as required by Open Meeting Law, Member VanAmburg did not participate in any MCCJPA discussions or voting actions.

Others Present or on Microsoft Teams:

Joel Paulson, Executive Director, Jodi Smith, Lands & Compliance Director, Madeline Gorghuber, Lands Specialist, Diversion Authority

Attorneys John Shockley, Lukas Andrud, Chris McShane & Kathryn McNamara, Ohnstad Twichell Law

Eric Dodds and Jessica Warren, AE2S

Scott Stenger and Dale Ahlsten, Prosource

Ken Helvey and Katie Laidley, SRF Consulting

Stephen Larson and Jacqueline Finck, Clay County staff

3) APPROVAL OF AGENDA

Council Member Hendrickson moved, and Mayor Carlson seconded, to approve the agenda.

4) APPROVAL OF MINUTES

Mayor Carlson moved, and Council Member Seljevoid seconded, to approve the minutes from February 23, 2023 and February 28, 2023. Motion carried.

5) CITIZENS TO BE HEARD

There were no citizens to be heard.

6) PROJECT UPDATES

a. Property Acquisition Status Report

Mr. Dodds referred to the Property Acquisition Status Report and maps showing acquired Properties. The construction footprint is at 85.6% with an increase of 1.2% from last month. The upstream mitigation area (UMA) footprint is at 34.9% with an increase of 1.9% from last

month. The property acquisition progress in Minnesota overall is 35.8% complete with the Southern Embankment (SE) & Associated Infrastructure being at 31.3% and the UMA at 28%. Mr. Dodds stated that the SE percentage may not seem far along, but as a reminder, the final designs were received in the last couple of months, so the acquisition process is relatively new. Acquisitions for SE Reach 4 & Reach 5 will continue, so increases in the percentage are anticipated in the coming months. Mr. Dodds discussed the landowner overview for the construction and UMA footprint and how each are broken down into owner groups and parcels.

Key activities are to continue negotiating settlement agreements with existing eminent domain actions. In the last month 19 parcels/12 landowners successfully closed in the North Dakota and Minnesota UMA and 34 farmland leases have been completed for the upcoming season in North Dakota and Minnesota.

b. MN Acquisition – Briefing for Moorhead Council

Mr. Dodds stated that there has been discussion with the City of Moorhead and a briefing will be conducted for the Moorhead City Council on April 24th, 2023. The briefing will entail background information on the MCCIPA, bylaws, and the responsibility of the City of Moorhead within the Joint Powers Agreement. There will be discussion on property acquisitions and the potential role the City will play if voluntary agreements aren't reached. Mayor Carlson agreed that this information would be important to bring to Moorhead City Council to make them aware.

7) LAND AGENT REPORTS

Mr. Stenger, Prosource, stated that Prosource is having discussions with landowners. Some of the property owners from the appraisals within the agenda have been talked to already because they own other properties, so he's hopeful the negotiations will go fairly quick. Otherwise, they're also working on some land swaps and landowner acquisitions. The easy acquisitions have been completed and are currently working on the more challenging ones.

Ms. Ahlsten, Prosource, stated that the batch letters are bringing landowners forward who are willing to negotiate, so Prosource is working with those landowners as well.

Mr. Helvey, SRF Consulting, stated that there are a number of landowners that have been made offers for flowage easements on tillable property and are waiting for appraisals on associated parcels that have improvements that should happen within the next month. This will give a complete comprehensive package of what we're looking at for some of those landowners. Mr. Helvey stated that they're continuing to work with homeowners and are waiting for appraisals to be completed.

8) Appraisal Reports

a. OIN 1307 Norden Appraisal Review

Mr. Dodds stated that this is an appraisal for a rural residential property in Wilkin County. OIN 1307 parcel has multiple outbuildings, a house, and several acres along the river. This appraisal review report has been reviewed by many and is requesting approval. One thing to note is that the highest and best use for this property before acquisition is rural residential with recreational land appraised at \$575,000. After acquisition, the best use for the property

is agricultural and recreational land appraised at \$141,470 due to the flowage easement, buildings, and there being an access issue. The opinion of just compensation (rounded) is \$433,600.

Commissioner Mongeau stated that being that another county has been added we should be sure that we're coordinating with their planning department and what is prohibited with land development in the future. Mr. Dodds stated that the flowage easement with this property will be recorded and the restrictions that come with it. There are parts of this parcel that are not encumbered by a flowage easement so there is potential that someone could develop in those areas, however, the access road to this parcel has flooding issues and will only get worse with this project. Wilkin County does have an ordinance that requires two feet of dry access and no more than two feet of water on the road for a 100-year flood. Based on that ordinance, this access would not meet that requirement. Commissioner Mongeau mentioned having a map overlay showing diversion restriction as well as the flooding maps would be beneficial. Mr. Dodds stated that all these layers have been shared with GIS personnel for Cass, Clay, and Richland County. Wilkin County contracts out their GIS and there hasn't been as much success with them so that is something to work on in the future. Mr. Paulson stated that that's a great idea and will reach out to Wilkin and Richland County so they're aware of the restrictions.

There was additional discussion regarding the appraisal, minimum compensation, and lack of RHDP calculation. Ms. Smith requested additional time to review this appraisal before being brought back to next month's meeting for approval.

Mayor Carlson moved, and Council Member Seljevold seconded, to table OIN 1307 Norden Appraisal Review until next month's meeting. Motion carried.

b. Southern Embankment Reach 5 Appraisal Waivers

Mr. Dodds referred to the packet and discussed the 14 appraisal waivers for SE Reach 5. Appraisal waivers are much like an appraisal, but statute allows for an appraisal waiver based on the lower value. The SE Reach 5 runs along the County line along an existing road. The County does have ROW via statute and from other easements. The compensation amount is lower because the embankment is along the road and will remain a road after the project is complete.

Commissioner Campbell asked if there is potential conflict with access for any of these parcels. Mr. Dodds stated that there are a couple homes along the stretch where the easement area goes across driveways which will require the contractors to maintain access for those parcels.

Commissioner Mongeau stated that some of the photos attached to the appraisal waivers don't seem to be relevant to the parcels. Mr. Dodds stated that the photos were taken recently showing what the parcel looks like from the road. Mr. Helvey stated that the pictures are accurate.

Council Member Seljevold moved, and Council Member Hendrikson seconded, to approve the Southern Embankment Reach 5 Appraisal Waivers consisting of OINs 1815, 1820, 1829, 1832,

1878, 1879, 1272, 1274, 1290, 1288, 1289, 9152, 1270 and 8356. Motion carried.

9) Negotiation Summary

a. Minimum offer per MnDOT Policy

Mr. Dodds stated that several of the approved appraised values were minor and that MnDOT does a lot of these types of road projects and has established a minimum offer value of \$500. For the low valued takings, it is recommended that MCCJPA adopt the minimum value of \$500 per MnDOT Right of Way Manual. For the SE-5 takings, this action will increase the offer amounts by a total of \$1,238.75 for the 14 affected parcels.

Mayor Carlson asked if approving the minimum offer would apply to the 14 affected parcels that were previously approved. Mr. Dodds stated that it would be.

Commissioner Campbell asked if MnDOT policy was based on how the roads are built whether they're gravel or a paved road. Mr. Helvey stated that he doesn't recall there being any distinction.

Mayor Carlson moved, and Council Member Hendrickson seconded, to approve the minimum offer amount of \$500 per MnDOT Policy and to also apply the minimum offer to the Southern Embankment Reach 5 Appraisal Waivers increasing the offer amount by a total of \$1,238.75 for the 14 affected parcels. Motion Carried

b. OIN 7212 Gruenberg Negotiation Summary

Ms. Laidley stated that there is a counteroffer from Louis Gruenberg regarding OIN 7212 and has been working with his daughters Gail and Linda on his behalf. They have 0.15-acre flowage easement and are asking for an administrative settlement of \$2,000.

Council Member Hendrickson asked the reasoning behind the counteroffer. Ms. Laidley stated that their reasoning was due to increased land value.

Mayor Carlson asked if the \$500 minimum offer needed to be included with this offer. Mr. Dodds stated that the original offer was \$1,500 so it was over the minimum amount.

Council Member Seljevoll moved, and Mayor Carlson seconded, approved OIN 7212 Gruenberg Negotiation Summary in the amount of \$2,000. Motion Carried

10) ADJOURN

Commissioner Campbell asked if there will be new appraisals going out now that SE-4 and SE-5 have final designs. Mr. Dodds stated that over the next couple months, appraisals for SE-4 will be completed based on the final design. There are parcels along SE-4 that have been acquired already that were based on preliminary design and most of those purchase agreements allow for some adjustments after the final design has been completed.

The meeting adjourned at 1:37 p.m.

Stephen Larson, MCCJPA Secretary