

Moorhead - Clay County Joint Powers Authority (MCCJPA)

Thursday, April 27, 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 1:00 p.m.

2) ROLL CALL

City of Moorhead: Mayor Shelly Carlson – arrived in-person at 1:01 pm

Council Member Chuck Hendrickson

Clay County: Commissioner Kevin Campbell

Commissioner Jenny Mongeau

BRRWD: Member Gerald VanAmburg

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, Dean Vetter, and Jessica Warren, AE2S

Scott Stenger and Dale Ahlsten, Prosource

Katie Laidley, SRF Consulting

Stephen Larson and Sarah Hellem, Clay County staff

Bob Zimmerman, Moorhead Engineer

3) APPROVAL OF AGENDA

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

4) APPROVAL OF MINUTES

Member VanAmburg moved, and Mayor Carlson seconded, to approve the minutes from March 23, 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 86.7% with an increase of 1.1% from last month. The upstream mitigation area (UMA) footprint is at 36.7% with an increase of 1.8% from last month. The property acquisition progress in Minnesota overall is just about 36% complete (35.8%). Mr. Dodds stated that it may not seem far along but recognized that in the last

couple months the final work limits for the Southern Embankment (SE) Reaches in Minnesota were completed, so those appraisals are ongoing and are working through all the steps in the process. Mr. Dodds discussed the landowner overview for the construction and UMA footprint and how each are broken down into owner groups and parcels for the Construction Footprint and the UMA Footprint.

Key activities are to continue negotiating settlement agreements with existing eminent domain actions. The final ROW request was received from USACE for the remaining portions of Oxbow-Hickson-Bakke (OHB) Ring Levee. USACE approved the request to raise three roads in Zone 2 and map-out 9 properties from Zone 1. Zone 1 is the most restrictive Zone and requires buyouts, so there are 9 properties that are requested to map-out of Zone 1. Batch #6 filing for eminent domain action was requested on 5 property owners. In the last month 6 parcels/5 landowners successfully closed. A total of 44 farmland leases have been completed for the upcoming season (38 in ND and 6 in MN).

Commissioner Campbell added that the Diversion Authority has been working with Holy cross Township to find solutions regarding concerns that they have had regarding the project and that hopefully we'll see progress soon.

7) LAND AGENT REPORTS

Dale Ahlsten, Prosource, stated that Prosource continues to work with people as appraisals become available and offers are able to be released. Currently Prosource is working with past things that have been identified, some of which are more complex-natured acquisitions such as relocation and mitigation. There will be another closing coming up this month.

Commissioner Campbell stated that a landowner had reached out to him asking about the appraisals process. Commissioner Campbell asked if updates are being made to the appraisals, while in negotiations, if the prior appraisal is a couple years old. Ms. Ahlsten stated, while in negotiations, often times appraisals from similar properties with a similar impact are used so we can extrapolate values from those appraisals that might be more updated and recent as well as the land sales that are collected. Re-appraising is not generally completed since it is a long process with an expense to it as well. So, if they're able to justify with current data and sales along with other supporting evidence, then from that standpoint the appraisal can change.

Katie Laidley, SRF Consulting, stated they continue to work with landowners in negotiations and continue to reach out to other landowners who may be hesitant in working with us along with any attorneys that may be involved too. As appraisals are coming in, we try and negotiate to get deals done.

Scott Stenger, Prosource, stated they continue working with individuals and are working on more complicated cases, where there is potential for relocation and mitigation. There are more items in play compared to the typical vacant land acquisition.

8) Appraisal Reports

a. OIN 1877 C-W Valley Co-op Appraisal Waiver

Mr. Dodds stated last month there were a variety of these appraisal waivers on the SE-5 which is the east-west portion along the county line. OIN 1877 waiver is for one parcel along the SE-4. This

property is the C-W Valley Co-Op Plant where a road raise is proposed that goes up and over the embankment along County Road 2 (SW corner of the property). An appraisal waiver was completed with a suggested value of \$200.00. The taking is below the \$500.00 minimum, which was approved last month, so the appraisal is for the minimum amount of \$500.00.

Commissioner Mongeau moved, and Council Member Hendrickson seconded, to approve OIN 1877 C-W Valley Co-op Appraisal Waiver in the amount of \$500.00. Motion carried.

9) Negotiation Summary

a. OIN 1826 Ness RIMP Pre-Approval Application

Mr. Dodds stated OIN 1826 is a pre-application approval for a Rural Impact Mitigation Program (RIMP) loan. The RIMP was established by the Diversion Authority to provide financial assistance for displaced farmsteads and rural businesses. This application is for Matt Ness Farms Inc. and is the property that was approved to be mapped-out of Zone 1. With that approval, the Ness property owners and legal counsel put forward the pre-approval form. The location is clearly an active farmstead and will be displaced. With the approval of the pre-approval application, we'll continue to work with the Ness' on moving towards the settlement package, which will allow them to build their farmstead. Their plan is to build east of the current farmstead in a small portion of their field and will build on a mound high enough to relocate their farmstead.

Member VanAmburg moved, and Mayor Carlson seconded, to approve OIN 1826 Ness RIMP Pre-Approval Application. Motion Carried

b. OIN 5187 5189 Beaudin Negotiation Summary

Ms. Laidley stated that SRF Consulting has been working with the Beaudin Trust. There are two parcels, OIN 5187 and 5189, which were appraised in December 2021 for \$16,571.00. There was a counteroffer for \$25,881.00. SRF Consulting negotiated and Beaudin Trust came up with a revised counteroffer for a total of \$21,528.00 which includes the low appraisal incentive that was previously approved by the Board.

Commissioner Mongeau asked for clarification that this is for a flowage easement. Ms. Laidley confirmed.

Commissioner Campbell clarified the revised offer that is needing approval is the total of \$21,528.00 for both parcels. Ms. Laidley confirmed.

Council Member Hendrickson moved, and Commissioner Mongeau seconded, to approve OIN 5187 5189 Beaudin Negotiation Summary in the amount of \$21,528.00. Motion Carried

10) Property Management

a. 2023 Farmland Lease

Ms. Gorghuber stated there are six more farmland leases for board approval. The list of farmland leases and maps are also attached in the packet.

Commissioner Mongeau asked for clarification on deposit of payments that have already been made regarding the leases. Ms. Gorghuber stated that deposits of payments cannot be made until the lease is fully executed.

Commissioner Campbell asked if OIN 1251 was included in the provided leases. Ms. Gorghuber confirmed that was included.

Mayor Carlson moved, and Commissioner Mongeau seconded, to approve 2023 Farmland Leases with Pete Livdahl (OINs 249X1, 253Y2, 254 & 256), Brad & Wendy Buth (OIN 1251), Lynn Brakke (OIN 1811), Brakke Farms LLC (OIN 249X2), Todd Blilie (OINs 253Y1, 253N & 253Y3), and Matt Ness Farms Inc. (OIN 1834). Motion Carried

11) Executive Session

- a. Executive Session pursuant to Minn. Stat. § 13D.05, Subdivision 3 (b) to receive an update regarding In re Determination of Relocation Assistance of Bradley Buth and Wendy Tabor Buth (OIN 1635) and In re Determination of Relocation Assistance of David Dobis and Morgan Buth (OIN 1665) and provide guidance to counsel regarding the development of offers and counteroffers relating to the above matters.**

Commissioner Mongeau moved, and Council Member Hendrickson seconded, to close the meeting for an Executive Session at 1:23 p.m. Motion Carried

Commissioner Mongeau moved, and Mayor Carlson seconded, to reopen the meeting at 2:10 p.m. Motion Carried

Mayor Carlson moved, and Commissioner Mongeau seconded, to approve the settlement offer that was discussed in the Executive Session and direct MFDA members to draft the documents and bring back to the next MCCJPA meeting for approval. Motion Carried.

12) ADJOURN

Jodi Smith, MFDA, mentioned that Jessica Warren is no longer with AE2S. She is now with the MFDA as the new Compliance Specialist. She is still part of the team and will be assisting with Madeline's responsibilities once she is on maternity leave.

The meeting adjourned at 2:12 p.m.

Stephen Larson, MCCJPA Secretary