Moorhead - Clay County Joint Powers Authority (MCCJPA)

Tuesday, June 27, 2023, 2:00 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 2:01 p.m.

2) ROLL CALL

City of Moorhead:	Mayor Shelly Carlson
	Council Member Chuck Hendrickson
	Council Member Larry Seljevold
Clay County:	Commissioner Kevin Campbell
	Commissioner Jenny Mongeau

Others Present or on Microsoft Teams:
Joel Paulson, Executive Director, Jodi Smith, Lands & Compliance Director, and Jessica Warren, Compliance Specialist, Diversion Authority
Attorneys John Shockley, Lukas D. Andrud, and Kathryn McNamara Ohnstad Twichell Law
Eric Dodds, Dean Vetter, and Sabrina Tusa AE2S
Scott Stenger and Dale Ahlsten, ProSource
Katie Laidley and Ken Helvey, SRF Consulting
Stephen Larson and Jacqueline Finck, Clay County staff
Bob Zimmerman, Moorhead Engineer

3) APPROVAL OF AGENDA

Mayor Carlson moved, and Council Member Seljevold seconded, to approve the agenda with additional appraisal reports. Motion carried.

4) APPROVAL OF MINUTES

Council Member Seljevold moved, and Council Member Hendrickson seconded, to approve the minutes from May 25, 2023. Motion carried.

5) CITIZENS TO BE HEARD

There were no citizens to be heard.

6) PROJECT UPDATES

a. Property Acquisition Status Report

Eric Dodds, AE2S, referred to the Property Acquisition Status Report and maps showing acquired properties and referenced the construction footprint, which is 87.3% complete (increase in 0.2% from last month). The upstream mitigation area (UMA) footprint is at 39.5% with an increase of 1.6% from last month. Mr. Dodds referenced the pie charts and percentage completion for property acquisition progress by location. Regarding the Property Acquisition Progress by MCCJPA, Mr. Dodds stated that there is a slight decrease of 0.1%

which is due to adding an additional parcel to SE-5. There is a railroad that crosses SE-5 and it was previously counted as one parcel but because it crosses over the county boundary it's now being counted as two parcels, adding the Wilkin County parcel. Otherwise, there isn't much change on the Minnesota side since the appraisals for SE-4 are currently being completed with some included later in the agenda. The Landowner Overview shows various data for the Construction Footprint and the UMA Footprint that are broken out in owner groups and parcels.

The key activities are to continue negotiating settlement agreements for existing eminent domain actions. In the last month, successfully closed 23 parcels on the North Dakota side which included 11 landowners. The CCJWRD approved sending batch #8 for next steps letters and eminent domain filling authorization for three property owners (nine additional parcels). Mr. Dodds stated that they're a little behind schedule for the appraisals that were initially planned so coordinating completion of appraisals for remaining property needs in UMA and Southern Embankment are a high priority. The plan is to plat the land that is within the project footprint, the first lands to be platted are in Wiser Township. Mr. Dodds stated that the last item is home removal/demo for five properties with one of them being in Minnesota.

7) Appraisal Reports

Dean Vetter, AE2S, stated that there are four appraisal reports that are from SE-4. Most of these appraisal reports will have some fee title area, temporary construction easement (TCE), and flowage easement.

a. OIN 1670 1822 Ness Appraisal Review

Mr. Vetter stated that these parcels are adjacent and near the southern end of SE-4. The original tract size is just under 380 acres, the fee taking is about 59 acres for the footprint, and the TCE is about 19 acres. The remainder of the parcels is approximately 320 acres for flowage easement. The before value of the property is $3.3 million and a final opinion of just compensation of $1,223,000.

b. OIN 1261 1269 Blilie Etal Appraisal Review

Mr. Vetter stated that this appraisal review is a little different than the other three appraisals. This has an impact of flowage area in a 4A zone area and is on the southern side of the embankment. The appraisal does have fee title area just under an acre and a flowage easement area just under 60 acres. The before value of the property is $480,000 and the final estimate of just compensation is $73,000.

c. OIN 1861 Willem and Marx Appraisal Review

Mr. Vetter stated that this parcel is in the zone 1 area. The parcel does have a larger fee title area as part of the SE-4 and TCE on both sides in addition to flowage easement on the west side. The flowage easement consists of 182.85 acres, the TCE is 4.35 acres, and the fee title is just under 28 acres. The less value of taking on the 27.46 acres is $231,003 and with the flowage easement and TCE, the estimate of just compensation is $989,000.

d. OIN 1783 Blessingsbe LLP Appraisal Review

Mr. Vetter stated that this parcel has a fee title just about 20 acres and TCE just under two acres. The little difference with the taking on this parcel is that there is a small triangular remnant that the appraiser has noted to be included in the taking which was originally specified out of the footprint. Taking this into account and the flowage easement, the estimate of just compensation is $325,000.

Commissioner Campbell asked, with regards to OIN 1670 1822 Ness Appraisal Review (just south of 170th Avenue), what the actual taking is. Mr. Vetter referenced the associated map and said that it is the green cross-hatched area. Commissioner Campbell stated that there were previous conversations about a utility road and asked if there are still discussion regarding that road being south of 170th Avenue and thought Holy Cross Township had brought up there being an access road south of 170th Avenue. Commissioner Campbell asked if there would be additional lands needed for that. Mr. Vetter stated that it would be within the right-of-way. Jodi Smith, Diversion Authority, stated that both Commissioner Campbell and Mr. Vetter were correct. There have been discussions and it would be within the right-of-way and stated that the appraisal that has been provided is adequate to continue those conversations regarding an access road with Holy Cross township. Commissioner Campbell stated that there was discussion that the access road would fall outside of the federal footprint and asked if that was still the case. Ms. Smith stated that is still the case and there are a couple of different propositions on the table and if the Army Corp of Engineers continues to build into the specifications that they have proposed it, that may not meet the needs of Holy Cross Township. One of the proposals on the table at this time is if MFDA builds that access road then it wouldn't be within the boundaries of the Army Corp of Engineers project, however, it still would be within the project right-of-way. Commissioner Campbell stated that if the access road needed to be removed in the future and return it to tillable land, if it were federal property, that could never be done. So Holy Cross Township's concern was that the access road should fall outside of the federal footprint. Commissioner Campbell wants to make sure that Holy Cross Township's concern regarding this property is taken into consideration. Joel Paulson, Diversion Authority, stated that they're currently working with the Army Corp of Engineers regarding this, so there isn't an answer for that today. Ideally, we would like for it to fall outside of the federal footprint but meet the right-of-way needs for the southern embankment. Commissioner Campbell and Mr. Paulson discussed that this information will be within the MOU with Holy Cross Township.

Mayor Carlson moved, and Council Member Seljevold seconded, to approve Appraisal Reports for OIN 1670 1822 Ness, OIN 1261 1269 Blilie Etal, OIN 1861 Willem and Marx, and OIN 1783 Blessingsbe LLP. Motion carried.

8) Land Agent Updates

Scott Stenger, Prosource, deferred to Dale to cover the updates since she's closer to the Minnesota properties and stated the appraisals that have been approved today are some of the last ones they were waiting to complete.

Dale Ahlsted, Prosource, stated that conversations with the landowners pertaining to the appraisals that were just approved had over the course of the project and that it's good to see these now available for them. Currently, there aren't a lot of complex negotiations that are coming in. Otherwise, continuing to work piece by piece and will soon have some to bring to the Board.

Katie Laidley, SRF Consulting, stated that they're continuing to work with landowners as appraisals come in and will be reaching out to new landowners for negotiations and continue to move the dial.

Mayor Carlson asked approximately how many additional appraisals need to be completed on the Minnesota side. Mr. Dodds stated that after these, he believes there are four more for the southern embankment and eight more for the upstream mitigation area. These numbers are based on what we know today, there is some ongoing work related to the Wolverton Ring Levee. As they finalize their design, there are a few parcels on the perimeter that we will have some obligations. Commissioner Campbell asked if these properties are in Clay County or if they're in Wilkin County. Mr. Dodds stated that the four additional appraisals for the southern embankment are in Clay County and of the eight appraisals that are in the UMA, two are in Clay County and the remainder are in Wilkin County.

9) Contracting Actions

a. Assignment Agreement Compass Huber

Jessica Warren, Diversion Authority, stated that Huber Resources Corporation bought Compass Land Consultants and they're currently doing appraisal work on the project. In order to have Compass Land Consultants continue to work on this project, there needs to be a binding legal document that encompasses the Master Service Agreement. Huber Resources Corporation and Compass Land Consultants worked with Ohnstad Twichell Law, who created this Assignment Agreement to bind the two together. The Assignment Agreement needs to be approved by the Board. Commissioner Campbell asked if the Assignment Agreement is consistent with all the original fee amounts based on the previous contract that was in place. Ms. Warren stated yes it would.

Council Member Seljevold moved, and Council Member Hendrickson seconded, to approve Resolution 2023-1 Assignment Agreement Compass Huber. Motion Carried

10) Adjourn

Commissioner Campbell mentioned that he will be gone the week of the 4th of July, so if there are any closing documents that need signing, they will need to be done this week.

Council Member Hendrickson moved and seconded by Mayor Carlson to adjourn.

The meeting adjourned at 2:29 p.m.

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Stephen Larson, MCCJPA Secretary