

Moorhead - Clay County Joint Powers Authority (MCCJPA)

Thursday, November 16, 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 (240 23rd St SE, Willmar, MN 56201)
Council Member Chuck Hendrickson
Council Member Larry Seljevoll
Clay County: Commissioner Kevin Campbell
Commissioner Mongeau
BRRWD: Member Gerald Van Amburg

Others Present or on Microsoft Teams:

Joel Paulson, Executive Director, Jodi Smith, Lands & Compliance Director, Madeline Daudt, Land Specialist, and Jessica Warren, Compliance Specialist, Diversion Authority
Attorneys John Shockley, Chris McShane and Lucas Andrud, Ohnstad Twichell Law
Eric Dodds and Dean Vetter, AE2S
Scott Stenger and Dale Ahlsten, ProSource
Katie Laidley and Ken Helvey, SRF Consulting
Jacqueline Finck, Clay County staff
Bob Zimmerman, City of Moorhead

3) APPROVAL OF AGENDA

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

4) APPROVAL OF MINUTES

Council Member Seljevoll moved, and Member Van Amburg seconded, to approve the minutes from October 26, 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 parcel and flowage easement status. The construction footprint is 92.2% complete with a 1.4% decrease from last month. The upstream mitigation area (UMA) footprint is at 45.9% complete with a 1.3% increase from last month. The Property Acquisition Progress by MCCJPA is at 41.5% complete, up 2.2% from last month. The UMA is at 35.6% and Southern Embankment is

at 41.7%. Mr. Dodds referred to the Landowner Overview in the packet that shows owner groups and parcels.

The key activities are to continue negotiating settlement agreements for existing eminent domain actions. In the last month, successfully closed on 23 parcels, eight of those were in Minnesota that had four different landowners. Mr. Dodds stated that tomorrow there will be closings on 17 parcels, most of them are on the North Dakota side. A total of 51 Last Written Offer letters were sent out in the last month. So far there are four landowners that have agreed to those amounts and there will be discussion later in the agenda about some additional property owners. Mr. Dodds stated the City of Horace withdrew their purchase of the BNSF rail corridor. Lastly, in the last month the Diversion Authority did authorize proceedings with the Excess Lands policy on two different sets of property. The first preference letters related to the sale of two sets of Excess Lands were mailed to the Member Entities. The lands were strips of land along highways or southern embankment reach 1 (SE-1) southeast of Horace. The Member Entities have 30 days to respond and then will proceed to the second priority.

Commissioner Campbell asked if the land agents could give updates during the land agent reports on how the Last Written Offer letters were received and if there are any additional landowners beyond the four that have agreed. Mr. Dodds stated that for the Clay County parcels, the deadline to respond was a couple days ago. So, we've been scouring those property owners and data points thoroughly the last few days. It seems like we're making decent progress but have been asked not to contact some property owners who are represented by a specific law firm. So, unfortunately, we're not making progress on those properties. As far as the other property owners who have different law firms representing them or those who aren't represented yet, we are making good progress with that group.

b. Forest Mitigation Sites

Jodi Smith, Diversion Authority, discussed the Forest Mitigation Plan. Ms. Smith stated that there is some background information noting the permit conditions that do require us to complete the forest mitigation. The current design is expected to result in approximately 285 acres of forest impacts (253 acres in North Dakota and 31 acres in Minnesota). The Forest Mitigation Plan outlines a lot of details and gets into specifics regarding the species and size of the trees, how long they're going to have to be monitored. There is a subcommittee group that reports to a larger group that meets twice a year and goes through the findings of the monitoring. The first planting contract will be issued for 2024 through the Army Corps of Engineers. They're going to be planning approximately 247 acres in the spring and fall of 2024. Those acres are all located on the North Dakota side and the 31 acres that will be planted in Minnesota will occur in the 2026 contract. The majority of the 247 acres are located in the Oxbow County Club and Oxbow Hickson Bakke site. There has been planting at these sites in the past and there have been challenges, so we're allowing the Army Corps of Engineers to go out there and review what's occurring out there, and their contractor will determine if there needs to be new plantings or if we'll only need to monitor and maintain it. Included in the packet are maps of the sites that will be included in the 2024 contract. Our legal council is going through and doing the real estate certification and is due to the Army Corps of Engineers by December 15th. Once those are submitted the Army Corps of Engineers will issue the RFP with the contract being awarded early in 2024. Whomever the contract is awarded to will do the plantings and monitor for five years. After five years, it will be handed over to the MFDA to maintain. The properties will allow hunting but there will be some restrictions right

after they're planted to ensure the trees will not be harmed. They will be deed restricted lands and publicly owned.

Council Member Hendrickson thanked Ms. Smith for putting this information together because he does get asked about it. Ms. Smith stated that she can send the full plan that will show what sites are being considered for forest mitigation on the Minnesota side.

Member Van Amburg asked if Ms. Smith knew what they're planting and if they're all native species. Ms. Smith stated that they are all native species.

7) LAND AGENT REPORTS

Katie Laidley, SRF Consulting, stated that with the last written offers, we are starting to get landowners moving forward and are getting the negotiations going. There are some that are still not moving forward at the moment but are still in communication with them.

Dale Ahlsten, ProSource, stated they're getting close to wrapping things up. We are continuing to work with those that are more complex acquisitions where there are more moving parts. There is nothing big to report on now, but they continue to work with landowners.

Scott Stenger, ProSource, stated he doesn't have much else to add and that they continue to work with landowners for solutions that they think the Board will approve.

Mr. Dodds commented that we're in crunch time and the land agents are working hard and is a tough job but reminded the Board that there is a schedule to maintain for the project.

8) PROPERTY MANAGEMENT

a. OIN 1793 Livdahl Haying Agreement

Madeline Daudt, Diversion Authority, requested approval of the OIN 1793 Livdahl Haying Agreement. This is the old Heartland Seed area, it is currently a vacant lot and looking to move into a haying agreement so it can be maintained. Some provisions that have been added to the 2024 haying agreement are weed spraying needs to be done by June 15th and if there is any failure to maintain, the agreement will be terminated. We have worked with Pete Livdhal on these before and he's been good to work with.

Commissioner Mongeau moved, and Council Member Seljevold seconded, to approve the OIN 1793 Livdahl Haying Agreement. Motion carried.

9) CONTRACTING ACTIONS

a. Patchin Messner – MCCJPA Task Order 2 – Amendment 2

Jessica Warren, Diversion Authority, referenced the summary of contracting actions for each contract. The reason for the Patchin Messner – MCCJPA TO2-A2 is because there was a canceled appraisal and cut down the scope to just the starter fee, so \$6,500 was removed from the task order.

Council Member Hendrickson moved, and Council Member Seljevold seconded, to approve Patchin Messner – MCCJPA Task Order 2 – Amendment 2. Motion carried.

b. Pifer's – MCCJPA MSA EDCR

Ms. Warren stated that the Pifer's – MCCJPA MSA EDCR is an extension of the Pifer's and MCCJPA master service agreement.

Council Member Hendrickson moved, and Council Member Seljevold seconded, to approve Pifer's – MCCJPA MSA EDCR. Motion carried.

10) EXECUTIVE SESSION

Closed Executive Session pursuant to Minn. Stat. § 13D.05 subd. 3(c)(3) for consultation regarding the purchase price for property interests for the properties identified as OINs 247, 1792, 255, 1850, 1842, 1678, and 1876.

Council Member Hendrickson moved, and Council Member Seljevold seconded, to approve closing the meeting to go into Executive Session at 1:22 p.m. Motion carried.

Commissioner Mongeau moved, and Council Member Hendrickson seconded, to approve opening the meeting to come out of Executive Session at 2:05. Motion carried.

Commissioner Mongeau moved, and Council Member Seljevold seconded, approving staff to proceed to close with the four property owners that was disclosed in the executive session. Motion carried.

11) ADJOURN

There was discussion regarding changing the start time for the December 14, 2023 MCCJPA meeting or potentially cancelling the meeting. It was decided to move the December 14, 2023 meeting to 2:00 p.m.

The meeting adjourned at 2:10 p.m.

Stephen Larson, MCCJPA Secretary