

SPECIAL MEETING
Moorhead - Clay County Joint Powers Authority (MCCJPA)

Wednesday, July 10, 2024, 9:00 a.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 9:00 a.m.

2) ROLL CALL

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

Others Present or on Microsoft Teams:

Jodi Smith, Lands & Compliance Director, Madeline Daudt, Land Specialist, and Jessica Warren, Compliance Specialist, Diversion Authority
Attorneys, Kathryn McNamara, Chris McShane, and Lukas Andrud, Ohnstad Twichell Law
Eric Dodds, AE2S
Katie Laidley, SRF Consulting
Attorney Rob Stefonowicz, Larkin Hofman
Sarah Hellem, Clay County staff

3) APPROVAL OF AGENDA

Commissioner Mongeau moved, and Mayor Carlson seconded, to approve the agenda. Motion carried.

4) NEGOTIATIONS

- a. Closed Executive Session pursuant to Minn. Stat. § 13D.05 subd. 3(b) and 3(c)(3) for attorney consultation regarding the purchase price for property interests/settlement negotiations for the property identified as 1670N, 1822N, 1272N, 5061, 1671, 1672,1822, 1670, 1796, 1826, 1824 and 1817.**

Commissioner Mongeau moved, and Mayor Carlson seconded, to close the meeting at 9:01 a.m. Motion carried.

Council Member Hendrickson moved, and Commissioner Mongeau seconded, to open the meeting at 9:28 a.m. Motion carried.

Mayor Carlson moved, and Council Member Hendrickson seconded, to amend the agenda to include a line item to make a decision related to item 4) a. settlement agreement. Motion carried.

Chris McShane, Ohnstad Twichell, stated the motion is to accept the settlement based on the following terms. Larry and Judith Ness, L & J Ness, LLLP, and Matthew and Rachel Ness

(collectively “Ness”) will convey fee simple ownership of approximately 60.97 acres on OINs 1670N, 1822N, and 1272N and a temporary construction easement of approximately 18.97 acres on OINs 1670N and 1822N. Ness will convey flowage easements over approximately 782 acres on OINs 5061, 1671, 1672, 1822, 1670, 1796, 1826, 1824, to be determined more fully by survey. The flowage easement on OIN 1824 will include an area mapped out of Mitigation Zone 1 into Mitigation Zone 4C as approved by USACE and as determined more fully by survey. Ness will convey an environmental monitoring easement on OIN 1817. The MCCJPA will pay Ness a total of \$3,930,000 inclusive of the Replacement Housing Differential Payment (RHDP), and less the funds previously paid to Ness related to Civ. No.14-CV-23-4107 (Clay County District Court) in the amount of \$2,909,993, and also less the funds previously paid to Ness in Civ. No. 84-CV-23-505 (Wilkin County District Court) in the amount of \$500, upon closing of the real estate transactions contemplated under the parties’ agreement for the property rights conveyed by Ness as outlined above. In addition, the MCCJPA will pay Ness \$1,200,000 as just compensation for the contributory value of the nonresidential improvements on OINs 1824 and 1826. Upon closing, Ness will lease the improvements on OINs 1824 and 1826 from the MCCJPA for \$500 per month until 30 days’ written termination notice from Ness or until December 30, 2025, whichever occurs sooner. MCCJPA will reimburse Ness for reasonable and eligible relocation costs and expenses in accordance with the Uniform Relocation Act, which may include residential moving and closing costs, commercial actual moving costs, and business re-establishment costs. The MCCJPA approves a RIMP loan for Matthew and Rachel Ness in the total amount of \$1,500,000, secured by a mortgage encumbering the property on which the replacement improvements are constructed; the parties’ agreement will require the RIMP loan funds to be placed in an escrow fund, and Ness must first spend the \$1,200,000 contributory value cash payment outlined above, on such improvements, before accessing the RIMP loan funds. Under the parties’ agreement, Ness will grant the District right-of-entry for cultural and environmental inspections on OINs 1824 and 1826. Following the closing of the real estate transaction contemplated under the parties’ settlement agreement, and following payment to Ness, the parties will execute and file a stipulation to dismiss the eminent domain actions, Civ. No. 14-CV-23-4107 and Civ. No. 84-CV-23-505 with respect to Ness and Ness’ property described in such actions. The District will reimburse Ness for reasonable attorneys’ fees, fees for Ness prior attorney, appraisal fees, other consultant fees and litigation expenses, not to exceed \$152,000.

Commissioner Campbell stated this particular transaction is one of the largest and most complicated ones that we’ll see in Minnesota, with the number of parcels involved, and wanted to commend that landowners for their willingness to enter into these negotiations as well as the dedicated work by the land agents and the attorneys.

Mayor Carlson moved, and Council Member Hendrickson seconded, to recommend the MCCJPA approve the proposed settlements for OINs 1670N, 1822N, 1272N, 5061, 1671, 1672, 1822, 1670, 1796, 1826, 1824, and 1817, and request that Mr. McShane read the specifics. Motion carried.

5) ADJOURN

The meeting adjourned at 9:37 a.m.

Stephen Larson, MCCJPA Secretary