

Moorhead - Clay County Joint Powers Authority (MCCJPA)

Thursday, November 21, 2024, 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: Council Member Chuck Hendrickson

Council Member Larry Seljevoll

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

Eric Dodds, AE2S

Dale Ahlsten, ProSource

Katie Laidley and Ken Helvey, SRF Consulting

Bob Zimmerman, City of Moorhead

Stephen Larson and Sarah Hellem, Matt Jacobson, Clay County staff

3) APPROVAL OF AGENDA

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

4) APPROVAL OF MINUTES

Council Member Hendrickson moved, and Council Member Seljevoll seconded, to approve the minutes from October 24, 2024. 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 packet and discussed the map stating green is good. The orange parcels are those that have eminent domain cases. The blue parcels are properties that are still in negotiations and have not filed eminent domain actions yet. The yellow parcels near Wolverton are where appraisals are being conducted. The property acquisition progress was discussed with the construction footprint is 97.7% complete, with no change from last month. The upstream mitigation area (UMA) footprint is at 55.5% complete, an increase of 0.9% from last month. The Property Acquisition Progress by Location was briefly discussed

with the Southern Embankment being 93.2% complete, with no change, UMA being 55.5% complete with an increase of 0.9% from last month, and the Environmental Monitoring Easement being 77% complete, with no change. The Drayton Dam, In-Town Levees, Stormwater Diversion Channel, and Oxbow Hickson-Bakke are 100% complete. The Property Acquisition Progress by MCCJPA is 60.4% complete, with an increase of 0.5% from last month. The Southern Embankment & Associated Infrastructure remains at 71.1%, with no change, the Upstream Mitigation Area is 48.1% complete, with an increase of 1.1% from last month, the UMA – Wolverton remains at 7.1%, with no change, and the Environmental Monitoring Easements remain at 82.5%, with no change. The Landowner Overview was discussed which shows owner groups and parcels broken down for the construction and UMA footprint with 97% of the owner groups complete for the Construction Footprint and 56.9% for the UMA Footprint.

The key activities are to continue negotiating settlement agreements for existing eminent domain actions. In the last month, successfully closed on 4 parcels/4 owners, 4 parcels in the UMA. Continuing the process of disposing of excess lands – 30 parcels/333.18 acres have been approved as excess lands, 8 parcels/196.71 acres are moving through the policy and 22 parcels/136.47 acres have been sold or pending closing. Starting to receive appraisal reports for Christine area flowage easements. Continued work on farmland leases for 2025. And for Minnesota properties, vacate dates for owners of occupied structures are April 1, 2025, for Clay County and June 1, 2025, for Wilkin County.

Mr. Dodds stated that the Land Agent Reports will now be included in this section as many of the Land Agents are in a support role now as the litigation activities are ongoing. Mr. Dodds further discussed those reports for the Minnesota side of the project, including providing relocation advisory and claim preparation services to people that are moving. Working on flowage easement acquisitions in Wolverton. And assisting with mediations and settlement negotiations.

Commissioner Campbell discussed the orange parcels in eminent domain and asked if those parcels include the properties that MCCJPA has obtained the title to. Mr. Dodds stated, in Minnesota, once we cross the necessity hearing, we gain title to the rights that we need and then there is the valuation component. The orange parcels have not been marked as complete as the valuation step has not occurred. Commissioner Campbell asked about the difference between the orange parcels where the land is already acquired versus not. Mr. Dodds stated that information is being tracked, and if the Board was interested in seeing that breakdown, that can be provided.

b. MN Litigation Action Update

Chris McShane, Ohnstad Twichell, stated there hasn't been much change in the last month. There have been negotiations with several landowners, with a couple closings of those settlements. There is a hearing set for December 9, 2024, in Clay County. There will be a necessity hearing on December 17, 2024, for Wilkin County, via Zoom. Four Commissioners have been identified, and we'll move forward with getting them appointed. We don't have any just compensation Commissioner hearings set or property viewings, at this point we're just waiting for the landowners.

Mr. McShane stated there are three or four properties that we have not filed eminent domain on yet. On one of these properties there was a situation where the impact on the property

was in question, which has been clarified by Wilkin County. It might be necessary for us to get a new appraisal before we move forward on the acquisition. The initial expectation was the house on this property would need to be removed and that the landowner would also need to move. But it's been confirmed that both are now able to remain on the property. However, if our flowage easement touches the property, we'll write an offer to buy the whole property. On the other two properties there is an issue with respect to ownership over a shared well, which we're working through prior to filing eminent domain.

7) RELOCATION REIMBURSEMENT

a. OIN 1665 Buth Relocation Reimbursement

Ken Helvey, SRF Consulting, stated this is a continuation of last month's discussion regarding moving cost reimbursement for OIN 1665, as well as a small reimbursement for propane in the amount of \$174.95. The owners have provided supplemental documentation to support the moving costs.

Commissioner Mongeau moved, and Council Member Hendrickson seconded, to approve the reimbursement request for OIN 1665 in the amount of \$12,244.49. Motion Carried.

8) ACQUISITION

a. Solar Garden Release Agreement

Mr. McShane stated this release agreement is for the Novel solar garden. Novel has a lease for solar purposes, and prior to construction, they asked for clarification on what the elevation of the water would be, either 1% or the 100-year event. This information was provided to Novel, and they designed their project so anything that would be adversely affected by water was above that 100-year flood level.

Mr. McShane stated the original agreement was only signed by MCCJPA, however, since eminent domain action for this property has begun, the City of Moorhead has been included in the agreement, as they are the ones who actually acquired the flowage easement.

Commissioner Mongeau moved, and Council Member Seljevold seconded, to approve the amendment to the General Release Agreement between Novel Energy Solutions LLC and the Metro Flood Diversion Authority, Moorhead – Clay County Joint Powers Authority, and the City of Moorhead. Motion Carried.

9) PROPERTY MANAGEMENT

a. 2025 Farmland Lease Rates

Madeline Daudt, Diversion Authority, stated Pifer's Land Management has indicated with the SE-4 construction in full swing in 2025, they are recommending a rental rate of \$150/acre and \$225/acre for organic, as access will be possible but more challenging.

Council Member Seljevold moved, and Council Member Hendrickson seconded, to approve the 2025 Farmland rental rates. Motion Carried.

10) ADJOURN

The meeting was adjourned at 1:21 p.m.

Commissioner Campbell stated that at their previous Clay County Board of Commissioners meeting that was held on November 19, 2024, the Board approved a resolution to take over road right-of-way and authorized the permanent obstruction of 170th Avenue south. Commissioner Campbell extended thanks to Holy Cross Township for the MOU and working with the Diversion Authority, this made it easier for this action to occur.

Commissioner Campbell mentioned that one of the Clay County Board of Commissioners Legislative Priorities is Flood Diversion funding.

Stephen Larson, MCCJPA Secretary