

**CLAY COUNTY BOARD OF COMMISSIONERS**

**8:30 A.M., TUESDAY, DECEMBER 21, 2021**

Rooms A/B, 3<sup>rd</sup> Floor, Courthouse

**MINUTES**

The Clay County Board of Commissioners met in regular session with the following Commissioners present: Kevin Campbell, Jenna Kahly, Frank Gross, and David Ebinger. Commissioners absent: Jenny Mongeau. Others present: County Administrator Stephen Larson, County Attorney Brian Melton, and Sr. Administrative Asst. Colleen Eck.

**CALL TO ORDER**

Chair Campbell called the meeting to order at 8:30 a.m.

**APPROVAL OF AGENDA**

On motion by Commissioner Gross, seconded by Commissioner Ebinger, and unanimously carried, the Board approved the agenda with one addition: OSHA Vaccination and Testing Emergency Temporary Standard and one deletion: 2022 Furlough Program (under Item 8).

**APPLICATION FOR EXEMPT PERMIT FOR GAMBLING ACTIVITY AT THE PITCHFORK**

By consent, the Board approved the permit for a gambling activity on April 5, 2022, at The Pitchfork.

**APPLICATION FOR EXEMPT PERMIT FOR GAMBLING ACTIVITY AT MAINLINE BAR & GRILL**

By consent, the Board approved the permit for a gambling activity on March 13, 2022, at Mainline Bar and Grill.

**RESOLUTION 2021-55 FOR MOORHEAD TO PURCHASE TAX FORFEITED LAND, APPROVED ON 11/30/21**

By consent, the Board executed the following resolution for a tax-forfeited land purchase:

**Resolution 2021 - 55**

**CLAY COUNTY BOARD OF COMMISSIONERS**

**BE IT RESOLVED**, on this 21<sup>st</sup> day of December 2021 that the Property owned by the State of Minnesota, County of Clay, and legally described as follows:

**LOT 9 BLOCK 1 TWELFTH AVE BUSINESS PARK ADDITON TO THE CITY OF MOORHEAD** has forfeited to the State of Minnesota for non-payment of taxes. The City of Moorhead has requested to receive this parcel free of charge and will utilize the property to Remove Blight as in Minn. Stat. 282.01, subd. 1a (d) and therefore, has a \$0 purchase price.

**BE IT FURTHER RESOLVED**, that the Chair of the Board, the Auditor and/or the County Administrator are hereby authorized to execute whatever documents are necessary to effectuate said transfer.

**BE IT FURTHER RESOLVED**, this Resolution shall be effective as of November 30, 2021, the date Board action was taken.

**CITIZENS TO BE HEARD**

There were no citizens who wished to be heard.

**APPROVAL OF PAYMENT OF BILLS AND VOUCHERS**

On motion by Commissioner Gross, seconded by Commissioner Kahly, and unanimously carried, the Board approved the payment of bills and vouchers totaling \$402,685 from 107 vendors. From that total, 78 warrants issued were under \$2,000 (\$31,241) and the following 29 were over \$2,000:

|                                 |          |                                |         |
|---------------------------------|----------|--------------------------------|---------|
| Moorhead Public Service         | \$91,599 | A-OX Welding Supply Co, Inc.   | \$5,498 |
| Xcel Energy                     | \$40,791 | Dakota Plains Mechanical, Inc. | \$4,771 |
| Trinity Services Group, Inc.    | \$25,894 | Delta Dental                   | \$4,749 |
| Kandiyohi Co Sheriff's Office   | \$23,860 | Obernel Engineering            | \$4,658 |
| Clay Co Public Health           | \$23,078 | Summit Fire Protection         | \$4,072 |
| Otter Tail Co Public Health     | \$17,606 | F-M Ambulance Service, Inc.    | \$4,015 |
| Cardmember Service              | \$15,591 | Rick Electric, Inc.            | \$3,948 |
| JT Lawn Service                 | \$14,253 | Marco Technologies LLC         | \$3,650 |
| Pro West & Asso., Inc.          | \$12,071 | Code 4 Services, Inc.          | \$2,927 |
| Becker County Public Health     | \$11,774 | Goodyear Tire & Rubber Co      | \$2,386 |
| Eaton Corp                      | \$10,671 | City of Fargo                  | \$2,205 |
| Lloyd's Auto Body, Inc.         | \$10,294 | City of Moorhead               | \$2,044 |
| Douglas County Public Works     | \$10,114 | Green View, Inc.               | \$2,012 |
| Matt Fischer Painting           | \$ 7,788 | NetCenter Technologies         | \$2,007 |
| American Solutions for Business | \$ 7,119 |                                |         |

#### **EMPLOYEE RECOGNITION**

Rory Beil from Public Health was recognized for recently receiving a Human Rights Award from the City of Moorhead.

#### **ANNOUNCEMENT OF GRANT AWARD**

Troy Amundson, Detox Director, announced that his department was recently granted \$5 million from the State of Mn toward a new detox facility. They are one of two entities that received \$5 million in funding. The Commissioners noted appreciation and support of the committee and the project.

#### **COVID-19 UPDATE**

Kathy McKay, Clay County Public Health (CCPH) Director, and her staff presented the weekly COVID-19 update. Active cases in Clay County are at 397, up from 378 last week. Overall, Mn had a decrease of nearly 8,000 cases in a week. Cass County and ND numbers remain pretty consistent. There were 235 new cases reported in Clay County last week for a total of 12,903 cases and 111 deaths.

Ms. Schmidt provided information on the new variant "Omicron." This variant has now reached Mn and ND and nearly every other state and is spreading worldwide. Another increase in reinfections and breakthrough infections is expected with Omicron. She added that the first line of defense is immunity and encouraged folks to get vaccinated and boosted. She noted that hopefully there will be less severe symptoms with this pandemic as time goes on. In comparing the Delta and Omicron variants, Omicron attaches much faster and has a high level of transmission. Fargo hospital capacities continue to be a concern as flu activity also increases this time of year. There are very few ICU beds available. Forty-eight of 50 patients on ventilators in the Sanford Hospital System are not vaccinated. Breakthrough cases have increased slightly. T-cell responses to these vaccines are being analyzed.

Ms. Hennen provided the vaccine data as of 12/16/21. Nearly 67% of Minnesotans, ages five and over, have been totally vaccinated. Booster doses, statewide, are at 1.5 million. Total vaccine doses administered by CCPH

are at 18,651. The majority of the vaccines administered recently are boosters. The vaccine clinic hours were announced for the week. The vault site in Moorhead administered 420 COVID tests during the past week with 43 of them testing positive.

#### **REQUEST FOR APPROVAL TO FILL VACANCY FOR CORRECTIONAL FACILITY ADMINISTRATOR WITH STARTING SALARY STEP OPTIONS**

Sheriff Empting informed the Board that Justin Roberts has indicated that he intends to resign from his position as Correctional Facility Administrator. He has agreed to stay in the position until a new administrator can be hired and trained. The impact would be relatively budget neutral. The request is to begin advertising the position with a salary range between steps 1 and 5, line 24, on the Clay County salary grid. The step will be based on experience of a newly hired person. He was asked to advertise the position state-wide.

On motion by Commissioner Gross, seconded by Commissioner Ebinger, and unanimously carried, the Board approved the request to fill the vacancy for the Correctional Facility Administrator.

#### **REQUEST FOR APPROVAL TO FILL TWO VACANCIES FOR FT CORRECTIONAL OFFICERS**

On motion by Commissioner Kahly, seconded by Commissioner Ebinger, and unanimously carried, the Board approved the request to fill two vacancies for Correctional Officers.

#### **PUBLIC HEARING: MORTENSON REZONING PETITION FOR PROPERTY IN SECTION 7, GOOSE PRAIRIE TOWNSHIP**

On motion by Commissioner Ebinger, seconded by Commissioner Kahly, and unanimously carried, the Board opened the public hearing.

Attorney Melton informed the Board that if the Rezoning Petition is voted on today, a 4/0 vote (4/5ths) would be needed for approval. The Board also has the option to table the vote until all five commissioners can be present to vote. They have 60 days from the day they received the meeting packets (12-16-21) to make their decision.

Planning Director Matt Jacobson stated the Clay County Planning Commission heard the Mortenson Rezoning Petition at their December meeting. Essentially, the applicant is requesting to remove the Resource Protection Biological Survey overlay district on a portion of his parcel. This step would then allow for mining without a mandatory Environmental Assessment Worksheet. The Planning Commission's vote was 6/2 in favor of rezoning. The parcel is 91 acres in size and is located in the S½ / SW¼ Section 7, Goose Prairie Township, between Ulen and Hitterdal. The base zoning district is Agricultural General. In 2018, an EAW was drafted by Summit Sand and Gravel at this site, but upon review it was found to be incomplete. The project was revisited again in 2019 but was not pursued. The landowner is now working with Alexandria Gravel Products. The landowner tilled and sprayed Round-Up on an approximately 60-acre tract of the parcel. He has subdivided the parcel to separate the tilled tract from the eastern tract with remaining native prairie and completed a wetlands delineation due to wetlands on the north end of it that flow into the Felton Creek. An overview of the parcel showed Tract A where mining would take place. Mapping layers and topography were also provided. There does not appear to be a lot of drainage to the wetlands and Felton Creek, but an EAW would be needed to verify that.

If the rezoning was approved, an Interim Use Permit would still be required for mining and could include conditions to address the Felton Creek area as well as a reclamation plan. If the rezoning is not approved, the landowner could farm the land. The Planning Commission addressed the Finding and General Review Standards and had considerable discussion on the request. Mr. Jacobson stated this compromise could be a benefit with a portion of the land from the parcel immediately to the east being protected.

The property owner, Jeff Mortenson, stated that he first started this process five to six years ago and has not received any revenue from the land over that time. He first purchased the land in 1995 and the overlay district was added sometime after that. He stated that he had an offer that was five times what he paid for it from a gravel contractor but kept the land. Due to the overlay district issues, an EAW costing approximately \$80,000 is now needed for mining and could take up to three years to complete. The first gravel contractor moved onto other pits in the area. Mr. Mortenson is now working with a third contractor. He has not received an offer on the land from the Nature Conservancy of the Mn Department of Natural Resources (DNR) to keep it in prairie. Mr. Jacobson noted that although the land has been tilled and sprayed there could still have a viable seed bank of prairie. Mr. Mortenson noted that the plan is to mine the area in stages for up to 20 years.

On motion by Commissioner Kahly, seconded by Commissioner Ebinger, and unanimously carried, the Board closed the public hearing.

On motion by Commissioner Ebinger, seconded by Commissioner Kahly, and unanimously approved, the Board tabled their decision on the Mortenson Rezoning Petition until the 8:30 a.m. meeting on January 11, 2022.

#### **OSHA VACCINATION AND TESTING EMERGENCY TEMPORARY STANDARD**

Anna Moore, Human Resources (HR) Coordinator, stated that the OSHA Vaccination and Testing Emergency Temporary Standard regulations begin on January 9, 2022. Proof of vaccination from employees will be required. These regulations are coming from Federal OSHA and MN OSHA. HR is required to gather all employee vaccine information which will be filed in a secure HR file unless OSHA requests it. After vaccine status information is verified, a policy will be implemented for weekly COVID tests and masking for those who are unvaccinated.

Ms. McKay ordered test kits several months ago and the State of Mn will replace the kits that have expired. An area in the Family Service Center has been secured for tests and vaccines. Two Public Health nurses have been assigned to the process. They will be using 15-minute rapid tests. Contact tracers will follow up with anyone who tests positive. They do not notify department heads of positive tests, but the employees are responsible to provide that notification. HR still needs to work out the details for anyone who misses their weekly test. The County could be fined up to \$14,000 per incident for noncompliance. The burden on the County falls upon HR and Public Health for implementation. ARPA funds will be utilized for the costs.

On motion by Commissioner Kahly, seconded by Commissioner Ebinger, and unanimously carried, the Board approved staff in HR and Public Health to gather vaccine statuses from employees and begin drafting a policy for implementing OSHA's temporary standards.

## **REQUEST FOR APPROVAL OF RESOLUTION 2021-56 FOR SCORE FUNDING TO COUNTIES**

Solid Waste Manager Kirk Rosenberger provided a resolution for Board approval for changes in the SCORE funding to Counties. The resolution is in support of the Counties receiving more of the State Solid Waste Management Tax dollars for their recycling programs rather than a large portion going to the general fund. From \$84 million collected in these taxes, the Counties receive \$17 million to fund their recycling programs. The Counties are spending over and above what they are compensated for their local waste reduction and recycling programs.

On motion by Commissioner Ebinger, seconded by Commissioner Gross, and unanimously carried, the Board approved the following Resolution for SCORE funding: with the inclusion of “improving our environment” at the end of the following resolution:

### **RESOLUTION 2021-56 County Board Support Affirming Clay County's Support for Fully Funding SCORE Grants to Counties**

**WHEREAS, Minnesota Statutes requires counties manage MSW according to an established hierarchy ; and,**

**WHEREAS, Minnesota's counties have made investments in waste prevention and recycling systems; and,**

**WHEREAS, counties with innovative ideas should be provided the requisite opportunity and flexibility to successfully implement those ideas so as to best serve their communities; and,**

**WHEREAS, Minnesota's counties have continued to invest in waste reduction and recycling by imposing local taxes and/or fees; and,**

**WHEREAS, the revenues the State is collecting via the solid waste management taxes have continued to grow while amounts sent to the counties have not increased proportionally; and,**

**WHEREAS, Minnesota counties face significant market trends that will require innovative approaches to manage materials separated from solid wastes in order to adequately meet the growing and changing needs of citizens and businesses; and,**

**WHEREAS, Minnesota has an opportunity to improve its waste reduction and recycling system through funding the counties investments in infrastructure and expanded operations; now, therefore,**

**BE IT RESOLVED, Clay County supports the state funding, by increased SCORE (Select Committee on Recycling and the Environment) grants, in amounts which fully utilize the solid waste management tax revenues for solid waste reduction, management activities, and improving our environment.**

## **BUDGET DISCUSSION/CONSIDERATION TO ADOPT FINAL LEVY / 2022 BUDGET WITH RESOLUTION 2021-57**

County Administrator Stephen Larson commented that the budget discussion process began six months ago. After each department completed their budgets and various partners submitted their financial requests there was a 13% increase in the levy request. Following further adjustments, the Board approved Resolution 2021-43 on September 21, 2021, with a preliminary maximum levy at 4.3% with an expectation of lowering it further. With a 5% reduction of insurance premiums and higher than anticipated sales tax, diverting some funds from the levy the budget was impacted in a positive direction. Mr. Larson noted that with some changes in the Sheriff's Office, Veterans Service Office, removal of Ignite program from the levy, and utilizing \$300,000 from fund balances, they were able to bring 4.3% down to 3.82%. Auditor-Treasurer Lori J. Johnson was available for questions online via Microsoft Teams. Two motions are being requested today.

On motion by Commissioner Ebinger, seconded by Commissioner Gross, and unanimously carried, the Board approved the 2022 total budget of \$100,091,536.

Commissioner Campbell stated that based on the audit they had yesterday the amount from 2021 is \$1.6 million. Mr. Larson noted that from \$1.652 million, roughly \$1,274,738 can be attributed to CARES, leaving a remainder of \$377,312 in which \$300,000 is included in the total levy. Commissioner Campbell stated he will not be voting for this levy because the proposed 2021 numbers are used as a base and nowhere in there are actual numbers. The audit he referred to was from 2020 and was \$1.6 million revenues over expenditures. Mr. Larson noted that \$1.2 million from the \$1.6 million was used to pay down the levy for 2022 which has been the general practice. Commissioner Campbell noted they have not even talked about what revenues over expenditures are for 2021. He commented that if \$2 million from the total 2022 levy is not spent, it will go into the reserve fund. He added that he does not dispute what is being spent but does not support what the County is asking the taxpayers to pay based on previous years.

On motion by Commissioner Kahly, seconded by Commissioner Gross, and carried with one nay vote (Commissioner Campbell), the Board approved the following resolution certifying the levy for taxes to be collected in 2022 in the amount of \$38,538,479 (an increase of 3.82%).

**RESOLUTION 2021-57**

**WHEREAS, The Clay County Board of Commissioners did hold a public meeting on December 14, 2021**

**WHEREAS, The Clay County Board of Commissioners has addressed the concerns of its citizens to the best of their ability, and**

**BE IT RESOLVED, That the Clay County Board of Commissioners hereby certifies the following levy for taxes to be collected in 2022:**

|                                        |           |                          |
|----------------------------------------|-----------|--------------------------|
| <b>Revenue Fund</b>                    | <b>\$</b> | <b>22,779,705</b>        |
| <b>Road and Bridge Fund</b>            |           | <b>3,849,380</b>         |
| <b>Building Improvements</b>           |           | <b>45,323</b>            |
| <b>Library</b>                         |           | <b>280,788</b>           |
| <b>Social Services</b>                 |           | <b>11,181,746</b>        |
| <b>Debt Retirement-Courthouse</b>      |           | <b>326,255</b>           |
| <b>Debt Retirement-County Projects</b> |           | <b>75,282</b>            |
|                                        |           | <hr/>                    |
| <b>Total</b>                           | <b>\$</b> | <b><u>38,538,479</u></b> |

**BE IT FURTHER RESOLVED, that the Clay County Board of Commissioners hereby adopts the 2022 budget as presented.**

**REQUEST FOR APPROVAL OF YEAR-END ITEMS**

Anna Moore noted that these year-end items have been presented to the Personnel Issues Committee. They requested that action on the voluntary furlough policy not be made today.

On motion by Commissioner Kahly, seconded by Commissioner Ebinger, and unanimously carried, the Board approved the 2022 pay grid with 2% Cost of Living Adjustment (COLA).

On motion by Commissioner Gross, seconded by Commissioner Kahly, and unanimously carried, the Board approved the current meal reimbursement rates at \$15/breakfast; \$20/lunch; and \$30/dinner.

On motion by Commissioner Kahly, seconded by Commissioner Ebinger, and unanimously carried, the Board approved the current per diem rates at \$100 per day.

On motion by Commissioner Gross, seconded by Commissioner Ebinger, and unanimously carried, the Board approved mileage rates for use of a personal vehicle when a fleet vehicle is available is 40 cents/mile. Other use of personal vehicles for business travel, as described in the Personnel Policy, is reimbursed at the current IRS mileage rate (58.5 cents/mile).

#### **REQUEST PERMISSION TO MOVE FORWARD WITH COURTHOUSE FLOOR TILE PROJECT**

Facilities Director Joe Olson asked for Board support to replace the remaining 1957 flooring in the hallways and stairways of the courthouse with ceramic tile as part of the Capital Improvement Plan. He noted there are many broken areas in the flooring, and it is hard to maintain. The Building Committee approved going with the lowest quote received from T&T Tile at \$77,142. The total project is anticipated to be \$80,000.

On motion by Commissioner Kahly, seconded by Commissioner Ebinger, and unanimously carried, the Board approved moving forward with T&T Tile to replace the remainder of the old flooring in the courthouse.

#### **DISCUSSION AND APPROVAL OF PLAN FOR RESOURCE RECOVERY FACILITY BACK-UP POWER**

Mr. Larson noted that several discussions have taken place for back-up power for the new Resource Recovery Facility. A 200 KW generator would cost approximately \$225,000 and would cover the operation in case of a long power outage, other than the Household Hazardous Waste operation. The dollars would come from the owner contingency fund. Mr. Larson noted that this would deplete the owner contingency fund. He noted that this project does have premium dollars available through the solid waste bond that can be utilized for future change orders.

On motion by Commissioner Kahly, seconded by Commissioner Ebinger, and unanimously carried, the Board approved the back-up power plan in the amount of \$225,000 from the owner contingency funds.

#### **REQUEST FOR APPROVAL OF 2022-2023 MPCA COUNTY FEEDLOT PROGRAM DELEGATION AGREEMENT WORK PLAN**

County Feedlot Officer Craig Halvorson introduced himself to the new members of the board. He stated that basically as the County Feedlot Officer, he goes out to the feedlots and makes sure they are not polluting the water sources. He added that the feedlot operators have been agreeable and good to work with. The County moved the feedlot program from DNR to the Soil and Water Conservation District (SWCD) in 2008. Currently, there are 89 feedlots in Clay County and 7% of them get inspected every year unless there is a reason to inspect more. The number of feedlots continues to slowly decrease. Commissioner Campbell stated he has not heard of

any complaints since moving the program to the SWCD. The 2022-2023 MPCA County Feedlot Program Delegation Agreement Work Plan was sent in the meeting packets for the Board's review.

On motion by Commissioner Gross, seconded by Commissioner Kahly, and unanimously carried, the Board approved the 2022-2023 MPCA County Feedlot Program Delegation Agreement Work Plan.

#### **MEMORANDUM OF THREE-YEAR AGREEMENT for U OF M EXTENSION and CLAY COUNTY**

Regional Extension Director Cecilia Amadou referred to a Memorandum of Agreement (MOA) for the Extension Office. The agreement is for providing extension programs locally and employing Extension staff. Mr. Larson has incorporated the requested increase in staffing hours within the agreement in the final budget. Commissioner Ebinger stated this is money well spent and he is very supportive of the Extension programs.

On motion by Commissioner Ebinger, seconded by Commissioner Kahly, and unanimously carried, the Board approved the three-year agreement for U of M Extension and Clay County.

#### **COMMITTEE REPORTS/COUNTY ADMINISTRATOR UPDATE/DISCUSSIONS**

- Commissioner Gross reported on a virtual meeting with Department of Health Commissioner Malcomb.
- Commissioner Ebinger reported on meetings for NW Emergency Communication Board; Greater FM Economic Development Corp; and FM Diversion Authority Board.
- Commissioner Kahly reported on meetings for Adult Mental Health Local Advisory Committee; Historical and Cultural Society of Clay County; Clay County Suicide and Substance Abuse Prevention Coalition; and Early Childhood Initiative.
- Commissioner Campbell reported on meetings for Prairie Lakes Municipal Solid Waste Authority; ARPA Committee; Solid Waste Advisory Committee; Clay County Joint Powers Authority; FM Diversion Authority Board; Audit Interview; and 6th Circuit Court of Appeals.
- County Administrator Larson reported on meetings for ARPA Committee; Solid Waste Advisory Committee; Greater FM Economic Development Commission; Moorhead Clay County Joint Powers Authority; 6<sup>th</sup> Circuit Court of Appeals; and County Management. He also had meetings regarding the Opioid Settlement; EDC; State Auditor Exit Interview; OSHA requirements; and with the Sheriff's office.

The meeting was adjourned at 11:50 a.m.

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Kevin Campbell, Chair  
County Board of Commissioners

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Stephen Larson, County Administrator