

Moorhead - Clay County Joint Powers Authority (MCCJPA)

Thursday, February 24, 2022, 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 Shelley Carlson
Council Member Chuck Hendrickson
Council Member Larry Seljevold
Clay County: Commissioner Kevin Campbell (Chair)
Commissioner Jenny Mongeau (from 2400 32 Ave S, Fargo)
BRRWD: Member Gerald VanAmburg

Others Present or on Microsoft Teams:

Joel Paulson, FM Diversion

Jodi Smith, Lands and Compliance Director, Diversion Authority

Attorneys John Shockley, Chris McShane, Lukas Andrud, and K DelZoppo of Ohnstad Twichell Law

Eric Dodds, Jessica Warren, Dean Vetter, AE2S

Ken Helve, HMG SRF

Scott Stenger and Dale Ahlsten, Prosource

Stephen Larson, County Administrator, and Colleen Eck, Clay County staff

John Albrecht, Jacobs Engineering

Tom (guest)

3) APPROVAL OF AGENDA

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

4) APPROVAL OF MINUTES

Member VanAmburg moved, and Council Member Seljevold seconded to approve the minutes from January 27, 2022. Motion carried.

5) CITIZENS TO BE HEARD

There were no citizens to be heard.

6) PROJECT UPDATES

a. **Property Acquisition Status Report**

Mr. Dodds referred to the monthly acquisition status report with a total over 750 parcels acquired to date. A few settlements have been reached on eminent domain parcels and they are working through that process. They anticipate that there will be a specific map on the upstream status area soon. A few more closing on Environmental Monitoring Easements (EME) took place in the last month. The remaining portions of the report balance with the overall status map. They will likely need to do appraisal reports on some parcels with structures that are currently indicated in grey on the map, but they are still doing field work to determine likely impacts to the structures.

7) APPRAISALS AND REPLACEMENT HOUSING DIFFERENTIAL PAYMENT (RHDP)

a. Flowage Easement Appraisals

Ms. Smith stated the process of flowage easement appraisals began over two years ago with the Phase 1 study conducted by Crown Appraisal. NDSU performed an ag impact study and a CLOMR approval was obtained. Crown Appraisal has met with all the landowners and public information meetings have taken place. The project-specific data is part of Phase 2. The Board was asked to approve the flowage easements today.

Mr. Dodds noted there are two property rights that flowage easement compensates: 1) loss of development rights; and 2) increased flood risk. For the loss of development rights there are four mitigation zones. Zones 1 (highest risk area) and 2 are in both states, Zone 3 is in ND and Zone 4 is in Mn. There may be additional flooding which is rated from 7% to 30%. Loss of development rights is rated from 8% to 10% of the farmland value. The sum of the two percentages is the total diminution of value of ag land and ranges from 15% to 40%.

A number of parcels have transitional land which is in transition from farmland use to some type of urban development. The calculation for determining a payment amount for traditional land was covered.

The flowage easement appraisal process consists of the current market value, a change of use compensation, and a diminution percentage to determine the offer amount. The process starts with board action, outreach by the land agents, the public meetings, and then negotiations.

John Albrecht referred to the Flowage Easement Appraisals Review Certifications. A total of 113 reports were completed on the Mn side and listed on pages 28-30 of the information packets. They are the Phase 2 study parcels. Crown Appraisal completed their work and Mr. Albrecht started his review in January. They were all reviewed individually and were found to be in compliance. He is confident in the values based on that work.

Mr. Dodds noted if there is a disagreement on a value with a property owner, that land agent would work on negotiations with that property owner.

Sometimes the negotiations prove to be fruitful and sometimes court action is needed. The minimum offer amount was established, and discussions start at that point.

Attorney Shockley commented that this is the process that the USACE uses and is in compliance with federal and state land acquisitions.

Mayor Carlson remarked that the packet information is clear, concise, up to date, and will hopefully alleviate any questions. All the land agents will be present at the upcoming public meetings for the Mn side on March 21 and 22 at the Clay County Law Enforcement Center.

A PowerPoint will be provided at the public meetings and will also be posted on the project website. Mr. Larson was asked to work with IT to videotape one of the meetings. The letter that will be included in the packets contains the reasons for the flowage easement property rights. This will be at least the third connection with some of the landowners.

It is necessary to acquire property rights in the Upstream Mitigation Area for the Comprehensive Project. The Board has procured appraisals to value those rights. Crown Appraisals, Inc., has delivered the appraisals of the property rights in the Upstream Mitigation Area necessary for the Comprehensive Project.

Mayor Carlson moved to accept the appraisals of the necessary property rights submitted by Crown Appraisals, Inc., as identified in the list presented to the Moorhead Clay County Joint Powers Authority identified as FLOWAGE EASEMENT APPRAISALS REVIEW CERTIFICATION PHASE 2 PARCELS (MN), and to direct land agents to make offers to acquire the necessary flowage easements in the format of the offer letters presented to the MCCJPA and utilizing the approved appraisal amounts as the basis for the offer. Council Member Seljevold seconded the motion, and the motion was unanimously carried.

b. RHDP for OIN 1795 Willem

Mr. Dodds remarked that the three comparisons found for the Replacement Housing Differential Payment (RHDP) are taken from what is available on the market. With the most comparable home, along with the adjusted subject property, the maximum RHDP for OIN 1795 (Richard and Judith Willem) was reported as \$209,900.

Dale Ahlsten provided additional information on the property. The appraisal was approved in December on this parcel which is impacted by the Upstream Mitigation Area. She noted there is no carve out needed. The comparable property which is larger is \$759,900 and the minimum compensation on the Willem property is \$550,000. The maximum RHDP payment of \$209,900 must be spent to be received. The Willems would have to purchase something over \$550,000 to receive a RHDP payment.

Council Member Seljevold moved, and Council Member Hendrickson seconded to approve the RHDP of \$209,900 for OIN 1795 (Willem). Motion carried.

8) LAND AGENT REPORTS

Ms. Ahlsten has been working on the flowage easement mailing packets which should be sent out early next week. She is working on a couple Environmental Monitoring Easements that are still in need of acquisition, and some Flowage Easement properties that have residences on them.

Mr. Helve noted that their flowage easements are nearly ready to be sent out as well.

9) PROPERTY MANAGEMENT

a. 2021 Farmland Annual Report

Mr. Dean Vetter stated there were a few farmland rental parcels in 2020 that Pifers manage for them. This year they are up to nine parcels with 174 additional acres this year compared to 2020. The average rental rate in 2021 was \$165 per acre, down slightly from the previous year. They may get a few additional acres in the next couple months.

Mr. Dodds added that there was an agreement to a counteroffer with Mr. Blilie this week and they wish to close on this property as soon as possible. Court will be canceled after the final agreement is signed.

10) ADJOURN

The meeting adjourned at 1:48 p.m.

Stephen Larson, MCCJPA Secretary