

Moorhead - Clay County Joint Powers Authority (MCCJPA)

Thursday, April 22, 2021, 1:00 p.m.

Virtual Meeting held through Microsoft Teams Meeting

MINUTES

1) **CALL TO ORDER**

The meeting was called to order by Commissioner Campbell at 1:00 p.m.

2) **ROLL CALL**

City of Moorhead: Mayor Shelly Carlson
Council Member Chuck Hendrickson
Council Member – vacant
Clay County: Commissioner Kevin Campbell
Commissioner Jenny Mongeau
BRRWD Board: Member Gerald VanAmburg

Others Present:

Joel Paulson, Diversion Executive Director
Attorney John Shockley, Attorney Chris McShane, Katheryn DelZoppo, and Sharon Oliver,
Ohnstad Twichell Law Firm
Eric Dodds, Jessica Warren and Dean Vetter, AE2S
Bob Zimmerman, Moorhead City Engineer
Ken Helde and Lisa Kilde, HMG SRF
Ted Preister, Red River Basin Commission
Scott Stenger and Dale Ahlsten, ProSource
John Albrecht, Jacobs Engineering
Kylie Beard and Greg Thielman, Houston Engineering
Stephen Larson, County Administrator, and Colleen Eck, Clay County staff
Kenneth Bye, property owner

3) **APPROVAL OF AGENDA**

Member VanAmburg moved and Commissioner Mongeau seconded to approve the agenda. Motion carried.

4) **APPROVAL OF MINUTES**

Council Member Hendrickson moved and Commissioner Mongeau seconded to approve the minutes from March 25, 2021 as presented. Motion carried.

5) **PROJECT UPDATES**

a. **Property Acquisition Status Report**

This report details the status of the land acquisitions as well as the easements and rights-of-entry. Acquired properties are up slightly at 555. On the ND side there are just over 80 in the category of Acquired Via Last Resort Eminent Domain. There are 454 parcels in the Appraisal / MOU Pending category. The Environmental Monitoring

Easement Acquisition report shows 238 acquired and 146 in negotiations. Some of the negotiations are very close to being completed. The Upstream Mitigation Area on the MN side includes 118 parcels without structures and 24 parcels with structures on them. The parcels in Wolverton are not included. Those details will be worked out with the Buffalo-Red River Watershed District and City of Wolverton.

6) DRAYTON DAM ENVIRONMENTAL ASSESSMENT WORKSHEET (EAW)

Mr. Thielman referred to the Drayton Dam Mitigation Project which was designed by the USACE for fish connectivity. The project involves retrofitting the existing dam for fish passage up and down the river. The EAW was drafted and needs to be signed by the Regulatory Governmental Unit (RGU) and then be forwarded to the Mn Environmental Quality Board. That will start the 30-day comment period on the EAW. The MCCJPA has been identified as the RGU for this EAW. Attorney Shockley commented that this is a very important environmental project funded by the USACE, and a critical component of the overall project. The EAW was drafted by the Houston-Moore group and was in the meeting packets for reference.

Member VanAmburg moved and Mayor Carlson seconded to approve the Drayton Dam Environmental Assessment Worksheet (EAW) and send it onto the EQB for the 30-day comment period. Motion carried.

7) APPRAISAL REVIEWS

a. OIN 1665 Tabor-Buth (Appraisal Review and Replacement Housing Differential Payment)

Mr. Albrecht noted that all three of these appraisal reviews are for smaller farm sites. He briefed the committee on the Appraisal Review Analysis and Certification for OIN 1665, a 2.35-acre site with buildings. The estimate of just compensation for this parcel is \$525,000, higher than the appraised numbers. He anticipates a full acquisition. The flowage easement is valued at \$8,000. The appraisal included looking at similar parcels, the value of land, cost of buildings, etc. The replacement cost was calculated as \$465,000.

b. OIN 1826 Ness

Mr. Albrecht referred to OIN 1826 as a 4.96-acre farm headquarters site owned by Larry and Judith Ness. The before value of the site is \$495,000, plus the flowage easement value (30%) and loss of development rights (10%) totaling \$503,000 for just compensation.

c. OIN 1267 Blilie

The appraisal review and recommendation were completed for this 9.63-acre site owned by Blilie's. Seven other sales were used for the estimate. Ten percent was added for loss of future development and 30% for water flowage, totaling 40% or \$140,000 for value of the acreage. The residential dwelling is estimated at \$395,000 and outbuildings at \$165,000. Just compensation was estimated to be \$700,000.

Commissioner Mongeau moved and Mayor Carlson seconded to approve the appraisal reports and just compensation amounts for OIN 1665 (Tabor-Buth); OIN 1826 (Ness); and OIN 1267 (Blilie). Motion carried.

- d. **Administrative Update:** A clerical correction of the client's name (from CCJWRD to MCCJPA) on the updated appraisal reports for OINs 249, 250, 251, 9325 – 9307 has been corrected.
- e. **OIN 249 Blilie Statement Correction**
Mr. Dodds noted that the January minutes indicate that the appraisal reviewer stated a value that did not match the correct appraisal. The correct appraisal amount is \$85,000. There was a difference in the preliminary and final design from USACE. This has been validated with the appraiser, the review appraiser, and the property owner. No action is needed on this item.

8) PROPERTY ACQUISITION

a. Red River Control Structure Parcels / Negotiation Summary

OIN 250 – Bye

Mr. Dodds stated a counter-offer has been presented for the Bye property. They retained legal counsel for the property that is impacted by the Red River Control Structure and Upstream Mitigation Area of the project. Their request is for \$462,500 (based on RHDP); plus \$850 for the Environmental Monitoring Easement; plus \$40,000 for business relocation; retain the Rights of First Offer; and to remain on the property until 2024. They would continue to maintain and pay taxes on the property.

The land agents have determined that the request to remain on the property until August 2024 would meet the project timeline on construction. The owners will need to remove the refuse material off the property. The amounts requested for EME and business relocation seem reasonable as well.

Motion made by Commissioner Mongeau and seconded by Council Member Hendrickson to approve the counter-offer of \$503,350 for OIN 250 - Bye. Motion carried.

b. Red River Control Structure Parcels

i. OIN 251 – Dahlstrom

ii. OIN 249 – Blilie

iii. OIN 9325 – Livdahl

Three options were listed for consideration by the Board. Commissioner Mongeau stated working with USACE is difficult because of their timeline. She added that it sends a message to landowners that we have already made a decision to move into court action. Mr. Dodds confirmed that BRRWD assured him they do not want to play a role in these decisions. The recommendations were to approve the Red River Control Structure Resolution of Necessity for court action to acquire ROW at the April 22

meeting, and either bring the request to Clay County on May 4, 2021; or on May 18, 2021; or delay action and request a special meeting.

The land agents' ongoing negotiations, the timeline, and necessary action were discussed further. May 25th was also discussed as a reasonable date by the Board. Mr. Dodds noted that a delay in the timeline could ultimately delay the schedule for the Red River Control Structure. Commissioner Mongeau asked if there is a "critical-piece offer" for the landowners. Mr. Dodds noted they have been willing to be flexible, rent-back land if requested, add up to 10%, and consider one-to-one land swaps.

Mayor Carlson moved and Council Member Hendrickson seconded to approve the MCCJPA Resolution of Necessity for court action to acquire right-of-way at the April 27 meeting, and bring the request to Clay County on May 25, 2021. Motion carried with one nay vote from Commissioner Mongeau.

9) LAND AGENT REPORTS

Ken Helde, HMG SRF, stated he is getting started on a handful of Environmental Monitoring Easements.

AGENDA ADDITION: Attorney Shockley stated he will be approaching the City of Moorhead and Clay County to obtain their approval of a resolution to issue the WIFIA loans, the other loans, and a 2% share of operational and maintenance costs of the diversion project.

10) ADJOURN

The meeting adjourned at 2:27 p.m.

Stephen Larson, MCCJPA Secretary