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CLAY COUNTY BOARD OF COMMISSIONERS

Tuesday, March 13, 2012

8:30 a.m.

County Board Room – 3rd Floor – Courthouse

M I N U T E S

The Clay County Board of Commissioners met in regular session on Tuesday, March 13, 2012, with all Commissioners present: Campbell, Evert, Ingersoll, Waller and Weyland. County Administrator Brian C. Berg and Senior Administrative Assistant Vicki Reek were also present.

APPROVAL OF AGENDA

On motion by Evert, seconded by Campbell, and unanimously carried, the agenda was approved as presented.

APPROVAL OF MNDOT DETOUR AGREEMENT FOR THE 2012 TH 32 CONSTRUCTION PROJECT

By consent agenda, the Board adopted the following resolution approving execution of an agreement for MnDOT's use of CSAH 33 and CSAH 34 as a detour route during the TH 32 construction project:

RESOLUTION 2012-15

IT IS RESOLVED that Clay County enter into Mn/DOT Agreement No. 00164 with the State of Minnesota, Department of Transportation for the following purposes:

To provide for payment by the State to the County for the use of CSAH 33 and 34 as a detour route during the contract construction to be performed upon, along and adjacent to Trunk Highway No. 32 from 0.42 miles north of TH 10 to north Clay County line under State Project No. 1403-24 (TH 32-177).

IT IS FURTHER RESOLVED that the County Board Chair and the County Administrator are authorized to execute the Agreement and any amendments to the Agreement.

CITIZENS TO BE HEARD

There were no citizens present who wished to address the Board.

APPROVAL OF MINUTES

On motion by Campbell, seconded by Ingersoll, and unanimously carried, the minutes of the County Board meetings held February 14, 21, and 28, 2012 were approved as presented.

PUBLIC HEARING: FLOODPLAIN ORDINANCE REVISIONS

On motion by Waller, seconded by Campbell, and unanimously carried, the public hearing was opened concerning proposed Floodplain Ordinance revisions.

Planning & Environmental Programs Director Tim Magnusson presented an overview of the revisions to be made to the Floodplain Management Regulations (See Attachment "A"), which have been recommended for approval by the Planning Commission.

He noted that most of the revisions are updates at the request of the Department of Natural Resources and include language requested by the Federal Emergency Management Agency. Mr. Magnusson stated that the Floodplain Ordinance revision does not include language concerning setbacks from rivers; however, that topic will be addressed at a later date by the Planning Commission.

There were no comments from the audience concerning the Floodplain Ordinance revisions.

On motion by Ingersoll, seconded by Waller, and unanimously carried, the public hearing was closed.

On motion by Evert, seconded by Ingersoll, and unanimously carried, the Board adopted **Ordinance No. 2012-1** "An Ordinance Amending the Clay County Land Development Ordinance: Floodplain Management Regulations."

ADOPT CITIZEN PARTICIPATION PLAN CONCERNING CLAY COUNTY HOUSING &
REDEVELOPMENT AUTHORITY'S APPLICATION TO DEED FOR COMMUNITY
DEVELOPMENT BLOCK GRANT FUNDS FOR REHABILITATION

Ms. Dara Lee, Housing & Redevelopment Authority Executive Director, informed the Board that the pre-application for Department of Employment and Economic Development (DEED) Community Development Block Grant (CDBG) funds was successful. She added that the joint application with the City of Hawley was beneficial, in that funds will address commercial and rental rehabilitation, as well as owner occupied residential rehabilitation in that community. New criteria for award of grant funds includes: smaller geographical areas where funds will be used (20 block target area), greater details on the need for the activity, and improved cost effectiveness. A public hearing will be held March 27th concerning this grant.

Ms. Lee informed the Board that \$1 million has been awarded by Minnesota Housing & Finance for rental rehabilitation throughout Clay County (designated as follows: \$500,000 City of Moorhead, \$125,000 City of Barnesville, \$125,000 City of Hawley, \$125,000 City of Dilworth, and \$125,000 for the balance of the County). An additional \$500,000 was awarded for rehabilitation of HRA properties.

Ms. Lee reminded the Board that Clay County was asked for a contribution towards the CDBG application, in the amount of \$25,000-\$50,000, depending upon the outcome of the 2011 revenues over expenditures.

On motion by Evert, seconded by Waller, and unanimously carried, the Board approved the Citizen Participation Plan to ensure that the citizens of Clay County are encouraged to participate in the planning and implementation of CDBG-funded activities.

INTERVIEW CANDIDATES FOR WILD RICE WATERSHED DISTRICT BOARD OF MANAGERS

Mr. John Austinson and Mr. Duane Erickson were interviewed for reappointment to the Wild Rice Watershed District (WRWD) Board of Managers. Mr. Austinson and Mr. Erickson updated the Board on activities in the WRWD, and their frustrations with the difficulties in progress of developing projects.

Mr. Mark Harles, resident of the WRWD, felt the County Board needs to hold its managers accountable in their next term. He was frustrated that neither of the managers present voted for the Upper Becker Dam project which took years to be permitted, and for which funding and engineering was in place.

Upon completion of the interviews, Commissioner Evert requested that the appointments be delayed one week.

DISCUSSION REGARDING CLAY COUNTY ASSESSOR POSITION

County Administrator Brian Berg informed the Board that the ad-hoc committee appointed to address the County Assessor vacancy has met twice. The committee has discussed various options, to include sharing of services with other governmental units, as well as integrating the Assessor's office with other land management related services in the County (such as Recorder, Auditor-Treasurer). It was felt that better public service, efficiency, and flow of information could be achieved by coordination of land management activities. If land management activities were to be combined in some manner, the committee felt management of these services should be conducted by an appointed County official. The options continue to be explored. Mr. Berg noted that the County has 90 days to fill the Assessor position, but can ask for an extension of that time frame if necessary.

Commissioner Evert commended the committee for exploring this opportunity to redesign how services are delivered in Clay County.

DISCUSSION REGARDING APPOINTIVE POSITION – CLAY COUNTY AUDITOR-TREASURER

In connection with the above mentioned agenda item, discussions have been held concerning the possibility of the County Auditor-Treasurer position changing from elective to appointed. Current Auditor-Treasurer Lori Johnson has expressed concern that Minnesota Statutes presently do not require any professional qualifications for an elected Auditor-Treasurer. She was comfortable with the position changing to appointed. Changing the position to an appointed position will ensure that the Clay County Board of Commissioners has the ability to place the right person with the necessary technical qualifications in this key position.

If the position is changed to appointed, Ms. Johnson would hold the elected Auditor-Treasurer position until the end of the current term.

Special legislation is required to change the Auditor-Treasurer position from elected to appointed and the local legislators have been contacted in this regard. Due to legislative deadlines concerning filing and hearing of bills (March 16, 2012), Senator Keith Langseth's office has filed a bill to change the Auditor-Treasurer position from elected to appointed.

Commissioner Ingersoll felt the statutory qualifications are very minimal. He was pleased that Ms. Johnson is comfortable with the proposed change of her position to appointed.

On motion by Ingersoll, seconded by Evert, and unanimously carried, the following resolution was adopted:

RESOLUTION 2012-16

WHEREAS, the Clay County Board of Commissioners has discussed and has been exploring the option of making the Clay County Auditor-Treasurer an appointed position;

WHEREAS, Minnesota Statutes 375A.10, subdivision 2(a) provides that Clay County may exercise the option of having the County Auditor-Treasurer an appointed position;

WHEREAS, the Clay County Board of Commissioners recognizes that there is a benefit to having an appointed person in the position of County Auditor-Treasurer as it promotes the efficient conduct of County business without the threat of interruption by the election of an individual otherwise not qualified to deal with the broad spectrum of complex issues that the County Auditor-Treasurer is faced with;

NOW, THEREFORE, BE IT RESOLVED, that the Clay County Board of Commissioners wishes to pursue a Bill for an Act providing a process for making the County Auditor-Treasurer position appointive in Clay County.

DISCUSSION RE: EXPANSION OF BUFFALO-RED RIVER WATERSHED DISTRICT

In connection with the proposed expansion of the Buffalo-Red River Watershed District (BRRWD) and increase of managers from five to seven, **Commissioner Campbell requested that the County Board send a follow-up communication to the Board of Water & Soil Resources (BSWR), stressing the importance that Clay County is granted an additional manager.** County Auditor-Treasurer Lori Johnson informed the Board that most of the taxation comes from Clay County, and if Clay County does not receive the additional manager, the other three counties (Wilkin, Otter Tail and Becker) could dictate the projects that Clay County would have to pay for. **Commissioner Campbell felt if Clay County does not receive the additional manager, the County should oppose the enlargement of the BRRWD.**

The testimony period for this enlargement petition has closed, and BWSR's full board will hear a recommendation regarding the request April 25th.

BRRWD Office Administrator Bruce Albright informed the Board that the BRRWD did not take a formal board position on the matter. He added that BWSR's decision can be appealed.

Commissioner Waller felt Clay County's wishes were made clear in the testimony provided at the public hearing on the matter. He felt further communication may create a new level of distrust among the new watershed board members. He added that if BWSR does not grant Clay County an additional manager position, the County could commence the appeal process.

Mr. Albright noted that the time to submit testimony for the expansion has passed. He did not believe further comments would go into the record, nor would the BWSR Board see them.

Commissioner Campbell moved that the County Board send a letter to BWSR reiterating Clay County's position that Clay County should receive an additional manager position if the BRRWD is to be expanded. Commissioner Ingersoll seconded the motion. The motion passed with Commissioners Evert and Waller opposed.

APPROVAL OF BILLS AND VOUCHERS

On motion by Evert, seconded by Campbell, and unanimously carried, the bills and vouchers were approved for payment.

COMMITTEE REPORTS/COUNTY ADMINISTRATOR UPDATE

Commissioner Waller attended meetings of the Highway Tracking Committee and Soil & Water District Board.

Commissioner Ingersoll attended meetings of the Moorhead Planning Commission and Lake Agassiz Regional Library.

Commissioner Evert attended the Personnel Issues Committee meeting.

Commissioner Campbell attended meetings of the FM Metro Diversion/Authority, Highway Tracking, and a meeting regarding filling the Assessor position.

Commissioner Weyland attended meetings concerning the vacant Assessor position, Personnel Issues Committee, and the Law Library.

MINNESOTA COUNTIES INTERGOVERNMENTAL TRUST ANNUAL REPORT

Ms. Deb Sletten, Loss Control Specialist, Minnesota Counties Intergovernmental Trust, updated the Board concerning Clay County's 2011 Property/Casualty and Workers' Compensation claim history, contributions, dividend, etc. She highlighted upcoming training events which MCIT will be sponsoring, as well as services which are available to MCIT members (Employee Assistance Program, Defensive Driver Training, Minnesota Safety Council Membership, Video Library, etc.).

APPROVAL OF LAKESWIND TAMARAC 115KV TRANSMISSION LINE
ENVIRONMENTAL ASSESSMENT

Planning & Environmental Programs Director Tim Magnusson advised the Board that he had only received the Lakeswind 115kV Transmission Line Environmental Assessment a few days ago and had not had time to give it an appropriate review. In a cursory review of the document, he noted several issues to be addressed, one being that the Public Utilities Commission has not responded giving Clay County the authority to perform the local review of the Environmental Assessment.

This topic will be placed on the County Board's agenda for March 20, 2012.

COUNTY ADMINISTRATOR UPDATE

County Administrator Brian Berg updated the Board regarding the recent Highway Tracking Committee meeting. He reminded the Board of the Township Officers meeting in Glyndon on Monday, March 19, 2012.

ADJOURN

The meeting adjourned at 11:30 a.m.

Grant Weyland, Chair
Clay County Board of Commissioners

Brian C. Berg, County Administrator

Overview of Revisions made to the Floodplain Management Regulations:

Chapter 1:

- a. Minor revisions to wording in Purpose
- b. Change in relationship to other jurisdictions
- c. What constitutes development, thus requiring a permit

Chapter 2:

- a. Changes to Non-conforming uses/structures floodproofing
- b. New language on Substantial Improvements to Non-conforming uses/structures and requirement for CUP for improvements

Chapter 3: No changes

Chapter 4:

- a. Variance provisions for Flood Hazard Zones (criteria, notification)
- b. Floodplain District Amendments
- c. DNR notification
- d. Change in standards for Floodway and Flood Fringe Conditional Uses
- e. Permit provisions for Flood Hazard Zones and notifications

Chapter 5:

- a. Adoption of maps language
- b. Detachment language
- c. Flood map reference changes
- d. Update Purpose, Disclaimer and District reference
- e. Updates to district provisions (Floodway, Flood Fringe)
- f. Design standards for wet floodproofing of accessory structures
- g. Standards for CUP in Flood Fringe district
- h. Inclusion of "Basement Exception" standards
- i. Update references to "BFE" to "RFPE"
- j. Zone A districts on some lakes

Chapter 6:

- a. Manufactured Homes in Flood Hazard Zones
- b. Standards for accessory Recreational Vehicles and RV Parks

Chapter 7:

- a. Site suitability requirements for new lots
- b. Removal of Special Flood Hazard Area Designation

Chapter 8:

- a. Basement definition
- b. Base flood elevation (BFE), FEMA, Flood Insurance Rate Map and Flood Insurance Study definitions
- c. Update Floodplain and Floodway definitions
- d. Lowest Floor, Manufactured Home, National Flood Insurance Program definitions
- e. Recreational Vehicle, Regional Flood, Regulatory Flood Protection Elevation, Substantial Damage and Substantial Improvement definitions