

**UNOFFICIAL MINUTES- SUBJECT TO CORRECTIONS
LYON COUNTY BOARD OF COMMISSIONERS
LYON COUNTY GOVERNMENT CENTER, MARSHALL, MN
August 16, 2011**

9:00- Meeting was called to order by Chairman Fenske. Members present: Stensrud, Fenske, Ritter, Goodenow, Anderson, County Administrator Stomberg, Attorney Maes, County Auditor/Treasurer Van Overbeke.

Pledge of Allegiance to the Flag

Approve Agenda

Stomberg – Three additions to the agenda, Jay Trustee will be here at 9:45 for a sustainable communities regional planning grant program, a resolution for the sale of the surplus real property under my time and the extension of a seasonal employee under Suhail's time. We need to pull Rogge CUP under John Biren's time, Rolle Bolle Tournament under my time, and pull accept low bid 42-607-22 under Suhail's time. Also at 12:30 we will have an overview on the ditch law. Ritter moved, seconded by Stensrud to approve the agenda. All voted in favor.

Identify any Conflict of Interest

None identified.

	Per Diems	Expenses
Fenske	\$100	-----
Stensrud	\$100	\$38.19

Consent Agenda:

1. Approve Minutes from August 2, 2011
2. Approve Commissioner Warrants 125898-126003 in the amount of \$185,087.77 dated 8/17/11.
3. Approve Auditor Warrants 125859-125884 in the amount of \$85,179.76 dated 9-6-11, 126004-126034 in the amount of \$186,716.55 dated 8-18-11, and 126035-126051 in the amount of \$17,780.15 dated 8/25/11.
4. Approve Per Diems and Expenses
5. Flu shot clinic
6. Set Meeting Date for budget discussion

Ritter moved, seconded by Stensrud to approve the consent agenda. All voted in favor.

2010 SHSP Grant (ARMER Subscriber Equipment)

Anderson moved, seconded by Stensrud to approve prepaying for the subscriber radio equipment under the 2010 State Homeland Security Program Grant to include purchasing 10 Motorola XTS2500 portable radios and associated accessories for their operation and use. All voted in favor.

Accept low bid for a dozer

Stensrud moved, seconded by Goodenow to accept the low bid by Titan Machinery for a Case 1650L LGP loader in the amount of \$169,664.06 and trade in of \$69,057. Ritter – What was the budgeted number? Kanwar - \$250,000. Fenske – So it came in better than expected? Kanwar – Yes. All voted in favor.

Garvin Park and Landfill 2012 Crop Land and 2012 Hay Crop Quotes

Kanwar – We want deer to move further to the east where they are away from highway 59. We are going to pick a 2 acre area and one acre area. We are working with NRCS. Anderson – You will have to go through sod buster laws. Kanwar – Yes that is what we are working with NRCS on. The purpose is to make sure there is safety on the road and make sure the deer get food. Discussion on bidding food plots. Goodenow moved, seconded by Ritter to accept the contracts for the three plots. All voted in favor.

Extension of seasonal employee

Goodenow moved, seconded by Ritter to approve extending the temporary seasonal employee Lonnie Lambertus through November 4, 2011. All voted in favor.

Kanwar gave a project update. Thomasson gave an update on graveling roads.

Resolution for the sale of surplus of real property in 9 & 16-113-40

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Anderson moved, seconded by Stensrud to approve and authorize the Chair to sign a resolution for the sale of the surplus real property in 9 & 16-113-40. All voted in favor. (Resolution 30-11 on file in the County Administrator's Office).

Sustainable communities regional planning grant

Jay Trustee, Executive Director Southwest Regional Development Commission discussed the sustainable communities regional planning grant.

Collection event on September 15 open house

Henriksen – We can do a free collection event, they will take Freon appliances too. Consensus to set the following rates for the September 15 Landfill Open House:

Tires : \$145 a ton
Minimum charge of \$1.75 / car and light truck tire \$6.00 / truck
Rims – additional minimum charge
Appliances: Free
Residential Covered Electronic Devices (CED's): Free
Commercial Electronics and non CED's
Printers, video players, fax machines - \$4.00 each
Computer monitors : \$6.00 each
TV's : \$10.00 each
Other electronics : \$4.00 each
CPU Units Free
Large Copiers / Printers > 25 lbs: \$10 each

Quotes for building replacement

Henriksen – The total with the wash bay is \$65,000. We got \$45,000 from insurance. It includes insulation, electrical, and concrete. Ritter – I think this should be brought up at the landfill meeting with the other counties. Discussion on wash bay addition. Anderson moved, seconded by Stensrud to approve the quote from Reber Construction in the amount of \$65,023.20 to replace the building destroyed by the July 1, storm and add a 24' extension for an insulated wash bay. Ritter – The wash bay addition wasn't presented at the last landfill meeting in September. Stensrud – The issue is probably about raising rates which we won't have to do.

Voting in favor
Anderson
Stensrud
Goodenow
Fenske

Opposed:
Ritter

Motion carried 4 to 1

**10:00 a.m. Fenske called the public hearing to order
Public Hearing – Ordinance revisions**

Biren – The planning commission held a public hearing last Thursday and there was no public comment. Last year at the legislative session there was a statute change. Due to the language change our ordinance needs to be revised to reflect this change.

10:05 a.m. Fenske opened the public hearing and asked for comments. Upon hearing none Fenske closed the public hearing at 10:06 a.m.

Summary of Revisions of Changes for the Lyon County Zoning Ordinance

Minnesota Statutes 2010, section 394.27, subdivision 7 was amended during the last legislative session. The language changes in the amendment to section 394.27, subdivision 7 relates to granting or denying variance requests. It has been recommended that county ordinances be revised to reflect this language change. In addition a definition for "contiguous" was added this is referring to a lot, parcel or tract of land. The majority of changes occurred in Section 26 of the Lyon County Zoning Ordinance. A copy of the complete ordinance can be found at www.lyonco.org or a hard copy can be requested from the Lyon County Zoning Office. (507) 532-8207.

Anderson moved, seconded by Ritter to approve the ordinance revision upon due publication of the minutes and an effective date of September 15, 2011. All voted in favor.

10:10 a.m. Meeting Recessed

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10:27 a.m. Meeting Called back to order

HVAC Lease – Johnson Controls Project

Stomberg – This would come out of the general fund. VanOverbeke – We could take some out of the capital improvement building fund. Stensrud – What is in the capital improvement fund? VanOverbeke - \$540,000. Anderson moved, seconded by Ritter to authorize the Auditor / Treasurer to pay the remaining balance of approximately \$240,000 of the Johnson Controls project HVAC lease. All voted in favor.

Capital Improvement Bonds – Road Improvement

Stensrud moved, seconded by Ritter to authorize the Administrator to go forward with the process to pay off the road bonds. All voted in favor.

Reviewed Meeting Schedule

Commissioners Report

Goodenow reported on Health and Human Services.

Ritter reported on Lake Marshall outlet meeting and Planning and Zoning meeting.

Anderson reported on county road 6 ditch meeting.

Stensrud reported on Airport Commission meeting and on Retiree Insurance lawsuit hearing.

Fenske reported on Regional Amateur Sports Commission and Cottonwood land auction meeting.

11:00 a.m. Fenske called JD 6 Public Hearing to order

Bill Douglas, Bolten & Menk, - We are assisting the city of Marshall in designing the Merit Center site and the industrial area. Douglas reviewed a power point presentation on JD 6 ditch. What we are proposing to do is increase the outfall from a 10" to a 15" tile. Glen Olson – It has always been the intent to take care of the improvement cost prior to the discharge to a county or judicial system. Discussion on ponds for retention of run-off water.

11:27 a.m. Fenske opened the public hearing

Roger Verly – They are asking for an outlet into judicial ditch number 6, before it hits number 6 it goes through 3 plus miles of private ditch. Fenske – One of the things that the staff has looked at is permission to use that private tile. That has to be obtained by the city. Olson – The city was also involved in the development of the ditch. Benefits were paid on the private ditch. Biren - There were improvements done. Olson – Who are the owners of it? Biren – He mentioned there are three landowners. Olson – Since we purchased the property is it ours to use. Goodenow – You are going through tile you own and then you go to tile someone else owns and get to the public. Fran Verly – I want to reiterate. I live in Section 21 where the water comes under highway 59 and through the rest of 21 going north all through section 16 is all private ditch owned by the Verly's. From the drop structure it goes into the ditch. We would like you to get our permission to use our system. Fenske – It says before we grant this permission is needed to use private tile. Harold Deiken – Does the city have any written agreement to use that private ditch before we start addressing judicial ditch 6? Fenske – What is in effect now? Deiken – The change is the amount of water that is going to be going through that ditch. Fenske – There is going to be an outlet fee. Is the open ditch private? Biren – There is private tile that goes into a private ditch that goes into JD 6. Stensrud – I think the big question is you are changing the structure of the land and that is going to change the amount of water. Olson – The rate is the same but the total quantity over like a two inch rain is less. There is more water spread over more days. Mike Mortier – Could you go to the slide that shows the existing tile. The tile that goes under highway 59 right now that drains. I am concerned if you make a bigger tile mine won't drain. Olson – That 12 inch flows pretty heavy. Mortier – If your pond fills up and you are draining a 15 inch rate you are going to have more pressure and it will drain sooner and mine will sit for three days. Olson – If we had an inch rain today there wouldn't be any significant issue. Douglas – For the two year event like a two inch rainfall before it got here faster now we are holding it back. The competition for this is the same. Gene Bossuyt – How many feet of fall is there? Douglas – About 2 ½ feet. Harold Deiken – What was said earlier when I asked if the city had a written agreement with the private landowners on the private ditch. We are developing a whole industrial park here. When this gets developed more and more it only stands to reason there will be more water. How can the city keep dumping more water and not be assessed. We have to have some type of early system that it gets reviewed and the economic compensation gets rated as such. I think the private ditch should become a county ditch and the whole system be reviewed. Dennis Simpson – In 1986, there was the improvement project A. The county board approved improvement to judicial ditch 6. Fran Verly – I'm not interested in having a

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county ditch run through my land. If they use the private I expect to be compensated. Todd Hammer – About 15 years ago I facilitated a meeting with the City of Marshall and some of the rural landowners on highway 59 and a price was determined to clean it out. This was done privately. The city did pay a portion to clean it. The ditch was not cleaned out north of 59 on the Verly's. VanOverbeke – You said there was going to be 120 acres removed from the ditch system is that private? Are they getting benefit from 6? We do need clarification on that 120. If it is part of the ditch system we will need an abandonment. Tom Regnier – On the airport property the water comes through there is so much pressure up above, down on my portion of land the water will shoot right out of a tile intake. They lost quite a bit of crop because it flooded out. Fenske- We will continue this on September 6 at 10:30 a.m. Fran Verly – Will the engineers get in contact with us to pay a fee to use our private ditch? What channel of recourse do I go through to get compensated for it? Maes –One of the conditions the drainage authority is going to place is to have permission from the private owners.

12:09 p.m. Fenske set a continuation on the JD 6 public hearing for September 6, 2011 at 10:30 a.m.

12:11 p.m. Meeting Recessed

12:30 p.m. Meeting Called Back to Order

Gary Leistico presented an overview of the legal side of drainage issues.

Jeff Strock, University of Minnesota SW Research and Outreach discussed the importance of quality drainage.

Lucas Youngsma, Area hydrologist with DNR presented the downstream impacts of drainage and the importance of buffers.

2:00 p.m. County Ditch Annual Maintenance Levy

County Ditch 3 & 44 LAT A

Stensrud moved, seconded by Goodenow to assess 5% or \$1,776.35 to county ditch 3 & 44 LAT A. All voted in favor.

County Ditch 4

Anderson moved, seconded by Goodenow to assess 3% or \$1,268.67 to county ditch 4 repair. All voted in favor.

County Ditch 7

Goodenow moved, seconded by Stensrud to assess 1% or \$8,532.75 to county ditch 7 improvement. All voted in favor.

County Ditch 9

Goodenow moved, seconded by Anderson to assess 20% or \$7,177 to county ditch 9. All voted in favor.

County Ditch 10

Stensrud moved, seconded by Ritter to assess 7% or \$7,927.71 to county ditch 10. All voted in favor.

County Ditch 11

Goodenow moved, seconded by Ritter to assess 15% or \$4,824 on county ditch 11. All voted in favor.

County Ditch 13

Anderson moved, seconded by Stensrud to assess 15% or \$5,278.91 to county ditch 13. All voted in favor.

County Ditch 14

Ritter moved, seconded by Anderson to assess 5% or \$5,300 to county ditch 14. All voted in favor.

County Ditch 15

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Stensrud moved, seconded by Goodenow to assess 5% or \$6,380.20 to county ditch 15. All voted in favor.

County Ditch 17

Goodenow moved, seconded by Stensrud to assess 20% or \$2,327 to county ditch 17. All voted in favor. Byron –If you could get someone in to clean the ditch why couldn't you take it out of the ditch fund assess the benefits to the people. Goodenow – The state auditor is not real crazy about us doing it. Hammer – It would cost at least \$6,000 per mile. There is about three miles.

County Ditch 18

Goodenow moved, seconded by Anderson to assess 2% or \$10,479.41 to county ditch 18. Byron – What is the spoil bank? What are you seeding down? Stensrud – I think he was talking about the 16 and a ½ feet if you redetermine. Hammer – Outside the ditch on the bank back. When it was redetermined the grass strip was never bought. Byron - When they put the ditch in it says they bought the spoil bank. There is no way you can come along and by 16 ½ feet of \$7,000 an acre land. You can seed it down where you need them is where it is flat. The amount of sediment that slides back in the ditch with a long dipper boom. So the bank stays the same you don't have the mud sliding back in again. Fenske – I don't know why strips weren't bought then. Byron – If the law says you have to buy it why wouldn't it be at the price you paid then. Hammer – Nobody bought 16 ½ foot glass strip back in 1961 when this ditch was dug. Hammer – We redetermined benefits back in 1993. Fenske – Why wasn't it done? Hammer – I don't know if someone missed it. Byron – It depends what you have for a digger. That is why I say they have already paid for that land once. All voted in favor.

County Ditch 20

Goodenow moved, seconded by Anderson to assess 10% or \$1,742.55 to county ditch 20. All voted in favor.

County Ditch 24

Goodenow moved, seconded by Stensrud to assess 10% or \$1,331 to county ditch 24. All voted in favor.

County Ditch 27

Goodenow moved, seconded by Ritter to assess 10% or \$1,272 to county ditch 27. All voted in favor.

County Ditch 29

Anderson moved seconded Stensrud by to assess 10% or \$4,798.40 to county ditch 29. All voted in favor.

County Ditch 32

Goodenow moved seconded by Stensrud to assess 10% or \$2,229 to county ditch 32. All voted in favor.

County Ditch 33

Stensrud moved, seconded by Anderson to assess 10% or \$1,163.50 to county ditch 33. All voted in favor.

County Ditch 36

Stensrud moved, seconded by Anderson to assess 5% or \$8,759.64 to county ditch 36. All voted in favor.

County Ditch 37 LAT A

Goodenow moved, seconded by Ritter to assess 11% or \$8,042.65 to county ditch number 37 LAT A. All voted in favor.

County Ditch 39

Anderson moved, seconded by Stensrud to assess 7% or 5,168.22 to county ditch 39. All voted in favor.

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County Ditch 41

Goodenow moved, seconded by Stensrud to assess 20% or \$2,479 to county ditch 41. All voted in favor.

County Ditch 42

Stensrud moved, seconded by Goodenow to assess 10% or \$797 to county ditch 42. All voted in favor.

County Ditch 49

Ritter moved, seconded by Goodenow to assess 7% or \$2,399.04 to county ditch 49. All voted in favor.

County Ditch 55

Goodenow moved, seconded by Anderson to assess 15% or \$3,427.80 to county ditch 55. All voted in favor.

County Ditch 56

Stensrud moved, seconded by Ritter to assess 2% or \$7,468.12 to county ditch 56-redetermination. All voted in favor.

County Ditch 60 B

Goodenow moved, seconded by Stensrud to assess 5% or \$41,992.15 to county ditch 60B. All voted in favor.

County Ditch 62

Ritter moved, seconded by Anderson to assess 1% or \$42,173.09 to county ditch 62. All voted in favor.

County Ditch 63

Goodenow moved, seconded by Ritter to assess 5% or \$6617.70 to county ditch 63. All voted in favor.

County Ditch 67

Anderson moved, seconded by Stensrud to assess 10% or \$2,147.20 to county ditch 67. All voted in favor.

County Ditch 70

Ritter moved, seconded by Goodenow to assess 5% or \$8,540.90 to county ditch 70. All voted in favor.

2:56 p.m. Judicial Ditches Annual Maintenance Levy

Judicial Ditch 2

Stensrud moved, seconded by Ritter to assess 5% or \$10,628.55 to judicial ditch 2. All voted in favor.

Judicial Ditch 3 L Y & R

Anderson moved, seconded by Stensrud to assess 10% or \$1,826.75 to judicial ditch 3 L Y & R.

Judicial Ditch 7 REP B

Ritter moved, seconded by Goodenow to assess 10% OR \$1,856.40 to judicial ditch 7 Rep B.

Judicial Ditch 9 R & L

Goodenow moved, seconded by Anderson to assess 10% or \$945.86 to judicial ditch 9 R & L. All voted in favor.

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Judicial Ditch 10 & 23

Stensrud moved, seconded by Anderson to assess 5% or \$17,527.26 to judicial ditch 10 & 23. All voted in favor.

Judicial Ditch 12 L & L

Ritter moved, seconded by Stensrud to assess 5% or \$3,626.30 to judicial ditch 12 L & L. All voted in favor.

Judicial Ditch 12 L & Y

Ritter moved, seconded by Goodenow to assess 5% or \$3,489 to judicial ditch 12 L & Y. All voted in favor.

Judicial Ditch 13 L & L

Goodenow moved, seconded by Ritter to assess 20% or \$483 to judicial ditch 13 L & L. All voted in favor.

Judicial Ditch 15 L & R

Anderson moved, seconded by Ritter to assess 8% or \$47,714.88 to judicial ditch 15 L & R improvement. All voted in favor.

Judicial Ditch 18 L & R

Goodenow moved, seconded by Ritter to assess 10% or \$11,348.50 to judicial ditch 18 L & R. All voted in favor.

Judicial Ditch 22 R & L

Stensrud moved, seconded by Goodenow to assess 10% \$163.00 or judicial ditch 22 R & L. All voted in favor.

Judicial Ditch 24 L & Y

Anderson moved, seconded by Ritter to assess 10% or \$3,220.35 to judicial ditch 24 L & Y. All voted in favor.

Judicial Ditch 24 Y & L

Ritter moved, seconded by Goodenow to assess 20% or \$1,793.60 to judicial ditch 24 Y & L. All voted in favor.

Judicial Ditch 34 R & L

Goodenow moved, seconded by Ritter to assess 10% or \$17,766.10 to judicial ditch 34 R & L. All voted in favor.

Judicial Ditch 37 R & L

Stensrud moved, seconded by Anderson to assess 10% or \$1,258.85 to judicial ditch 37 R & L. All voted in favor.

3:15 p.m. Fenske adjourned the meeting.

Robert Fenske, Chairman

Attest: Loren Stomberg
Lyon County Administrator