

LYON COUNTY BOARD OF COMMISSIONERS
LYON COUNTY COURTHOUSE, MARSHALL, MN
April 7, 1998

Meeting called to order by Chairman Fenske. Members present: Buysse, Fenske, Gladis, Goodenow, Vandelanotte, County Attorney Maes, and County Administrator Jorgensen.

Pledge of Allegiance to the Flag.

Agenda approved as printed.

Vandelanotte moved, seconded by Buysse to approve the minutes for the regular Commissioner's Meetings on March 3 and March 17. All voted in favor.

Ditch Vouchers were presented. Hammer handed out information on bills for JD#10. Discussion on JD#10 bill. Fenske - Hammer, do you recommend payment? Hammer - I recommend payment of everything except the \$2700 for legal and engineering fees. Gladis moved, seconded by Buysse to approve the ditch vouchers except the legal and engineering fees for JD#10 in the amount of \$2700. All voted in favor.

Hammer - In regards to CD#7, I met with Maes and Vandelanotte. Maes - The petitioner's attorney filed a motion yesterday to dismiss the temporary injunction. The reason for the dismissal motion is on the grounds that the board can not act as the ditch authority because Statute was not followed when appointing the board members and there is a conflict of interest. Judge Harrelson will have a hearing on the motion on April 20th at 9:30. If successful, the action by JD#10 will be dismissed. Vandelanotte - Was the motion filed late yesterday? Hammer - Yes. Fenske - We have no action to take now, we have to wait until after the hearing.

Hammer - The engineer has reported back on the abandonment of JD#9. The letter basically states that the abandonment is feasible and there will be no adverse affects. A public hearing date needs to be set. The system has already incurred \$5000 in bills, if it is abandoned, who will pay? Jorgensen - I have talked to Steve Durkee and he is looking into the possibility of US Fish and Wildlife paying for some or all of it. Fenske - The public hearing for the abandonment of JD#9 will be on May 19th at 2:00.

Hammer - Just to let you know, construction started on CD#6 impr. yesterday.

Fenske - Are there any questions on CD#7? Ronney VanLerberghe - It seems to me that Yellow Medicine County's problem is having Lady Slipper Lake included in the system. Their argument is that the watershed changed and that is true. There are no other lakes in the system. Vandelanotte - The law says that public waters must be assessed. Fenske - At the RCRCA meeting one of the Yellow Medicine County commissioners said Lady Slipper should drain the other way. Discussion on School Grove and Lady Slipper Lakes. VanLerberghe - We are trying to avoid the court system. If we could take away their argument which is having Lady Slipper in the system, maybe we could avoid court. Bob Matthys - Can the Board take Lady Slipper out? Maes - No. The viewers followed the law. I talked to the viewers yesterday and it will be sometime this summer before they determine benefits on JD#10. When benefits are determined, the lakes will also be assessed. Discussion on hearing on April 20th and the makeup of the board. Joe Matthys - CD#7 landowners are paying the bill to fight against JD#10 even though the Commissioners and Kathy Keena said everything was legal. Why should the landowners have to pay. Bob Matthys - If everything was done legally, why do the CD#7 landowners have to pay for JD#10 legal bills? Discussion on CD#7 and JD#10 and Lady Slipper. Maes - The board on its own can have another re-determination, but I am sure the findings would be the same. Hammer - The viewers thought long and hard about bringing Lady Slipper in. By Statute they felt they had to include it and when benefits are re-determined on JD#10 the lakes will also be included. Fenske - We would like to be able to do something, but legally we can't right now. VanLerberghe - We need the board behind us on this thing. Fenske - If Arvid Wendland has any ideas on this have him contact Maes. If on the 20th the motion fails, it would be helpful to have a postponement until after the viewing on JD#10 is complete. VanLerberghe - We are pushing very hard to remove Lady Slipper. Fenske - We are 100% on your side.

Hammer - Last year, Jorgensen, Paula VanOverbeke and I sat down and decided to put a 5% levy on CD#18. When we did that, we were only considering benefits of \$40,000. We were unaware at that time that there had been a re-determination of benefits and now there are \$500,000 in benefits. We have had several calls about this. We only wanted to collect around \$2000 so we would have a little money in the ditch to work with. With a 5% levy, we will have a lot more than that and it is not necessary. Jorgensen - At this point in time, we can make the change. Hammer - We wanted to collect around \$2000 so I recommend a .5% levy. Jorgensen - I think we should wait and address this at the next meeting.

Dennis Simpson, representing the City of Marshall - Mr. Bue stopped in my office last week and indicated that he would be here today. I reiterate the City of Marshall's position on the CD#62 situation and that is no further damages should be paid. I think there should be a formal motion stating that no further damages will be paid. Fenske - At one point the engineer suggested \$440 more in damages be paid. Simpson - That offer is no longer available. Mr. Bue - I think there was some misinformation in the paper and in the minutes. The paper said the decision was tabled.

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Fenske - It wasn't tabled, we decided to take no action. The minutes stated that the appeal was not made within the 30 days and that planting happened within the staked areas. My renters contacted Hammer and tried to find out if the project was actually going to go ahead in 1997. The bids were not let until late May when the corn was already up. We are not contesting the payment we already received for permanent damage and easement. Goodenow - You were paid for not having a crop on that land last year and your renters took a chance planting where they did. Voigt - Maybe it should be handled the same way we handle right-of-way acquisition and that is when the landowner receives the check, we can start the project. Simpson - Once a project is approved, there must be a 30 day waiting period for appeals before the bid letting. I believe there is nothing for this board to do. If Mr. Bue wants, he could settle this in small claims court, but the board has no action. Fenske - Do we want to take any action? Goodenow moved, seconded by Buysse to make no further damage payments on CD#62. Fenske - There has been a request for additional damage payments on CD#62 and a motion has been made that no additional damage payments be made. Vandelanotte - Voigt, could you clarify what you do. Voigt clarified how the highway department deals with easements and damages. Simpson - On ditches, generally there is an adjustment made to the assessments, but this is different because the City of Marshall was paying the bill. All voted in favor of the motion to make no further damage payments to landowners on CD#62.

Voigt - Road and Bridge Vouchers were presented. Discussion. Buysse moved, seconded by Goodenow to approve the Road and Bridge Vouchers. All voted in favor.

Voigt - Per your request, I will review the bike path. Voigt handed out a sketch showing where the bike path will run. Goodenow - Signs? Markings? Voigt - I am following MnDot standards. There are not a lot of signs required. Gladis - Legally doesn't a bike have the same rights as a car? Voigt - Yes. Fenske - Have you discussed signs with the City? Voigt - No, I have discussed where the path will go and that is about it. Discussion on easement. Jorgensen - It is time to get some details.

Voigt - I received a mailing regarding a proposed rule change for permits for storm runoff on construction projects. Now we must apply for a permit when five acres of land is disturbed. We have no problem with that. Now MPCA wants to change this to one acre and include municipalities. I would have to apply on about 100% of the projects if this goes through. Right now I have to apply on about 20% of the projects. The cost per permit is \$500. I am going to compose a letter opposing this decrease in acres and ask them to eliminate this or hold a public hearing. Could I have Board support? Vandelanotte moved, seconded by Gladis to approve a letter written by Voigt to oppose changing the permit acres for storm runoff on construction projects from 5 acres to 1 acre. All voted in favor.

Voigt - We have six projects ready to be let. I am waiting on some consolidation and I want to get at least a couple more projects out.

Juanita Lauritsen and Mary Mulder from the Private Industry Council met with the board to give a program review. Lauritsen - Lyon County has excellent representation with Mr. Fenske and Brian Bromen. Discussion on the 1997 Annual Report (a copy can be obtained at the Private Industry Council). Discussion on Welding Lab Unit. Discussion on funding sources. Discussion on the following Lyon County Statistics:

<u>Program</u>	<u>#Served</u>	<u>#Terminated</u>	<u>#Placed</u>	<u>Avg Hourly Wage</u>
IIA (Adult Employment/Training)	12	6	3	\$7.83
IIB (Youth Oriented Ages 16-21)	19	--	--	--
MYP (Youth Oriented Ages 16-21)	70	--	--	--
IIC OS (Youth Oriented Ages 16-21)	7	4	3	\$7.22
8% (Education Donation Program)	3	2	2	\$6.12
Older Worker (55 and up)	3	2	1	\$7.25
State DW (Displaced for closing/cutbacks)	6	5	5	\$9.76
Fed DW (Displaced for closing/cutbacks)	2	1	0	N/A
FSET (Food stamp program)	108	103	54	\$5.99
STRIDE (predecessor to MNFIP)	90	78	40	\$7.40

Mulder - The MN Family Investment Program (MFIP) is taking the place of STRIDE. MFIP is Minnesota's response to welfare reform which was born out of President Clinton's 1996 creation of the Personal Responsibility and Work Opportunity Reconciliation Act. Welfare benefits are now limited to 60 months in a lifetime, which allows families to temporarily receive assistance during a crisis and/or transitional period. In addition, most welfare recipients are required to find full-time work. MFIP offers financial incentives to those that work; a recipient will always be better off working. Participants who stay in compliance with the program's regulations can receive public assistance until they earn up to 120 percent of the poverty level. For example, a single mother with two children could receive assistance until she was earning \$7.62 per hour. Participants who do not stay in compliance with the program without good cause (refuse to attend a scheduled workshop, quit suitable employment, falsify job contact information, etc.) will be sanctioned and lose a portion of their assistance and support. We have 12 closed cases in Lyon County and six cases are in sanctioned status. Fifteen people are working full time, but not

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making enough money to get out of the program. Eight people are working part time and six of those have never worked before. In Lyon County so far, day care has not been a problem. Discussion on the McKnight project which is the welfare-to-work project. Fenske thanked them for coming.

Bob Byrnes and Connie Schwartu met with the board to discuss Extension issues. Byrnes discussed some of Extension history. Schwartu discussed the monthly report and a new section called Results of Our Work. Byrnes - There is a list of staff on the front of the monthly report. Two youths were added to the Extension Committee. Schwartu explained Cluster II Specialization's and Byrnes discussed the web page. Vandelanotte - How are the youth working out? Schwartu - Very well. They were part of the discussion and making motions. Vandelanotte - How did you pick them? Schwartu - We advertised through the 4-H newsletter, the newspaper, and through the schools. They had to fill out an application. We had three apply and we could only have two. We held interviews and chose two. Goodenow - There were ten interns in the Master Gardner program? Byrnes - It helped that it was held at Southwest State this year. They give back volunteer time in trade for the training. Fenske thanked Byrnes and Schwartu for coming.

Meeting recessed.
Meeting back to Order.

Richard MacDonald, Library Director, met with the board to give an update on April events. MacDonald - On Thursday April 16 there will be a program called Beyond the Bestsellers. Robert E. Brown from Syracuse, New York will talk about what you miss if you only stick to the bestseller lists. April 19 through April 25 will be National Library Week. All week will be amnesty week, which means there will be no fines on any Marshall-Lyon County Library overdue items returned during the week. This does not include items already in the court process. On Tuesday April 21, the Library's new cake pan collection will be unveiled. Cake and ice cream will be served and homemade cakes will be on display. Cake decorating demonstrations will be held at 5:00 p.m. and 7:00 p.m. Also during National Library Week there will be a writing contest for middle school student. They will write about their experiences being the youngest, oldest, middle, or only child. Author Jim Heynen will be the judge and awards will be given out on Wednesday, April 22 at 4:00 p.m. There is also a slogan contest. The Library needs ideas for a great slogan and the best slogan will be used by the Library. The Library will also have a booth at the Courthouse during County Government Week. Fenske thanked Mr. MacDonald for coming.

General Revenue Vouchers were presented. Buysse moved, seconded by Vandelanotte to approve the general revenue vouchers. All voted in favor.

General Revenue Fund	\$161,416.20
Road & Bridge Fund	\$12,397.43
Landfill Special Revenue Funds	\$12,309.63
Ditch Fund	\$19,086.47
Agency Fund - Taxes & Penalties	\$962.72
Total	\$206,179.45
County Revenue	\$134,931.52
Building & Improvement	\$496.00
Enhanced 911 System	\$25,988.68
Total	\$161,416.20

Beginning Warrant Number: 317763; Ending Warrant Number: 317899.

Jorgensen - You need to set the date for the Board of Equalization Hearing. Fenske - The date for the Board of Equalization hearing is June 17, 1998 at 7:00 p.m.

Maes - Last year, Governor Carlson signed into law the sentence-to-work program. For first time offenders of non-violent felonies there is a mandatory sentence of 60 days at the work camp, and for second time offenders a mandatory sentence of 90 days. The court can determine if the offender would be better served by doing the sentence locally. The counties will pay 25% of the per diem to take the offender to the camp. I was told that will be slightly more than \$40/day. So the counties would pay about \$11. It is only 120 beds. Goodenow - Is this for someone who would have gone to jail? Maes - No. Fenske - Will this be a big issue for us? Maes - I don't think it will be. I will be meeting with the judges to see what they are thinking. Buysse - Who determines where they go? Maes - The judge.

Jorgensen - Here is a spreadsheet on wetland banking and Black Rush Lake. It shows the cost of banking as opposed to not banking.

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Size	42 acres
F&WS Easement	\$850.00 per acre
Pmt	
Total Possible Easement Pmt	\$35,700.00

Black Rush Lake	
Project Cost Est.	\$130,000.00
Size of Project	370 acres

Banked Acres	Cash Cost to Bank Acres	Lost Easement Revenue	Total Cost to Bank Acres	Cost Per Banked Acre
5	\$1,756.76	\$4,250.00	\$6,006.76	\$1,201.35
10	\$3,513.51	\$8,500.00	\$12,013.51	\$1,201.35
15	\$5,270.27	\$12,750.00	\$18,020.27	\$1,201.35
20	\$7,027.03	\$17,000.00	\$24,027.03	\$1,201.35
25	\$8,783.78	\$21,250.00	\$30,033.78	\$1,201.35
30	\$10,540.54	\$25,500.00	\$36,040.54	\$1,201.35
35	\$12,297.30	\$29,750.00	\$42,047.30	\$1,201.35
40	\$14,054.05	\$34,000.00	\$48,054.05	\$1,201.35
42	\$14,756.76	\$35,700.00	\$50,456.76	\$1,201.35

Remaining Easement Revenue	Opportunity Cost	Opportunity Cost Per Acre
\$31,450.00	\$25,443.24	\$5,088.65
\$27,200.00	\$15,186.49	\$1,518.65
\$22,950.00	\$4,929.73	\$328.65
\$18,700.00	(\$5,327.03)	(\$266.35)
\$14,450.00	(\$15,583.78)	(\$623.35)
\$10,200.00	(\$25,840.54)	(\$861.35)
\$5,950.00	(\$36,097.30)	(\$1,031.35)
\$1,700.00	(\$46,354.05)	(\$1,158.85)
\$0.00	(\$50,456.76)	(\$1,201.35)

Fenske - We could sell banked acres to recover some of the cost we will lose from easement.
 Goodenow - The Landfill paid for that property. Should we leave it on the landfill books?
 Discussion on banking, easement, and leaving it on the landfill books. Vandelanotte - I think we should bank the whole amount. Vandelanotte moved, seconded by Goodenow to use all 42 acres from the Black Rush Lake Project for wetland banking. All voted in favor.

Landfill Vouchers were presented. Gladis moved, seconded by Vandelanotte to approve the landfill vouchers. Fenske - We pay mileage for Carlson? Henriksen - Yes, we pay expenses. Fenske - We do not pay for his time? Henriksen - No. Discussion on bill from Stoneberg. All voted in favor.

Henriksen - We need to discuss the wood chip issue. I received a letter from Norcraft that said they will re-evaluate their position and have a recommendation by May 1. Buysse - There are a lot of good things for wood chip use. Henriksen - I would just as soon see it go as bedding. Fenske - We have the ability to refuse them. We could say they are recyclable and can be used by someone and this goes along with the ordinance we have in place. Buysse - Is our recycling percent today around 45%? Henriksen - Yes and it would drop to around 30% if we take the wood chips. Vandelanotte - Would this help toward the fine we have to pay? Maes - It won't make any difference. Henriksen - We have been only charging \$1 per yard and we could go back to \$5 per yard or \$45 per ton. We could also require it be ground up. Gladis - I'm not in favor of putting it into the landfill if it can be recycled. Vandelanotte - Kesteloots, what do you want? Gary Kesteloot - Stroup summarized what we want and that is for you to refuse to take it. If the wood chips come to the landfill the way they are now, we can't use them. The wood chips have to come directly to us. Fenske - If it comes to the landfill then it has to be put in the landfill and can not be recycled. They should be charged the regular fee. Stroup - They need to know their fee. Fenske - Henriksen can relay that to them. Glen Kesteloot - Why do we waste our time recycling our own little bit when the huge amount they have can be recycled. Goodenow moved, seconded by Vandelanotte to put the wood chip issue on the May 5th agenda. Gladis - When is our price increase going to take effect? Goodenow - June. Vandelanotte - May 1st. Goodenow - We need to know what they are going to do first. Fenske - I'm inclined to say that we don't necessarily have to take the wood chips. We can still decide to refuse them. Gladis - I think they can get together and make a decision in one day and could have this done a little faster. Henriksen - It is not going directly in the landfill. Gary Kesteloot - If the County accepts it at \$45/ton, doesn't the bottom line still go back to the Solid Waste Ordinance? Fenske - Gladis has stated that if it can be recycled, it should be and I agree. Henriksen - They do have the opportunity to take it to another landfill. All voted in favor. Gladis - Henriksen, please get hold of Norcraft right away.

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Henriksen - Need to approve the application for the Water Block Grant. Buysse moved, seconded by Gladis to approve sending the applications in for the Water Block Grant. All voted in favor.

Henriksen - Need to approve the contract for the mobile unit with Nobles County. We pay \$16 per hour for the technician. Vandelanotte moved, seconded by Buysse to approve the contract with Nobles County for the mobile unit, paying \$16/hour for the technician. All voted in favor.

Henriksen - Here are three change orders from Schmidt Construction for landfill. Two are for readjusting man holes and one is for additional cover needed. SEH has approved the change orders. They total around \$12,000. Vandelanotte moved, seconded by Buysse to approve the three change orders from Schmidt Construction. All voted in favor. Jorgensen - Could you clarify why the changes were needed? Kirby, SEH - These changes were unforeseen and all necessary. We negotiated with Schmidt to get a fair bid. Fenske - Is Schmidt doing a good job? Kirby - They had to find another subcontractor so things have been delayed.

Henriksen - You should have gotten copies of the mini-grant program. We will be sending this out to cities and townships.

Henriksen - We need to set a bid opening for this summers project. Kirby - Will be constructing Phase 5 this summer. We have contacted the MPCA and they said they won't have a problem. Fenske - When will you start using Phase 5? Henriksen - This summer. Just to let you know, the drain line is working very well. Fenske - We will set the bid opening for May 1 at 11:00 for Landfill's Phase 5 construction. Fenske - Cost estimate? Kirby - Around \$800,000. Fenske - Are there any penalties if they don't finish in time? Kirby - Yes, but it is hard to enforce. Fenske - We enforce the penalties on our road projects, you must enforce. Let us know and we will stand behind you.

Henriksen - Do we need to discuss the possible DeVries land purchase. I know Marvin DeVries would like to live out there if the County purchases. We have the option to leave out the building site and give a life estate. Fenske - We are a long way from settling on price. Goodenow - My first choice is to buy the whole thing out right. A life estate would be possible with a lot of writing. Jorgensen - I'm working with Stoneberg on it.

Jorgensen - I have a resolution for a Joint Powers Agreement with the Private Industry Council. It keeps us in the partnership. Gladis moved, seconded by Fenske to approve the Joint Powers Agreement (on file at the Auditor's Office) with the Private Industry Council keeping Lyon County in the partnership. All voted in favor.

Jorgensen - I have the letter from the State Auditor that needs to be signed. It essentially says that the State Auditor will do Lyon County's audit. I have checked and the State Auditor must do our audit we have no choice. Gladis - We don't get the results in a timely fashion. Jorgensen - You could opt not to sign it and I can send it back and tell them you are not happy with the time in which you receive the results. Discussion. Goodenow regretfully moved, seconded by Gladis to approve signing the letter to be sent to the State Auditor authorizing them to do Lyon County's audit. Voting for: Gladis, Goodenow, and Buysse. Voting Against: Fenske and Vandelanotte.

Jorgensen mentioned the list of the Southwest MN Area Transportation projects.

Jorgensen - I gave you all a copy of the Safety Program Policy. It was started in Road and Bridge and now is county wide. I would like to discuss this at the next meeting.

Jorgensen - The Planning and Zoning Board is recommending an increase to seven members with three year terms and no more than three terms. This would require a change in the ordinance. Vandelanotte - I am in favor of this but let's work on it slowly and maybe have it in place by January. Gladis clarified his position on having a commissioner as a voting member. Fenske - In the minutes they talk about the hog industry not being represented. The board is supposed to represent everyone fairly and not cater to special interest groups. Goodenow - I tend to lean toward having a commissioner with the right to vote. Fenske - We'll take our time and think about it.

Jorgensen - I have the easement for the bike path. It has already been approved so it just needs Fenske's signature.

Jorgensen - I have a resolution for support for the SWRDC's economic development in general. Fenske - They do a lot of work for communities to apply for grants. Gladis moved, seconded by Vandelanotte to approve the resolution (on file at the Auditor's Office) supporting SWRDC's general economic development. Voting for: Buysse, Fenske, Gladis, Vandelanotte. Voting against: Goodenow. Goodenow gave reasons for voting against.

Fenske - There is also a letter of support for the building of the Prairie Expo by Worthington. These letters of support will be passed to legislators. Goodenow - I think there could have been

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more local input on this. It is a nice idea and the basic idea is okay. Gladis moved, seconded by Fenske to approve the letter of support for building the Prairie Expo. Voting for: Buysse, Fenske, Gladis, Vandelanotte. Voting against: Goodenow.

Goodenow moved, seconded by Vandelanotte to approve the per diem for Gladis in the amount of \$70. All voted in favor.

Commissioner Reports:

Gladis talked about County Extension Day. CD#62 looks like it is working the way the engineer said it would. I attended an Active Citizenship meeting in the cities. The Group Home open house went well. I got a call about one of the driveways into the Klein Addition. I haven't had a chance to check on it. Jorgensen - Klein's position is that the County approved a specific project. My understanding is that the City has offered alternatives and he does not like them. Gladis - I also got a call on the Recorder's Office and charges. Jorgensen - A lot of those charges are State mandated.

Goodenow - We have the AMC meeting tomorrow. There is a Planning & Zoning meeting coming up. Everything is good at the library.

Fenske - There is an Association of Townships meeting on April 16, I hope someone can go. Western Human development's annual meeting is April 27, I hope someone can also attend this. Buysse - I won't be there, I don't agree with taxpayers paying for an elected official to have supper.

Buysse moved, Gladis seconded motion to adjourn meeting until Tuesday, April 21, 1998 at 9:00 A.M.

Robert Fenske, Chairman

Attest:

Mark R. Jorgensen
Lyon County Administrator