

LYON COUNTY BOARD OF COMMISSIONERS
LYON COUNTY COURTHOUSE, MARSHALL, MN
May 5, 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 with the addition of Jerry Shannon from Springsted Inc.

Vandelanotte moved, seconded by Buysse to approve the minutes for the regular Commissioner meetings on April 7 and April 21 and the Joint County/City Council special meeting on April 13. All voted in favor.

Jerry Shannon met with the board to discuss bonding for the Joint LEC. Shannon - The City Council took action toward bonding. There is a ten year amortization schedule. This stays within the budget constraints. They City will be 49% responsible for cost and the County is responsible for 51%. This was agreed upon in a joint powers agreement. Bids will be opened for the bonds on June 1. They will be presented that evening to the City Council and then on June 2nd presented to the County Board. The entire amount of the debt service is the County's responsibility. There is a disclosure requirement. It is always nice to see a joint venture go forth; are there any questions? Fenske - The bonds will be sold the first of June? Shannon - Should have money by July 4th. Jorgensen - Ground breaking should begin mid to late May. The County will be fronting the money until the bonds are sold. Shannon - The City has passed a resolution on intent to reimburse. Jorgensen - I handed out a packet of information from Springsted. Goodenow - Do we need a lease agreement by June 2nd? Shannon - For all intents and purposes, you have agreed to the terms. We'll have a draft copy of the lease prior to your June 2nd meeting. Fenske - Does the money come to the County? Shannon - The money will come to the City and the City turns it over to the County. Fenske thanked Shannon for coming.

Ditch Vouchers were presented. Discussion on CD#7 funds. Fenske - Is there enough money to pay for this bill? Hammer - I am not sure. Jorgensen checked with the Auditor's Office and there is a balance of \$4200. Jorgensen - There is enough to pay this bill. Goodenow moved, seconded by Gladis to approve the Ditch Vouchers. All voted in favor.

Discussion on afternoon ditch meetings.

Fenske - Everyone should have a copy of the Vallers Township Ordinance. Vandelanotte - Does this Ordinance mean that when it comes to Planning & Zoning, they do not have to follow the County Ordinances? Maes - They can not enact anything less restrictive than the County has, but it can be more strict. Vandelanotte - If someone comes in and the County approves and Vallers Township doesn't, who pays when the person sues? Maes - Vallers. Vandelanotte - I just don't want the County to be responsible. Goodenow - Did they go through all the legal steps they needed to? Maes - It looks like they have met all requirements. Fenske - Have any other townships done this? Jorgensen - Not yet, but I suspect there will be more to follow. We had a question from Coon Creek township as to whether they can have a referendum question on the ballot. And the answer to that is no. Regardless of whether or not the County is at fault, the County will get blamed. Vandelanotte - If Vallers gets in trouble with this, I'm afraid they will come to the County. Discussion. Fenske - When they had their township meeting, they had some questions about doing this, but nothing concrete at that time. I hope they realize they will have to pay their own bills dealing with this and it could get costly if there is a lawsuit.

Jorgensen - As a result of approving the Safety Policy, there will be a safety committee. We would like a commissioner to sit on the committee. Fenske - Any volunteers? How often will they meet? Jorgensen - Probably once a month at first, then quarterly. Gladis volunteered. Fenske appointed Gladis to the Safety Committee.

Jorgensen presented the following tobacco licenses for approval:

Buysse moved, seconded by Gladis to approve the tobacco license requested by Finance Officer, David Leversedge for the American Legion Post #237 in Balaton. All voted in favor.

Goodenow moved, Buysse seconded to approve the tobacco license requested by Robert DePestel for Bubba's Bar in Minneota. All voted in favor.

Road and Bridge Vouchers were presented. Discussion. Vandelanotte moved, seconded by Gladis to approve the Road and Bridge vouchers. All voted in favor.

Voigt - Need to open bids for culvert supplies and bituminous material.

Bids for Culvert supplies are as follows:	
R&M Sales from Astoria, SD	\$28,615.04
Johnston Fargo Culvert Co. from St. Paul	\$25,075.50
Metal Culverts Inc. from Albert Lea	\$34,708.75

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Voigt - The bid specs were very straight forward and I don't see any problem with them. I recommend accepting the low bid from Johnston Fargo. Buysse moved, seconded by Vandelanotte to approve the low bid of \$25,075.50 from Johnston Fargo Culvert Co. from St. Paul for culvert supplies. All voted in favor.

Bids for bituminous material are as follows:

Koch Materials from Marshall	\$104,520.00
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Voigt - This is the only bid we received, but it isn't out of line. They were the only ones to bid last year also. Vandelanotte moved, seconded by Buysse to approve the bid of \$104,520.00 from Koch Materials for bituminous materials. All voted in favor.

Jorgensen - Area II has asked if we would like them to participate financially in the wetland banking portion of the Black Rush Lake project. If they do, we lose banked wetland acres. I told Area II we probably didn't want to do that. Area II would like to help US Fish and Wildlife fund the restoration of Black Rush Lake. This will not affect the counties wetland acres. They would like a support letter. Discussion. Buysse moved, seconded by Vandelanotte to approve the resolution (on file at the Auditor's Office) supporting Area II's efforts to help fund the restoration of Black Rush Lake. Discussion. All voted in favor.

Voigt - As far as the transportation study goes, SEH came up with the best proposal and will be the consultant. The State would like an official contract. The City Engineer, who is present, has the contracts that need to be signed. The study may start this month. I have been told that I should receive some of the results by October or November of this year. I recommend you sign these contracts. Fenske - What is involved in the contract. Keith Nelson, City Engineer - The State has put together a standard contract. Brian Murphy has looked at it. Fenske - Is MnDot funding? Voigt - The County has to contribute 10% as does the City. Goodenow - When is the study supposed to be finished? Voigt - In about nine months. Fenske - Is this included in your budget. Voigt - No, this came up after the budget was finished, but it needs to be done and we will come up with the funds. Gladis moved, seconded by Vandelanotte to approve the resolution (on file at the Auditor's Office) to enter into a contract with MnDot to do an area transportation study. All voted in favor. Vandelanotte moved, seconded by Buysse to approve the signing of the contract with MnDot for the area transportation study. All voted in favor.

Voigt - We need to discuss the purchase of the single axle truck. My recommendation is to go with the low bid from Olson and Johnson. Jorgensen and I talked and one half of the purchase price will be paid from contingency and the other half from road and bridge. It may mean delaying a project or a purchase. We will do what we need to. Fenske - What do we have in contingency? Jorgensen - About \$84,000. I did some budget work and we may be able to delay some County equipment purchases to help pay for this. Gladis moved, seconded by Vandelanotte to accept the low bid of \$57,918.42 from Olson and Johnson for a single axle truck. All voted in favor. Goodenow moved, seconded by Vandelanotte to transfer one half of the purchase price of the single axle truck (\$28,959.21) from the contingency fund into the road and bridge fund. All voted in favor.

Voigt thanked the board for giving him the opportunity to attend the NACE conference and gave general information on what was discussed at it.

Rose Anderson, SWCD, met with the Board to discuss wetland banking. Anderson - When the wetland is formed, 40.5 acres will be used for wetland banking. SWCD will go out to the site and make sure it is in compliance with wetland criteria. This application is just the commitment to use these acres for banking and it will get SWCD involved. SWCD will make sure everything is getting done correctly, which we have no doubt it will because US Fish and Wildlife is involved. Jorgensen - Steve Kallin has taken over the project and came up with estimated costs. He figured the cost of not getting an easement on the property would essentially be about \$34,425 in lost revenue. The County will pay approximately 11% of the project and the County's estimated cost for that is \$21,190. When this is all taken into consideration, it will cost about \$1400 per acre to bank. Anderson - The last figures that I received, the average sale price for banked wetland acres was about \$10,000 per acre. Jorgensen - The County has identified about 23 acres. The landfill is going to handle it all. For example, Road and Bridge would buy the two acres they need from the Landfill at cost. Buysse - Landfill money all the way through? Jorgensen - Yes, I think this will be the best way to do this. Anderson - After the work is completed, SWCD will check on it and make sure it meets criteria. We will check on it after six months and then after one year, then it will be certified. Vandelanotte moved, seconded by Goodenow to approve the signing on the application for the wetland banking plan. All voted in favor. Discussion on land adjacent to the landfill and possibility for wetlands there.

Dean Champine, Assessor, met with the Board to give an update on the Assessor's Office. Champine - We are completing the 1998 assessments. This has been a pretty quiet year. The values are up about 10% on ag land. In the last seven to eight months, values have probably gone up. Owners are willing to sell because the money is so good for land and the capital gains tax cut. Most of the land is getting sold to existing farmers. In the last year only one or two sales were to

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out of the area investors. So it isn't outside investors driving the price up. The meeting in June will probably be pretty quiet. Buysse - Explain farm and city values. Champine - In 1983, farm land values peaked and by 1987 they were cut in half. Buysse - City values? Champine - Staying pretty steady. In 1994, there was a drastic increase in Marshall. Smaller town's values tend to follow Marshall, but at a slower rate. Buysse - If there are no outside investors, then farm land is a bad investment? Champine - This summer we would like to get a new set of aerial photos of the farmland. Right now, we work off of 1967 photos. I attended a demonstration in Glencoe on mapping. At the MCCC meeting last week, it was brought up that there could be possible State money available to do this. This would be at least a couple years down the road. We have three court cases pending. They are all in the City of Marshall. They include the two mobile home parks, Trident Apartments, and the Old Golden Corral Building. Goodenow - Are these assessments done by the City? Champine - Yes, but ultimately the County is responsible. Goodenow - Who pays? Champine - That is a good question. Jorgensen - The statute reads that the County is responsible. I have talked to Mike Johnson about this and told him that if the County has to defend the assessments in Marshall, then the County should be doing the assessing. Goodenow - Never ended up at our Board of Equalization? Champine - Can go straight to tax court. Discussion. Jorgensen - The last case that went to court was the Cottonwood Bank building. Champine - At the MCCC meeting it was discussed that BRC does all the programming and their contract will be up soon. There is some talk about taking bids or maybe just negotiating with BRC. I am guessing they will probably stay with BRC, but the price will probably go up. Fenske - Wouldn't it be less costly to try to settle the case out of court? Champine - In Murray County a judge just made a drastic cut and that was to the advantage of the owner. Fenske - Can these owners come to the County Board? Champine Yes. It is usually absentee owners that go to tax court. There will probably be a big decrease in non-homestead land again for next year. Which probably means homestead will go up. Fenske - Just a tax shift, not a reform. Fenske thanked Champine for his update.

Meeting recessed.

Meeting back to order.

Lisa Zmeskal met with the board to inform them that she will be going on maternity leave within the next month. Zmeskal said that Carolyn Runholt from the Assessor's Office will be available to help out when needed. She let them know that she would be available to come in from time to time and was not sure how long she would be gone.

A representative from Western Community Action met with the board to seek approval of a resolution dealing with the transitional housing program. He gave the board a description of the program and told them they must get certified in every county served. Buysse moved, seconded by Gladis to approve the resolution which certifies Western Community Action to administer the transitional housing program. All voted in favor.

Stokke - I have the boat and water agreement which allows the Sheriff's Office to use a boat and designate an officer. This is same agreement we have every year. Goodenow moved, seconded by Vandelanotte to approve the Sheriff's Office boat and water agreement. All voted in favor.

Stokke - We lost both of our part-time deputies. I would like to increase Jeff Gniffke's duties to include deputy along with his jailer duties. He will still remain part-time. Goodenow moved, seconded by Buysse to approve the resolution that increases Jeff Gniffke's duties to include deputy along with jailer. All voted in favor.

Stokke - We had a different jail inspector this year. He found a few very minor things. He said a few of the vents are dirty, we need to do more of a daily inspection of the jail and some word changes in the policy. He said they don't like us using cots, but when we are full, we have no other option. Goodenow - Is there anything we as a board need to do. Stokke - No. Jorgensen - It wasn't a bad inspection. The jail is in very good shape and very well run. There are no serious problems and the jail is still above average.

Goodenow - Your office still owns an old jeep and the Fairgrounds owns one also. I think we should sell them and maybe advertise. Stokke - Was in our surplus so let me check to see if we can sell it. Vandelanotte - Running condition? Goodenow - The one at the Sheriff's Office runs, but vandals broke out all the glass. The one at the Fairgrounds ran until a year or so ago and sits outside. Stokke - I'll do some checking. Discussion.

Jorgensen - I have not received another proposal on the jail study. I recommend we retain the Company from Rapid City to get this going. Goodenow - Does the State approve of this company? Jorgensen - No recommendation from the State, but have they have worked on several projects in Minnesota and South Dakota. Gladis - Do we need to decide what we want covered? Goodenow - Does the company know that data is available? Jorgensen - I did let them know. Goodenow - Do we need to approve Jorgensen negotiating with them on price etc.? Gladis - Is Worthington to this point? Jorgensen - The State has been working on it, but they only work with the consultant. Gladis - Maybe check with Worthington. Jorgensen - I can check with Nobles Co. Fenske - Could approve engagement of consultant. Goodenow moved, seconded by Fenske to

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authorize Mark Jorgensen, County Administrator, to negotiate price and parameters for the jail study with Jim Rowenhorst, from Rapid City, South Dakota. All voted in favor.

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

General Revenue Fund	\$71,386.51
Road & Bridge Fund	\$8,908.25
Landfill Special Revenue Fund	\$3,541.35
Water Projects-Special Revenue	\$10,243.00
Ditch Fund	\$2,135.30
Total	\$96,214.41
County Revenue	\$69,823.29
Building & Improvement	\$11.52
9-1-1 System	\$1,551.70
Total	\$71,386.51

Beginning warrant numbers: 318134; Ending warrant number: 318260.

Jorgensen - We can contract with Springsted to prepare the Joint LEC continued disclosure requirements on finances. It will cost \$200 per year. I have checked with some of my colleagues and this seems to be the way to go. Discussion. Gladis moved, seconded by Buysse to approve hiring Springsted at \$200/year to prepare the needed documents to meet the continued disclosure requirements on finances for the Joint LEC. All voted in favor.

Jorgensen - You should have all received a revised draft of the sick leave bank policy. The changes you requested last meeting have been made. This is a good policy and I recommend approval. Gladis - I have one question, can people get into the bank after it has started? Jorgensen - They can get in anytime during the annual enrollment period. Vandelanotte - Is there a lot of interest? Jorgensen - I think a lot will opt to join. In the two and one half years that I have been here, there was probably only one person that would have qualified to use the bank. Goodenow - It is not in policy that there is only an annual opt in, and it should probably be clearly stated. Jorgensen - You are right, it will have to be revised. Fenske - We will wait for the revision before we approve.

Landfill Vouchers were presented. Gladis moved, seconded by Buysse to approve landfill vouchers. Discussion. All voted in favor.

Henriksen - I sent you some information on the additional engineering cost for closure at the landfill. The other cell is filling up so fast, we thought it could be included and save us money in the long run. It will cost an additional \$21,620. Discussion. Buysse moved, seconded by Goodenow to approve expanding the contract with SEH to include additional closure at an additional cost of approximately \$21,620. Fenske - When is the start date? Henriksen - Toward the end of the summer. All voted in favor.

Henriksen - Bids were opened last Friday for closure and Phase 5 at the landfill. R&G had the low bid of \$709,000 and SEH recommends we accept that bid. By using the Greater MN Cleanup Fund, about \$118,000 can be subtracted. Buysse - Will there be a penalty clause? Henriksen - Yes. Fenske - SEH provides supervision? Henriksen - Yes, there is a representative on site at all times. Fenske - When do they start? Henriksen - Hopefully soon. Buysse moved, seconded by Vandelanotte to accept the low bid of \$709,000 from R&G for closure and Phase 5 at the landfill. All voted in favor.

Henriksen - The person that was running the HHW mobile unit out of Nobles County has taken another position. Nobles County is interested in working with Lyon County and possibly transferring the equipment. They could hire someone or the position could be moved here and funded through the regional program. The position could be transferred to Lyon County and not necessarily cost Lyon County any more. Buysse - Would it still be their truck? Henriksen - Would transfer ownership of the pickup and mobile unit to Lyon County. Vandelanotte - Would we have to hire a person? Henriksen - Yes. There is a resolution before you that states that Lyon County will work with Nobles County to consider a transfer. Buysse moved, seconded by Vandelanotte to approve the resolution (on file at the Auditor's Office) stating that Lyon County will work with Nobles County to consider a transfer of the HHW mobile unit from Nobles County to Lyon County. All voted in favor.

Henriksen - Pete Bendix from Norcraft is here is discuss the wood chips. Bendix - Our request for extra time was not attempt to penalize any third parties, we just wanted time for our legal team to explore this further. The reason this situation arose is because we decided as a company we needed to review our policy on how we were handling our wood waste. The agreement with the third party was made nine years ago and Norcraft had no ongoing review of this. What was appropriate nine years ago is not appropriate now. We have started testing the waste. We turned this matter over to a cooperate attorney and the attorney worked with two other environmental lawyers. We did not make the decisions among our own management group. The waste stream is

primarily particle board with laminated paper. The concern was that it was producing a formaldehyde type waste. We sent in a blend of the wood waste for testing and the MPCA and anyone else who tested it said there was little to minimum concern to harming the environment. We have been encouraged to pursue recycling. While we want to recycle, we don't want to be caught up in a legal battle ten or twenty years down the road. We believe it is in our best interest to work with the County. Here is a letter I received from our lawyers. It states that Norcraft's wood waste presently consists of three categories: laminated particle board, stained, sealed and topcoated wood product, and wood dust. Testing of this waste has shown that it poses minimal threat if used as animal bedding with subsequent land application. The following course of action is suggested by the lawyers to protect the interest of Norcraft and to meet the objective of Lyon County and other third parties:

1. That additional testing be done on each of the three forms of wood waste to determine their chemical content.
2. That the test results be utilized to draft a material safety data sheet (MSDS).
3. That Norcraft meet with the MPCA, Solid Waste Division, for the purpose of obtaining the MPCA's approval of this material for use both as animal bedding and subsequent land application. The outcome of the meeting would be a request for written confirmation that the use and disposal options outlined in the MSDS are approved by the State of Minnesota.
4. A final MSDS would be developed for use and distribution to all end users of the product.
5. That Norcraft enter into an agreement with Lyon County whereby:
 - a. Norcraft would landfill the wood waste with Lyon County;
 - b. Instead of having the wood waste hauled to the landfill, Lyon County could direct the wood waste to be delivered directly to other third-parties;
 - c. Lyon County would agree to completely indemnify and hold harmless Norcraft from any claims of other third-parties, both governmental and private, for damage to persons or property occurring as a result of the use of the waste and for indemnification against any CERCLA, RCRA, or MERLA claims, or the claims of any other governmental agency or authority based upon environmental contamination.

Under this proposal, Norcraft could be assured that its financial risks are further minimized. The ownership of the waste would effectively be turned over at Norcraft's gates to the County. The County would achieve its goal of the reuse of this material to minimize the disposal in its landfill and to achieve its recycling and reuse goals. Other third parties such as farmers would have an inexpensive resource available for use in their business. We also have a copy of an indemnification agreement. Norcraft would like to pursue this further with the County. Fenske - I don't think there is any question that we want to pursue. This meets all the things that we have talked about. Maes - I don't think I could recommend an agreement like this. Our insurance company said it was okay if the third party signs a hold harmless not if Lyon County signs one. Goodenow - I think we can deal with the issues. Maes - The insurance Company said it must be hauled to the landfill then made available to everyone. Goodenow - Maybe we could advertise and have interested parties make proposals. Then we could review once a year. I think the proposal from Norcraft looks good but I don't like the part that says 'Lyon County would agree to completely indemnify and...'. I don't like the word completely. Fenske - The Kesteloots have agreed to sign a hold harmless statement. Gary Kesteloot - We would have no problem with that. Fenske - Mr. Bendix, we appreciate all the work that has been done on this matter. Gladis - As far as the third party hold harmless goes, it should be stated that the third party can not take it and sell it. It has to be used for personal use. Fenske - The third party would have to also agree to take it all. Couldn't take a little here and a little there. Goodenow - Our insurance company should take a look at this again. Vandelanotte - It needs to be recycled. Fenske - We have indicated our interest. Bendix - Submit MSDS to you in a couple weeks, then have a meeting with the MPCA. Goodenow - Should someone from the County come to the meeting? Bendix - Yes, I think so. Buysse - Can we get a load in the barn now? Bendix - We need to do all the paperwork first. Goodenow - We'll run this letter past our insurance company. Buysse - We really appreciate your effort. Fenske - Thank-you for working on a solution.

Jorgensen - At the Department Head meeting, we discussed the internal fees for faxing and copying. They department heads recommended no change. Goodenow - What does it cost for one copy? Jorgensen - \$1.00. Goodenow - I don't get a lot of complaints, but that is one I do get. I realize there is a need to cover employee cost, but maybe the first five copies should be cheaper? Jorgensen - I agree, but I was definitely in the minority. Gladis - I think this matter should be taken to the department heads again. Fenske - In an essence, we are saying we want it changed. Goodenow - Our job is to cover cost. Maes - Some of the bigger businesses are turning around and billing their clients for the cost. Jorgensen - There is a point when you go from covering cost to making money. Jorgensen - Maybe there could be a research fee? Goodenow - I guess we have no real solution, but I think \$1.00 is too much per copy. Jorgensen - Will discuss with department heads again.

Jorgensen mentioned 9-1-1 dispatching information.

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Jorgensen - There was a meeting of the Fifth Judicial District Juvenile Detention Committee and there is still some debate whether Lyon County was invited. Maes - Les Schultz called and wanted to know why Lyon County was not at the meeting. I told him I had never received any notice on a meeting. Basically, Rock and Nobles Counties contacted the DOC and said they wanted the JDC money. DOC sent out a letter stating there was a month or so to decide what to do with the money. Nobles and Brown will get money. Goodenow - Basically, they had a meeting without us and took away our money. Jorgensen - I talked to Mr. Sopp and asked him why we were not invited. I asked him how they could make the decision to take away Lyon County's money when we were not even represented. He told me this was just a recommendation that was going forth. Maes - Sounded like this working committee has been in existence from the beginning. Gladis - In the jail expansion, wouldn't the JDC be involved? Jorgensen - My initial belief was that the study was flawed. I question whether Marshall needs a four bed JDC, but that isn't the point right now. This was part of a regional plan. Now one individual is deciding Lyon County should be cut out of the deal. The bottom line is the way this is being done is back room politics. Discussion.

Per diems were presented. Buisse moved, seconded by Vandelanotte to approve the per diem for Gladis in the amount of \$95. All voted in favor.

Jorgensen - You all received a copy of the resolution to combine the Auditor and the Treasurer's Offices. If this is not passed today, then it will be too late for the 1998 election. It will remain an elected office. The person would take the position in January of 1999. Other counties have done this. After this resolution is passed, there is a process that needs to be gone through according to statute. Fenske - We need to take action. Goodenow moved, seconded by Buisse to approve the resolution to combine the Auditor and Treasurer's Offices (see attached). Discussion on elected versus appointed. Gladis - This could still go to a referendum if 10% of the voters from the last election sign a petition. Jorgensen - It becomes an issue of customer service. Those two offices work hand in hand. Fenske - The person in the present position will serve until December 31, 1997. The term for the combined office position will be four years. All voted in favor.

Joel Carlson met with the board to discuss pending litigation. Carlson - Nothing of consequence has happened in the Solid Waste Area. There is nothing new just discussing the same ongoing case. Maes - I recommend closing the meeting to discuss.

Fenske - We will hear Commissioner reports before closing the meeting.

Gladis reported on meetings attended.

Fenske - RCM sent an announcement that the Branch Manager in the Gaylord Office has resigned and Doug Parrot has been promoted to Branch Manager.

Vandelanotte moved, seconded by Gladis to close the meeting to discuss pending litigation. All voted in favor.

Goodenow moved, seconded by Gladis to reopen the meeting. All voted in favor.

Goodenow moved, seconded by Fenske to extend Joel Carlson's services to cover the trial (if it goes that far) for the litigation dealing with asbestos at the landfill. All voted in favor.

Buisse moved, Gladis seconded motion to adjourn meeting until Tuesday, May 19, 1998 at 9:00 A.M.

Robert Fenske, Chairman

Attest: _____
Mark R. Jorgensen
Lyon County Administrator