

LYON COUNTY BOARD OF COMMISSIONERS
LYON COUNTY COURTHOUSE, MARSHALL, MN
May 19, 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 deletion of Mark Seline, Probation.

Ditch Vouchers were presented. Hammer - We need to discuss the bills for CD#7 impr. Besides the ones presented, I have bills back at the office totaling \$80,000. Vandelanotte - Is there any money left from bonding? Jorgensen - Will have to check with VanOverbeke. I think the construction bills and legal fees should be separated, then use the bonding money for construction and put a maintenance levy on for legal fees. Goodenow - The County needs to loan the ditch the money and the paper work must get done. Maes - They intend on appealing to a higher court. Wendland hopes the court of appeals will take his argument and at least listen to it. Discussion on make up of board for JD#10. Maes - Before any decision is made, I would like to see what Wendland is going to do. Goodenow - The re-determination would be just good ditch management. Maes - I would like to see the specific issues that Wendland is going to appeal. I would also like to talk with Kramer. Gladis - How far were the viewers on the re-determination? Hammer - We were done mapping, but they hadn't actually started viewing. Maes - If they go ahead today and Kramer is saying no, do the viewers bill Lyon County? Vandelanotte - There should be a meeting of the existing board to agree not to go ahead. Hammer - I recommend setting a date for both entire boards to meet. Discussion on possible dates. Fenske - Let's give them June 8, 10, or 11 as possible dates. Buysse moved, seconded by Vandelanotte to approve the ditch vouchers excluding all CD#7 impr bills. All voted in favor.

Conditional Use Permit. Buysse moved, seconded by Gladis to approve the conditional use permit to Duininck Brothers, Inc. to extract/crush material and to operate an asphalt hot mix plant on land zoned agricultural in Coon Creek Township (on file at Planning and Zoning Office). All voted in favor.

Conditional Use Permit. Goodenow moved, seconded by Gladis to approve the conditional use permit to Duininck Brothers, Inc. to extract/crush material and to operate an asphalt hot mix plant on land zoned agricultural in Lyons Township (on file at Planning and Zoning). All voted in favor.

Conditional Use Permit. Buysse moved, seconded by Goodenow to approve a conditional use permit - Essential Service to Northern States Power Company as agent for the City of Tyler to run approximately six mile of three inch natural gas pipeline in Coon Creek Township with an inspection fee of \$500.00 with Hammer as the inspector (on file at Planning and Zoning). All voted in favor.

Jorgensen - You all should have received a copy of the resolution appointing the Auditor's Office and ditch inspector to delegate viewers to split parcels. In these cases it would just be to split, no change in benefits would be made. Discussion. Buysse moved, seconded by Gladis to pass the resolution which allows the Auditor's Office and the Ditch Inspector to delegate viewers to split parcels when no change in benefits occurs (on file at the Auditor's Office). All voted in favor.

Buysse moved, seconded by Gladis to approve the partial payment to R&G in the amount of \$22,341.60 for work on CD#62. Request will be passed onto the City of Marshall for payment. All voted in favor.

Jorgensen - R&G has submitted a partial payment request in the amount of \$63,344.46 for work done on CD#6 impr. The engineer has signed. Hammer - This was mainly excavation of dirt. They are about two-thirds done. Buysse - Is there money in the account? Jorgensen - Still in the process of bonding. Hammer - I have no problem waiting to pay this because the contractor is not working right now.

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

Voigt - Bids need to be opened on the Balaton Water Retention project (97-14) and the CR 13 project (SAP42-613-19).

Bids for the Balaton water retention project. Goodenow - Is Area II participating? Voigt - Yes.

Kockelman Construction, Canby	\$104,286.10
Fishel, Inc., Storden	\$99,719.25
Commerford Construction, Danvers	\$111,336.46
Midwest Contracting, Marshall	\$106,188.25
R&G, Marshall	\$93,980.40

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Fenske - Completion date? Voigt - They have thirty working days from the time they start. They can start anywhere from June 1 to July 1 and must work continuous. Fenske - Is there a penalty for not completing on time? Voigt - Yes.

Bids for the CR 13 project.

Midwest Contracting, Marshall	\$832,286.75
Kockelman Construction, Canby	\$1,144,786.60
Schmidt Construction, Redwood Falls	\$1,088,773.05
R&G, Marshall	\$807,796.76

Voigt - I will return later in the meeting with my recommendations.

Voigt handed out a map of potential sites for the road tour.

Voigt - I would like to request authorization to advertise for the projects in Tracy. The plans are nearly complete. Goodenow moved, seconded by Vandelanotte to approve advertising for bids on projects SAP42-628-05 and SAP42-628-06 in Tracy. All voted in favor.

Voigt handed out a copy of the current policy dealing with permanent right of way, slope easement and fencing. Voigt - The question that has come up is what is the policy meant to pay for? Is it just meant to pay for loss of crop for one year and reduction in yield for an additional year? Or is it meant to cover if they have already planted also? I believe it was meant to cover all of the above. The question that the farmers are asking me though is the \$400 easement is meant to pay for planting expenses. This is the problem that has arose so far with the CR 2 project. Goodenow - You didn't get the easements before planting? Voigt - It happened simultaneously this year. I am looking for clarification on the existing policy. Jorgensen - There was a settlement made with one group before, so a precedent has been set. Voigt - That was a special case because the contractor wanted to start earlier than what was planned and they paid for half of the settlement. Goodenow - I tend to lean toward having all easements by March 1. Fenske - You knew this was coming so why wasn't it done? Voigt - Did not have the design ready in time. We have a heavy work load and projects get done in a certain order. Goodenow - I think planting should be paid for as well as loss of crop. Voigt - I asked Steve Johnson about this because he does a little farming and he said if someone can clear \$300 per acre, they are doing great. Vandelanotte - I think the \$400 is enough. Voigt - Some are satisfied and some are not. Goodenow - The \$400 should cover loss of productivity and loss of crop. But they should be paid for cost of planting. Voigt - I believe the policy was meant to cover all costs. Goodenow - If someone knew in March, they would get the \$400 and not have incurred any planting costs. And the ones that have planted still get the \$400, but they have already incurred cost. It does not end up being fair to the ones who have already planted. Vandelanotte - I still think \$400 is plenty. Gladis - Maybe make it a policy to send a letter to farmers and let them know there is a possibility construction will be done. Goodenow - There has to be more than a possibility or we will run into trouble. Voigt - Is the \$400 enough? Goodenow - Maybe the board decided nine years ago to make it \$400 so they wouldn't have to deal with it. Voigt handed out a draft of a resolution that explains the policy more clearly. Fenske - We will have to look this over before it can be passed. Your question is whether to follow the current policy or not? Voigt - Yes. Fenske - Is the \$400 enough? Vandelanotte - Yes. Buysse - Yes. Goodenow - Everyone has to be treated fairly. Vandelanotte - Maybe should have two payments one if planted, one if have not planted. Buysse - \$400 is plenty for all of it. Voigt - We are only required by law to compensate for damages. Jorgensen - If the payment is generous, there should be no problem getting easements. Fenske - This was just to clarify the policy and we are going to stick with it.

Voigt - As we begin the CR 2 project, I would like the resolution dealing with eminent domain passed. Discussion. Goodenow moved, seconded by Gladis to approve the resolution for CR 2 dealing with eminent domain (on file at the Auditor's Office). All voted in favor.

Voigt - We have offered Dean Berg the vacancy, but he has not accepted as of yet.

Discussion on meeting tonight on the bike path.

Discussion on water retention projects scheduled.

Public Hearing for the Aerated Lakes Ordinance.

Fenske - Only one present for the hearing is Joel Dahl. Jorgensen - The reason the DNR did not approve the last one is because it talked about fishing and the DNR regulates fishing. This ordinance regulates aerated lakes and requires signs etc. to warn about thin ice. Hammer does the posting. Dahl - There has been some discussion that pertains to motor vehicles on aerated lakes after dark. This ordinance does not address this. There is a state statute that gives the sheriff's office the right to bar any motorized vehicles from lakes. Fenske - Liability? Jorgensen - As long as posting and notification is done properly there should be no County liability. Goodenow

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moved, seconded by Buysse to approve Lyon County's Aerated Lakes Ordinance. All voted in favor.

Meeting recessed.
Meeting called back to order.

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

Henriksen - At the meeting last night recommendations for the Water Plan Grant Program were made and they are as follows:

Lyon County 4-H Club for camps	\$870.00
Marshall Summer Academy for environmental education	\$1500.00
Balaton School District for educational purposes	\$1370.00
Marshall Sr. High for the water quality project w/Russia	\$1500.00

Henriksen - The City of Cottonwood also applied for their burner project, but the request was tabled until they find out if they are getting any other grant money. The money is already available for this. Vandelanotte moved, seconded by Gladis to approve the grants listed above to be funded through the Water Plan Grant Program. All voted in favor.

Henriksen handed out a material data safety sheet on Norcraft's wood waste. Henriksen - Their attorney will be contacting Maes. MPCA has no problems with it and says it looks like a good project. Goodenow - What about the County's insurance company? Maes - Waiting for the MPCA.

Henriksen - Nobles County has decided they do not want to get rid of the mobile unit. They will hire a permanent full time person and we will just contract with them.

Mary McCormack met with the board to discuss a waiver request for Lyon County's internet policy. McCormack - The Court Administrator has access to the internet through the Fifth Judicial District. We acknowledge the fact that the computer equipment is from the County. There is a judicial district internet policy in the works. There are many similarities, but the concern is that the judicial policy provides for limited personal use and the County's does not. Goodenow - If someone violates the Judicial Policy, who enforces? McCormack - It would be incumbent upon myself. Goodenow - The one who pays the bills should do the discipline. I am not sure you can enforce if Lyon County's policy is not in force. McCormack - I believe I can. Jorgensen - If you were to discipline and the case goes to court, who would be responsible? Ultimately the responsibility would lie with the County. The Board sets a dangerous precedent if exemptions are allowed for a County policy. McCormack - Ultimately the Court Administrator's Office will probably be State funded. Jorgensen - Then you would be under the Judicial policy. Reasonable use is not going to be cause for discharge. Goodenow - Maybe we could substitute and say the Fifth District's policy is Lyon County's policy for the Court Administrator's Office. Gladis - They are still Lyon County employees and I don't know how they can have a different policy. Goodenow - Is discipline included in the Judicial policy? McCormack - That policy is still in the draft stages and it may have discipline included when it is finished. Goodenow - Without a final draft, we can not approve anything. Fenske - We are not ready to make any changes.

Liz DeBlieck met with the board to discuss the Group Home. DeBlieck - All of the safety concerns we discussed last year have been taken care of. As far as the structure concerns, the shingles are taken care of. The basement and windows need to be fixed next. The windows are my main concern. On the main floor there are approximately fifteen windows and eleven of those have no storms or screens. On the upper level, six windows have no storms. The windows are in pretty tough shape. Gladis - We want it to be done right the first time. Goodenow - Maybe find a decent storm window and get some screens. Gladis - Thought about replacing some and getting storm for others. Jorgensen - In talking to DeBlieck and Ron Krause, the feeling is that they need to be replaced frame and all. We could have the ones that are used the most replaced first. Goodenow - I want to make sure it still looks like a house. Fenske - Something definitely needs to be done. Goodenow - Is there any hope for the basement? DeBlieck - Krause and I have talked about it and there will probably have to be a tile line put in. The STS crews have come in very handy.

Senator Arlene Lesewski and Representative Marty Seifert met with the Board to discuss the recent legislative session and matters relating to local government. Fenske welcomed them and thanked them for coming.

Seifert - Tried to get local government exempt from the state sales tax. It failed in tax committee and I introduced as an amendment on the floor. It failed by one vote. I am planning on working on this for next session. I am guessing there will be a surplus again. The tobacco money will probably go into the general fund. As far as transportation aid and road funding go, the counties

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may be sitting as well as they ever have been, if the urban people get their way though, this will change. Keep an eye on the AMC, if the members get too urban, they may not be lobbying for what rural governments want. I was a little disappointed that Lazuraus Creek did not get fully funded. I believe all flood control should have been fully funded. Fenske - I appreciate you sending me the letter on the tax exemption. I passed it along to several people.

Lesewski - Twenty-five or thirty bills were introduced dealing with sales tax exemption for local units of government. All were put on the table or sent to sales and income tax subcommittee. The will of the Senate was to spend the surplus. We had to play a little game: if there is no sales tax, then where will that money come from? Increased exemptions on new farm machinery and road materials and certain equipment for townships. Did get a small rebate for next year. I believe rebates were held up so it can be used as a cry for the campaigns in November. People have been asking where the surplus went. It is being used for various things some of which are to fund the bonding bill, tornado relief in the St. Peter area, put in budget reserve, for tax relief, for property tax rebates, a small sales tax exemption project, for the soybean processing plant, the Prairie Expo and the Minnesota Alfalfa producers. The feedlot issue was discussed. There was a moratorium put on open lagoons for swine. There will be a generic impact study done state wide. Counties and townships who have done feedlot ordinances will have to submit by August 1, 1998. There was an effort made to back off of Community Based Planning because of some of the implications. There will be three Constitutional Amendments on the ballot in November they deal with lottery proceeds, abolishing the State Treasurer's Office, and the right to hunt and fish.

Vandelanotte - Where are we going with livestock moratoriums? Lesewski - The State so far has done nothing, but I understand townships are passing them. I have a big concern that if the townships do this, where will they get the money? Seifert - I voted no on the moratorium. Counties have voiced that they want to make their own decisions. I believe something needed to be done, but a moratorium was over board.

Discussion on joint ditch boards and how formed.

Seifert - I believe two important issues are to keep a lid on government spending and to keep bills separated.

Lesewski - I introduced 22 bills, all but one was signed, but they all went in with other bills. I believe rotating committee chairs is a good idea. I do not support unicameral legislature. Other things that may affect you are bills dealing with Bowser and wetland replacement and 9-1-1 employees will be considered essential.

Jorgensen - Is the change in the retirement system for jailers the first step in a change in retirement? Lesewski - Who was the driving force? The union? Jorgensen - Possibly. Lesewski - I really can't comment on that, but I would be highly suspicious.

Discussion on mass transit and dollars for roads.

Fenske voiced appreciation for coming.

Voigt returned with recommendations for the projects. Voigt - R&G's bids on both projects were low. There was a minor change in their bid for the water retention from \$93,980.40 to \$93,980.90. Discussion. Goodenow moved, seconded by Buysse to accept R&G's bid of \$93,980.90 for the water retention project (97-14). All voted in favor.

Buysse moved, seconded by Goodenow to accept R&G's low bid of \$897,976.76 for the CR 13 project (SAP42-613-19). Buysse - Will it be black topped? Voigt - South of Highway 4 it will be reconstructed next year and then the following year it will all be black topped. So it will be gravel for a couple years. All voted in favor.

General Revenue Vouchers and Water Projects were presented. Vandelanotte moved, seconded by Goodenow to approve the general revenue vouchers and water projects. Goodenow - The bill from the Sheriff's Office to pay for vending supplies, do we get the income? Jorgensen - Yes, the money goes through the County's books. All voted in favor.

General Revenue Fund	\$67,180.78
Road & Bridge Fund	\$24,729.52
Landfill Special Rev. Fund	\$58,734.15
Water Projects	\$3,240.33
Ditch Fund	\$13,401.15
Total	\$167,285.93

County Revenue	\$66,488.53
Enhanced 9-1-1 System	\$692.25
Total	\$67,180.78

Beginning Warrant Number: 318312; Ending Warrant Number: 318448.

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Jorgensen - There is a grant request for a \$1000 Juvenile Restitution Grant to be run out of the County Attorney's Office. This needs to be approved. Goodenow moved, seconded by Buysse to approve the \$1000 Juvenile Restitution Grant to be run out of the County Attorney's Office. All voted in favor.

Jorgensen - I have a Charitable Gambling Permit for the Vesta Lions Club. The County needs to approve. It is a one day permit for an event to be held at the Cottonwood Country Club. Vandelanotte moved, seconded by Gladis to approve the Charitable Gambling Permit for the Vesta Lions Club. All voted in favor.

Jorgensen - I have an easement agreement here with the US Fish & Wildlife. We can talk about it at the ditch meeting this afternoon.

Jorgensen - I have a tobacco license application for the Balaton Food Center that needs approval. Buysse moved, seconded by Vandelanotte to approve the tobacco license for the Balaton Food Center. All voted in favor.

Jorgensen - Health and Human Services needs you to recommend someone to be appointed by the State to serve on the Welfare Board. Vandelanotte - We meet tomorrow. Goodenow - When does this need to be done? Jorgensen - No later than June 30, so you can wait until next meeting.

Jorgensen - I have a bill from Mar-Tech for three lap top computers for the Commissioners to use. Goodenow moved, seconded by Gladis to approve the bill from Mar-Tech in the amount of \$9425.25 for lap top computers. All voted in favor.

Jorgensen - I received a fax from Rowenhorst and they have proposed \$12,000 to do the jail study. I would like to talk to him about this before approval.

Jorgensen - Need approval to have Fenske sign a letter that will be sent to Yellow Medicine County Commissioners about the jail. Goodenow - This is a good idea. Vandelanotte moved, seconded by Buysse to approve the signing of the letter to be sent to the Yellow Medicine County Commissioners dealing with the jail. Goodenow - Should we send the letter out to everyone else? Jorgensen - The reason that we are specifically sending to Yellow Medicine County is that they are looking at building their own jail. All voted in favor.

Jorgensen - There needs to be a policy set at the fairgrounds for Rolle Bolle's use of the bathrooms. Anderson suggests a seasonal payment instead of payment per use because they are out there so often. He has suggested a \$50 seasonal payment. Goodenow - We will need to hear from Anderson at the end of the season to know how this works. Goodenow moved, seconded by Gladis to approve the seasonal payment of \$50 for bathroom rent at the fairgrounds for Rolle Bolle. All voted in favor.

Jorgensen - I have the actual contract for the Joint LEC construction that need to be signed. Goodenow moved, seconded by Gladis to approve Fenske signing the construction contracts for the Joint LEC. All voted in favor. Gladis - I am still hearing a few complaints that what we are doing is in favor of Marshall. Jorgensen - In the long run people will appreciate it.

Per Diems were presented. Goodenow moved, seconded by Buysse to approve the per diems for Gladis (\$45), Buysse (\$60), Vandelanotte (\$145), and Fenske (\$185). All voted in favor.

Commissioner Reports:

Gladis - The Fair Board thought it would be a good idea for the courthouse to have a booth at the fair. Fenske - What would we have out there? Gladis - Would have to work on a little further, but probably hand outs from the departments etc.

Vandelanotte - On June 22 there will be a big meeting of the Minnesota River Basin.

Goodenow - Maybe Planning and Zoning members should have name plates kind of like we do. I have not brought it up to P&Z yet.

Fenske - Just to let you know, the annual meeting for the Workforce Council will be June 11. I will ask next meeting who is interested in attending.

Buysse - In July there will be a choice for Area II to extend the Joint Powers agreement for two and one-half or four and one-half years. A couple counties may drop out if extended four and one-half years. I suggest we vote to extend two and one-half just to keep all the counties together.

Maes - Teen Court is still going forward, but the County is not needed as the fiscal host.

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Maes - Probation and the Attorney's Offices were looking at turning in a grant dealing with diversion. We decided to pull it because of the work on teen court.

Maes - EPA hearing is still scheduled.

Maes - I request permission to access the Criminal Justice Aid Fund in the amount of \$195.27. This is for travel and lodging for a witness in a trial. Vandelanotte moved, seconded by Gladis to approve the use of the Criminal Justice Aid fund to pay a bill in the amount of \$195.27 for travel and lodging for a witness in a trial. All voted in favor.

Fenske - Is Joel Carlson coming tomorrow? Maes - I have not heard from him.

Buyse moved, Gladis seconded motion to adjourn meeting until Tuesday, June 2, 1998 at 9:00 A.M.

Robert Fenske, Chairman

Attest:

Mark R. Jorgensen
Lyon County Administrator