

LYON COUNTY BOARD OF COMMISSIONERS
LYON COUNTY COURTHOUSE, MARSHALL, MN
June 2, 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.

Minutes from May were presented for approval. They included: JD#23 and CD#40 ditch hearings on May 5, JD#23 continued hearing on May 19, JD#9 abandonment hearing on May 19 and the regular board meetings on May 5 and May 19. Gladis - We need some clarification as to who is paying for the outlet on JD#23. Jorgensen - It needs to be discussed with the highway department. VanOverbeke - I recommend you do not approve the JD#23 continued hearing minutes from May 19 until a clarification is made. Jorgensen - A number believe the highway department should pay. Vandelanotte - Is someone appealing? Jorgensen - Not yet, but we have heard someone might be. Buysse - Has the viewers report been accepted? Hammer - No. Normally the ones who petition pay for the outlet and that would be the highway department. Buysse moved, seconded by Vandelanotte to approve the minutes for JD#23 and CD#40 hearings on May 5, JD#9 abandonment hearing on May 19, and the regular board meetings on May 5 and May 19. All voted in favor.

Jorgensen - Here to discuss the joint LEC financing is Jerry Shannon from Springsted. Shannon - Last night at the City's meeting, the resolution for the lease agreement was passed along with the amended joint powers agreement. They also awarded the bids for the bonds pending County approval. Daugherty Dawkins was awarded the bid. The effective rate is 4.61% Bonds were rated A2 by Moody's. Moody's commented on the large general fund of Lyon County, the small amount of debt, and the rapid pay out. There will be a modest decrease in the tax levy. You will enter into a lease agreement with the City pledging to pay 100%. Pursuant to the joint powers, 49.47% of the cost will be picked up by the city for the Joint LEC. You need to enter into the lease with the city and approve the amendment to the joint powers agreement. Bids less than anticipated. The bids were awarded at the City meeting last night and become effective when the lease agreement is approved by the County. Jorgensen - The joint powers was just amended to put it more in line with the lease agreement. The intent is the same. Vandelanotte moved, seconded by Goodenow to approve the joint powers agreement as amended with the city of Marshall for the joint LEC (on file at the Auditor's Office). Fenske - Did Maes review? Jorgensen - Yes and Brian Murphy. All voted in favor. Jorgensen - Now the lease agreement needs to be approved. This also includes the ground lease agreement. Shannon - Most of the information in the lease agreement is required by statute and for bonding. Goodenow moved, seconded by Gladis to approve the lease agreement between the City of Marshall and Lyon County for the Joint Law Enforcement Center (on file at the Auditor's Office). All voted in favor. Shannon - Should have funds available no later than July 2. I would like to thank you for the opportunity to work with you. Fenske - What did the lower interest rate do to the average tax levy? Shannon - Now it will be around \$151,074 and the estimate was \$152,341. Fenske - Thank-you for your assistance.

Ditch Vouchers were presented. Discussion on CD#7. Jorgensen - We decided to pay the construction bills for CD#7 with the bonding money and a loan will be made for the legal fees. There will have to be a maintenance levy put on in August. Buysse - Should we set the date for the annual ditch hearing? Jorgensen - For CD#7, I recommend paying the K & K tiling bill and holding off payment on the Wendland-Timmerman bill. Discussion on when to set date. Fenske - The annual ditch hearing for county ditches will be on August 18 at 2:00 and for judicial ditches at 3:00. Hammer - The bill for JD#9 is a two year old bill. This is where it all started with Clarence Huck selling to US Fish & Wildlife. Jorgensen - This bill for JD#9 is two years old? Hammer - Yes, I told the contractor we needed the bill before the ditch was abandoned because it wouldn't get paid after that. Fenske - Who pays? Jorgensen - This bill is two years old and things have changed, so this becomes an issue because now Fish & Wildlife owns the land and when this work was done Huck owned it and should actually be responsible for paying half of the bill because he had half of the benefits. Goodenow - We could pay only half of the bill and let the contractor try to collect the rest from Huck. Hammer - I recommend paying only half of the bill for JD#9 and I'll talk to Forbes and have him try to collect the rest from Huck. Goodenow moved, seconded by Gladis to approve the ditch vouchers excluding the bill for CD#7 from Wendland-Timmerman and only paying half of the bill from Forbes for JD#9. All voted in favor.

Hammer - Yellow Medicine County contacted me and wants to have a joint board meeting on June 9 at 3:00. Jorgensen - My understanding is that their attorney says at all cost get the JD#10 ditch board members to be four from Yellow Medicine County and one from Lyon County. Fenske - That date does not work for me and I am not willing to meet until we get some sort of agenda. Discussion on needing the re-determination of benefits on JD#10. Goodenow - I believe until there is another meeting, the re-determination should go on. At the last meeting the joint ditch board had, it was voted to re-determine; therefore that is the final word until the next meeting. Vandelanotte - Just to let you know, next Spring at the legislature, the big issues are going to be feedlots and ditches. Buysse - I have heard complaints about the flooding around Wood Lake, but wasn't that there before CD#7 improvement? Hammer - Yes. Vandelanotte -

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When the motion was made to re-determine benefits on JD#10, there were a lot of farmers there and everyone agreed. The joint board voted unanimously for re-determination. Goodenow - Maybe we should call their chairman and let him know we want to proceed with the viewing. We do need to meet with them at some point. Voigt - Why don't you let the viewers know that they are not liable, the county is and just tell them to go ahead. Discussion continued on JD#10. Fenske - Jorgensen had tried to contact their Auditor and has had no response as of yet. Goodenow - We need to meet with them. Fenske - They could refuse to pay the viewers. Goodenow - We should tell the viewers to go ahead with the viewing and schedule a meeting with Yellow Medicine County. Fenske - Let's suggest June 23 at 3:00 for the meeting and request an agenda by June 16. Gladis - If benefits are re-determined, will there have to be another meeting involving all the Redwood County Commissioners also? Fenske - Yes, if the statute is followed for picking the members of the joint board. Hammer - The plate has been installed on the CD#7 outlet. Buysse - Has the DNR installed their structure? Hammer - They won't until the tile is abandoned. I believe if there is a big rain, the plate on the outlet for CD#7 will be blown off.

Hammer - To let you know, we are going to be importing Japanese beetles to eat the leafy spurge.

Jorgensen - I have a bill for CD#62 from Bolton and Menk. Gladis moved, seconded by Goodenow to approve the CD#62 bill from Bolton and Menk in the amount of \$5,732.57 to be passed on to the city of Marshall. All voted in favor.

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

Voigt - I have a variance request to go below the minimum width standards for a portion of CR#25, this is where the bike path goes. This is in response to concerns from the residents that live along this road. It will minimize the impact on the trees and the home fronts. Gladis - There are only three residents along that stretch and it is not very long. Gladis moved, seconded by Goodenow to approve the resolution (on file at the Auditor's Office) to accept the variance requesting an Administrative Variance for the design of CSAH 25 from Sta. 0+00 to Sta. 0+152 to allow 6.6m pavement width with no shoulders and the use of the resulting 3.3m lanes as shared lanes with bicycles. Jorgensen - With a variance in place, if something happens, will the County be liable? Voigt - The State has no liability, but this is commonly done. John Bower, MCIT - As long as the statutes are followed, MCIT will be there to defend. All voted in favor.

Voigt - It is that time of year again when we have a temporary cash flow problem. I need to request a temporary loan for about a month until funds come in. Fenske - How much do you need? Voigt - About \$200,000. Vandelanotte moved, seconded by Goodenow to approve a temporary \$200,000 loan to Road and Bridge from the General Fund to be paid back in one month. All voted in favor.

Buysse - How are the retention structures coming? Voigt - One by Balaton should be starting this week. I can guarantee that the ones in Island Lake and Monroe Townships will go ahead, but we are waiting on easements for both.

Discussion on bridge projects. Buysse - What is being done about those bridges in Westerheim Township? Voigt - Those bridges are next on my list. I need to take care of County projects first before I start on township ones. Buysse - When will they be done? Voigt - We should be getting started on contracting and design this year.

Gladis - I have been getting questions from people on the North side of Lake Marshall about whether the road can be paved or not. Jorgensen - This is a county road, not a county state aid highway. Voigt - That is correct so there are no state aid dollars for it. Jorgensen - Those people do have the option to take over the road themselves.

Vandelanotte - The clay that is coming off the road in Cottonwood, can it go in the road ditch across the road? They are trying to mow it and there is water standing. Voigt - It isn't a wetland is it? Vandelanotte - No. Voigt - As long as we don't have to haul it far. Vandelanotte - Just across the road.

John Bower, MCIT, met with the board to discuss the Risk Management Report for 1997. MCIT's mission statement discussed. Bower - There are 82 counties in Minnesota that participate. MCIT is organized as follows: member counties, MCIT Board of Directors, MCIT Director and Staff and contracted service providers. MCIT may be one of the only ones that provides flood coverage for its members. A monthly bulletin is put out along with ALERT notices. Why is MCIT so effective? No premium taxes, no agent commissions and no company profits. All that is taken out are losses and expenses. Dividends are paid back at the discretion of the board. Fenske - How is the worker's comp dividend arrived at? Bower - The County itself is taken into consideration along with all the counties together. The following is the 1997 distribution to Lyon County as compared to the total paid out by MCIT.

MCIT Overall

Lyon County

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\$2.5 million	worker's comp. dividend	\$19,476
\$6.0 million	property/casualty dividend	\$67,359
\$4.8 million	WCRA refund	\$41,266
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\$13.3 million		\$128,101

From 1991 to 1997, Lyon County has received dividends of \$225,109. This is not guaranteed. MCIT nationwide is considered one of the best. Jorgensen - I have found MCIT is very focused on counties and governmental agencies. Fenske - How much did we pay in? Jorgensen - Somewhere around \$200,000. Bower - Please do not use dividends when building budgets. They are not guaranteed. For the most part, dividends are increasing and rates are going down. Discussion on need to insure joint powers entities separately. Discussion on safety directors training and development program. Bower gave an overview on what MCIT provided Lyon County in 1997. Bower - Lyon County received two Honor roll awards in 1997 - one for property/casualty loss ratio 50% and under and one for Worker's Compensation Modification under 1.0. Bower thanked the board for their time. Fenske - Thank-you for coming.

Meeting recessed.
 Meeting called back to order.

Maes - Just to let you know, the ordinance for aerated lakes was sent back to the DNR for approval and they would like it amended so the definition of lakes says only wholly in Lyon County and this would leave out partially. I had sent the ordinance to them to look over before your approval at the last meeting and they had said it looked fine and to go ahead a pass it as is. Now a different person has looked at it and things have changed. Gladis - If the lake is in two counties, what happens? Maes - I was told a joint powers agreement would have to be done. I will check to see what lakes cross county lines and see what the other county's ordinances say.

Buysse - Have you had time to look at the Joint Powers with Area II and trying to extend for two and a half or four and a half years? Maes - I would like a little more time, but so far it looks fine. Buysse - Do we insist Fenske sign? Some of the other counties appoint someone to sign at the meeting. Maes - The chairman should sign. Jorgensen - I think some of the members need to go back and see what their engineers are doing as far as working on water retention. Vandelanotte - I have told them that we are always ready and we always have money ready.

General Revenue Vouchers and Special Water Projects were presented. Buysse moved, seconded by Goodenow to approve the general revenue vouchers and special water projects. Jorgensen - There is a \$4800 bill to move antennas involving the LEC. The Ramsey County bill involved the suicide at the jail. Buysse - When the bills come in for the LEC, who will be signing them first. Who is going to make sure the work is getting done? Jorgensen - The Architect will have to approve first. All voted in favor.

General Revenue Fund	\$46,856.60
Road & Bridge Fund	\$15,399.00
Landfill Special Rev. Fund	\$7,783.83
Water Projects - Special Revenue	\$88.00
Ditch Fund	\$63,764.87
Sinking Ditch III	\$747.50
Total	\$134,639.80
County Revenue	\$41,889.89
Enhanced 911 System	\$106.48
Capital Projects	\$4,860.23
Total	\$46,856.60

Beginning warrant number: 318547; Ending Warrant Number: 318647.

Jorgensen - The Department of Human Services needs a recommendation for someone to appoint to the Region VIII board. Vandelanotte - We talked to Carmen Marben and she is willing to be on the board again. Goodenow moved, seconded by Vandelanotte to recommend Carmen Marben be appointed to the Welfare Board by the Department of Human Services. All voted in favor.

Jorgensen - 4-H has requested to use the fairgrounds on June 11 and July 28. I am recommending a waiver of fees. Goodenow - Have we done this in the past. Jorgensen - Yes. Vandelanotte moved, seconded by Buysse to approve the waiver of fees for the 4-H use of the fairgrounds on June 11 and July 28 for animal projects. All voted in favor.

Jorgensen - I talked to Jim Rowenhorst, the jail study consultant, and he is set at a top dollar of \$12,000. However, he said when he is finished, he will take a look at the cost and if is lower than \$12,000, he will charge us less. Fenske - So the top dollar is \$12,000. Jorgensen - Yes. I recommend approval. Buysse moved, seconded by Goodenow to approve hiring Jim Rowenhorst

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as the jail consultant to explore the possible need for increasing space at the jail. All voted in favor.

Per Diems were presented. Goodenow moved, seconded by Buysse to approve the per diems for Goodenow (\$40), Vandelanotte (\$105), and Gladis (\$90). All voted in favor.

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

Henriksen - I have the contract with R&G for closure and Phase 5 at the landfill. Fenske - Has Maes reviewed it? Henriksen - Yes. Vandelanotte moved, seconded by Gladis to approve the signing of the contract with R&G for closure and Phase 5 at the landfill. All voted in favor.

Henriksen - Now the notice for R&G to proceed needs to be approved. Goodenow moved, seconded by Gladis to approve the notice for R&G to proceed with closure and Phase 5 at the landfill. All voted in favor.

Henriksen - I have the education grant programs. They need to be signed. There has been one change. Loren Wiger from the Middle School has previously been approved grant money to use toward two summer academies. Not enough signed up so there will be only one. He would like to use the extra money to do some water testing at the middle school next year. The date would have to be extended. The money is already there and I see no problem with this. Buysse, moved seconded by Goodenow to approve the amendment to the grant for the middle school as stated above. All voted in favor. Goodenow - Do we have to approve the signing? Jorgensen - You approved the grants at the last meeting.

Henriksen - I have a letter here to send to Schmidt Construction that requests \$4800 from Schmidt construction to pay for the additional construction costs incurred because the project was not completed on time. After Friday \$500 per day will be added. They supposedly had a problem with a contractor. Gladis- Was this fine included in the contract? Henriksen - Yes. Fenske - Have you talked to Kirby? Henriksen - They actually drafted the letter. Jorgensen - All the costs have been documented. Buysse moved, seconded by Goodenow to approve sending a letter to Schmidt Construction as described above. All voted in favor.

Henriksen - I talked to Maes about the wood chip issue. Norcraft wants the County to sign a liability waiver. Maes said MCIT does not recommend signing any waiver. Jorgensen - MCIT recommendation comes from an insurance point of view and they recommend no waiver be signed. Maes had stated at a previous meeting that he could not recommend the County sign such a waiver. Ultimately the insurance company says they would have trouble with coverage. There is a pollution exclusion for the County's insurance. Henriksen - There would be nothing designating who gets this. Fenske - You can't expect Norcraft to have it available to take a pickup load here and there. Buysse - Is there a building at the landfill that it could be put in? Henriksen - With some shuffling around, I suppose there is. Vandelanotte to Gary Kesteloot - Would you sign a hold harmless? Kesteloot - I would have to have a lawyer look at it, but it would probably not be a problem. Bendix, Norcraft - Our company feels the relationship needs to be with the County, but the end user needs to sign the hold harmless also. Gladis - If there is a law suit, no matter what is signed, everyone is going to get sued. There must be a common sense solution. Bendix - It is my understanding that these indemnification agreements get pushed to the side. It basically just shows that you have no problem with the wood chips being used. Fenske - Pollution control agrees. Kesteloot - We don't want the landfill to fill up and we can use them. Goodenow - Maes is picking the safest way and I don't blame him. I think we should put an ad in the paper and give everyone a chance to put in a proposal. I don't think the hold harmless means a lot. Gladis - I see Maes and Jorgensen's point because they were hired to watch out for the County. Goodenow - Should go ahead with proposals and we would have to sign the hold harmless. Jorgensen - Ultimately whether it is one or ten years, someone may decide to sue just because the County is involved. Fenske - We will have the option of picking the most responsible user. Henriksen - Since it is considered recyclable, the County has the option of refusing to take it into the landfill. I can develop a request for proposals if that is the way you want to go. Bendix - I have a draft of the hold harmless. Fenske - Do we want to take action? Jorgensen - I recommend Henriksen send out RFP's and wait until the first of July. The hold harmless should be in the final stage by then. Proposals would be in by then and everything could be approved at once. Fenske - We request Jorgensen and Henriksen get RFP ready. Jorgensen - Have Maes review the final agreement. Fenske - We do appreciate the view of Maes and Jorgensen. We are looking at the practical end of this also.

Goodenow - What are the landfill's hours? Henriksen - 6:00 A.M. - 4:00 P.M. Monday thru Friday and 7:00 A.M. - 11:00 A.M. on Saturday. Goodenow - I think if you say you are open Saturday mornings, people believe you are open until noon. I know the one in Iowa is open all day Saturday and some hours on Sunday. This is just something to think about.

Commissioner Reports:

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Gladis - I will miss the Board of Equalization meeting because I will be giving a presentation at the League of Minnesota Cities annual conference.

Vandelanotte - Would like permission to attend a meeting in Brooten in August dealing with ditches and road crossings. Ditches are going to be a big deal for the next legislative session. Goodenow moved, seconded by Buysse to approve Vandelanotte attending a meeting on ditches in Bruten. All voted in favor.

Discussion on June 22 Minnesota river Basin Joint Powers meeting in Wabasso.

Goodenow - At the Juvenile Justice Meeting last week, each county in the district was represented. There was a review of building: St. Peter is not building and Fairmont's is built. New Ulm had a proposal to build an eight bed and it has been approved. That is closer to Marshall than St. Peter. We did find out that the money can not be taken from Lyon County until we say. I told them we should know in about 90 days what we are going to do. Nobles County also has a proposal. Pinnacle has a proposal also. We need to talk to Nobles County and Rock county to see what we want to do. The State came out and said they have a contract with us and the money can not be taken away right now. Fenske - Is there pressure to give the money up? Jorgensen - The only pressure is for us to decide what we are going to do. I have talked to the Nobles County Administrator and he told me they need to do more study. They are willing to study whatever possibilities exist and to work with Lyon County. Goodenow - I am not totally convinced we will be able to afford to run this. Jorgensen - I talked to Rowenhorst to make sure the JDC would be included in the jail study.

Buysse - Have you heard anything back from Yellow Medicine County on the letter you sent them about the jail? Jorgensen - They will be discussing at their next board meeting.

Maes - Just a comment about the wood chip situation. I would just like to point out that our insurance carrier has never seen anything like this for a landfill. The County could end up paying all fees involved. Goodenow - Could the wording in the hold harmless be changed to say the County would be as liable as we would be if the waste comes into the landfill? Does any other company have such a hold harmless? Maes - Not that I am aware of. Most landfills are not accepting products of that nature. Jorgensen - My main fear is that someone is going to come back to the County if problems start happening. Ultimately the Board has to make a decision.

Fenske - Congress was good for transportation this year.

Fenske - If anyone would like to attend the dinner and annual meeting for the Private Industry Council on June 11, you need to let me know by tomorrow.

Fenske mentioned chartering our way in the year 2050.

Buysse - There has been a new product developed at MCP for dust control on gravel surfaces.

Buysse moved, Gladis seconded motion to adjourn meeting until Tuesday, June 16, 1998 at 9:00 A.M.

Robert Fenske, Chairman

Attest:

Mark R. Jorgensen
Lyon County Administrator