

LYON COUNTY BOARD OF COMMISSIONERS
LYON COUNTY COURTHOUSE, MARSHALL, MN
September 1, 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.

Buysse moved, seconded by Gladis to approve the minutes for the regular Commissioner Meetings on August 4 and August 18, the Judicial and County Ditches Maintenance Hearings on August 4, and the JD#12 hearing on July 28. All voted in favor.

Fenske - Paula VanOverbeke needs to take the Oath of Office. Jorgensen - As you all know, effective today, I have resigned as acting Auditor and Lisa Zmeskal has resigned as Treasurer. Paula VanOverbeke took the oath of office for Lyon County Auditor and Treasurer. The Commissioners congratulated her.

Ditch Vouchers were presented. Discussion on viewing bills. Vandelanotte moved, seconded by Gladis to approve the ditch vouchers. Gladis - How many hours is it for the ditch cleaning? Hammer - For ditch 60B, a little over a day and a half. All voted in favor.

Fenske - Has ditch 40 been viewed? Art Matthys has contacted me inquiring when it will be done? Hammer - I have talked with him also, and it has not been done yet. Fenske - Matthys understands that there are other projects that have to be finished.

Fenske recessed the regular meeting and called to order a meeting of the Ditch Authority to discuss CD#62 retainage for R&G.

Jorgensen - The engineer received a request from R&G to have the retainage reduced from ten percent down to six percent. You are allowed to drop it down to six percent as long as all parties agree to it. And all sides are in agreement and see no problem with this. I recommend making the additional payment to R&G. Simpson - Basically what is left is seeding and there will be ample retainage left for that. Vandelanotte moved, seconded by Gladis to approve a payment of \$59,041.50 to R&G for work done on CD#62, thus reducing the retainage to six percent. Fenske - There will still be close to \$80,000 left. All voted in favor.

Fenske adjourned the retainage hearing for CD#62.

Fenske called to order the continued hearing for CD#7 maintenance.

Hammer handed out the additional benefits in Section 15, T 113, R 40 for CD#7 IMPR. Hammer - Everything seems in line. Vandelanotte - Additional tile will be their cost right? Hammer - Yes. Discussion on tile size. Vandelanotte moved, seconded by Buysse to approve the additional benefits in Section 15, T 113, R 40 for CD#7 impr. (On file at the Auditor's Office). Buysse - Make sure this is all recorded correctly so down the road someone else can see what happened. All voted in favor.

Jorgensen - Now we need to look at the outstanding loan for CD#7. You were going to look at setting a maintenance levy after this viewing was done. You have two options, you can set an annual maintenance levy or do a separate assessment on the property which is a little more involved. Vandelanotte - This could still cost some more money. Goodenow - Couldn't we do it as an annual assessment this year and revisit the possibility of a lien next year? Jorgensen - We need to collect \$13,139.76 for next year. Goodenow moved, seconded by Vandelanotte to approve an assessment to CD#7 impr that will generate a total of \$13,139.76 for 1999. All voted in favor.

Discussion on letter from Arvid Wendland on JD#10. Goodenow - I think if there is ever any agreement made it should be included that there will be a re-determination of benefits. Maes - Wendland's letter stated that they would not be interested in a settlement until after the Court of Appeals decision. He also asked for a continuance. I believe that will be granted and the trial will probably be pushed back at least six months. I believe the Court of Appeals will have a decision before Christmas. Buysse - Where does Lone Tree Lake empty into? Hammer - JD#24. Buysse - Where does CD#2 drain into? Hammer - CD#2 drains into JD#2, which drains into Lone Tree Lake, which in turn drains into JD#24. Buysse - As you can see there are more issues out there. Maes - I have not heard back from Kramer on the letter I sent. I will try to call him.

Fenske adjourned the CD#7 continued maintenance hearing.

Fenske called the regular board meeting back to order.

Hammer - Need to authorize Fenske to sign the aerator permits for the 1998 - 1999 season. Vandelanotte moved, seconded by Gladis to approve the signing of the aerator permits. All voted in favor.

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Hammer - Don Klein called me and told me that the City of Marshall has declined the culvert option based on a recommendation from the Corps of Engineers. So as it sits now, there will be only one access. Jorgensen - I talked to the City Engineer a week ago and he told me they had an agreement with Klein. Hammer - I talked to Klein this morning. Fenske - We will have to find out what is going on.

Road and Bridge Vouchers were presented. Fenske - What is the Lyon County outlet fee? Voigt - For the Tracy Project. Goodenow moved, seconded by Buysse to approve the road and bridge vouchers. All voted in favor.

Fenske - Now we need to discuss CR#73. Voigt - I asked Tom Behm to be here because he was in on the design. Oeltjenbruns - What year flood event was this designed for? Voigt - Fifty year. Behm explained the development and design. Voigt used a map to explain where the water would be. Behm - There are at least nine structures on Meadow Creek for retention. Oeltjenbruns - We just do not want our situation to get worse. Behm - It is within the design criteria to lower the road a little. Oeltjenbruns - Why ruin our farmland to save a road that is not very highly traveled. It has been questioned why that is even a county road. Voigt - I suggest we wait and see what happens and see if the design works properly rather than start taking clay out right now. Vandelanotte - Couldn't another culvert go in? Voigt - It would have to be a huge one to make a significant difference. We are trying to avoid flooding of the road in a twenty-five or fifty year flood event. Behm - With all the work on the watersheds, I don't think there is as big of a problem as there used to be. Voigt - Isn't there a complication since Federal Funds were used? Behm - I don't think that is a real issue. Goodenow - I think the point Voigt is trying to make is that he would rather use the money to build more retention structures instead of cutting the road off. Oeltjenbruns - We understand that we live in a flood plain, but we do not want it to be any worse. Voigt - I agree with Goodenow that more retention should be built first. Oeltjenbruns - That is fine if they are done in time. Voigt - There are four for sure and potentially five retention structures that I have been working on for this basin and they could be put in within the next couple years. Behm - A possibility is if it gets too bad, the county could cut through the road to release the water. Loren Pihl talked about retentions that he believes need to be done and handed out a map. Voigt - The two projects that Pihl is talking about are viable projects, but they are both on private property. This is fine with me, but the board has indicated in the past that they would rather do the projects first that are associated with public roadways. The ones on private land involve getting easements and maintaining a dam on private property which can be a problem. Fenske - I agree that it is more difficult to put a retention on private property rather than on a public road. I am not saying these are not viable and they could be worked on in the future, but we have other projects right now. Voigt - The fact of the matter is these projects on private property are not a priority. Fenske - Voigt has projects in the works. As far as you men are considered, can we go ahead with the other retentions and see what happens. Oeltjenbruns - If we are guaranteed that if there is a problem, we can cut through the road. Voigt - All I ask is that you let the highway department do the cutting. Discussion on Meadow Creek and the DNR. Oeltjenbruns - We do not want it to get any worse. Fenske - Are you in agreement? Oeltjenbruns - Yes, but would like a written agreement. Voigt - We will cut through the road when the water is above the elevation of a 100 year flood event under the previous bridge conditions. That elevation would be 1125.4. Oeltjenbruns - As long as it is in the minutes then we are satisfied.

Voigt - I need authorization to advertise for highway stripping bids. Vandelanotte moved, seconded by Gladis to authorize advertisement for highway stripping bids. All voted in favor.

Voigt - I also need authorization to advertise for bids on a new pickup which will replace the 1992 Chevy that was purchased in 1991. This was included in my budget for this year. Goodenow - Do you have the specs? Voigt - Yes, we will be asking for bids on an extended cab. Jim Thomasson will be using this truck and he needs more room. Goodenow - Every time a vehicle is bought for the Highway Department, it seems to be bigger and better than the one we are trading in. Fenske - Will you take bids? Voigt - Yes, the specs are written. Gladis moved, seconded by Vandelanotte to authorize the advertisement for bids for a replacement pickup for the highway department. Voting For: Buysse, Fenske, Gladis, Vandelanotte. Voting Against: Goodenow. Jorgensen - Just to let you know, the park needs a different pickup and so does the courthouse and we have been coordinating between departments to work something out.

Voigt - I have the plat for CSAH#13 that needs to be approved. It has been surveyed by Lyle Moseing and myself. Vandelanotte moved, seconded by Goodenow to sign the plat for CSAH#13. All voted in favor.

Voigt - I have a lease agreement with the DNR so we can do highway sloping to help keep the snow off the road. Vandelanotte - What do they have to do with snow removal? Voigt - They own the land where we want to do the sloping. Jorgensen - Do we have to pay a fee for the lease? Voigt - Yes, \$230. Discussion on fee. Goodenow moved, seconded by Gladis to approve the resolution to sign the lease with the DNR to enable the highway department to do sloping on land owned by the DNR (on file at the Auditor's Office). All voted in favor.

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Voigt gave information on a couple training opportunities.

Buysse - How are the bridges in Westerheim coming? Voigt - I am getting things worked out.

Kerry Netzke, Area II, met with the board to discuss a grant agreement. Netzke - Tabor Hoek is here with me also. Netzke handed out the cost break down for the Island Lake 22 Road Retention. It is as follows:

Total Eligible Costs:	\$231,790.15
Town Bridge Funds	\$100,815.00
Area II/BWSR Retention Bonding Funds	\$56,875.00
MN River Basin Joint Powers Board	\$25,000.00
Lyon County	\$49,100.15*

*included in this total are the match requirements.

Netzke - We found out that the Monroe Township Road Retention is a special case and is eligible to be funded 100% by MnDot. Voigt has other projects like this also. Hoek - The MN River Basin Joint Powers Board makes recommendations for the MN River Basin Water Quality Grant and they made the recommendation for this project about one year ago. It takes a grant agreement to secure the funds and everything should be in order. Buysse - This project is on Three Mile Creek. Vandelanotte moved, seconded by Buysse to accept funds in the amount of \$56,875.00 and sign the resolution with Area II for the Island Lake 22 Road Retention Project. All voted in favor. Goodenow moved, seconded by Buysse to accept the MN River Basin Water Quality Grant in the amount of \$25,000 and sign the resolution with the MN River Basin Joint Powers Board for the Island Lake 22 Road Retention Project. All voted in favor.

Fenske - Otter Tail is moving the highline poles and I have had a call on whether the County is going to take over the township road. Voigt - I thought after the traffic counts etc. that it was decided that it was not feasible to take over the township road. Goodenow - Should make sure the lines are as far out as they can be. Voigt - The farmers will not want them too far out.

Meeting recessed.

Meeting called back to order.

General Revenue Vouchers and Special Projects were presented. Discuss D&G bill. Buysse moved, seconded by Vandelanotte to approve the general revenue vouchers and the special projects. All voted in favor.

General Revenue Fund	\$138,684.64
Road & Bridge Fund	\$35,049.50
Landfill Special Revenue Funds	\$186,826.83
Water Projects - Special Revenue	\$82.50
Ditch Fund	\$11,423.43
Total	\$372,066.90
County Revenue	\$43,133.24
Capital Projects	\$95,571.40

Beginning Warrant Number: 320838; Ending Warrant Number: 320934.

Maes - As you all probably know, the EPA complaint has been dismissed due to lack of jurisdiction. As the judge stated in the letter, to be dismissed because of lack of jurisdiction, a complaint has to meet one of two criteria – the penalty has to be less than \$200,000 or the initiation of the administrative action has to be within twelve months. The judge ruled that the second qualification was not met. The judge stated that the statute was very clear. Now we have to wait twenty days to see if the EPA gives it to the administrative appeals board. I think they believed they had a much better case than they actually did. They may appeal it, but I can't believe the environmental appeals board will do anything. The only people hurt by this were the citizens. Buysse - How much did it cost? Jorgensen - Henriksen may have an answer.

Goodenow - I think as soon as we were going to meet with the MPCA citizens board, they switched us to the EPA. Maes - The ruling sends a message to the EPA that the action must be initiated within twelve months.

Maes - I will call Kramer again on the JD#10 matter.

Jorgensen - I have two bills for the Joint LEC. The first one is for Bladholm Construction. The Architect has certified it. Buysse moved, seconded by Goodenow to approve the Bladholm Construction bill in the amount of \$76,741.00 for work on the Joint LEC. All voted in favor.

Jorgensen - The second bill is for legal expenses for bonding. It is in the amount of \$18,560.40. It did get a little complicated because it is a joint project. This will come out of the bond funds. Vandelanotte moved, seconded by Goodenow to approve the legal expenses for bonding in the amount of \$18,560.40 for the Joint LEC. All voted in favor.

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Jorgensen - I have the resolution regarding the Camden Park Boundaries. Goodenow moved, seconded by Buysse to approve the resolution supporting the increase in the Camden Park Boundaries (on file at the Auditor's Office). All voted in favor.

Jorgensen - I have an application for a four day on-sale beer license from the Tracy Area Chamber for a plowing competition that will be held outside of Tracy on the Robert Wielage farm during Box Car Days. The Sheriff and the County Attorney have signed. Goodenow - Who is responsible? Jorgensen - The Tracy Area Chamber. Vandelanotte moved, seconded by Gladis to approve the four day on-sale beer license for the Tracy Area Chamber. All voted in favor.

Jorgensen - Just a point of interest. Lyon County will receive a dividend from MCIT in the amount of \$105,666.00. This is for worker's comp and property and casualty. Fenske - This will be paid in 1999. What do we pay? Jorgensen - In 1999 our property and casualty will be approximately \$120,000 and worker's comp will be around \$105,000. This is a direct reflection on Lyon County's claim rate and the trust as a whole. Buysse - Administration does not eat up a lot? Jorgensen - No, it is very low and spread among all the counties in the trust.

Jorgensen - Right now there is about a 1.5 percent budget increase. Goodenow - Appropriations? Jorgensen - I put them in based on last year. In late November or around the first of December, I will have the organizations requesting appropriations come in and talk to the board. Fenske - You have mentioned that we could buy this down by using reserve for one time purchases. Jorgensen - That is right and I am working on this with the Department Heads. Fenske - At 1.47 percent increase I would bet we are the envy of a lot of counties. Jorgensen - We are under the 1998 levy rates yet. Buysse - Insurance rates? Jorgensen - Some have come in already, but as far as health insurance goes, I suspect we will see an increase. I have already figured this into the budget. Buysse - Does MCIT deal with health insurance? Jorgensen - They are phasing it out.

Fenske presented Lisa Zmeskal with a plaque for four years of dedicated public service to Lyon County. Fenske - Thank-you for your service, it has been greatly appreciated. Zmeskal thanked the board. Zmeksal - I was in today and showed Paula some things and I let Paula know that if she had any question she could certainly call me. The board thanked her once again.

Jorgensen - I gave you all some information that I pulled from the Star Tribune dealing with cost of living. This may be of some help when trying to decided a COLA for next year. I am trying to track something down specifically for Minnesota.

Jorgensen - At the last meeting, the board approved a grant application for the VSO to purchase a lap top computer. The State has approved the grant and the money will be here within four weeks.

Jorgensen - The Southwest Ridge Runners are applying for the grant through the DNR again this year.

Fenske - The SWRDC has a land use grant available that could be applied for. Jorgensen - I will pass it on to Hammer, it could possibly be used for Planning and Zoning.

Jorgensen - I have a packet of information from the SWRDC which describes their services, if anyone is interested in it.

Jorgensen - I also have a packet on the DM&E railroad. The surface transportation board opened things back up for public comment. The last meeting I was at we talked about a joint meeting with DM&E and Redwood, Lincoln, and Lyon counties. Fenske - It is interesting that DM&E has not come to any of the three Lincoln County meetings that they have been invited to. Gladis - Maybe the cities that the railroad actually runs through should be invited also. Buysse - Apparently they need an official invitation. Jorgensen - I will try to get this meeting set up.

Jorgensen - I gave you all a copy of the handout Faces of the Future. This is population projections. This is a very interesting handout, and if you look at it, Lyon County is really not slated to lose a significant amount of population.

Jorgensen - You are all invited to breakfast with Bob Bergland at the SSU Student Center at 7:30 A.M. on September 10.

Jorgensen - I have received a letter of request for support from the group that helps supply success. They get school supplies to the needy. It is up to you if you want to do anything with it.

Gladis moved, seconded by Vandelanotte to approve the per diems for Fenske (\$135), Gladis (\$45), Vandelanotte (\$65), and Goodenow (\$40). All voted in favor.

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

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Henriksen - I have the final payment request from Schmidt Construction which includes a change order for work on the man hole. The reason we are having them do it is that they were so late in finishing their work it was easier to have them do it. The payment request is \$126,481.95. The change order is in the amount of \$3,978.75. And if you remember, we are penalizing them because they project was not finished on time so we subtract \$12,819.00 for liquidated damages. The total payment then becomes \$117,641.70. Fenske - Are they all done? Henriksen - Yes. Fenske - Has SEH approved? Henriksen - Yes. Gladis moved, seconded by Goodenow to approve the final payment to Schmidt Construction in the amount of \$117,641.70. All voted in favor. Jorgensen - I also recommend you approve the change order. Gladis moved, seconded by Buysse to approve Change Order Number Four for Schmidt Construction for work at the landfill. All voted in favor.

Henriksen - Diane Mitchell has resigned. Goodenow - Now we have to hire someone new for the grant? Henriksen - Yes.

Henriksen - I am sure you all know the case was dismissed. A rough estimate of what it cost us is about \$40,000. Fenske - It did cost us some money, but this is a much better result.

Gladis talked about the AMC meeting he attended and the way the associations may be sharing some class time.

Goodenow - I had another idea for space development on the third floor. Would there be enough room to offer some space to Western Community Action. Gladis - Are they private? Goodenow - Private and non-profit. Jorgensen - Who do I contact? Fenske - Carol Moseing. Goodenow - This would fit in with our plan.

Fenske - At the Regional Development Conference we talked about demographics.

Discussion on ditch meeting this afternoon.

Buysse - I was at the JD#24 meeting in Granite Falls and the railroad thing is going to go through and the elevator is going to pay. It is all in writing.

Buysse - This is our first day with a genuine 100% County Administrator. Now we are set to go ahead with developing a policy manual. Jorgensen - I can begin to do things now that I was hired for three years ago.

Buysse moved, Gladis seconded motion to adjourn meeting until Tuesday, September 15, 1998 at 9:00 A.M.

Robert Fenske, Chairman

Attest:

Mark R. Jorgensen
Lyon County Administrator