

LYON COUNTY BOARD OF COMMISSIONERS
LYON COUNTY COURTHOUSE, MARSHALL, MN
September 15, 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 Joel Carlson right away.

Carlson - Around September 2 or 3, I was advised that the EPA had filed a Notice of Appeal with the Environmental Appeals Board. Their basis for the appeal is that the ruling affects a significant number of clean air cases across the Country. The board is made up of three members who are all former council to the EPA and are employees of the EPA. The EPA asked for and received a forty-five day extension to file the brief. The brief will be due October 30. After that, we get fifteen days to address it; though yesterday we also asked for an extension. This issue of national significance received not one word in the post-trial brief and only a paragraph in the reply brief. There is really no written record to rely on in the appeal. If there would be oral arguments, which there usually isn't, they would be in Washington, D.C. I have reviewed seventeen opinions from this board and there were no ALJ's decisions overturned. There will be additional cost, but not significant at this point. Fenske - Could you comment on filing for recovery of cost? Carlson - There is a Federal Law called the Equal Access to Justice Act. Where parties sued by the government have the right to try to reclaim the costs when the government does not prevail. We can not do this right now because a decision is not in yet, but I am looking into it. Carlson - If they win with the appeals board, will there be a new hearing? Carlson - No. We would have appeal rights then. Goodenow - If they lose, are they done? Carlson - They can appeal into a Federal District Court, but that is very risky. I would like to comment that the landfill looks great, it is by far the best one I have worked with. Fenske thanked Carlson for coming.

Ditch Vouchers were presented. Discussion. Goodenow moved, seconded by Buysse to approve the ditch vouchers. All voted in favor.

Hammer presented a Conditional Use Permit for Northern Border Pipeline Company. Hammer - The Coon Creek Township Board and Planning and Zoning Commission have recommended approval. Vandelanotte moved, seconded by Buysse to approve the Conditional Use Permit for Northern Border Pipeline Company to install a new Town Border Station to provide delivery to NSP for Tyler, Minnesota area. On property owned by Eldred and Audrey Swanson in Coon Creek Township. All voted in favor.

Hammer - Dennis Devereaux is here with an update on CD#69. The concern here is that when Steve Maertens' land goes into RIM, if the ditch needs to be cleaned out, the part on his land will have to be excluded. Devereaux - The ditch system offered to pay him \$1500/acre for 33 feet beyond the 16.5 foot permanent easement. He wants \$2000 and will accept nothing less. He has told me that when the land goes into RIM, there will be a re-determination of benefits. Hammer - Can't just re-determine on some of the land, would have to be a total re-determination. Vandelanotte - Must be careful when paying for land by ditches, because this will set a price for buying it. Devereaux - His land floods and he has \$16,000 worth of benefits. That is his major gripe and I guess I don't disagree with that. I told him we would have to concentrate on the first 16.5 feet. Vandelanotte - While in RIM, we can still go and clean. If he decides to sell to the DNR, we could refuse. Buysse - If the ditch system decides to buy 16.5 ft on both sides, will we need an appraiser? Hammer - Yes. Fenske - Purchase the first 16.5 feet? Devereaux - That is up to the board. Hammer - The fear is that the ditch system won't work if can't control that part of the system. Devereaux - Maertens gripe at the last meeting was that the levy was so high. I did mention last year that the board should levy 2.5% one year and 2.5% the next so it wouldn't be all at once. Fenske - 5% was already levied. Discussion on RIM and benefits. Devereaux - If we ever wanted to clean it out, could he stop us? Jorgensen - No. The ditch authority has the option to buy a one rod grass strip, but would it be necessary to buy it along the whole ditch? And is the ditch system ready to pay for that? Devereaux - We have also heard there may be an assessment if JD#24 is re-determined. Hammer - Yes, there may be. Devereaux - Just wanted you to be aware what is going on with this. Fenske thanked Devereaux for coming.

Dennis Simpson - I am here to request that you move forward with the improvement project for JD#15 L&R. Harrelson ruled in favor of the board and both appeal times have gone by. That order stands. I would ask that the three Commissioners from Lyon County and the two Commissioners from Redwood County meet and call for bids on this project. If the appealing landowners don't like this, they can file for injunctive relief which requires a bond. This project has been pending for five years and it is time to move ahead. Maes - I do not need a brief from you. I recommend you arrange the meeting and call for bids. Simpson - There was an opportunity to appeal and they have both run out. Maes - This does not mean it will go on for sure. I don't know why we should sit and wait. Buysse - In the JD#10 case in Yellow Medicine County, there was an injunction and that's when the charges started climbing. Vandelanotte - Do not want this to happen again because people are spending money for nothing. Fenske - Can we set a hearing? Jorgensen - Need to recommend dates that I can suggest to Redwood County. Discussion on possible dates. Jorgensen will suggest October 12, 14, or 15.

LYON COUNTY BOARD OF COMMISSIONERS
LYON COUNTY COURTHOUSE, MARSHALL, MN
September 15, 1998

Simpson - I also have issues with Ditch #11, but I will discuss them with Hammer at this time.
Hammer - There was a levy for the cleaning of Ditch #11. I have employed someone to go do the staking which is done and now we are moving toward taking bids.

Randy Jorgensen met with the board to discuss emergency weather service coverage. R. Jorgensen - This is an opportunity for the government to help further protect the citizens. Lyon County is not served through NOAA. You now have the opportunity for the National Weather Service Radio to give you all hazardous information and it could be available to all citizens. The cost on the upper end for this would be \$300,000. The Countys share would be 25% of that. This 75:25 split is available now. There are approximately 9000 households in Lyon County. The central transmitter may be located off the Public Television transmitter by Chandler. There would be smaller transmitters located throughout the County. My intention is to have coverage for all the counties. Tammy VanOverbeke - I have been approached by citizens of Lyon and Lincoln County for the last five years about this. I have been approached especially by lake home owners and people who live in the rural areas asking if this could be available. We have been talking about this for a long time and now with this grant, this is a golden opportunity that will probably not come up again. We have been doing a lot of work on this and are trying to get a tower site which would be donated and the National Weather Service will maintain. We do not want to get into the private sector if we do not have to because of the costs involved. There has been a big need and want for this as long as I have worked for Lyon County. Fenske - What is the time frame? R. Jorgensen - Would like to have completed in six to nine months. Buysse - Who will activate the radio? T. VanOverbeke - The National Weather Service in Sioux Falls. They have been very active in this process. Fenske - It really isn't a lot of money. Would the funds be required this year or is this something that would come out of 1999 budget? R. Jorgensen - The money would probably be needed this fiscal year. T. VanOverbeke - My contention has always been to use common sense, but this is just another tool to help protect the people. Gladis - Think this is something that the government should do. I would be in favor of this. Gladis moved, seconded by Fenske to incur twenty-five percent of the costs associated with Emergency Weather Service Coverage. The costs will be approximately \$1.50 to \$2.00 per household with an approximate total of 9000 households. This is contingent on the other counties taking advantage of this. Buysse - T. VanOverbeke, do you recommend this? T. VanOverbeke gave reasons why she is in favor. Voigt - This is the same information we have on the DTN, but with this system, we can tune our FM radios in the equipment to this. I strongly recommend this. All voted in favor.

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

Voigt - Need to open highway stripping bids. Jorgensen - We received only one bid. Voigt - The bid is from Traffic Marking Services out of Buffalo in the amount of \$39,386.25. This bid looks fine. Discussion. Vandelanotte moved, seconded by Buysse to approve the highway stripping bid from Traffic Marking Services in the amount of \$39,386.25. All voted in favor.

Voigt - The TEA21 satellite down link could not be set up here. I have asked Lincoln County to tape it for me. So we can set up a time to view it when that is done.

Voigt handed out a cash flow update.

Discussion on MnDot meeting in Willmar and who will attend.

Buysse - How are you coming on the Westerheim bridges? Voigt - I met with Billy Thomas yesterday. The design is pretty much finalized and we will be assembling the plan and get it ready to send to the State for approval. Buysse - Are you designing for a twenty-five year event? Voigt - Yes.

Chrystal Roder from the Prairie Ecology Bus Center met with the board and showed a slide presentation. Roder - This is the only environmental learning center in Southwest Minnesota. We are a non-profit organization. The Bus is the only one in North America. It has a 32 person capacity. It is equipped with all the necessary things to study the environment and it even has an electric incinerating toilet. What we do is go to the school and pick up a classroom of students. We bring the students to a natural area usually within 20 minutes of the school. Not only do they learn about the environment, but they also learn how to work cooperatively. We also do teacher workshops and community programs. The learning center is open year round and we have as many programs in the winter as in the summer. We would like to expand the community programs. Our funding comes in part from user fees and we get other funding from grants, donations, etc. In Lyon County there are around twenty schools and only about a half dozen of those have used us. We need to find a way for the schools to come up with their user fees. Buysse - Do you ever park on the edge of a corn field and study? Roder - We do have an ag program but it is not utilized a whole lot. Gladis - How do you market yourselves. Roder - We send out newsletters and we also go and visit the schools. Appropriations discussed. Fenske - How long have you been with the center? Roder - I took over the director position in July. Vandelanotte - How expensive is it to use the bus? Roder - \$390 per day in the peak season and

LYON COUNTY BOARD OF COMMISSIONERS
LYON COUNTY COURTHOUSE, MARSHALL, MN
September 15, 1998

\$325 per day in the off season for our twelve county service area. We do go out of the area, but the fee is higher because then we usually have to stay overnight. Vandelanotte - How many instructors do you have? Roder - Two right now, but we are looking at getting another one. Fenske - A couple years ago, the County had appropriated \$2000 for this center. Last year we added another \$2000 to be used directly by the schools. Jorgensen - I am not sure any of it was used. Gladis - One of my main concern was letting the schools know that the money is available. Goodenow suggested contacting Plum Creek for possible summer programs. Discussion on being at the fair. Jorgensen - The entire appropriation from last year was used. I am not sure if it was for the bus. Discussion on structure of the organization. Gladis - I would like a report to see what happened last year in Lyon County. Fenske thanked Roder for coming.

Senator Arlene Lesewski was a special guest at the meeting and the commissioners briefly discussed ditches with her.

Meeting recessed.
Meeting back to order.

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

Henriksen - We had the regional landfill meeting last week and it was recommended that tipping fees stay the same. It was also recommended to leave the budget as is. We will also be purchasing some equipment one of which will be a MadVac which is like a huge shop vac. Henriksen passed out a picture of the vac.

Henriksen - We again have the \$25,000 available from the Greater MN Landfill Cleanup Fees to give back to the counties. Discussion on reducing tipping fees and why not a good idea. Vandelanotte moved, seconded by Buysse to give the rebates back to the counties from the Greater MN Landfill Cleanup Fees. It will be distributed as follows:

<u>COUNTY</u>	<u>TONS (1/98 - 6/98)</u>	<u>REBATE</u>
Lyon	8,760.72	\$10,670.00
Lac Qui Parle	876.41	\$ 1,070.00
Lincoln	945.94	\$ 1,150.00
Pipestone	2,445.86	\$ 2,980.00
Redwood	3,755.61	\$ 4,580.00
Rock	1,674.21	\$ 2,040.00
Yellow Medicine	<u>2,058.39</u>	<u>\$ 2,510.00</u>
	20,517.14	\$25,000.00

This rebate must be used toward recycling. All voted in favor.

Henriksen - I have the quotes for hauling 12,000 cubic yards of cover to the landfill from the Russell Demo site. They are as follows:

Ardeen Tolk Graveling	\$1.65/cy	\$19,800
SW Excavating	\$1.75/cy	\$21,000
D&G Excavating	\$2.85/cy	\$34,200
R&G Excavating	\$2.40/cy	\$28,800

Henriksen - Recommend approval of the bid from Ardeen Tolk. Vandelanotte moved, seconded by Goodenow to approve the bid of \$1.65 per cubic yard from Ardeen Tolk for hauling cover to the landfill from the Russell Demo site. All voted in favor.

No-Moss Construction has been putting the high line poles in at the landfill for the fence. We have run out of poles from Lyon-Lincoln and No-Moss has made an offer. We need about 30 more poles. No-Moss proposed charging \$135/pole and he would bring the poles in and set them at the eight foot depth. His quote includes the cost of the pole. I am going to contact Lyon-Lincoln to see if they have any more poles, but when I talked to them last time, they could not promise anything. Vandelanotte - Will you transplant the evergreens this year? Henriksen - Yes, in late September or early October. Vandelanotte moved, seconded by Goodenow to authorize the purchase and installation of 30 more poles for the landfill from No-Moss Construction. All voted in favor.

Gladis - I just wanted to mention that Sharon does a great job. Buysse - Yes, she was a good find.

Terry Renken from the Yellow Medicine River Watershed Board met with the board to discuss Lyon County sponsoring a grant. Renken - We applied for a grant through the Board of Water and Soil Resources and we are required to have a County as the sponsor. Hammer and Rose Anderson from Soil and Water agree that this would be a good idea. We plan to use the grant to do a level two feedlot inventory for the Yellow Medicine Watershed District. We have requested a \$11,600 grant. Yellow Medicine Watershed District is putting in \$13,000 in-kind. Lyon County has no money or time requirement. Fenske - Who administers the grant? Renken - We do. Buysse - 21.9% of Lyon County is in the Yellow Medicine River Watershed. Goodenow - How does your survey fit in with the rest of the County? Renken - We are working with Hammer

LYON COUNTY BOARD OF COMMISSIONERS
LYON COUNTY COURTHOUSE, MARSHALL, MN
September 15, 1998

and Anderson. Goodenow - Will it work for what the State wants this year? Renken - The State is only requiring a level one survey which is windshield surveys. Level two is more in depth where we actually visit with the landowner etc. but it is not as in depth as a level three where more testing is done. Anderson - They are getting close to doing a level three survey. We believe a level two survey will probably be required eventually anyway and this way they will do 21.9 percent of Lyon County and that leaves less for us to do. Fenske - Can we use this for the State? Anderson - The data will be available in our office from this survey also. Buysse - Do we have to do this? Renken - The State right now is requiring a level one survey. Buysse - Does it have to be done this year. Hammer - Yes. Fenske - How soon will your survey be completed? Renken - Hopefully by this time next year. Fenske - So we will not be able to use this survey for the State's requirement this year. Vandelanotte moved, Buysse seconded motion to sponsor the grant for the Yellow Medicine River Watershed District. Buysse - The Yellow Medicine River Watershed is paying for this themselves. Hammer - Are Lincoln and Yellow Medicine going along? Renken - We only need one sponsor. All voted in favor.

General Revenue Vouchers were presented. I would recommend excluding the bills from the Computer Man and Davis Typewriter for the Court Administrator's Office because one is for a network printer which the State told me they were paying for all network costs and the other is for a work station which I suspect is for the new law clerk and I am not sure who will pay for that. Vandelanotte moved, seconded by Buysse to approve the general revenue vouchers excluding the bills from the Computer Man and Davis Typewriter for the Court Administrator's Office. All voted in favor.

General Revenue Fund	\$39,792.35
Road & Bridge Fund	\$114,282.05
Landfill Special Revenue Funds	\$16,070.44
Ditch Fund	\$4,807.48
Total	\$174,952.32

Beginning Warrant Number: 321013; Ending Warrant Number: 321136.

Jorgensen - Krause received quotes for a new boiler at the Group Home. The lowest quote was from Regnier Electric in the amount of \$2,800. Gladis - When will they get it put in? Jorgensen - My understanding is right away. Gladis moved, seconded by Vandelanotte to approve the quote from Regnier Electric in the amount of \$2,800 for a new boiler for the Group Home. All voted in favor.

Jorgensen - I have the labor agreement here between Lyon County and the LELS who represent the deputies. LELS has signed. I have reviewed and I recommend approval. Discussion. Gladis moved, seconded by Goodenow to approve the signing of the labor agreement with LELS. Goodenow - Is this only good until January? Jorgensen - It will be good until December 31, 1998. All voted in favor. Buysse - Do we need to re-hire Smythe? Jorgensen - He does a good job, but we don't need to re-hire at this point.

Jorgensen - I have an application for payment number 2 from Holm Brothers Plumbing and Heating for the Joint LEC in the amount of \$10,041.50. The architect has signed off. Goodenow moved, seconded by Vandelanotte to approve payment number two in the amount of \$10,041.50 to Holm Brothers Plumbing and Heating for the Joint LEC. All voted in favor.

VanOverbeke asked that we change the possible hearing date for JD#15 L&R so it won't be the same week that final payments for real-estate taxes are due. She said if not, she will be able to work around it. Discussion on which dates to suggest to Redwood County. Jorgensen will suggest October 26, 27, or 28 and let the board know.

Jorgensen - Will November 19 work for a strategic planning retreat? It will be an all day thing. Everyone's schedule was open. Jorgensen - I will let you know for sure if that date will work.

Jorgensen - You all received draft number four of the budget. There is a little bit bigger increase and the reason for that is that health insurance has increased 12.8 percent. You do need to approve the preliminary levy today. It would be a two percent increase which would set the preliminary levy at \$6,162,844.00. There are a couple things that need to be solidified before the final. Goodenow - We are well within our levy limits. Jorgensen - Just a point of information. Over the last three years Lyon County's budget increase has been at or below inflation. This is good for the taxpayers, but it also means that programs are losing. Goodenow moved, seconded by Gladis to set the preliminary levy at \$6,162,844.00 which reflects approximately a two percent increase. All voted in favor.

Jorgensen - I gave you a list of board and committee appointments that will have to be made. You need to decide whether we should advertise for the openings.

Jorgensen - I also gave you a list of the current per diems. They will have to be reviewed and approved at the first meeting in January.

LYON COUNTY BOARD OF COMMISSIONERS
LYON COUNTY COURTHOUSE, MARSHALL, MN
September 15, 1998

Jorgensen - I believe you all received the information from DM&E. On Friday October 2, Lyon and Lincoln Counties are invited to ride the train. Arlene Lesewski - If you can invite a guest, I would request to go on the train ride. It is very interesting that I was not informed of this. It would be nice to know how the people at the local level feel. Voigt - At the Transportation Alliance Meeting last week, I talked to the City Administrator from Rochester and they are doing a study on the effects this will have to Rochester. He said this is the time to get into negotiations with DM&E. The railroad is supposed to be doing impact studies, but I have been told we would probably get their report at the last minutes. Jorgensen - Mr. Schaefer is telling people they are willing to do what is legally necessary and what is legally necessary is next to nothing. I have been told he will tell you what you want to hear without actually committing to anything. I would like to have Mr. Schaefer come to one of our meetings. I could request that he come to one of our next meetings. Fenske - I have heard they are a long way off on the money they need. Voigt - They have the pledges. Jorgensen - Pledges, no money. Vandelanotte - We do need transportation! We need to be able to move our crops etc. Buysse - When the first railroad came through, they fought about it also. Lesewski - Once it is built, what will it cost to ship on it and will we even be able haul grain on it? If there is heavier traffic, there will be requests to close crossings. I have a packet of concerns from Rochester. There are a lot of unanswered questions about safety. I think it is important for me to know what the impact on the small communities will be. It is important for the local level to have their opinion. How long will taxes go into this? Vandelanotte - We have to look at the long run. Transportation is needed here. Lesewski - We are lacking in transportation here, but we have to have these questions answered.

Goodenow moved, seconded by Buysse to approve the per diems for Gladis (\$70), Vandelanotte (\$50), and Fenske (\$85). All voted in favor.

Commissioner Reports:

Gladis - At the Restorative Justice Coalition, there was a Community Plus Program report, and at the Group Home meeting we discussed staffing concerns. We had a fair board meeting and the main show lost a lot of money. Everything else either broke even or made money. I believe the Ecology Bus is a necessity for next years fair even if we have to use some of the appropriations to pay for it. I also attended the Public Health Meeting last night.

Voigt came to have contracts signed for the Highway Stripping.

Buysse mentioned attending an Area II meeting.

Buysse moved, Gladis seconded motion to adjourn meeting until Tuesday, October 6, 1998 at 9:00 A.M.

Robert Fenske, Chairman

Attest:

Mark R. Jorgensen
Lyon County Administrator