

LYON COUNTY BOARD OF COMMISSIONERS
LYON COUNTY GOVERNMENT CENTER, MARSHALL, MN
August 20, 2002

Meeting called to order by Chairman Fenske. Members present: Buysse, Fenske, Gladis, Goodenow, Nelson, County Attorney Maes, County Auditor/Treasurer Van Overbeke, and County Administrator Lewis.

Pledge of Allegiance to the Flag.

Agenda approved with the addition of the following: request approval of a MACDO Invoice, Krause will discuss quotes for motor pool, request to authorize Anderson to have Power of Attorney to sign FSA documents on behalf of the county, discuss RSVP Joint Powers, discuss courthouse maintenance and discuss technology issue for the PW building.

Ditch Vouchers were presented. Hammer – JD#31L&L has a negative balance. This bill is for spraying the ditch and it really needed to be done. The negative balance is because of the tile. Goodenow – Do we need a loan agreement? Van Overbeke – Yes. Hammer – JD#18 L&R also has a negative balance. Goodenow – We will need to make a loan to this ditch also. Goodenow moved, seconded by Gladis to authorize the Auditor/Treasurer to set up loans to JD#31 L&L and JD#18L&R. Discussion. All voted in favor. Nelson moved, seconded by Buysse to approve the ditch vouchers. Hammer – CD#24 will have a negative balance of \$900, but we can discuss that at the Annual Ditch Hearing on Thursday. All voted in favor.

Conditional Use Permits were presented.

After the Fact CUP – R&G

Fenske – Why after the fact? Biren – The gravel pit has been there for some time, but they have been in business long enough to know that they should have checked. Hammer – There was a CUP to operate in 1980 and when R&G bought it, they thought the CUP was with it, but they are nontransferable. R&G did make application before they started using it. Fenske – One member of the Planning and Zoning Commissioner opposed it. Margaret Barker, Planning and Zoning Commission, gave reasons why she had voted against it.

Goodenow moved, seconded by Buysse to grant an After the Fact Conditional Use Permit to R and G Construction to extract earthen materials from land zoned agricultural. The land is located in the SE1/4 NE1/4, Section 20 of Custer Township. With the following stipulations:

1. Conditional Use Permit is granted for a period of 5 years, renewable.
2. A minimum of 6" of topsoil must be stockpiled and used for cover material.
3. Reclaiming and leveling of land is to be done as work progresses.
4. Grade site, to include access road, after extraction is completed so as to render it usable, seeding required to avoid erosion and an unsightly mar of the landscape.
5. Must maintain a backslope of 4:1 or flatter.
6. Responsible for maintenance on roads that trucks will be hauling on.
7. Responsible for dust control on haul roads.
8. A copy of the Lyon County Board of Commissioner's Motion shall be filed with the County Recorder's Office along with the legal description of the property. Additional fees to be paid by the applicant for the actual costs incurred by the county for the recording fees.
9. Conditional Use Permit is non-transferable.
10. Applicant to pay an After the Fact Conditional Use Permit Fee.

Barker showed pictures of the site. Nelson pointed out that it was Barker that was responsible for the seeding along the driveway.

Voting for: Goodenow, Buysse, Fenske, Gladis, Nelson

CUP – Ken Louwagie

Benson – The motion for the board's approval is slightly different than the one received by the board. The one that is read by Biren will be the one to be approved. Hammer – Monroe Township did approve of this one. Fenske – What I understand is that he is replacing an old nursery building. Hammer – It will be larger than the old one. Goodenow – We had quite a lengthy discussion at Planning and Zoning about this. Margaret Barker – The site was grandfathered in, not the building. The odor comes right into Garvin Park. I am concerned about the health of the neighborhood. We have had opposition from a number of neighbors. It is changing our way of life. The odor prevents me from raising strawberries. Fenske – How close are you? Barker – About a half of a mile. Fenske read a letter from Roger Trulock, one of the closest neighbors, not opposing the expansion. Biren – We just received this letter and one other so they were not available at the planning and zoning meeting. Jack Miller – I have a petition signed by eighteen neighbors against this. Fenske – We all received a copy of that. Doom – There is some concern about air quality at Garvin Park. JV Christianson – You should be aware that the Planning and Zoning Chair made the statement that 'we let the MPCA do their thing and we do ours'. I think guidance is needed for current testing. Nelson – I talked with Ken Schiller, one of the neighbors, and he said if he wanted to expand his business, that he would not want someone to stop it. Hogs were there long before the houses were. This site was grandfathered

in and it is not a finishing barn, it is a nursery. In my opinion it will not alter the situation drastically. This nursery fits right into his operation. If this had been a finishing barn I would have voted against it on this eight acres. I would also express that I would more than likely oppose any further expansion. Louwagie – Do I have to decide that now? Goodenow – I don't think we can restrict him from applying for another CUP in the future. There is a specific requirement that it must meet MPCA requirements. Biren – Test results were done prior to the last expansion. I talked with a representative from the MPCA and he did not feel that this expansion would drastically increase the hydrogen sulfide. The only reason it is on the agenda is because of the set back. We are in a process of making our ordinances mirror the land use plan and we are willing to take comments during this process. Fenske – Steven Schenkoske has also sent a letter stating no objection. Discussion.

Fenske moved, seconded by Buysse to grant a Conditional Use Permit to Ken Louwagie to expand an existing feedlot. Feedlot will not meet setback requirement from an existing rural residence. Distance from existing rural residence is 1200.0 feet. Setback Requirement for this expansion is 1552.0'. Land is located in the Northwest Quarter, Section 6 of Monroe Township. With the following stipulations:

1. The permit holder shall comply with all laws, rules, and regulations as they apply to the project.
2. Dead livestock shall be stored and rendered in a manner that will not create a nuisance. Disposal by burial is not allowed.
3. An inspection pipe shall be provided on the outlet of the perimeter pit tile line.
4. The permit holder shall install a warning sign at all entrances to the concrete pit. These signs shall warn the reader of the dangers of entering the pit.
5. All animal wastes from the proposed livestock barn shall be applied according to the manure management plan approved by the MPCA.
6. The concrete pit design shall be submitted to the Lyon County Zoning office prior to construction. Plans showing these details shall be submitted and approved prior to a building permit being issued.
7. The Lyon County Zoning Office shall be contacted three days prior to commencement of the construction of the concrete pit.
8. The permit holder shall retain a record of the locations at which all manure from this operation was land applied. These records shall be kept for no less than 5 years from the date of the land application, and shall be submitted to the Lyon County Zoning Administrator upon request.
9. No construction on the pit may be done between October 15th and April 15th unless written approval is granted by the Zoning Administrator.
10. Prohibit spreading manure from February 15th through May 15th.
11. Must submit a copy of the Feedlot Permit from MPCA to the Zoning Office prior to a building permit being issued.
12. Distance from the existing rural residence is 1200.0 feet.
13. This Conditional Use Permit is for an additional 60 animal units. Applicant can apply for a Conditional Use Permit(s) for the additional 440 remaining animal units to the total 500 animal units allowed.
14. Conditional Use Permit is non-transferable.
15. A copy of the County Board's Motion shall be filed with the County Recorder's Office along with the legal description of the property. Additional fees to be paid by the applicant for the actual costs incurred by the county for the recording fees.
16. Manure must be applied at least 600 feet from existing rural residences.

Gladis – I would just like to say, if I am still on the board and another ones comes up, I would probably oppose it.

Voting for: Buysse, Fenske, Gladis, Nelson. Opposed: Goodenow.

Rezoning request denial – Don Klein

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Hammer – The township actually approved this. Biren – The staff has also approved it. Fenske – I am not sure why Planning and Zoning denied it. I understand Hammer and Biren recommended splitting this off. Biren – The reason they gave is that the ordinance does not mirror the land use plan. Goodenow – This was supposed to be used for flood control and green space in the initial negotiations. We intentionally left it zoned agricultural. We also objected when lots were filled. We did not want to have wetland area filled. That being said, it is filled and it looks like you could split it off, but it will probably be prone to flooding. The remaining portions of Outlot A&B would remain green space. Biren – I don't feel comfortable with leaving it agricultural because it would just need a \$25 building permit to build something. Klein – Outlot 1 is higher. Member of the Audience – I am the one that would like to build there. We are only asking for the rezoning of two and three. The township and the housing association have approved it. Lot 1 is not part of my issue. Fenske – Lot 3 has been filled? Hammer – Yes, all three lots have been tested and lots 2 and 3 are buildable and can have a septic system. Lot 1 was totally filled and not buildable because it has as much as four feet of fill on it. Goodenow – I would be willing to rezone lots 2 and 3 and the rest will stay green space. Fenske – Hammer does not consider Lot 1 buildable so you would not be able to get a building permit. Gladis – We did discuss green space when this plat first came to us, but apparently it was not written down anywhere. Every area that is developed as rural residential should have green space. I am really only in favor of rezoning Lot 3. Goodenow – Need a street light on the intersection of Highway 23 and Prairie View Ct. That needs to be taken care of before anything else because it is not in compliance. Nelson – I could go along with 2 & 3.

Goodenow moved, seconded by Nelson to approve a Rezoning request to Don Klein to rezone part of Outlot B of the Klein Addition from Agricultural to Suburban Residence, Part of Section 18, Lake Marshall Township. Voting for: Goodenow, Buysse, Fenske, Gladis, Nelson

Goodenow moved, seconded by Nelson to grant a Preliminary Plat to Don Klein for part of Outlot B of the Klein Addition to Klein First Addition, Block One, Lot 3, Section 18, Lake Marshall Township. With the following stipulation:

1. Lighting to be installed at the Intersection of State Highway 23 and Prairie View Court prior to the final plat being approved.

Voting For: Goodenow, Buysse, Fenske, Gladis, Nelson

CUP – Charter Communications, Monroe Township

Discussion on lighting language.

Goodenow moved, seconded by Nelson to grant a Conditional Use Permit to Charter Communications to continue cable television service on land zoned agricultural and to construct a 14'x20' headend building to replace a present building. The land is located in the Northwest Quarter, Section 27 of Monroe Township. With the following stipulations:

1. Conditional Use Permit is granted for a period of 5 years, renewable.
2. Site must be kept clean (weeds controlled).
3. If Charter Communications does not use tower for one year, they are responsible to remove the tower.
4. Must apply for a building permit for the headend building prior to construction.
5. Tower will be fenced with a 6' cyclone fence with angled top.
6. A copy of the Lyon County Board of Commissioner's Motion shall be filed with the County Recorder's Office. Additional fees to be paid by the applicant for the actual costs incurred by the county for the recording fees.
7. Conditional Use Permit is non-transferable.
8. When lighting is required and permitted by the FAA, it shall be oriented inward so as not to project onto surrounding residential property.

Voting for: Goodenow, Buysse, Fenske, Gladis, Nelson

CUP – Charter Communications, Rock Lake Township

Discuss lighting requirement

Goodenow moved, seconded by Gladis to grant a Conditional Use Permit to Charter Communications to continue cable television service on land zoned agricultural and to construct a 14'x20' headend building to replace a present building. The land is located in the Southwest Quarter of the Southeast Quarter (SW1/4SE1/4), Section 22 of Rock Lake Township. Land is leased from Francis Timmerman. With the following stipulations:

1. Conditional Use Permit is granted for a period of 5 years, renewable.
2. Site must be kept clean (weeds controlled).

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3. If Charter Communications does not use tower for one year, they are responsible to remove the tower.
4. Must apply for a building permit for the headend building prior to construction.
5. Tower will be fenced with a 6' cyclone fence with angled top.
6. A copy of the Lyon County Board of Commissioner's Motion shall be filed with the County Recorder's Office. Additional fees to be paid by the applicant for the actual costs incurred by the county for the recording fees.
7. Conditional Use Permit is non-transferable.
8. When lighting is required and permitted by the FAA, it shall be oriented inward so as not to project onto surrounding residential property.

Voting for: Goodenow, Buysse, Fenske, Gladis, Nelson

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

Benson handed out a report to the board and audience dealing with construction at the landfill. Benson - The original contract was ninety working days. On July 17th the contractor agreed to a restriction of work hours and days, this led to a 15 working day extension. The completion date was expected to be September 30th. The contractor did choose to start before eight and work after five on occasion. The County does not condone this and the contractor sent a letter explaining why he had to do it. The noisiest work should be completed this week. Construction is like farming, it is very weather dependent. After a lot of thought, I recommend that working hours be from 7:00 AM until 8:00 PM for the remainder of the project. The contractor has stated that he will not finish by September 30th with the current restrictions. The pipe installation needs to be done at night when the landfill is closed. Lora Lindsley - When we first agreed on eight to five, I did not realize that the ramifications to the County had not been considered. This has impacted our lives drastically. It's not that we don't want to work with you, but it is our land and our lives. We need to be able to live there in peace. Doug Lindsley - You just can not understand how the constant roar of those machines affects us. Fenske - We have to look out for everyone in the county. Lora Lindsley - You could have built in a different direction. We should have been included in the decision making. Doug Lindsley - Isn't the board's word worth anything? Fenske - There has been rain delays. Doug Lindsley - You're telling me they can't complete this by September 30th? Benson - When the contractor agreed to the hour restriction, he wanted to try to work with the Lindsley's. When the contractor choose to work longer, it was because of impending rain. There are many detail issues with construction. If you approve 7 AM to 8PM, I don't believe they will work exactly those hours. When we agreed on eight to five, we did not know how much could get done. With weather etc., they just need more time. Goodenow - It is really easy to say that we could go west, but going directly toward Hwy. 23 is not a good decision. It was a conscience decision to go the direction we did. Fenske - I agree that this is a no-win situation. Goodenow - Are there any hours in between 7 AM and 8 PM that would work? Benson - The Lindsley's have stated that they are not willing to negotiate. Goodenow - I would lean toward 7 AM to 6 PM with the understanding that it may go longer than 6 PM on occasion. Doug Lindsley - So the board's word is no good? Goodenow - Sometimes you do something at one point and find out what the ramifications are and then the decision has to be modified. Benson - We are working with a contractor that is trying to minimize the noise, but he needs to get his work done also. Fenske - According to the bid papers, he can work 6 AM to 9 PM if he wants to. Benson - Yes, if the contractor agrees on 7AM to 8 PM then we would have a change order that stated that. Discussion on original permit. Nelson - Would have to have a break in hours agreement to put the culvert in. Henriksen - Yes, we have trucks coming up until 4 PM. Fenske - We have discussed this thoroughly. Benson, what is your recommendation? Benson - I recommend that the board authorize to process a change order from 7 AM to 8 PM and allow working at night to put pipe in landfill road. I would need to get Schmidt Construction's approval first, then I would bring a formal change order to the board. Goodenow - Would work until 8 PM? Benson - If they are working and need to finish because of rain, they will have decided by 8 PM. The liner company may have some objection to this, but the most noise producing part of the project should be done by the end of the week. Goodenow moved, seconded by Nelson to authorize Benson to negotiate a change order with Schmidt Construction changing the working hours to 7 AM to 8 PM. Voting for: Goodenow, Buysse, Fenske, Nelson. Voting Against: Gladis. Cy Molitor - Isn't there a set back for landfills? Henriksen - 200 feet from the property line.

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

Benson - The 2002 Highway Department budget includes \$50,000 for annual striping of county roadways. Approximately one-third of the paved highways in the County are striped each year. The bid opening was held on August 13, 2002 at 9:00 AM. The following bids were received:

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|---|-------------|
| Pavement Marking Services - Lino Lakes, MN | \$27,333.10 |
| Traffic Marking Service, Inc. - Buffalo, MN | \$28,767.07 |
| AAA Striping - Rogers, MN | \$30,477.52 |
| Interstate Road Management - Alexandria, MN | \$33,294.22 |
| Swanston Equipment - Fargo, ND | \$33,346.50 |
| Tri-State Striping | \$35,144.82 |

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United Rental – Sioux Falls, SD

\$37,787.88

Benson – I recommend the contract be awarded to Pavement Marking Services. I talked with the Crow Wing County Engineer, whom I do know personally, and he gave a favorable recommendation. I also recommend that since the low bid is significantly below the engineer's estimate of \$4,584.49, I would like to increase the miles of road striped up to the budget amount of \$50,000 to take advantage of the favorable pricing while increasing the safety of the highways. Goodenow moved, seconded by Buysse to accept Pavement Marking Services bid for highway striping and to increase the miles of road striped up to the budgeted amount of \$50,000. All voted in favor.

Benson – You should have received a copy of the Resolution for Bow Hunting Deer at Garvin Park along with the Bow Hunting Rules. Discussion on Bow Hunting Rules. Gladis moved, seconded by Goodenow to approve the resolution relating to Garvin Park Bow Hunting for Deer. Buysse – If someone is reported missing, having a license will help? Anderson – Yes. All voted in favor.

Goodenow moved, seconded by Fenske to approve the Garvin Park Bow Hunting Rules as follows:

1. All hunters in the park must have a permit. Permit to be obtained from park staff.
2. No one may hunt from over 16' above the ground.
3. Ground stands may not be constructed of more than 12 pieces of natural material.
4. No permanent stands may be constructed in the park.
5. No spotlights may be used in the park.
6. All hunters in a party must be permitted hunters.
7. Hunting permits should be carried at all times and vehicle permits should be displayed at all times so park staff can easily see them.
8. Park rules could change at any time. Please check information boards in the park.

All voted in favor.

Anderson – Because of the new Farm Bill, the FSA needs a new form signed giving me the Power of Attorney to deal with the land in the USDA Farm Program. Goodenow moved, seconded by Buysse to authorize Rick Anderson to have the Power of Attorney to deal with land owned by Lyon County in the USDA Farm Program. All voted in favor.

Ed Stec, E&V, gave an update on the PW's project. Stec – The construction is complete. Discussion on Sussner Construction, project budget, and Group II's additional fees.

Benson – Access Communications has evaluated our system and has said that the existing router needs to be a port switch to make the existing phone system work in the old building. A new switch costs about \$2,148. We did look at a used one and the cost difference is only \$200 and there is not a warranty. Discussion. Nelson moved, seconded by Goodenow to approve purchasing a port switch for the Highway Shop Building in the amount of \$2,148. All voted in favor.

Benson handed out the road tour map.

Chris Winter, GIS – There is a grant available to develop a Critical Data Infrastructure using GIS. Tammy Van Overbeke and Anita Benson have helped with this. We are asking that you sign a letter supporting our efforts. Winter – This is a Homeland Security related Grant from a GIS company. The grant is about \$10,000 which includes licenses and training. Data would be included in GIS to help Emergency Management and Homeland Security. Discussion. Gladis moved, seconded by Nelson to approve application for a grant for development of Critical Data Infrastructure using GIS and to send a letter of recommendation. All voted in favor.

General Revenue Vouchers were presented. Discussion. Buysse moved, seconded by Nelson to approve the general revenue vouchers, special water projects, and capital project funds. All voted in favor.

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|-----------------------------|-------------|
| General Revenue Fund | \$84,140.95 |
| Road & Bridge Fund | \$53,458.16 |
| Landfill Spec. Rev. Funds | \$34,981.16 |
| Water Projects – Spec. Rev. | \$2,760.00 |
| Capital Projects Fund | \$61,348.94 |
| Ditch Fund | \$8,111.50 |

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Total \$244,800.71

Beginning Warrant Number: 339037; Ending Warrant Number: 339180.

Lewis – We received an invoice from MACDO for seven months. The board agreed previously to pay \$200 per month for administration. They had not sent a bill previously. Discussion. Gladis moved, seconded by Goodenow to approve the invoice from MACDO. All voted in favor.

Auditor's Warrants were presented. Goodenow moved, seconded by Gladis to approve warrants 338999 to 339016 dated August 8, 2002 in the amount of \$289,327.61, warrants 339017 to 339036 dated August 15, 2002 in the amount of \$385,007.65. All voted in favor.

Lewis – The personnel team would like to meet with employees to go over the pros and cons of monthly versus 26 pay periods, but before they do that, they would like to know if the board would support the personnel needs of a 26 pay period implementation. This would involve a new position. You can think about this and discuss it at the budget meeting.

Krause handed out the following quotes on cars for the motor pool and a pickup for the Maintenance Department.

| | <u>PICKUP</u> | <u>COST FOR ONE CAR</u> |
|-----------------------|---------------|-------------------------|
| Anton Chevrolet | \$15,878.70 | \$16,675.61 (Malibu) |
| Amdahl Motors | \$16,091.12 | \$15,578.30 (Malibu) |
| Rochester Ford Toyota | \$16,556.49 | \$15,684.25 (Taurus) |
| Marshall Ford | \$15,853.39 | \$17,409.16 (Taurus) |
| Lockwood Motors | \$16,570.65 | \$17,716.59 (Stratus) |

Krause – The pickup is a ½ ton, two wheel drive with a regular cab and regular box. This price includes sales tax etc. Gladis – Trade in? Krause – We will sell by sealed bid. We will be selling two Luminas. Discussion on the marking of the vehicles. Nelson moved seconded by Gladis to approve the Maintenance Department's purchase of a pickup from Marshall Ford in the amount of \$15,853.39. All voted in favor. Fenske moved, seconded by Goodenow to approve the purchase of two replacement cars for the motor pool from Amdahl Motors in the amount of \$15,578.30 per car. All voted in favor.

Goodenow – Could we have uniform trashcans that are marked clearly for recycling and garbage or at least find out a price? Also, the walnut tree needs to be professionally trimmed and the new no smoking signs are nice, but I would like to see something a little more professional put onto the glass.

Lewis – I have been meeting with the owners of the property, which was listed as possibilities for a new jail site. There will not be any further negotiations with the owners of the property on Channel Parkway because they want about double what the property is worth.

Van Overbeke – There is not enough money to make the bond payments for Sinking Ditch IV. The assessment that was put on years ago was only enough to cover expenses and did not include the bond payments. So we will need to have a hearing on this. Discussion on when to hold hearing. Fenske – The meeting to discuss the ditches in Sinking Ditch IV will be October 29th at 9:00 AM.

Goodenow – I attended the RSVP meeting and we went through the Joint Powers. It does not actually say that the board has to approve the amount requested. Lyon County has had poor participation in the past. Fenske – This is the first time I have heard a comparison between Lyon County and other counties. Goodenow – The new coordinator is doing a much better job. I think they do good things, but we need to have a commissioner on the board. I told them that we only budgeted \$21,000. Gladis – Did you mention anything about having our own? Goodenow – Yes, but they didn't know if we could get the grant by ourselves. Discussion. Goodenow moved, seconded by Fenske to approve the Joint Powers with RSVP and just to make it clear, it still gives the board the power to set the budget. Gladis – Once we get the information on the budget and participation, we can make the decision on the remainder of the amount. All voted in favor.

Commissioner Reports:

Nelson gave a report on the Leadership summit that he and Lewis attended.

Fenske – I feel that budgeting is the responsibility of the department heads and the County Administrator. It's not up to up to do the nit picking. We say how much can be spent and then it's up the them to make the cuts.

Per Diems and expenses were presented. Gladis moved, seconded by Goodenow to approve the following per diems and expenses:

| | <u>Per Diems</u> | <u>Expenses</u> |
|----------|------------------|-----------------|
| Goodenow | \$80 | |
| Fenske | \$120 | |

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| Buysse | \$240 | \$120.80 |
| Nelson | \$360 | \$286.65 |

All voted in favor.

Buysse moved, Gladis seconded motion to adjourn the meeting until Tuesday, September 3, 2002 at 9:00 A.M.

Robert Fenske, Chairman

Attest: _____
Gregory D. Lewis
Lyon County Administrator