

UNOFFICIAL MINUTES – SUBJECT TO CORRECTIONS
 LYON COUNTY BOARD OF COMMISSIONERS
 LYON COUNTY GOVERNMENT CENTER, MARSHALL, MN
 February 21, 2006

9:00 AM - Meeting called to order by Chairman Ritter. Members present: Buysse, Fenske, Goodenow, Nelson, Ritter, County Attorney Maes, County Administrator Stomberg, and County Auditor/Treasurer Van Overbeke.

Pledge of Allegiance to the Flag.

Approve Agenda

Goodenow moved, seconded by Nelson to approve the agenda with the cancellation of Jim Hubley, the addition of Don De Langhe, and the addition of a closed meeting for “attorney-client privilege” to discuss threatened litigation. All voted in favor.

Consent Agenda

The following per diems and expenses were presented.

	Per Diems	Expenses
Nelson	\$ 40.00	\$17.36
Ritter	160.00	

Items 1-9 from the Consent Agenda were presented. Buysse – I have a few corrections to the February 7th Minutes. There are a couple of names misspelled. I believe the correct spellings are VanNevel and Noyes. Also, on the motion to adjourn, I had made the motion to adjourn.

- Minutes from the February 6, 2006 Special Board Meeting and the February 7, 2006 Regular Board Meeting.
- Commissioner Warrants #101741 – #101858 dated 2/22/06 in the amount of \$301,818.70.
- Auditor Warrants #101671 - #101701 dated 2/9/06 in the amount of \$177,886.31 and Auditor Warrants #101703 - #101739 dated 2/16/06 in the amount of \$407,513.99.
- Per Diems and Expenses previously presented.
- Authorize Advertising for Bids (Bituminous Patching Materials) and set bid opening date for March 15, 2006 at 11:55 AM in CR 3. This is for the hot mix bituminous used for countywide patching done by Highway Maintenance forces.
- Authorize Advertising for Bids (Aggregate Processing) and set bid opening date for March 15, 2006 at 11:30 AM in CR 3. This is for the annual crushing of aggregate at the County Gravel Pit near Russell.
- Authorize Advertising for Bids (Bituminous Materials) and set bid opening date for March 15, 2006 at 11:45 AM in CR 3. This is for the oil used for the annual countywide seal coating projects done by Highway Maintenance forces.
- Approve purchase of posts and anchors form MN 434118 State Bid Contract Release T-533(5) from 3D Specialties, Inc. Fargo, ND and purchase of omni stabilizers for total amount of \$35,122.71. The current project schedule is as follows: Begin advertising March 8th, bid opening March 29th, and award of bid at the April 4th Board meeting. I have requested and received State Bid pricing for the sign posts and anchors for the intersection signs as summarized below.

Posts	Qty.	Add. Qty. for Inventory	Total Qty.	Price
10 ft	275	30	305	\$5,032.50
12 ft	334	30	364	\$7,207.20

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14 ft	277	30	307	\$7,091.70
16 ft	16	5	21	\$ 554.40
Anchors	902	95	997	\$9,690.84
*Omni Stabilizers	115	10	125	\$1,985.00
Cutting Charge	1994		1994	\$977.06
			Subtotal	\$32,538.70
			Shipping	\$ 500.00
			Taxes	\$ 2,084.01
			Total	\$35,122.71

Note: Omni Stabilizers not on State Contract, patented item available from 3D Specialties.

9. Approve County Board Chairman signing the letter of support for City of Cottonwood DNR Grant Application for trail construction.

Goodenow moved, seconded by Fenske to approve the Consent Agenda with corrections to the February 7th Minutes. All voted in favor.

Approve Perpetual Conservation Easement for Wetland Bank

John Biren, Planning & Zoning Administrator, requested the Board approve and sign a Perpetual Conservation Easement for Wetland Bank within Section 9, Township 110, Range 42, County of Lyon.

Merle Behrens and Rose Anderson, from the Soil & Water Conservation District (SWCD), addressed the Board and answered questions. Biren stated that there are fees associated with the easement. Rose Anderson had typed up a handout describing the fees charged by the MN Board of Water & Soil Resources (BWSR) for wetland banking. Rose Anderson – If you have any questions, you can call me.

Motion by Fenske, seconded by Nelson to approve and sign the Perpetual Conservation Easement for Wetland Bank. All voted in favor.

Consider Conditional Use Permit for E & P Farms

Biren requested the Board grant a Conditional Use Permit (CUP) for E & P Farms to operate a business (electric motor repair for farm and non-farm equipment) in the agricultural district.

Buysse moved, seconded by Goodenow to grant a Conditional Use Permit to E&P Farms (Earl and Pat Buysse) to operate a business (electric motor repair for farm and non-farm equipment). The area representing the request is zoned agricultural. The property is owned by E&P Farms Family Trust and is located in the Southeast Quarter (SE1/4), Section 23 of Westerheim Township. As per recommendation of the Lyon County Planning and Zoning Commission and the Westerheim Township Board. With the following stipulations:

1. Site to be inspected as needed.
2. Septic system must meet all applicable codes.
3. Must follow parking guidelines of the Lyon County Zoning Ordinance.
4. Sign allowed as per the Lyon County Zoning Ordinance.
5. Must apply for and obtain permits from other appropriate agencies to operate the business.

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6. This Conditional Use Permit is in the agricultural district. Existing and future agricultural uses found in the Lyon County Zoning Ordinance shall be tolerated. These uses may generate noise, dust, vibration, or other nuisances typical of uses allowed in the agricultural district.
7. Future building permits will be reviewed and shall meet the requirements of the County Zoning Ordinance.
8. A copy of the County Board of Commissioner's Motion shall be filed with the County Recorder's Office along with the legal description and address of the property. Additional fees to be paid by the applicant for the actual costs incurred by the County for the recording fees.

All voted in favor.

Consider Conditional Use Permit for Lyon County

Biren requested the Board grant a CUP for Lyon County to reconstruct County Road 67 in the floodplain and floodway designation. Biren – I want to point out that this CUP is for the out-of-town portion of CR 67. We are going to widen the road, reconstruct the ditches, and regrade it. There is a verbal agreement with the City to not go below the 100-year floodplain. Nelson – what tonnage will this be? Anita Benson, Public Works Dir. /County Engineer – 9 or 10 tons.

Goodenow – We could use *updated* 100-year floodplain maps. Who is supposed to provide these to us? Biren – We have worked with the DNR on 100-year and 500-year maps. Maybe a hydrologist could be hired to speed this up. If Public Works is allowed to work on it, I would appreciate this.

Donny De Langhe, local landowner, presented the following letter to the Commissioners:

February 21, 2006

Lyon County commissioners

Regarding Conditional Use Permit to Rebuild County Road 67

Dear County Commissioners

First off I want to state that I do not have a problem with the plans that are being drafted for the rebuilding County Road 67. For the record I only support what was presented at the public hearing as it only addressed County Road 67 starting outside the city limits. I have not seen a plan regarding the city limit rebuilding.

I would like to take this time to express my concern regarding flood issues on properties I own/operate between the fixed crest weir structure out on Highway 23 and the Ditch 70 Bridge on County Road 67. Before the fixed crest weir structure was built the flood plain maps did not indicate any areas of flooding. Since that was built the City of Marshall has changed the flood plain map inside the city limits. With the Conditional Use Permit hearing I have been shown more recent maps that have not been formally adopted by the county that indicate major changes to the flood plain boundaries. Ironically, after asking many times in the past these maps finally have showed up.

Much of my properties are involved with these changes. The maps indicate I will now be in the flood plain. This seems very unfair to me. I have not received any notice for any meetings that would shed some light on this issue. If it is true that the flood plain boundaries will be changing I would like to know why. It seems logical that it is because of the City of

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Marshall's fixed crest weir project that allows much more water to flow from the Redwood River into the Cottonwood Watershed.

The Cottonwood downstream landowners were told by the City of Marshall that the fixed crest weir project would not impact us in any way. The maps that are now surfacing indicated otherwise. If you have trouble understanding this I would be glad to take you on a short tour and show you first hand my concerns.

Sincerely,

Don De Langhe

Discussion of De Langhe's concerns followed. De Langhe recommended that updated maps are needed. De Langhe – I am concerned that the maps did not accurately show flow ways, so projects were done based on those maps that disrupted water flow. "Where do we go from here?" Biren – I will check on this and work with the Area II DNR hydrologist.

Goodenow moved, seconded by Nelson to grant a Conditional Use Permit to Lyon County to reconstruct County Road 67 in the Floodplain and Floodway designation. The land is located in the South Half, Section 16 of Lake Marshall Township. As per recommendation of the Lyon County Planning and Zoning Commission and the Lake Marshall Township Board. With the following stipulations:

1. Site to be inspected as needed.
2. Must follow DNR regulations.
3. Must apply for and obtain permits from other appropriate agencies.
4. A copy of the 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.

All voted in favor.

Nelson moved, seconded by Fenske to include Don De Langhe's letter in the Minutes. All voted in favor. (De Langhe's letter is included above).

GMLCF Rebate for Redwood County

Paul Henriksen, Environmental Administrator, requested the Board consider providing to Redwood County the \$5/ton GMLCF Rebate. The Landfill Contract provides for a rebate of \$5/ton from the GMLCF Surcharge (\$7/ton) on landfill tipping fees. The contract provides this rebate be paid by March 1 for the previous year tonnage. In 2005, the rebate paid to the other counties was for the last half of 2004. It was agreed at the annual meeting that future rebates would follow the contract. All the counties had signed this contract except Redwood County. The Lyon County Board had a special meeting with the Redwood County Board to discuss the landfill contract and information they requested, was provided. To date, they do not have a signed contract; therefore the Board will need to consider approving the GMLCF rebate to Redwood County for \$33,416.90 (6683.38 tons).

Fenske – Do they know that they will not get a rebate for '06 if they don't sign a contract?
Henriksen – No. Fenske – Be sure they know this. Goodenow – Send them a letter with this payment. Maes – I am fine with this.

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Goodenow moved, seconded by Fenske to pay Redwood County the 2005 \$5/ton GMLCF Rebate for the amount of \$33,416.90 and give them notice of future contract requirement for future payments. All voted in favor.

Consider Signature of Cottonwood Trail Grant Application

Anita Benson, Public Works Dir. /County Engineer, stated that Attachment A of the City of Cottonwood's DNR Grant Application needed to be signed along with the Letter of Support – Cottonwood Trail.

Moved by Goodenow, seconded by Buysse to approve the Chairman's signature of Attachment A of the City of Cottonwood's DNR Grant Application. All voted in favor.

Consider Cooperative Agreement for CR 80 Cottonwood

Benson requested approval of a Cooperative Agreement for CR 80. Benson – I developed a Cooperative Agreement for CR 80 based on the County's Cost Participation Policy for Projects within Cities. The Cottonwood City Council has approved the agreement for CR 80.

Fenske moved, seconded by Buysse to approve the *Joint Powers Agreement between Lyon County and the City of Cottonwood for Design and Construction of County Road 80 from CSAH 32 to CR 75*. All voted in favor.

Consider Equipment Replacement – Motor Grader

Benson requested the Board approve the purchase of a six-wheel drive motor grader off the State Bid Contract from RDO Equipment for a total purchase price of \$101,138.96. The 2006 Highway Department budget includes \$109,000 for the replacement of Unit 34, a 2001 Caterpillar. The guaranteed buyback value for Unit 34 is \$106,500. State Bid pricing for the purchase of one new 6-wheel drive motor grader is shown below.

Vendor Make/Model	State Bid Price	Trade in Allowance	Sales Tax	Freight to Falls	Total Cost	5-Year Guar. Trade/Buyback
RDO Equipment Co. John Deere 772D	\$219,451	\$125,000	\$5,622.96	\$1,065	\$101,138.96	\$118,000 G.Trade
Zeigler, Inc. **Cat. 143 H	\$246,363	\$116,000 (w/out ripper)	\$8,064.10	Included in Price	\$138,427.10	\$100,750 G.B.B. \$113,750 G.Trade (Both w/ripper)
Zeigler, Inc. Cat. 143 H	\$265,994	\$120,000	\$8,852.61	Included in Price	\$154,846.61	\$100,750 G.B.B. \$113,750 G.Trade

** 2005 machine with approx. 175 hours.

Benson - I have calculated fuel consumption costs for both the John Deere and Caterpillar based on manufacturer supplied performance data. I assumed 900 hours of use per year and a fuel price of \$2.00 per gallon. The net result was a cost of \$12,870 in fuel cost for the John Deere and \$9,414 for the Caterpillar per year. The John Deere would cost \$3,366 more in fuel per year to operate. This results in a five year difference of \$16,830 more than the Caterpillar. However, considering the differences in initial cost, 5-year buyback/trade, and fuel consumption, I believe the purchase of the John Deere is the best investment for the County.

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Nelson moved, seconded by Fenske to approve the purchase of a six-wheel drive motor grader (John Deere 772D) off the State Bid Contract from RDO Equipment for a total purchase price of \$101,138.96.

Consider Open Class Building Renovations

Rick Anderson, Park Supervisor, requested the Board consider funding improvements to the Open Class Building. Rick Anderson – A group of people involved with the fair met with me to see what we could do to improve the Open Class Building at the Fairgrounds. Norma Raske has been working on a Grant to get paint to redo the inside of the building. This should help free up some of the budgeted money. I have lined up STS to do a lot of the work. STS has also stepped up and want to construct wooden ramps into the building. A group of volunteers has come forward saying that they also want to help with improvements. Some of the improvements were budgeted for in 2006. The non-budgeted improvements were discussed after the 2006 budget was done.

Stomberg – I hesitate to take money from the Capital Improvement Fund because we are tapping into CIP Funds but are not planning this stuff.

Van Overbeke – This could come out of the Fairgrounds Budget, and if they're short we can reimburse them from CIP at the end of the year.

Goodenow moved, seconded by Nelson to approve funding requested improvements to Open Class Building. All voted in favor.

Meeting Recessed at 10:20 AM.
Meeting Back in Order at 10:30 AM.

Public Hearing – County Election Equipment Plan

10:30 AM - Ritter opened the Public Hearing - County Election Equipment Plan. First, the Public Hearing was opened to Van Overbeke and then to the Public. Approximately 10 citizens were in attendance.

Van Overbeke – The Plan was included in your packets last week. There have been a couple of spelling errors corrected; otherwise there have not been any changes. It has been sent out to every Township, City, School District, and County clerk.

Ritter opened the Hearing to comments from the Public. Ritter asked three times for comments from the Public. Hearing none, Ritter asked for comments from the Commissioners.

Goodenow moved, seconded by Buysse to accept the Lyon County Election Equipment Plan. All voted in favor. The Lyon County Election Equipment Plan is on file with the County Auditor/Treasurer.

Authorize and Sign Grant Applications

Van Overbeke – Two Grant Applications need to be authorized and signed for the Plan.

Goodenow moved, seconded by Fenske to authorize and sign the *Assistive Voting System Grant Application and Agreement* and the *Optical Scan Voting Equipment Grant Application and Agreement*. All voted in favor.

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10:37 - Ritter closed the Public Hearing.

Authorize Execution of Joint Powers Agreement

Sheriff Joel Dahl requested the Board authorize execution of a Joint Powers Agreement with the State of Minnesota Department of Public Safety to obtain a 2-Finger Identification Unit to be hard-wired at the Lyon County Law Enforcement Center. Dahl applied with the Department of Public Safety in September 2005 to be considered for the IBIS (Identification Based Information System) to assist Law Enforcement in more readily and accurately identifying persons.

Goodenow moved, seconded by Fenske to approve the execution of a Joint Powers Agreement with the State of MN Department of Public Safety to obtain a 2-Finger Identification Unit to be hard-wired at the Lyon County Law Enforcement Center. All voted in favor.

Yellow Medicine River Watershed District Annual Visit

Cindy Potz, Yellow Medicine River Watershed District (YMRW) Office Manager, presented YMRW's 2005 Annual Report. Portions of the Annual Report are as follows:

The watershed board approved 144 tiling permit applications in 2005: 26 in Lyon County, 53 in Lincoln County, and 66 in Yellow Medicine County. The watershed board annually authorizes the inspection of dam structures in the watershed district. Lyon County has one of ten dams in the district - Sonstegaard Dam in Nordland Township. Structural problems are the main focus of the inspections. Problems are noted and repaired as soon as possible. Trashed furniture, appliances, party supplies, and beer cans are damaging property at some of the dams. Each year, the staff also completes ditch berm inspections, enforcing the 16.5 ft ditch berm law. There were no berms out of compliance in 2005.

The watershed district is partnering with MPCA, Lyon SWCD, Lincoln SWCD, and YM SWCD in an implementation program to focus on establishing best management practices in the watershed. The focus will be to resolve the matter of excess nutrients found entering the Yellow Medicine River and its tributaries. In this three year program, \$23,936.00 is budgeted for continued monitoring, \$9,450.00 for data analysis & reporting, \$24,600.00 for information & education, \$99,000.00 for implementation, and an additional \$95,832.00 from a discontinued agronomist program. The program also includes an ISTS Septic Loan program, split among the three counties with \$26,250.00 allocated to Lincoln and YM Counties, and \$10,000.00 for Lyon County. The total program's cash budget is \$304,958.00.

The final report of the South Branch Fecal Coliform Total Maximum Daily Load (TMDL) was submitted and approved in January of 2005. The watershed district is preparing for submission of an implementation plan spanning a ten year period, totaling \$4,000,000.00 in cash and in-kind. The implementation plan will focus on funding projects that improve manure management techniques, septic systems, and feedlot runoff problems as well as other potential causes of the fecal coliform impairment.

Upon the discontinuation of the Department of Agriculture's beaver damage control program, the watershed district board of managers voted to budget \$8,000.00 each year to a beaver control program. \$7,887.31 was spent in 2005 on the beaver program. Approximately \$3,000.00 of that expense was for beaver dam removal and approximately 350 nuisance beaver were trapped. Future beaver damage control funds might be generated through a BWSR grant now in the process of application.

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\$9,031.00 was spent in 2005 on the fallen tree removal program in the Yellow Medicine River and its tributaries. The watershed board contracted with Thompson Excavating, Minneota to remove and burn fallen trees in specified locations that had been previously determined by Renken. Lyon County Environmental Office assisted with cost share in this program adding \$4,000.00 to our budgeted amount.

The watershed board voted to move forward on a flood retention project (Alta Vista 36 in Lincoln County) that has for years been delayed due to hesitancy by landowners involved in the approval process. The board decided to move ahead by declaring eminent domain on the property needed to complete this valuable flood retention project. An easement on those properties will be awarded to each of the landowners involved upon the completion of the legal proceedings. The board worked with Lincoln County and Lyon County engineers. The project was helped substantially with a Mn/DOT grant submitted and received by Lyon County engineer Anita Benson. The project began in the fall, and was nearing completion by about 1 week, when winter moved in. The project will be finished in 2006.

Ritter thanked Cindy Potz for updating the Board.

Consider Revisions to Funeral Leave Policy

Stomberg requested the Board consider the following revisions to personnel policy 3242 LEAVES – Funeral Leave:

**3242
LEAVES**

(from pages 3242-5,6)

~~FUNERAL~~ BEREAVEMENT LEAVE

Absence necessitated for the purpose of ~~attending funerals~~ **bereavement** may be granted with pay by division/department heads. Total time off for ~~funerals~~ **bereavement** shall not exceed 22.5 hours for 7.5 hour per day employees and 24 hours for 8 hour per day employees per calendar year. ~~With division/department head approval, employees may borrow ahead on the next year's funeral leave. The maximum hours that can be borrowed ahead on funeral leave is 22.5 hours for 7.5 hour per day employees and 24 hours for 8 hour per day employees.~~

Stomberg - At the January 17th Board Meeting, the Leadership Team and the Policy Advisory Committee requested that "FUNERAL LEAVE" be changed to "BEREAVEMENT LEAVE." During discussion at the Jan 17th meeting, the issue was tabled and the Administrator was directed to investigate the legality of borrowing ahead. After consultation with the State Auditor's Office and the County Attorney, it was concluded that the provision to borrow ahead is not a legal policy. County Policy provides that the County Board may modify or revoke any of these policies at any time (3020-3). The borrowing ahead provision is not legal and should be removed by the County Board.

Nelson – Is granting Funeral Leave still under the control of department heads? Stomberg – Yes.

Goodenow moved, seconded by Buysse to approve renaming Funeral Leave to Bereavement Leave and removing the "borrowing ahead provision" from this policy, effective March 1, 2006. All voted in favor.

Addition to Commissioner Warrants

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Stomberg – We need to add a bill to the Commissioner Warrants for Jeanine Barker's attendance to the Minnesota Association of County Officers (MACO) Conference.

Fenske moved, seconded by Goodenow to approve \$138.31 for County Recorder Jeanine Barker's attendance to the Minnesota Association of County Officers Conference. All voted in favor.

Part-Time Hours – Recorder's Office

Barker informed the Board as to the staff changes being made in her office and how she is using the staff hours provided by the Board.

County Attorney Update

Rick Maes informed the Board that he has been appointed to a task force on Meth by the Minnesota County Attorneys Association. Maes also stated there are some navigable water issues in front of the Supreme Court that may affect the Feds' enforcement. Maes agreed to bring some numbers to the next Board Meeting regarding digital recorder units for Law Enforcement interviews.

Review Meeting Schedule

Meeting Schedule was reviewed.

Commissioner Reports

Goodenow – Preliminary plans for construction were discussed at the Lyon County Developmental Achievement Center Meeting. Plum Creek Library System is doing well with the interim director. I attended the Extension Committee Meeting as well as the Marshall-Lyon County Library Board Meeting. There is no final budget for a new library yet. A *fundraiser* has been hired.

Buysse – Attended the Yellow Medicine River Watershed District Board Meeting.

Nelson – Three architects were interviewed for the jail. The decision will be brought to the Board at the March 7th meeting. Fenske – Will the architect be here? Nelson – The architect is scheduled to be here.

Fenske – Attended the Southwest Regional Development Commission (SRDC) Board Meeting and the Southwest MN Private Industry Council, Inc. (SW MN PIC) Meeting. Budget cuts and fees for services were discussed at the SW MN PIC Meeting. At the Airport Commission Meeting, lengthening the runway and compatible road construction were discussed.

Ritter – Attended the Park and Recreation Board Meeting, Extension Committee, and Public Health union negotiations.

Closed Session

11:45 AM - Goodenow moved, seconded by Buysse to go into Closed Session for the purpose of "attorney-client privilege" to discuss threatened litigation. All voted in favor.

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12:13 PM – Fenske moved, seconded by Buysse to come out of Closed Session. All voted in favor.

Goodenow moved, seconded by Nelson to authorize Stomberg to send final offer by certified letter with return receipt to D&G for \$6100. All voted in favor.

12:16 PM - Buysse moved, seconded by Nelson to adjourn the Board Meeting until March 7, 2006 at 9:00 AM. All voted in favor.

Stephen W. Ritter, Chairman

Attest: _____
Loren Stomberg
Lyon County Administrator