

**UNOFFICIAL MINUTES – SUBJECT TO CORRECTIONS**  
LYON COUNTY BOARD OF COMMISSIONERS  
LYON COUNTY GOVERNMENT CENTER, MARSHALL, MN  
July 18, 2006

9:00 AM – Meeting called to order by Chair Ritter. Members Present: Buysse, Fenske, Goodenow, Ritter, Auditor/Treasurer Van Overbeke, and Attorney Maes. Absent: Nelson and Administrator Stomberg. Ritter stated that Nelson had surgery a week ago and Stomberg was tending an emergency.

Pledge of Allegiance to the Flag.

**Approve Agenda**

Buysse moved, seconded by Goodenow to approve the agenda as presented. All voted in favor.

**Consent Agenda**

The following per diems and expenses were presented.

	Per Diems	Expenses
Fenske	\$80	
Goodenow	\$160	\$31.15
Ritter	\$200	

Consent Items 1-7 were presented.

1. Approve Minutes from the June 27, 2006 Special Meeting and the July 06, 2006 Regular Meeting.
2. Approve Commissioner Warrants #103789 - #103883 dated 7/19/06 in the amount of \$143,026.77.
3. Approve Auditor Warrants.
  - a. #103607 - #103618 dated 7/06/06 in the amount of \$6,912.78.
  - b. #103755 - #103787 dated 7/13/06 in the amount of \$241,038.82.
4. Approve Per Diems and Expenses previously presented.
5. Approve final payment to Midwest Contracting for CP 05:55 in the amount of \$1,956.12. The IC forms are on file at the County Engineer's Office as required by State Statute.
6. Consider Out-of-State Travel Request for Director of Public Works/Engineer Benson to attend the International Public Works Congress & Exposition this September in Kansas City, MO.
7. Award stationery quote to Henle Printing Company (MSHL) in the amount of \$5,618.00. One other bid was received from Western Printing (MSHL) for \$6,016.00.

Goodenow moved, seconded by Fenske to approve Consent Agenda Items 1-7. All voted in favor.

**Discuss Farming in County Highway Right-of-Way**

Anita Benson reviewed the Enforcement Plan for County Highway/Road Right-of-Way. Benson stated more than sixty-five notices of right-of-way encroachment had been sent to owners/renters informing them to mow/destroy planting in the encroachments. Benson then introduced Kenneth Myer.

Myer described where he farms along County Road 24 in section 21 of Lucas Township. Myer - The line has never changed in the last forty years. Getting notice in July is too late; the crops are already grown. Benson asked if Myer had received the letter that had been sent in February. Myer stated he received the letter. Myer suggested the Board could leave it alone this year and address it next year. Maes – From a legal standpoint, if the County doesn't enforce the law, it would be ignoring state law. Myer – If the State builds a road, they stake it out. They (the County) didn't. Benson explained the County comes out to measure right-of-ways if a renter/owner asks to have it done. Goodenow asked Myer if his crop is corn or beans. Myer –

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Corn. It's about a half-mile...approximately two acres would be destroyed. It's lined up with the neighbors. Benson – We can go back and double-check CR 24.

Fenske – You'd be willing to do it if your neighbors do it too. Then we need to follow up to make sure it is being enforced there too. Benson – We will double-check CR 24. Myer – It's not just CR 24. I didn't come here to cause problems for my neighbors. What if I mow mine and then others don't, and then the court says it's ok? Maes – The statute is straight-forward. It was enforced last year. Fenske – It does say in the letter to contact Public Works if you have questions. Myer – Yes. And I read that, but it hasn't changed in years. I have called my neighbors and they have not received letters. Benson – We will check it, and we will inform the Attorney's Office. Myer – Thank you very much. No action was taken by the Board.

**Consider CUP for Rogge Excavating**

John Biren, Planning & Zoning Administrator, requested consideration for Rogge Excavating/Lawrence Rogge (applicant) and United Southwest Bank (owner) for a rural-oriented commercial use (general excavating construction business). Biren stated the Planning & Zoning Commission recommended approval with the conditions presented. Fenske inquired about road maintenance and the purpose of a 30' access. Attorney Paul Stoneberg was present on behalf of Southwest Bank. Stoneberg discussed easements involved and whether the County has authority over changing the access road.

Fenske moved, seconded by Goodenow to grant the Rogge/Southwest Bank CUP as presented with the following changes to stipulations 6 and 10 (underlines denote new language and strikethroughs denote deleted language):

- 6. *Must properly maintain access road including dust control of access road.*
- 10. *Applicant/owner must legally acquire a 20' ~~30'~~ access road to the property.*

VOTING FOR: Fenske and Goodenow  
OPPOSED: Buysse and Ritter  
ABSTAINED: None  
ABSENT: Nelson

Motion failed.

Meeting recessed at 10:18 AM.  
Meeting called back in order at 10:28 AM.

Ritter stated Representative Marty Seifert would reschedule his update and that the consideration of the Rogge CUP would be postponed until later in the meeting so that Rogge could be contacted.

**Consider Floodplain Mapping Resolution**

Benson presented a resolution intended to expedite floodplain mapping. Benson – We have been given several completion dates by the DNR, FEMA and the Army Corps of Engineers. The latest date is mid-December. Benson also requested the resolution be forwarded to agency heads, our state legislators, and our federal legislators. Jim Sehl, DNR Area Hydrologist, stated the Board would have only ninety days to make a decision once the maps were completed.

Goodenow moved, seconded by Buysse to approve Resolution regarding Floodplain Mapping. All voted in favor. Resolution 24-06 is on file with the County Administrator.

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**Discuss Portable Stage Ownership, Rental, & Liability**

Rick Anderson, Park & Fairgrounds Supervisor, and Bob Polejewski, Ag Society, presented a Portable Stage Rental Agreement for approval and answered questions. Anderson stated that checks will be made out to the Lyon County Fairgrounds and will go into the Fairgrounds account.

Goodenow moved, seconded by Fenske to approve the Portable Stage Rental Agreement. All voted in favor.

**Consider Area II Joint Powers Addendum**

Kerry Netzke, Coordinator – Area II Minnesota River Basin Projects, Inc., requested approval of a one-time addendum to allow a 2% increase in the levy that was approved by all nine member counties. Netzke – It has been ten years since the last increase.

Fenske moved, seconded by Buysse to approve Addendum No. 4 – revising “Section XI. Duration” and “Section X. Finances, Subdivision 2” – to the Area II Joint Powers Agreement. All voted in favor.

**Accept Employee Resignation and Authorize Replacement**

Goodenow moved, seconded by Buysse to accept the resignation of Correctional Officer Mike Dale. All voted in favor. The Board expressed appreciation for Dale’s service.

Fenske moved, seconded by Goodenow to authorize the Jail Administrator to advertise, interview, and offer (contingent of final Board approval) for the position of Correctional Officer. All voted in favor.

**Consider Consolidation of Part-Time Positions**

Jeanine Barker, Recorder, requested consolidation of two part-time positions into one full-time position (37.5 hrs).

Goodenow moved, seconded by Ritter to accept the resignation of part-time, Senior Clerk Jen Brunner. All voted in favor.

Goodenow moved, seconded by Fenske to merge the open part-time Senior Clerk position with the existing part-time Senior Clerk position to create one full-time Senior Clerk position (37.5 hrs). Current part-time Senior Clerk, LuAnn Fier is to assume the new full-time position effective July 31, 2006. All voted in favor.

**Accept Employee Resignation and Authorize Replacement**

Goodenow moved, seconded by Fenske to accept the resignation of Legal Clerk Vicky Soppeland. All voted in favor. The Board expressed appreciation for Soppeland’s service.

Maes explained he plans to move Technical Clerk Patty Roos into the Legal Clerk position, thus creating a vacancy in the Technical Clerk position.

Goodenow moved, seconded by Ritter to authorize the County Attorney to advertise, interview, and offer (contingent of final Board approval) for the position of Technical Clerk in the County Attorney’s Office. All voted in favor.

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**Consider CUP for Rogge Excavating – (continued from earlier in meeting)**

Biren reported that he had contacted Lawrence Rogge. Rogge did not want an extension.

Goodenow moved, seconded by Buysse to grant a Conditional Use Permit to Rogge Excavating/Lawrence Rogge (applicant) and United Southwest Bank (owner) for a rural-oriented commercial use (general excavating construction type business). The area representing the request is zoned agricultural. The land is described as part of the North Half of the Southwest Quarter, Section 17, 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. Conditional Use Permit will be reviewed annually.
2. Site to be used to stockpile/store sand, gravel, black dirt, fill dirt and rock onsite. Material will be for sale to the public.
3. On-site storage of trucks, trailers, loaders, excavators, conveyors, blades and other equipment generally used in an excavating business.
4. Site must be kept clean (weeds controlled).
5. On-site premises business sign permitted according to zoning ordinance.
6. Must properly maintain access road including dust control.
7. If business is inactive for one year, Conditional Use Permit will be revoked.
8. Adopt Findings of Fact as part of this motion.
9. 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.
10. Applicant/owner must legally acquire at least a 30' access road to the property with a 24' road top.

VOTING FOR: Goodenow, Buysse, Ritter  
OPPOSED: Fenske  
ABSTAINED: None  
ABSENT: Nelson

Motion approved.

**Commissioners' Business**

Meeting schedule was reviewed.

Fenske reported on the RDC and Airport Commission.

Ritter reported on Planning & Zoning.

Goodenow reported on the Enterprise Development Corporation, Marshall-Lyon County Library, and the Plum Creek Library System.

Buysse moved, seconded by Goodenow to adjourn the meeting until Tuesday August 1, 2006 at 9:00 AM. All voted in favor. Ritter adjourned the meeting at 12:07 PM.

\_\_\_\_\_  
Stephen W. Ritter, Chairman

Attest: \_\_\_\_\_  
Loren Stomberg, Lyon County Administrator