

September 8, 2009

STATE OF MINNESOTA)
COUNTY OF DAKOTA)
OFFICE OF COUNTY BOARD)

The Dakota County Board of Commissioners convened at 9:01 a.m. on Tuesday, September 8, 2009. The meeting was called to order by Chair Kathleen Gaylord who welcomed everyone and opened the meeting with the Pledge of Allegiance. Roll was called with the following members present:

- Commissioner Joseph A. Harris, District 1
- Commissioner Kathleen A. Gaylord, District 2
- Commissioner Thomas A. Egan, District 3
- Commissioner Nancy Schouweiler, District 4
- Commissioner Liz Workman, District 5
- Commissioner Paul J. Krause, District 6
- Commissioner Willis E. Branning, District 7

Also in attendance were: Brandt Richardson, County Administrator; James Backstrom, County Attorney; Karen Schaffer, First Assistant County Attorney; and Kelly Olson, Senior Administrative Coordinator to the Board.

Chair Gaylord asked if there was anyone in the audience who wished to address the County Board on an item not scheduled on the agenda or on any item on the consent agenda. The following individual appeared to address the Board regarding Item 7.3 – Determination Of Special Assessment Against Property Owned By Organic Conversion Corporation Related to Environmental Remediation:

Ronald Petrofski, Hastings

09-427
Approval Of Agenda

Motion: Comm. Krause

Second: Comm. Harris

BE IT RESOLVED, That the Dakota County Board of Commissioners hereby approves the agenda for the County Board meeting on September 8, 2009, with the following revision:

- Item 7.3 – Determination Of Special Assessment Against Property Owned By Organic Conversion Corporation Related To Environmental Remediation was moved from the consent agenda to the regular agenda.

ayes 7

nays none

At this time, Information Technology Applications Manager Val Ruedy presented the Center for Digital Government "Digital Counties Survey" Award and recognized staff for their contributions.

The consent agenda was then approved as follows:

Motion: Comm. Egan

Second: Comm. Branning

09-428
Approval Of Minutes

BE IT RESOLVED, That the Dakota County Board of Commissioners hereby approves the minutes of the regular County Board meeting, held August 18, 2009, as presented and entered in Commissioners' Record MM.

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09-429

Authorization To Execute Amendments To Joint Powers Agreements With Cities And Rural Solid Waste Commission For 2010 Funds

WHEREAS, the County Board has provided performance-based funding for community programs since 1989; and

WHEREAS, the County Board has provided funding for a portion of the costs incurred by cities and the Rural Solid Waste Commission (RSWC) for operating local reduction, reuse, and recycling activities through an annual application process; and

WHEREAS, effective January 1, 1992, the County and the cities/RSWC entered into separate joint powers agreements (Agreements) to provide for cooperation and funding between the County and the cities/RSWC to implement and operate a local comprehensive landfill abatement program; and

WHEREAS, each year the Agreements are amended to revise funding amounts to reflect changes in the number of housing units and waste management priorities; and

WHEREAS, funds are allocated for operation and education, recycling containers, and Local Negotiated Initiative Funds (LNIF); and

WHEREAS, the Metropolitan Council's published housing data, an allocation per household, and base fund are used to determine the proposed fund allocation for operations and education; and

WHEREAS, in 2010, the recycling container funds are proposed for public area recycling; and

WHEREAS, the LNIF provides funding for cities or the RSWC to implement specific strategies that support Regional/Dakota County Solid Waste Master Plan outcomes, as part of a County/community workplan; and

WHEREAS, community funding amounts are established by the County Board each year, as part of the Environmental Management Department budget.

NOW, THEREFORE, BE IT RESOLVED, That the Dakota County Board of Commissioners hereby authorizes the Physical Development Director to execute amendments to the existing Joint Powers Agreements with cities and the Rural Solid Waste Commission to provide funding for 2010, as presented to the Physical Development Committee of the Whole on September 1, 2009, contingent upon the availability of funds and subject to funding levels approved by the County Board as part of the 2010 budget, and subject to approval by the County Attorney's Office as to form.

09-430

Adopt Farmington Area Transportation Study, County Project 97-72

WHEREAS, to promote safe and efficient transportation throughout the County and region, Dakota County partnered with City of Farmington to conduct a transportation study within the northwest Farmington area; and

WHEREAS, representatives of Dakota County, the City of Farmington, and Farmington School District, have participated as members of a Project Advisory Committee and have reviewed study findings and recommendations; and

WHEREAS, the study process involved the public through public open houses and elected official meetings; and

WHEREAS, the Farmington School District has constructed a new high school in Farmington that will open in the fall of 2009; and

WHEREAS, the City of Farmington is planning continued growth and development that will result in additional impacts to the area transportation system; and

WHEREAS, the County and City of Farmington are partnering to construct a segment of future County Road (CR) 64 to Trunk Highway 3 that will have an effect on traffic patterns in the Farmington area; and

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WHEREAS, the study recommends including preliminary design efforts in the County and City Capital Improvement Programs for 2010 for CR 64 (195th Street) Corridor; and

WHEREAS, the study recommends maintaining existing two-way stop control at County State Aid Highway (CSAH) 50 (212th Street) at Flagstaff Avenue; and

WHEREAS, the study recommends a Long Term Roadway Network Vision to support future growth in the City of Farmington in a way that will result in a safe and efficient system of City and County roadways in the future; and

WHEREAS, the study recommends the 2030 CSAH 31 (Pilot Knob Road) Corridor Vision that provides a long term plan for the type and location of access along the corridor; and

WHEREAS, the Dakota County Engineer recommends adoption of County Project 97-72, Farmington Area Transportation Study.

NOW, THEREFORE, BE IT RESOLVED, That the Dakota County Board of Commissioners hereby adopts the Farmington Area Transportation Study, as presented to the Physical Development Committee of the Whole on September 1, 2009.

09-431**Proclamation Of Family Day - A Day To Eat Dinner With Your Children - September 28, 2009**

WHEREAS, the use of illegal drugs and the abuse of alcohol and nicotine constitute the greatest threats to the well-being of America's children; and

WHEREAS, the Dakota County Board of Commissioners has a long history of supporting efforts to prevent and reduce substance abuse and related problems and to promote the wellbeing of children; and

WHEREAS, surveys conducted by The National Center on Addiction and Substance Abuse (CASA) at Columbia University have consistently found that the more often children and teenagers eat dinner with their families, the less likely they are to smoke, drink and use illegal drugs; and

WHEREAS, teenagers who virtually never eat dinner with their families are 72 percent more likely than the average teenager to use illegal drugs, alcohol and cigarettes, and teenagers who almost always eat dinner with their families are 31 percent less likely than the average teenager to use illegal drugs, alcohol and cigarettes; and

WHEREAS, the correlation between family dinners and healthy eating as well as reduced risk for teen substance abuse, stress, depression, obesity, poor school performance, and eating disorders are well documented; and

WHEREAS, parental influence is known to be one of the most crucial factors in determining the likelihood of substance abuse by teenagers; and

WHEREAS, the Dakota County Public Health Department will promote, for a second year, the successful initiative developed by the Carver County Health Partnership called *Eat. Talk. Connect!*, a program that promotes connectedness through regular family meals and holds promise to prevent a number of risky health and social behaviors.

NOW, THEREFORE, BE IT RESOLVED, That the Dakota County Board of Commissioners hereby proclaims September 28, 2009 as *Family Day – A Day to Eat Dinner with Your Children* in Dakota County and urges all citizens to recognize and participate in its observance; and

BE IT FURTHER RESOLVED, That the Dakota County Board of Commissioners encourages citizens to eat regular family meals together and participate in *Eat. Talk. Connect!* from September 28 to December 31, 2009.

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09-432

Authorization To Execute Contract With Inverwood Senior Living, LLC, Doing Business As Inver Glen Senior Living, To Provide 24-Hour Customized Living And Assisted Living Plus Services

WHEREAS, the Elderly (EW) and Community Alternatives for Disabled Individuals (CADI) waivers serve persons 65 and over, and disabled persons under 65 who need nursing facility level of care; and

WHEREAS, Public Health and Social Services service coordinators authorize 24-hour Customized Living, and Assisted Living Plus Services for clients based on individual client needs; and

WHEREAS, vendors of these services bill the Minnesota Department of Human Services (DHS) directly for these services provided to EW and CADI clients; and

WHEREAS, the County Board, by Resolution No. 09-298 (June 16, 2009), authorized contracts for home and community based services, including contracts for 24-hour customized living and assisted living plus services for the period of July 1, 2009 through June 30, 2011; and

WHEREAS, since that time staff have negotiated an additional home and community based services contract for 24-hour customized living and assisted living plus services; and

WHEREAS, staff recommends that a contract be executed with Inverwood Senior Living, LLC, doing business as Inver Glen Senior Living, to provide 24-hour Customized Living and Assisted Living Plus services; and

WHEREAS, EW and CADI waiver, and Group Residential Housing (GRH) rate limits are established by DHS on a state fiscal year basis (July 1-June 30); and

WHEREAS, contracts for services funded by the EW and CADI waivers are written to coincide with the state fiscal year funding cycle; and

WHEREAS, the execution of this contract in no way obligates Dakota County to purchase services or refer clients to Inverwood Senior Living, LLC, doing business as Inver Glen Senior Living; and

WHEREAS, in the event sufficient funds from county, state, or federal sources are not appropriated at a level sufficient to allow payment of the amounts due, this contract will contain a provision that allows the County to immediately terminate the contract.

NOW, THEREFORE, BE IT RESOLVED, That the Dakota County Board of Commissioners hereby authorizes the Community Services Director to execute a contract with Inverwood Senior Living, LLC, doing business as Inver Glen Senior Living, for 24-hour Customized Living and Assisted Living Plus services, at rates not to exceed funding limits provided by the EW and CADI waiver programs for the period of October 1, 2009 through June 30, 2011, subject to approval by the County Attorney's Office as to form; and

BE IT FURTHER RESOLVED, That the Community Services Director is hereby authorized to amend said contract, within the rate limits established by DHS, to alter the types of services provided, service rates or contract term, subject to approval by the County Attorney's Office as to form.

09-433

Authorization To Amend Social Services Budget To Reflect Increased Revenue For Crisis Response Services

WHEREAS, Dakota County is required to provide crisis response services to both children and adults; and

WHEREAS, Dakota County Crisis Response Unit (CRU) has provided 24 hour, 7 day a week children and adult crisis services for 14 years; and

WHEREAS, Dakota County has participated in the Metro Children's Crisis Services (MetrCCs) initiative receiving grant awards through this collaboration for crisis services; and

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WHEREAS, the Minnesota Department of Human Services is providing a one-time allocation to the participating counties for children's crisis services which includes \$55,582 for Dakota County for the period of July 1, 2009 through December 31, 2009; and

WHEREAS, staff recommends that \$55,582 be added to the 2009 Social Services budget to expand crisis stabilization services.

NOW, THEREFORE, BE IT RESOLVED, That the Dakota County Board of Commissioners hereby amends the 2009 Social Services budget as follows:

Expense	
1.5 FTE Crisis Response Temp. Pool effective July 1	
Salary	\$42,039
FICA	3,216
PERA	2,838
Mileage	733
Office Supplies	750
County-wide Indirect	6,006
Total Expense	\$55,582
Revenue	
MetrCCs Grant	\$55,582
Total Revenue	\$55,582

; and

BE IT FURTHER RESOLVED, That the continuation of these time limited temporary pool positions is contingent upon the continued availability of non-county funds.

09-434

Authorization To Execute Grant Agreements With Minnesota Department Of Health For Public Health Preparedness And Cities Readiness Initiative

WHEREAS, the Dakota County Board of Commissioners acts as the Community Health Board and has responsibility to prevent disease and disability and to promote and protect the health and safety of County residents; and

WHEREAS, the State of Minnesota has received funds from the Centers for Disease Control and Prevention to assess and enhance the capacity of the state and local public health departments to respond to bioterrorism, infectious diseases, and other threats to public health; and

WHEREAS, the state, acting through the Minnesota Department of Health, has allocated funding to each Community Health Board to carry out grant activities to assess and enhance local public health capacity to respond to bioterrorism, infectious diseases, and other public health threats; and

WHEREAS, it is imperative that Dakota County Emergency Management and Public Health Department work in a coordinated manner with its municipalities and townships to effectively plan for and respond to the health and other support needs of residents impacted by a community-wide emergency; and

WHEREAS, the state has allocated two grants to Dakota County for the period of August 10, 2009 through August 9, 2010: 1) Public Health Preparedness grant in the amount of \$321,329, and 2) Cities Readiness Initiative grant in the amount of \$87,843.

NOW, THEREFORE, BE IT RESOLVED, That the Dakota County Board of Commissioners hereby authorizes the Community Services Director to execute grant agreements with the Minnesota Department of Health to carry out the proposed Public Health Preparedness and Cities Readiness Initiative in the amounts of the grants awarded, subject to approval by the County Attorney's Office as to form; and

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BE IT FURTHER RESOLVED, That the Community Services Director is hereby authorized to amend said grant agreements to accept additional funding awarded by the Minnesota Department of Health, subject to approval by the County Attorney's Office as to form.

09-435

Acceptance Of Resignation From Member Of Human Services Advisory Committee

BE IT RESOLVED, That the Dakota County Board of Commissioners hereby accepts the resignation received from Maralee Rother, District 1 representative on the Human Services Advisory Committee, and authorizes staff to begin the process to fill this vacancy.

09-436

Acceptance Of Resignation From Member Of Farmland And Natural Areas Program Advisory Committee

BE IT RESOLVED, That the Dakota County Board of Commissioners hereby accepts the resignation received from Mike Hughes, District 5 representative on the Farmland and Natural Areas Program Advisory Committee, and authorizes staff to begin the process to fill this vacancy.

09-437

Proclaim Week Of September 14 To September 18, 2009, As Annual Giving Week In Dakota County

WHEREAS, the Dakota County Board of Commissioners recognizes the importance of non-profit community, school, social, health, and other agencies in delivering services to residents of the Dakota County; and

WHEREAS, major funds enabling these agencies to provide services and information include dollars obtained through the generosity of individuals participating in organized giving efforts; and

WHEREAS, Dakota County employees have annually organized and participated in a campaign for charitable giving; and

WHEREAS, the Board of Commissioners places a high priority on employee participation and encourages and supports the Giving Campaign.

NOW, THEREFORE, BE IT RESOLVED, That the Dakota County Board of Commissioners hereby proclaims September 14 to 18, 2009, as the Annual Giving Week in Dakota County government and encourages all employees to participate.

09-438

Execution Of Access And Parking Easement Agreement With City Of Rosemount

WHEREAS, Dakota County and the City of Rosemount entered into a joint powers agreement related to the Robert Trail Library on January 23, 2007 (Resolution No. 07-059); and

WHEREAS, the terms of the joint powers agreement require the County and City to execute a cross-parking agreement for shared use of the parking lots on the library and adjacent City property; and

WHEREAS, City and County staff have developed a proposed access and parking easement agreement; and

WHEREAS, the proposed agreement grants each party and their patrons non-exclusive access for pedestrians and vehicles to each other's property; and

WHEREAS, the Dakota County Board of Commissioners have reviewed and considered the terms and conditions of the proposed access and parking easement agreement.

NOW, THEREFORE, BE IT RESOLVED, That the Dakota County Board of Commissioners hereby authorizes the Chair of the Dakota County Board of Commissioners to execute an access and parking easement agreement with the City of Rosemount for the Robert Trail Library property and adjacent City property, subject to approval by the County Attorney's office as to form.

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09-439**Authorization To Execute Contract With Palmer West Construction Company, Inc. For Roof Replacement And Insulation At Judicial Center And Judicial Center Addition (Recovery Act)**

WHEREAS, roof warranties at the Judicial Center and Judicial Center Addition have expired; and

WHEREAS, evaluations of the roofs by roofing inspectors recommend replacement of the roofs in 2009; and

WHEREAS, replacement of the roof at the Judicial Center is included in the 2009 Building Capital Improvement Program (CIP); and

WHEREAS, Facilities Management and Roof Spec Inc. staff prepared bid documents; and

WHEREAS, seven qualified bids were received on August 13, 2009; and

WHEREAS, Palmer West Construction Company, Inc., has submitted the low reasonable and responsive bid of \$395,500; and

WHEREAS, sufficient funds for reroofing are available within the 2009 CIP Building Fund for the base bid for this project; and

WHEREAS, funding to add insulation to the roofs is expected as a part of the Energy Efficiency and Conservation Block grant, via the American Recovery and Reinvestment Act.

NOW, THEREFORE, BE IT RESOLVED, That the Dakota County Board of Commissioners hereby authorizes the Operations Management Director to execute a contract with Palmer West Construction Company, Inc., 14595 James Road, Rogers, MN 55374, for the base bid for roof replacement at the Judicial Center and Judicial Center Addition, in an amount not to exceed \$303,100, subject to approval by the County Attorney's Office as to form; and

BE IT FURTHER RESOLVED, That the Dakota County Board of Commissioners hereby authorizes the Operations Management Director to include in the contract with Palmer West Construction Company, Inc., 14595 James Road, Rogers, MN 55374, the alternate bid for roof insulation at the Judicial Center and Judicial Center Addition, in an amount not to exceed \$92,400, contingent upon award and acceptance of the federal Energy Efficiency and Conservation Block grant funding.

09-440**Authorization To Execute Contract Amendment With WSB & Associates, Inc. For Engineering Services For Mississippi River Regional Trail**

WHEREAS, by Resolution No. 99-526 (September 21, 1999), the Dakota County Board of Commissioners adopted the draft Mississippi River Regional Trail (MRRT) Development Plan; and

WHEREAS, by Resolution No. 06-428 (October 17, 2006), the County Board authorized a contract with WSB & Associates, Inc. (WSB) for design and engineering services of the MRRT north and east segments; and

WHEREAS, the contract was administratively amended twice, and once by Resolution No. 09-012 (January 6, 2009), resulting in a new contract amount of \$216,390; and

WHEREAS, by Resolution No. 09-329 (July 7, 2009), the County Board authorized a contract for the construction of the MRRT north segment, with Carl Bolander and Sons Company, in the amount of \$535,419.44, substantially below the engineer's construction cost estimate of \$922,630; and

WHEREAS, a Federal Transportation grant in the amount of \$837,264 is available for up to 80% of eligible construction costs of the MRRT north segment; and

WHEREAS, due to the low construction cost, the Federal Transportation grant has an unencumbered balance of over \$300,000; and

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WHEREAS, to realize the benefit of the unencumbered grant balance, additional engineering services for landscaping and other amenities is required by the Minnesota Department of Transportation; and

WHEREAS, staff has negotiated a fee of \$13,600 with WSB for additional engineering services and approval processes required for landscaping and other amenities; and

WHEREAS, the 2009 Parks and Open Space Capital Improvement Program (CIP) budget includes adequate funding for the additional engineering services for the MRRT north segment; and

WHEREAS, staff recommends that a contract amendment be executed with WSB to provide additional engineering services in the amount not to exceed \$13,600.

NOW, THEREFORE, BE IT RESOLVED, That the Dakota County Board of Commissioners hereby authorizes the Physical Development Director to execute a contract amendment with WSB & Associates, Inc., for additional engineering services for the Mississippi River Regional Trail north segment, increasing the contract by an amount not to exceed \$13,600, for a contract total of \$229,990, subject to approval by the County Attorney's Office as to form.

09-441

Authoriation To Execute Agreement With Minnesota Department Of Public Safety, Office Of Traffic Safety, For Safe And Sober Community Grants

WHEREAS, the issue of impaired drivers driving on roadways throughout Dakota County continues to be a problem; and

WHEREAS, Dakota County desires to identify and arrest those individuals that are driving in an impaired condition; and

WHEREAS, the Sheriff's Office will coordinate these efforts with other law enforcement agencies throughout Dakota County pursuant to a joint powers agreement for that purpose, which the Dakota County Board of Commissioners approved on May 3, 2005, (Resolution No. 05-221); and

WHEREAS, the State of Minnesota, Department of Public Safety, and the Office of Traffic Safety, through the Safe and Sober Community, is sponsoring a grant in the amount of \$131,000, of which approximately \$10,900 will be available to the Dakota County Sheriff's Office for the purpose of identifying and arresting impaired drivers.

NOW, THEREFORE, BE IT RESOLVED, That the Dakota County Board of Commissioners hereby authorizes the Sheriff to execute an agreement with the Minnesota Department of Public Safety, Office of Traffic Safety, for the project of Safe and Sober Communities for the period of October 1, 2009, through September 30, 2010, subject to approval by the County Attorney's Office as to form.

09-442

Approval Of Application From City Of Northfield To Acquire Tax-Forfeited Parcel

WHEREAS, in accordance with Minn. Stat. § 282.01, Subd. 1a, tax-forfeited land may be conveyed by the County Board to a subdivision of the state for any public use for which the subdivision is authorized to acquire property; and

WHEREAS, the City of Northfield has applied for conveyance of the following parcel for a stormwater management pond:

PID#: 43-22500-010-00
COLLEGE VIEW ESTATES
OUTLOT A

; and

WHEREAS, the County Treasurer-Auditor recommends the conveyance of this tax-forfeited parcel based on the application and statement of facts submitted by the governmental subdivision.

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NOW, THEREFORE, BE IT RESOLVED, That the Dakota County Board of Commissioners hereby approves the application from the City of Northfield for the conveyance of the above-described parcel of tax-forfeited land, as recommended by the Dakota County Treasurer-Auditor.

09-443

Approval Of Applications From City Of South St. Paul To Acquire Two Tax-Forfeited Parcels

WHEREAS, in accordance with Minn. Stat. § 282.01, Subd. 1a, tax-forfeited land may be conveyed by the County Board to a subdivision of the state for any public use for which the subdivision is authorized to acquire property; and

WHEREAS, the City of South St. Paul has applied for conveyance of the following parcels for ravine, drainage and bluffline preservation:

PID#: 36-49100-110-03	PID#: 36-49100-120-03
MOTOR LINE ADDITION	MOTOR LINE ADDITION
11 3	12 3

; and

WHEREAS, the County Treasurer-Auditor recommends the conveyance of these tax-forfeited parcels based on the applications and statements of facts submitted by the governmental subdivision.

NOW, THEREFORE, BE IT RESOLVED, That the Dakota County Board of Commissioners hereby approves the applications from the City of South St. Paul for the conveyance of the above-described parcels of tax-forfeited land, as recommended by the Dakota County Treasurer-Auditor.

09-444

Approval Of Application From Township Of Empire To Acquire Tax-Forfeited Parcel

WHEREAS, in accordance with Minn. Stat. § 282.01, Subd. 1a, tax-forfeited land may be conveyed by the County Board to a subdivision of the state for any public use for which the subdivision is authorized to acquire property; and

WHEREAS, the Township of Empire has applied for conveyance of the following parcel for stormwater drainage, trail access and passive recreation:

PID#: 12-72900-010-00
 SUMMER GLEN
 OUTLOT A

; and

WHEREAS, the County Treasurer-Auditor recommends the conveyance of this tax-forfeited parcel based on the application and statement of facts submitted by the governmental subdivision.

NOW, THEREFORE, BE IT RESOLVED, That the Dakota County Board of Commissioners hereby approves the application from the Township of Empire for the conveyance of the above-described parcel of tax-forfeited land, as recommended by the Dakota County Treasurer-Auditor.

09-445

Approval Of Plats

BE IT RESOLVED, That the Dakota County Board of Commissioners hereby approves the following plats, having been approved by the respective Township Board and City Council, and submits them to the Property Taxation and Records Department for recording:

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Dan Nicolai Addition
Spirit of Brandtjen Farm 3rd Addition

Township of Castle Rock
Lakeville

END OF CONSENT AGENDA

ayes 7

nays none

At this time, the following individual addressed the Board regarding Item 7.3 – Determination Of Special Assessment Against Property Owned By Organic Conversion Corporation Related To Environmental Remediation:

- Ronald Petrofski, Hastings

Discussion followed Mr. Petrofski's comments and staff was instructed to visit the property to determine if there are new violations of Dakota County Ordinance 110.

09-446

Determination Of Special Assessment Against Property Owned By Organic Conversion Corporation Related To Environmental Remediation

Motion: Comm. Schouweiler

Second: Comm. Egan

WHEREAS, Organic Conversion Corporation owns a 20 acre parcel of property located in Vermillion Township, Dakota County (PIN 39-02000-020-77) (Property) which was determined to be a nonconforming site under Dakota County Ordinance No. 110, section 14.00 (Ordinance 110) due to the presence of solid waste; and

WHEREAS, on November 29, 2005, Dakota County served Organic Conversion Corporation with a notice of violation (NOV) requiring it to remediate the Property; and

WHEREAS, Organic Conversion Corporation did not comply with the NOV and on February 13, 2006, Dakota County served Organic Conversion Corporation with an Abatement Notice pursuant to Ordinance 110, section 3.14(D); and

WHEREAS, Organic Conversion Corporation failed to remediate the Property as required by the Abatement Notice; and

WHEREAS, pursuant to the authority of the Abatement Notice, County staff entered the Property and remediated the Property; and

WHEREAS, staff has inspected the property and determined the solid waste on the site has been remediated in accordance with Ordinance 110; and

WHEREAS, the net cost incurred by the County to remediate the Property is \$101,798.88; and

WHEREAS, in accordance with Ordinance 110, section 3.14(D)(4), the Dakota County Board of Commissioners must determine what amount, if any, of the remediation costs incurred by the County should be assessed against the Property.

NOW, THEREFORE, BE IT RESOLVED, That the Dakota County Board of Commissioners hereby applies the sum of \$101,798.88 against the property identified as PIN 39-02000-020-77 located in Vermillion Township, Dakota County, as a special assessment payable over 15 years, plus an interest rate of 4%; and

BE IT FURTHER RESOLVED, That in accordance with Ordinance 110, section 3.14(D)(4)(e), the costs recovered through the special assessment shall be reimbursed to the Dakota County Environmental Fund balance.

ayes 7

nays none

The following appointments were then made to the Dakota-Scott Workforce Investment Board (Agenda Item 13.1).

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09-447

Appointments To Dakota-Scott Workforce Investment Board

Motion: Comm. Branning

Second: Comm. Egan

BE IT RESOLVED, That the Dakota County Board of Commissioners hereby appoints the following individual to the Dakota-Scott Workforce Investment Board:

Representing	Name	Term Ending
Private	Deborah Insel	June 30, 2010
Public – Public Assistance	Timothy Walsh	June 30, 2011

ayes 7

nays none

At this time, Financial Services Director Matt Smith presented Item 13.2 – Adoption Of 2010 Proposed Property Tax Levy.

09-448

Adoption Of 2010 Proposed Property Tax Levy

Motion: Comm. Harris

Second: Comm. Krause

WHEREAS, the Dakota County Board of Commissioners is required to adopt a proposed property tax levy by September 15, 2009, and to establish the date of a public hearing for input on levy and budget consideration.

NOW, THEREFORE, BE IT RESOLVED, That the Dakota County Board of Commissioners hereby adopts the 2010 proposed maximum property tax levy of \$128,375,073.00 to finance the 2010 county budget, and Financial Services staff are directed to conduct appropriate calculations and file necessary documentation with the State of Minnesota to certify this action; and

BE IT FURTHER RESOLVED, That a public Truth in Taxation hearing to receive public input on the County's property tax levy and 2010 budget is hereby scheduled for 6 p.m. on December 3, 2009, in the Boardroom, Administration Center, Hastings, Minnesota.

ayes 7

nays none

At this time, Operations Management Director Taud Hoopingarner presented Item 14.1 – Ratify Contract With U.S. Department Of Energy And Amend Budget For Energy Efficiency And Conservation Block Grant.

09-449

Ratify Contract With U.S. Department Of Energy And Amend Budget For Energy Efficiency And Conservation Block Grant (Recovery Act)

Motion: Comm. Harris

Second: Comm. Schouweiler

WHEREAS, Dakota County desires to improve its energy efficiency and reduce energy costs; and

WHEREAS, the Energy Efficiency and Renewable Energy Program of the Federal Department of Energy (DOE), has been provided funding for the Energy Efficiency and Conservation Block (EECB) grant program through the American Recovery and Reinvestment Act; and

WHEREAS, Dakota County is eligible for an EECB formula grant in the amount of \$658,400; and

WHEREAS, Dakota County submitted an application for the formula grant funds to enhance energy efficiency by adding insulation, replacing hot water heaters, retrofitting lights, and conducting energy audits; and

WHEREAS, the County's grant award was approved by the DOE on August 28, 2009, and signed by the Operations Management Director on September 2, 2009.

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NOW, THEREFORE, BE IT RESOLVED, That the Dakota County Board of Commissioners hereby ratifies the contract between the Operations Management Director and the U.S. Department of Energy, Energy Efficiency and Renewable Energy Program, for the 2009 Energy Efficiency and Conservation Block Grant in the amount of \$658,400, for the period of August 28, 2009 through August 27, 2012, subject to approval by the County Attorney's Office as to form; and

BE IT FURTHER RESOLVED, That the 2009 Operations Management budget is hereby amended as follows:

Expense	
Wall Insulation	\$110,000
Energy Audits	\$75,000
Hot Water Heater Replacement	\$185,000
LED Retrofits	\$99,000
Roof Insulation	\$120,000
Administration	\$69,400
Total Expense	\$658,400
Revenue	
2009 EECB grant	\$658,400
Total Revenue	\$658,400

ayes 7

nays none

Received an American Recovery and Reinvestment Act (ARRA) update.

At this time, Vermillion Watershed Administrator Mark Zabel presented Item 16.1 – Adoption Of 2010 Vermillion River Watershed Special Tax District Proposed Levy.

**09-450
Adoption Of 2010 Vermillion River Watershed Special Tax District Proposed Levy**

Motion: Comm. Harris

Second: Comm. Krause

WHEREAS, by Resolution No. 02-347 (June 25, 2002), the Dakota County Board of Commissioners approved a Joint Powers Agreement between Dakota County and Scott County to govern the Vermillion River Watershed; and

WHEREAS, the Joint Powers Agreement establishes a Joint Powers Board consisting of two commissioners from Dakota County and one from Scott County; and

WHEREAS, funding is needed for Dakota County's share of costs associated with managing the Vermillion River Watershed; and

WHEREAS, by Resolution No. 02-296 (June 4, 2002), the Dakota County Board of Commissioners established the Vermillion River Watershed Special Tax District, through Ordinance No. 127, to fund Dakota County's share of costs associated with managing the Vermillion River Watershed; and

WHEREAS, approval and adoption of the Watershed Management Plan, as required by Minn. Stat. Ch. 103B, occurred in November of 2005; and

WHEREAS, the Joint Powers Agreement states that the Vermillion River Watershed Joint Powers Board will adopt a budget and recommend a levy for each county by September 1 of each year; and

WHEREAS, on August 27, 2009, the Vermillion River Watershed Joint Powers Board adopted a proposed budget of \$2,192,910, including the use of 2009 fund balance and federal grant revenue, and recommended that Dakota County's levy be \$1,047,905 and Scott County's levy be \$38,005; and

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WHEREAS, Dakota County must certify a levy on the Special Tax District by September 15, 2009, to be effective for taxes payable in 2010; and

WHEREAS, the final 2010 levy for the Special Tax District will be presented to the Dakota County Board of Commissioners in December 2009.

NOW, THEREFORE, BE IT RESOLVED, That the Dakota County Board of Commissioners hereby adopts a Vermillion River Watershed Special Tax District proposed levy of \$1,047,905 for taxes payable in 2010.

ayes 7

nays none

09-451

Closed Executive Session: County Of Dakota V. North American Hydro Holdings, Inc. Et Al

Motion: Comm. Schouweiler

Second: Comm. Workman

WHEREAS, Dakota and Goodhue Counties (Counties) jointly own a hydroelectric power facility at the Byllesby Dam (Byllesby Dam); and

WHEREAS, in 1987, Dakota and Goodhue Counties (Counties) entered into a Restated Lease Agreement with North American Hydro Holdings, Inc. (NAHH) for operation of the Byllesby hydroelectric power facility; and

WHEREAS, in 2007, the Counties filed a Complaint and commenced litigation in connection with the Restated Lease Agreement against NAHH and its assignee, Neshkoro Power Associates and its general partners (Defendants), for breach of contract related to nonpayment of rent and the trial date is scheduled to begin October 28, 2009; and

WHEREAS, the Dakota County Attorney has requested the opportunity to discuss litigation strategy with the Dakota County Board of Commissioners and has advised that the public discussion of such matters would benefit the Defendants and their counsel to the detriment of Dakota County's claims in this matter; and

WHEREAS, the Dakota County Board of Commissioners desires to invoke the attorney-client privilege and discuss the complaint and litigation strategy confidentially with the County Attorney; and

WHEREAS, pursuant to Minn. Stat. § 13D.05, subd. 3(b), the County Board may close a meeting as permitted by attorney-client privilege.

NOW, THEREFORE, BE IT RESOLVED, That the Dakota County Board of Commissioners hereby schedules a closed County Board meeting on September 8, 2009, and recesses to Conference Room 3A, Administration Center, Hastings, Minnesota, to discuss with the County Attorney the matter of County of Dakota v. North American Hydro Holdings, Inc., et al.

ayes 7

nays none

09-452

Closed Executive Session: County Of Dakota V. Southwest Resources, LLC

Motion: Comm. Schouweiler

Second: Comm. Workman

WHEREAS, Dakota County has commenced condemnation proceedings in connection with the reconstruction of a one-mile section of County State Aid Highway (CSAH) 70 at I-35 in the City of Lakeville; and

WHEREAS, in connection with such proceedings, Dakota County took 229,593 square feet of permanent highway easement, 46,874 square feet of permanent drainage and utility easements, and 78,984 square feet of temporary construction easements from property owned by Southwest Resources, LLC; and

September 8, 2009

WHEREAS, the Dakota County Board of Commissioners seeks legal advice from the County Attorney with respect to the strategy of prosecuting this matter, the public disclosure of which would benefit the landowner and its counsel to the detriment of Dakota County's position in this matter; and

WHEREAS, pursuant to Minn. Stat. § 13D.05, subd. 3(b), the County Board by resolution may close a meeting as permitted by the attorney-client privilege.

NOW, THEREFORE, BE IT RESOLVED, That the Dakota County Board of Commissioners hereby closes the County Board meeting on September 8, 2009, and recesses to Conference Room 3A, Administration Center, Hastings, Minnesota, in order to discuss with the County Attorney the legal strategy of prosecuting Dakota County's condemnation proceeding in the matter of County of Dakota v. Lakeville Land Ltd., Limited Partnership, et al. (Southwest resources LLC) (County Projects CP 70-06 and CP 70-06A).

ayes 7

nays none

The time being 10:00 a.m., and pursuant to public notice and Resolution Nos. 09-451 and 09-452, the County Board adjourned to Conference Room 3A to hold Closed Executive Sessions to discuss County of Dakota v. North American Hydro Holdings, Inc., et al and County of Dakota v. Lakeville Land Ltd., Limited Partnership, et al. (Southwest Resources, LLC).

The following were present:

- Commissioner Joseph A. Harris, District 1
- Commissioner Kathleen A. Gaylord, District 2
- Commissioner Thomas A. Egan, District 3
- Commissioner Nancy Schouweiler, District 4
- Commissioner Liz Workman, District 5
- Commissioner Paul J. Krause, District 6
- Commissioner Willis E. Branning, District 7
- Brandt Richardson, County Administrator
- James Backstrom, County Attorney
- Karen Schaffer, First Assistant County Attorney
- Kelly Olson, Sr. Administrative Coordinator to the Board
- Jay Stassen, Assistant County Attorney
- James Crow, Assistant County Attorney
- Lynn Thompson, Physical Development Director
- Michelle Beeman, Environment and Natural Resources Director
- David Swenson, Water Resources Director
- Matt Smith, Financial Services Director

The time being 10:48 a.m., Ms. Beeman, Mr. Swenson and Mr. Smith exited the closed session and Transportation Director Mark Krebsbach entered. The Closed Executive Session continued until 11:17 a.m., at which time the Board reconvened in the Boardroom with all members present.

09-453

Authorization To Extend Date For Vacation Of Bylesby Dam

Motion: Comm. Harris

Second: Comm. Krause

WHEREAS, Dakota and Goodhue Counties (Counties) jointly own a hydropower facility at the Bylesby Dam (Bylesby Hydropower Facility); and

WHEREAS, in 1987, Dakota and Goodhue Counties (Counties) entered into a Restated Lease Agreement with North American Hydro, Inc., n/k/a North American Hydro Holdings, Inc. (NAHH) for operation of the Bylesby Hydropower Facility (Lease Agreement) and NAHH assigned its interests in the Lease Agreement to Neshkoro Power Associates (Neshkoro)(collectively referred to as Lessees); and

September 8, 2009

WHEREAS, in July 2009, the Counties adopted resolutions terminating this Lease Agreement and required the Lessees to vacate the Facility by September 8, 2009; and

WHEREAS, several tasks must be completed before an effective transfer of operations at the Facility to the Counties can be accomplished; and

WHEREAS, Dakota County staff and Goodhue County staff recommend that the Counties grant Neshkoro an extension to operate the Facility on behalf of the Counties from September 9, 2009 to February 15, 2010, to allow all parties additional time to complete necessary transition tasks; and

WHEREAS, Goodhue County has indicated that it is willing to agree to this extension to the Facility vacation date.

NOW, THEREFORE BE IT RESOLVED, That the Dakota County Board of Commissioners hereby authorizes the County Administrator to execute an agreement with Neshkoro Power Associates to extend the period in which Neshkoro Power Associates will operate the Byllesby Hydropower Facility operations on behalf of the Counties, from September 9, 2009 to February 15, 2010, using the same compensation terms as applied during the prior Lease Agreement, subject to the approval of the County Attorney's Office as to form; and

BE IT FURTHER RESOLVED, That this authorization is contingent upon Goodhue County's execution of the same agreement.

ayes 6

nays 1 Workman

09-454

Authorization To Approve Settlement With Southwest Resources, LLC

Motion: Comm. Krause

Second: Comm. Egan

WHEREAS, Dakota County, through County Project 70-06, is reconstructing a one-mile section of County State Aid Highway (CSAH) 70 at I-35 in Lakeville, which will include separated bicycle paths, replace the bridge over I-35, reconstruct the interchange ramps, realign the frontage roads, and construct a park and pool lot; and

WHEREAS, in Parcels 21(300), 21A(300), 24(300) and 21B(300A), the County condemned for highway purposes approximately 5.27 acres (229,593 square feet) of land for permanent highway easements, 78,984 square feet for temporary construction easements and 47,874 square feet for permanent drainage & utility easements; and

WHEREAS, Southwest Resources, LLC, the owner of the above described parcels, has agreed to a settlement with the County as to the total damages for the taking by Dakota County for highway purposes of the permanent highway easements, temporary construction easements, drainage and utility easements and severance damages, in the total amount of \$3,910,000 plus statutory interest from the date of the quick take payment; and

WHEREAS, the County already has paid to Southwest Resources, LLC the amount of \$2,337,476 for the quick-take payment for said condemnation taking, meaning that approval of this settlement will result in payment of an additional \$1,572,524, plus statutory interest from the date of the quick take payment up to the date of final payment to Southwest Resources, LLC at a current per diem interest rate of \$172.33; interest is \$160,661 through September 15, 2009; and

WHEREAS, the County Attorney recommends approval of the settlement agreement as being a fair and equitable settlement of the case in view of the opinion of the County's appraiser, the time, additional expense and risk involved in continued litigation and that the settlement reflects an appropriate allocation of the prospects for success if the matter is allowed to proceed to a commissioners' hearing.

NOW, THEREFORE, BE IT RESOLVED, That the Dakota County Board of Commissioners approves the settlement agreement as being in the best interest of the County and authorizes payment to Southwest Resources, LLC the sum of \$1,572,524, plus statutory interest of \$160,661 through September 15, 2009, plus additional statutory interest up to the date of final payment to Southwest Resources, LLC at a current per diem interest rate of \$172.33, as full, final and complete settlement for all damages, including interest, costs and attorneys fees, caused by said condemnation of Parcels 21(300), 21A(300), 24(300) and 21B(300A).

September 8, 2009

ayes 7

nays none

Inter-agency announcements and reports were then presented. The County Administrator's Report followed.

09-455

Adjournment

Motion: Comm. Harris

Second: Comm. Workman

BE IT RESOLVED, That the Dakota County Board of Commissioners hereby adjourns to Tuesday, September 22, 2009.

ayes 7

nays none

The County Board meeting was adjourned at 11:37 a.m.

Kathleen A. Gaylord
Chair

ATTEST

Brandt Richardson
County Administrator