

February 4, 2020

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

Call To Order And Roll Call

Commissioner Mike Slavik
Commissioner Kathleen A. Gaylord
Commissioner Thomas A. Egan
Commissioner Joe Atkins
Commissioner Liz Workman
Commissioner Mary Liz Holberg
Commissioner Chris Gerlach

Also in attendance were: Matt Smith, County Manager; James Backstrom, County Attorney; Tom Donely, First Assistant County Attorney; and Jessica Johnson, Administrative Coordinator to the County Manager.

Video and audio of this County Board meeting are available on the Dakota County website.

Pledge Of Allegiance

The meeting was called to order at 9:00 a.m. by Chair Mike Slavik who welcomed everyone and opened the meeting with the Pledge of Allegiance.

Audience

Chair Slavik asked if there was anyone in the audience that wished to address the Board on an item not on the agenda or any item on the consent agenda. No one came forward.

20-066

Approval Of Agenda (Additions/Corrections/Deletions)

Motion: Thomas A. Egan

Second: Joe Atkins

On a motion by Commissioner Thomas A. Egan, seconded by Commissioner Joe Atkins, the agenda was unanimously approved.

Public Hearing

Public Hearing To Receive Comments On Environmental Assessment For County Project 70-23 In City Of Lakeville

The time being 9:02 a.m., and pursuant to public notice, a public hearing was conducted for the purpose of receiving comments on the Environmental Assessment and Environmental Assessment Worksheet for County Project 70-23 in the City of Lakeville. Transportation Assistant Design Engineer Jake Rezac briefed this item and responded to questions. No one came forward for comment.

20-067

Closing of Public Hearing

Motion: Kathleen A. Gaylord

Second: Mary Liz Holberg

BE IT RESOLVED, That the public hearing is closed.

Ayes: 7

Nays: 0

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20-068

Public Hearing To Receive Comments On Environmental Assessment For County Project 70-23 In City Of Lakeville

Motion: Mary Liz Holberg

Second: Liz Workman

WHEREAS, Dakota County (County) and the City of Lakeville (City) are partnering on County Project (CP) 70-23; and

WHEREAS, CP 70-23 includes the segment of County State Aid Highway (CSAH) 70 from Kensington Boulevard/Kenrick Avenue to CSAH 23 (Cedar Avenue); and

WHEREAS, the purpose of the project is to improve safety, operations, and capacity along a primary truck corridor; and

WHEREAS, to address the purpose of the project, the County is proposing to expand CSAH 70 to a four-lane divided-highway, modify access through the use of raised median and local street extensions, construct trails, and add turn lanes; and

WHEREAS, the County is the lead agency for CP 70-23 with construction scheduled to begin in summer 2020; and

WHEREAS, CP 70-23 has been awarded \$14,000,000 in federal funding; and

WHEREAS, additional travel lanes are proposed to be constructed on the 3.7-mile segment of CSAH 70; and

WHEREAS, an Environmental Assessment and Environmental Assessment Worksheet (EA/EAW) is necessary to satisfy federal and state requirements on the project; and

WHEREAS, federal requirements contain provisions for providing an opportunity for a public hearing on a project involving an EA/EAW; and

WHEREAS, an EA/EAW for the project was completed on January 7, 2020, and published in the Minnesota Environmental Quality Board Monitor on January 13, 2020; and

WHEREAS, a public notice regarding a 30-day comment period for the EA/EAW was also published in local newspapers; and

WHEREAS, staff recommends holding a public hearing prior to one being requested in an effort to satisfy federal requirements and maintain the project schedule.

NOW, THEREFORE, BE IT RESOLVED, That the Dakota County Board of Commissioners holds a public hearing on February 4, 2020, at 9:00 a.m. in the Boardroom, Dakota County Administration Center, 1590 Highway 55, Hastings, Minnesota for the purpose of receiving comments on the Environmental Assessment and Environmental Assessment Worksheet for County Project 70-23 in the City of Lakeville.

Ayes: 7

Nays: 0

CONSENT AGENDA

Motion: Liz Workman

Second: Chris Gerlach

On a motion by Commissioner Liz Workman, seconded by Commissioner Chris Gerlach, the consent agenda was unanimously approved as follows:

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20-069

Approval Of Minutes Of Meeting Held On January 21, 2020

Physical Development

20-070

Authorization To Execute 2020 Lease Agreement For Agricultural Use Of County Property

WHEREAS, Dakota County has historically leased portions of unimproved County-owned parkland for interim agricultural purposes until such time that it can be converted to its highest and best use according to approved master plans; and

WHEREAS, by Resolution No. 12-526 (October 23, 2012), the County Board directed staff to use a competitive sealed-bid process for leasing County-owned property for agricultural use; and

WHEREAS, the resolution authorized one-year lease terms for the initial leases and a sealed-bid leasing process, and subsequent leases may have terms up to three years; and

WHEREAS, the resolution further directed that, if the County receives no bids or receives unacceptable bids, staff was to negotiate with current tenants or others to develop one-year agricultural use leases for those sites without an acceptable bid; and

WHEREAS, all successful bids and negotiated agricultural use leases must be presented to the County Board for review and consideration; and

WHEREAS, on January 13, 2020, no bids were received for leasing County-owned property for agricultural use; and

WHEREAS, staff proceeded to contact and negotiate with an interested party, Paul Werner, to farm the parcel in 2020 for a total payment of \$6,000.

NOW, THEREFORE, BE IT RESOLVED, That the Dakota County Board of Commissioners hereby authorizes the Physical Development Director to execute an agricultural lease agreement with the following individual for use of specified County land at the rates, durations and terms described, subject to approval by the County Attorney's Office, as to form: Paul Werner, for a lease on no more than 42 acres of cropland near the Empire Composting Facility (Site 6) at a rate of \$142.86 per acre for a total amount of \$6,000 from April 1, 2020, through December 31, 2020.

20-071

Authorization To Amend Scope Of Northern Service Center Public Health Clinic Project To Include Western Service Center Public Health Clinic

WHEREAS, the project to renovate the Northern Service Center Public Health Clinic was approved in the 2018–2022 Capital Improvement Program Budget; and

WHEREAS, the purpose of the project is to provide greater flexibility in the delivery of programs and services by improving client flow, space utilization, customer service, communication, and efficiency; and

WHEREAS, the requested change in project scope to include the Western Service Center Public Health Clinic aligns with the original project purpose; and

WHEREAS, all identified needs would be presented in early 2020 to the County Board at schematic design for approval; and

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WHEREAS, the original project budget will not be exceeded; and

WHEREAS, sufficient funds are available within the 2019 Amended Building CIP Budget for this Project.

NOW, THEREFORE, BE IT RESOLVED, That the Dakota County Board of Commissioners hereby authorizes an amendment to the scope of the Northern Service Center Public Health Clinic Project to include the Western Service Center Public Health Clinic.

20-072

Authorization To Execute Second Amendment To Contract With Voith Hydro, Inc., For Design And Fabrication Of Water-To-Wire Equipment For Byllesby Dam Turbine Upgrade Project

WHEREAS, Dakota County owns the Lake Byllesby Dam and operates its hydroelectric facility under the Federal Energy Regulatory Commission (FERC) safety regulations; and

WHEREAS, over the past decade, the Dakota County Board of Commissioners has approved significant capital investments to the project for FERC required dam safety improvements; and

WHEREAS, the Dakota County Board of Commissioners, on October 20, 2015 (Resolution No. 15-532), authorized staff to execute a contract for preliminary design tasks on a turbine upgrade project to replace the existing century-old equipment in the dam; and

WHEREAS, on September 1, 2017, Dakota County accepted (Resolution No. 17-421), \$6,000,000 in State bonding dollars to supplement the County's approved 2018–2022 Byllesby Dam Capital Improvement Program (CIP) budget which currently has a total project budget of \$14,000,000; and

WHEREAS, to complete this project, county staff developed a team including; an engineering consultant to provide project design, a turbine manufacturer to provide turbine and generation equipment in a complete package (e.g., water-to-wire equipment), and a general contractor for installation of the equipment and modification to the powerhouse structure; and

WHEREAS, County staff developed prequalification requirements for turbine manufacturers through a request for qualifications, in which Voith Hydro, Inc., was selected utilizing the Best Value Contracting process authorized by state statute in the amount of \$4,220,436.00 (Resolution No. 18-111); and

WHEREAS, Voith's first contract amendment was addressed administratively in fall 2019 for small changes to their design and modifications during fabrication in the amount of \$76,793.74 bringing the total contract amount to \$4,297,229.74; and

WHEREAS, the costs associated with this second amendment are changes in the electric equipment to address powering Byllesby Regional Park and modifications in the penstocks to make construction more cost-effective.

NOW, THEREFORE, BE IT RESOLVED, That the Dakota County Board of Commissioners hereby authorizes the Physical Development Director to execute a contract amendment with Voith Hydro, Inc., in the amount of \$68,841 bringing the total contract amount not to exceed \$4,366,070.74, subject to approval by the County Attorney's Office as to form.

Public Safety

20-073

Authorization To Execute Joint Powers Agreement With City Of Rosemount For Emergency Management Services

WHEREAS, since 2013 and with the approval of the Dakota County Board of Commissioners, the Sheriff has provided Emergency Management Services to multiple cities in Dakota County; and

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WHEREAS, the City of Rosemount has requested that the Sheriff provide this service through a joint powers agreement for the period of January 1, 2020 through December 31, 2020; and

WHEREAS, the Dakota County Sheriff agrees to enter into a joint powers agreement and provide the City with Emergency Management Services with its sub-contractor for the period of January 1, 2020 through December 31, 2020.

NOW, THEREFORE, BE IT RESOLVED, That the Dakota County Board of Commissioners hereby authorizes the Sheriff to execute a joint powers agreement with the City of Rosemount, where the Dakota County Sheriff will provide Emergency Management Services through its sub-contractor, for the period of January 1, 2020 through December 31, 2020, subject to approval by the County Attorney's Office as to form; and

BE IT FURTHER RESOLVED, That the 2020 County Sheriff budget is hereby amended as follows:

Revenue	
Emergency Management Services	<u>\$5,720</u>
Total Revenue	\$5,720
Expense	
Emergency Management Services	<u>\$5,720</u>
Total Expense	\$5,720

Public Services And Revenue

20-074

Approval Of Application For Exempt Permit For Sunrise Gobblers National Wild Turkey Federation, Inc., To Hold Raffle

WHEREAS, gambling licenses are issued by the Minnesota Gambling Control Board; and

WHEREAS, the Minnesota Gambling Control Board requires County approval of an application when the gambling premises are located in a township; and

WHEREAS, an application for an Exempt Permit to hold a raffle at Cannon Falls Golf Club in Randolph Township has been submitted by Sunrise Gobblers National Wild Turkey Federation, Inc.; and

WHEREAS, the Dakota County Board of Commissioners is the local governing body having jurisdiction over the proposed gambling activity.

NOW, THEREFORE, BE IT RESOLVED, That the Dakota County Board of Commissioners hereby approves the application from Sunrise Gobblers National Wild Turkey Federation, Inc., to hold an Exempt Permit for a raffle at Cannon Falls Golf Club in Randolph Township on March 14, 2020.

REGULAR AGENDA

County Board/County Administration

20-075

Appointments To Dakota-Scott Workforce Development Board

Motion: Chris Gerlach

Second: Mary Liz Holberg

BE IT RESOLVED, That the Dakota County Board of Commissioners hereby appoints the following individuals to the Dakota-Scott Workforce Development Board to finish out one-year terms ending June 30, 2020.

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<u>Representing</u>	<u>Name</u>
Private	Ivan Youssef
Private	Anita Drentlaw
Private	Kristin Oftedahl

Ayes: 7

Nays: 0

**20-076
Appointments To Library Advisory Committee**

Motion: Liz Workman

Second: Thomas A. Egan

BE IT RESOLVED, That the Dakota County Board of Commissioners hereby appoints the following youth to the Library Advisory Committee for a one-year term ending December 31, 2020:

<u>Representing</u>	<u>Name</u>
At-large Youth	Fatuma Mohamed

Ayes: 7

Nays: 0

**20-077
Appointments To Public Art Citizen Advisory Committee**

Motion: Liz Workman

Second: Joe Atkins

BE IT RESOLVED, That the Dakota County Board of Commissioners hereby appoints the following individual to the Public Art Citizen Advisory Committee to complete a vacant two-year term ending December 31, 2020:

<u>District</u>	<u>Name</u>
5	Colin Turner

Ayes: 7

Nays: 0

Physical Development

**20-078
Authorization To Execute Multiple Land Control Agreements For Minnesota River Greenway Fort Snelling Segment**

Parks Director Steve Sullivan and Senior Project Manager Josh Kinney briefed this item and responded to questions.

Motion: Thomas A. Egan

Second: Joe Atkins

WHEREAS, the Minnesota River Greenway (MNRGW) runs along the south side of the Minnesota River in Eagan and Burnsville, extending from I35-W in Burnsville to Lilydale Regional Park in Saint Paul; and

WHEREAS, by Resolution No. 11-516 (October 18, 2011), the Dakota County Board of Commissioners adopted the Master Plan; and

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WHEREAS, the Master Plan concluded that the MNRGW Fort Snelling State Park (FSSP) segment required further study to determine an alignment; and

WHEREAS, a feasibility study was completed and evaluated alignment concepts, completed an environmental screening, and identified a feasible trail alignment through FSSP; and

WHEREAS, the Minnesota Department of Natural Resources, which manages the state park, is supportive of the alignment; and

WHEREAS, the proposed trail requires the following Land Control agreements:

- Encroachment Agreement with Xcel Energy for greenway trail and river overlook features within and crossing their easement within Fort Snelling State Park
- Cooperative Agreement Amendment with the Minnesota Department of Natural Resources for 3.2 miles of greenway trail and natural resources restoration within Fort Snelling State Park
- Easement with the Metropolitan Council for 476 linear feet (approximately 34,960 square feet) of greenway trail on their property
- Encroachment Agreement with the Metropolitan Council for three greenway trail crossings of sewer pipeline on their easement within Fort Snelling State Park
- Encroachment Agreement with Magellan Midstream Partners for greenway trail within and crossing their easement within Fort Snelling State Park
- Construction and Maintenance Agreement with the Union Pacific Railroad for greenway trail pedestrian bridge overpass crossing of their property near the intersection of Highway 13 and Lone Oak Road in Eagan

; and

WHEREAS, recently the area is rapidly developing a robust recreational network creating an increased demand for completion of the trail connection between the recently constructed Lone Oak Trail Head, the soon to be constructed Cedar Nicols Trailhead, and the MNRGW Black Dog Segment to the west; and

WHEREAS, to better position the County for a successful grant award, by Resolution No. 18-487 (September 18, 2018) the County Board directed staff to proceed with design for the Project; and

WHEREAS, the Metropolitan Council Regional Solicitation grants are scored based on criteria including recreational opportunities, trail connectivity, and status of design and land control for the project; and

WHEREAS, the current request allows for the securing of land control permissions prior to the regional grant solicitation in April of 2020; and

WHEREAS, the public engagement is ongoing for the project and currently includes Dakota County social media posts and a Project web site to gather input and comments; and

WHEREAS, schematic design is anticipated to be completed in March of 2020 and ready for bid January of 2021 with completion estimated in November of 2022; and

WHEREAS, staff recommends the Dakota County Board of Commissioners authorize staff to proceed with negotiation of terms and execution of land control agreements for the Minnesota River Greenway Fort Snelling Segment Project to better position the County for a successful Metropolitan Council Regional Solicitation grant.

NOW, THEREFORE, BE IT RESOLVED, That the Dakota County Board of Commissioners hereby authorizes staff to negotiate the terms of an encroachment agreement with Xcel Energy for greenway trail and river overlook features within and crossing their easement within Fort Snelling State Park and authorizes the Parks, Facilities and Fleet Director to execute the encroachment agreement for the Minnesota River Greenway Fort Snelling Segment Project, 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 staff to

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negotiate the terms of a cooperative agreement amendment with the Minnesota Department of Natural Resources for 3.2 miles of greenway trail and natural resources restoration within Fort Snelling State Park and authorizes the Parks, Facilities and Fleet Director to execute said cooperative agreement amendment, 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 Board Chair to execute an easement on the property described below:

A permanent easement for trail purposes over, under and across, the southeasterly 75.00 feet of the following described property:

That part of the West Half of the Northwest Quarter of Section 17, Township 27, Range 23, Dakota County Minnesota, described as follows: Commencing at the southwest corner of said West Half of the Northwest Quarter of Section 17; thence North 00 degrees 30 minutes 30 seconds West, assumed bearing, along the west line of said West Half of the Northwest Quarter a distance of 1289.55 feet; thence North 47 degrees 48 minutes East, 414.1 feet; thence North 42 degrees 12 minutes West, 43.0 feet, to a point on the northwesterly right of way line of the Chicago, St. Paul, Minneapolis, and Omaha railway, said point being the point of beginning of the tract to be described; thence continuing North 42 degrees 12 minutes West, 370.0 feet; thence North 39 degrees 48 minutes East, 470.3 feet; thence South 42 degrees 12 minutes East, 370.0 feet, to the northwesterly right of way line of said Chicago, St. Paul, Minneapolis, and Omaha railway; thence southwesterly along said northwesterly right of way line to the point of beginning.

with the Metropolitan Council for 476 linear feet of greenway trail on Metropolitan Council property for the Minnesota River Greenway Fort Snelling Segment Project, and 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 staff to negotiate the terms of an encroachment agreement with the Metropolitan Council for three greenway trail crossings of sewer pipeline on their easement within Fort Snelling State Park, and authorizes the Parks, Facilities and Fleet Director to execute said encroachment agreement, 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 staff to negotiate the terms of an Encroachment agreement with Magellan Midstream Partners for greenway trail within and crossing their easement within Fort Snelling State Park, and authorizes the Parks, Facilities and Fleet Director to execute said Encroachment agreement, 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 staff to negotiate the terms of a construction and maintenance agreement with the Union Pacific Railroad for greenway trail pedestrian bridge overpass crossing of their property near the intersection of Highway 13 and Lone Oak Road in Eagan, MN, and authorizes the Parks, Facilities and Fleet Director to execute said construction and maintenance agreement, subject to approval by the County Attorney's Office as to form.

Ayes: 7

Nays: 0

Closed Executive Session

20-079

Authorization To Approve Acquisition Settlement With Wentworth Enterprise Center, LLC For County Project 98-13

This item did not go into closed session.

Motion: Thomas A. Egan

Second: Kathleen A. Gaylord

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WHEREAS, Dakota County (County) is proceeding with County Project (CP) 98-13 to construct a pedestrian underpass and trail connections of Trunk Highway 3 (Robert Street) in the City of West St. Paul; and

WHEREAS, the County is the lead agency for CP 98-13 with right of way acquisition needed for construction to begin in summer 2020 as scheduled; and

WHEREAS, to construct the recommended improvements, Dakota County must acquire certain property rights from Wentworth Enterprise Center, LLC ("Landowner") identified as Parcel 1, with a legal description of:

TRAIL, DRAINAGE & UTILITY EASEMENT over, under, and across that part of Lot 4, Block 2, City Center Addition, according to the recorded plat thereof, Dakota County, Minnesota, lying easterly of the following described line:

Commencing at the southeast corner of said Lot 4; thence North 89 degrees 52 minutes 00 seconds West, assumed bearing, along the south line of said Lot 4 a distance of 78.30 feet to the point of beginning of the line to be described; thence North 49 degrees 26 minutes 48 seconds East a distance of 76.89 feet; thence North 00 degrees 08 minutes 00 seconds East a distance of 267.36 feet; thence South 89 degrees 52 minutes 00 seconds East a distance of 10.00 feet; thence North 00 degrees 08 minutes 00 seconds East a distance of 52.51 feet to the north line of said Lot 4 and said line there terminating EXCEPTING therefrom the south 20.00 feet of said Lot 4.

And

A TEMPORARY EASEMENT over, under and across the west 5.00 feet of the east 15.00 feet of the south 35.00 feet of the north 43.50 feet of Lot 4, Block 2, City Center Addition, according to the recorded plat thereof, Dakota County, Minnesota.

; and

WHEREAS, the County offered the Landowner compensation based on the County's approved appraised value for the property; and

WHEREAS, the Landowner rejected the offer seeking additional damages for costs related to the acquisition; and

WHEREAS, the parties in this action have agreed to settle all damages caused by the acquisition whereby the County will pay Landowner \$71,800; and

WHEREAS, the County Attorney and staff recommend approval of the settlement agreement as being a fair and equitable settlement of the claims in view of the impacts to the property, real estate market data, the time, additional expense and risk involved in eminent domain proceedings and belief that the settlement represents an appropriate allocation of the prospects for success if the matter is allowed to proceed to a condemnation commissioners' hearing.

NOW, THEREFORE, BE IT RESOLVED, That the Dakota County Board of Commissioners hereby approves the acquisition of property from Wentworth Enterprise Center, LLC, legally described above for \$71,800 as being in the best interest of Dakota County and authorizes the County Attorney to arrange for final payment of the acquisition amount and to effectuate final settlement of the acquisition.

Ayes: 7

Nays: 0

20-080

Authorization To Commence Litigation Against Ayres Associates, Inc., And Other Parties Who Might Be Responsible

This item did not go into closed session.

Motion: Thomas A. Egan

Second: Joe Atkins

WHEREAS, Dakota County entered into a contract with Engineering & Construction Innovations, Inc., ("ECI") for repairs to the Byllesby Dam ("the Construction Contract"); and

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WHEREAS, ECI claims that Dakota County breached the Construction Contract; and

WHEREAS, efforts to resolve the dispute outside of litigation have been unsuccessful; and

WHEREAS, ECI commenced a lawsuit against Dakota County in the District Court for the State of Minnesota, County of Dakota, Court File No. 19HA-CV-20-366 ("the Lawsuit"); and

WHEREAS, Dakota County has real and viable defenses to the Lawsuit; and

WHEREAS, Dakota County has claims to assert against Ayres Associates, Inc., in connection with the Lawsuit; and

WHEREAS, Dakota County may discover claims to assert against other parties in connection with the Lawsuit though the discovery process; and

WHEREAS, Board approval is required to commence an action against Ayres Associates, Inc., and other parties as necessary to defend the County against claims asserted by ECI.

NOW, THEREFORE, BE IT RESOLVED, That the Dakota County Board of Commissioners hereby authorizes the Dakota County Attorney to commence an action against Ayres Associates, Inc., and other parties as necessary to defend the County against claims asserted in Engineering & Construction Innovations, Inc. v. Dakota County, Dakota County District Court File No. 19HA-CV-20-366.

Ayes: 7

Nays: 0

Interagency Announcements/Reports

Interagency announcements and reports were then presented.

County Manager's Report

County Manager Matt Smith noted the following:

- Housing/Homelessness Update
- Coronavirus Update - Dakota County Public Health is monitoring and will provide updates as needed.

Information

See Attachment A - Future Board Meetings And Other Board Activities

20-081

Adjournment

Motion: Chris Gerlach

Second: Joe Atkins

On a motion by Commissioner Chris Gerlach, seconded by Commissioner Joe Atkins, the meeting was adjourned at 9:44 a.m.

Mike Slavik
Chair

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ATTEST

Matt Smith
County Manager