

**MARTIN COUNTY BOARD OF
COMMISSIONERS MEETING
TUESDAY, APRIL 6, 2004
@ 9:00 A.M.**

Chairman Potter called the meeting to order at 9:02 a.m. Those present were Commissioners Steve Pierce, Gerald Boler, Steve Donnelly, and Dan Schmidtke. Also present were Jim Forshee, County Auditor/Treasurer, Scott Higgins, County Coordinator, Terry Viesselman, County Attorney, Kevin Peyman, County Engineer, Sheriff Brad Gerhardt, Christine Rupp, Fairmont Sentinel and Rod Halverson, KSUM/KFMC Radio and members of the Public.

Motion by Commissioner Boler, seconded by Commissioner Donnelly to approve the Agenda with the following additions: (1) Accept Resignation/Retirement for Sergeant Duffy Post (2) Authorize to Hire One Deputy Sergeant Position and One Deputy Position (3) To consider Approval for Geo Com Contract for the Sheriffs Office (2) Discuss Resident Concerns Near Cenex Harvest States in Fairmont. Carried unanimously.

Motion by Commissioner Donnelly, seconded by Commissioner Boler that the minutes of the March 16, 2004 regular meeting of the Board of Commissioners is hereby approved. Carried unanimously.

Sheriff Gerhardt informed the Board that Sergeant Duffy Post is retiring from the Force after twenty-five years and has turned in his retirement resignation effective May 31, 2004.

Motion by Commissioner Donnelly, seconded by Commissioner Schmidtke, Be It Resolved, that the Martin County Board of Commissioners hereby accepts the resignation retirement of Sergeant Duffy Post from the Martin County Sheriffs Office, effective May 31, 2004 with regrets. Carried unanimously.

Sheriff Gerhardt presented the GeoComm Inc. maintenance contract for the County's E-911 System and stated that it has not changed since the last contract; the maintenance fee for the System is \$360 per month. Gerhardt recommended approval.

Motion was made by Commissioner Pierce, seconded by Commissioner Boler, Be It Resolved, that the Martin County Board of Commissioners hereby approve and authorize the Chair to sign the GeoComm Inc. Contract for maintenance of the County's E-911 system in the Sheriff's Office in the amount of \$360 per month for one year. Carried unanimously.

Commissioner Pierce inquired the status of the GeoCell with the Dispatch Center.

Sheriff Gerhardt stated that he would need to review the matter with the head dispatcher and report to the Board at a later date.

Sheriff Gerhardt provided legislative update informing the Board that legislation is being considered to have prisoners from the state prisoners serve the last one hundred and eighty days in the local county jail. Gerhardt informed the Board that currently we have two in our jail serving the last 180 day.

Gerhardt informed the Board that background information packets are in and that the Department is moving ahead to hire a replacement Corrections' Officer replacing Theresa Carlson. Carlson's last day will be April 5, 2004.

Gerhardt informed the Board that the Sheriff's Office has received a grant for "Safe and Sober" through the MN Department of Public Safety for \$2,500 and recommended approval.

Motion by Commissioner Donnelly, seconded by Commissioner Schmidtke,

R-#12/'04

RESOLUTION

Whereas, traffic crashes are the leading cause of death of Minnesotan's between the ages of one and thirty-four. and

Whereas, increasing seat belt use will decrease these senseless deaths and injuries,

Be It Resolved, that the Martin County Sheriff's Office enter into a grant agreement with the Minnesota Department of Public Safety, Office of Traffic Safety for the project entitled **SAFE & SOBER** May Mobilization during the period from May 24, 2004 through June 6, 2004.

The Sheriff of Martin County is hereby authorized to execute such agreements and amendments as are necessary to implement the project on behalf of the Martin County Sheriff's Office and to be the fiscal agent and administer the grant.

Upon motion by Commissioner Donnelly, seconded by Commissioner Schmidtke, said resolution was duly adopted by the Martin County Board of Commissioners this 6th day of April 2004.

Jack Potter, Chairman

ATTEST: _____
Scott Higgins, County Coordinator

Roll Call: Those voting AYES: Commissioners Potter, Pierce, Boler, Schmidtke and Donnelly. NAYES: None. Passed and approved this 6th day of April 2004.

Gerhardt presented the Annual County Boat and Water Safety Agreement. Gerhardt stated that the County will received \$3,850 for the fiscal year. After discussion,

Motion by Commissioner Schmidtke, seconded by Commissioner Donnelly,

R-#11/'04

RESOLUTION

AUTHORIZING EXECUTION OF ANNUAL COUNTY BOAT AND WATER SAFETY AGREEMENT:

BE IT RESOLVED THAT Martin County enter into a grant agreement with the Minnesota Department of Natural Resources for the program entitled County Boat and Water Safety for FY 2004.

BE IT FURTHER RESOLVED, that Sheriff Brad Gerhardt and Chairman, Commissioner Jack Potter are hereby authorized to execute and sign such grant agreement on behalf of Martin County.

Motion was made by Commissioner Schmidtke, seconded by Commissioner Donnelly, and duly adopted this 6th day of April 2004.

BOARD OF COMMISSIONERS
MARTIN COUNTY, MN

Jack Potter, Chair

ATTEST: _____
Scott Higgins, County Coordinator

Roll call: Those voting AYES: Commissioners Potter, Boler, Pierce, Schmidtke and Donnelly. NAYES: None. Passed and approved this 6th day of April 2004.

Gerhardt reviewed the Department of Corrections (DOC) Jail Inspection Report. Gerhardt indicated that the main issue with the DOC is the concern in the jail meals. Gerhardt informed the Board that the current jail population is between 20-24 inmates.

Gerhardt informed the Board that the Minnesota Association of Women Police has awarded Deputy Ginger Peterson with their annual Excellence in Performance Award.

Higgins recommended Board approval for the recruitment for the position of Sergeant, stating that the position will be posted per the county policy and to approve to advertise for the recruitment of Deputy position in order to formulate an eligibility list for the Deputy position.

Motion by Commissioner Boler, seconded by Commissioner Pierce, Be It Resolved, that the Martin County Board of Commissioners hereby approve and authorize the Sheriff's Office for recruitment for one replacement Sergeant position for the retiring Sergeant Duffy Post and to authorize and approve for the advertisement and recruitment in formulating an eligibility roster list for the Deputy position in the Sheriff's Office. Carried unanimously.

Terry Viesselman, County Attorney, reviewed the Homier Distributing Company, Inc. of Indiana Transient Merchant License matter. Viesselman stated that Homier alleges the Minnesota law that allows for this license fee violates Commerce Clause of the federal constitution and that this requirement is not imposed on permanent locations in Minnesota. Viesselman stated that the County charges \$150 per license in order for the company to conduct business in the County. Viesselman informed the Board that the courts have declared these transient merchant licenses unconstitutional. Viesselman stated that it is his opinion that the County hold off on making a decision as this time because the state law allows for the transient merchant license fee and that counties issue this license. Viesselman stated that the Attorney Generals office will continue to review this matter as well as the County Attorney's Association and will report back to the Board at a later date.

Jim Forshee, Auditor/Treasurer, informed the Board that there were four transient merchant licenses on record for the county.

Commissioner Boler inquired if MCIT would defend the county if we do not change our practice on the transient merchant licensing.

Viesselman responded that MCIT stated in the letter that they would defend the Counties.

Viesselman commended Sergeant Duffy Post for his great work as Deputy Sergeant for the Sheriff's Office and stated he will be missed.

Pam Flitter, Zoning Official, for Martin County was on hand and reviewed the Conditional Use Permit for Patrick Beemer. Flitter informed the Board that Mr. Beemer, of Section 29 in Rutland Township is proposing to create a demolition disposal site for the burial of construction material resulting from the demolition of the former Chain of Lakes Half-Way House located in an "A" Agricultural Zoning District. Flitter stated that the Planning Commission recommends approval.

Motion by Commissioner Boler, seconded by Commissioner Donnelly,

WHEREAS, a Conditional Use Permit requested by Patrick R. Beemer applicant and Jackie Beemer is owner of the property on March 23, 2004 located in Section 29 of Rutland Township, in the County of Martin in the State of Minnesota, and

WHEREAS, on the 6th day of April 2004 the action requested in the forgone application is recommended for approval for the Board of Commissioner by the Martin County Planning Commission, and

WHEREAS, the Conditional Use Permit is to be issued for the following purpose:
Demolition disposal facility with the respect of the above described property, and

WHEREAS, the following conditions have been applied:

- Obtain all necessary permits from the Minnesota Pollution Control Agency- Demolition Debris Land Disposal Facility Permit-By-Rule
- Proper survey/disposal of all hazardous material that cannot be buried such as asbestos, etc. according to a MPCA permit by rule and taken to a MPCA licensed facility.

NOW THEREFORE BE IT RESOLVED, that the Martin County Board of Commissioners and upon the recommendation of the Martin County Planning Commission hereby approves the Conditional Use Permit for the above described property and is hereby issued pursuant to MS. 394.301 and the Martin County Ordinance #1 Chapter 6.01, and that this permit shall remain in full force and effect provided in the conditions as described above are met and maintained by the applicant and his/or her successors in interest. This permit is binding upon the applicant, the record titleholder to the property, and his/her successors in interest. Notice is hereby given that this permit may be revoked if the conditions set forth above are not maintained as described above. Carried unanimously.

Flitter presented the Conditional Use Permit Application request from Dana Earhart within Section 32 of Rutland Township. Mr. Earhart is proposing to operate a small located in an "A" Agricultural Zoning District. Flitter stated that the Planning Commission has recommended approval.

Motion by Commissioner Pierce, seconded by Commissioner Donnelly,

WHEREAS, the Conditional Use Permit was requested by Dana Earhart, Dana's Hideaway Body Shop, the applicant, Micheal Gene Gatewood and Nadine Rae Gatewood, husband and wife as joint tenants are owners of the property located in Section 32 of Rutland Township the County of Martin and State of Minnesota, and

WHEREAS, on the 6th day of April, 2004 the action requested in the foregoing application was recommended for approval to the Board of Commissioners by the Martin County Planning Commission, and

WHEREAS, the Conditional Use Permit is to be issued for the following purpose(s):

To operate a "one-man" body shop.

WHEREAS, the said application was approved by the Martin County Board of Commissioners this 6th day of April, 2004, with the following conditions, to wit:

- No parking on street of right-o-ways
- No new building or alterations occur on site without the proper permits and approval/review of CUP by Planning Commission
- No outside storage
- When working on vehicles doors be closed
- Paint booth be adequate and have sprinklers on it

NOW THEREFORE BE IT RESOLVED, that the Martin County Board of Commissioners and upon the recommendation of the Planning and Zoning Commission hereby approve the Conditional Use Permit for the above described property is hereby issued pursuant MS 394.301 and Martin County Ordinance #1, Chapter 6.01, and that this permit shall remain in full force and effect provided that the conditions as described above are met and maintained by the applicant and hi/her successors in interest. This

permit is binding upon the applicant, the record titleholder to the property, and his/her successors in interest. Notice is hereby given that this permit may be revoked if the conditions set forth above are not maintained as describe above. Carried unanimously.

Kevin Peyman, County Highway Engineer, presented bid results for SAP 46-653-08. for Aggregate Base, Bituminous Base and Binder, Bituminous Wear, Aggregate Shouldering. Peyman stated that the bid letting was held April 2, 2004 at 10:00 a.m. at the Martin County Highway Department in Fairmont, MN. Four bids were received. Peyman recommended that Kruse Paving, Inc. of Lakefield, MN be awarded the bid, as low and responsible bidder for \$1,740,101.21.

Motion by Commissioner Schmidtke, seconded by Commissioner Boler, having completed the required bid process per MN Statute the following bids for SAP 46-653-08 was received:

Kruse Paving, Inc., Lakefield, MN	\$1,740,101.21
Southern MN Construction, Mankato, MN	\$1,856,903.32
Central Specialties, Alexandria, MN	\$1,920,931.73
Duininck Bros, Inc., Prinsburg, MN	\$1,936,458.50

NOW THEREFORE BE IT RESOLVED, that the Martin County Board of Commissioners and upon the recommendation of the County Engineer, hereby award the aforementioned project to Kruse Paving, Inc., Lakefield, MN in the amount of \$1,740,101.21. Carried unanimously.

Peyman requested approval for purchase of a tandem truck for the Highway Department.

Motion by Commissioner Pierce, seconded by Commissioner Donnelly, the Martin County Board of Commissioners hereby approve the purchase of Sterling LT 9500 tandem truck from Boyer Trucks, Inc., St.Paul, MN from the State of Minnesota Contract in the amount of \$78, 252. Carried unanimously.

Higgins requested approval for the appointment of Kevin Peyman to Wetland Conservation Act (WCA) Technical Evaluation Board as County Representative.

Darren Newville, SWCD Technician, explained that the WCA Technical Evaluation Board meets two or three times a year or on an as needed basis and that the technical expertise that the engineer can provide would be a great asset to the WCA Technical Evaluation Board.

Kevin Peyman being present agreed to serve.

Motion by Commissioner Pierce, seconded by Commissioner Schmidtke, Be It Resolved that the Martin County Board of Commissioners hereby appoint Kevin Peyman as the County Representative to the Wetland Conservation Act (WCA) Technical Evaluation Board for Martin County. Carried unanimously.

Commissioner Boler inquired of the number of applicants that have applied for the open Park Board position.

Higgins responded that there have been two inquires and only one application has been returned.

Billeye Rabbe, Prairieland Solid Waste Coordinator, was on hand and requested approval for the Waste and Recycling Hauler License for Waste Management, Inc of Fairmont, MN for 2004.

Motion by Commissioner Donnelly, seconded by Commissioner Schmidtke, Be It Resolved, that the Martin County Board of Commissioners having the authority to approve Waste and Recycling Hauler Licenses for the County, and having met all the conditions and requirements of the permit application and the Solid Waste Ordinance,

hereby approves the Waste and Recycling Hauler License for Waste Management Inc of Fairmont, MN for the year 2004. Carried unanimously.

Rabbe informed the Board that presently there are nineteen (19) garbage hauling truck licenses and four recycling truck licenses in the county.

Deb Mosloski, Ditch Specialist, requested that a Public Hearing date be set for the Impoundment of portions J.D. #37 located in Elm Creek Township.

Motion by Commissioner Donnelly, seconded by Commissioner Boler, Be It Resolved, that the Martin County Board of Commissioners, as the Drainage Authority for Martin County, hereby sets the required public hearing for the Impoundment of portions of J.D. #37 located in Elm Creek Township date for April 20, 2004 at 10:25 a.m.; said public hearing to be held at the Martin County Courthouse, 201 Lake Avenue, Fairmont, MN. Carried unanimously.

Mosloski informed the Board that an informational meeting concerning the re-determination of Judicial Ditch #10 has been held with landowners on drainage system and that Commissioner Schmidtke was in attendance as the Ditch Inspector for that portion of the County. Mosloski further stated that the Ditch was constructed in 1911 and that a petition was received in 1953 and a portion was redetermined in eleven sections out of nineteen. In 1955, six sections were re-determined, again in 1977 six sections were re-determined, and therefore you are dealing with a range of values on the Ditch system since 1911 to the present. After further discussion,

Motion was made by Commissioner Schmidtke, seconded by Commissioner Boler, Be It Resolved, that the Martin County Board of Commissioners as Drainage Authority for Martin County, hereby approves the Order of Redetermination of J.D. #10 located in Martin County. Carried unanimously.

Commissioner Pierce inquired if the Re-determination required the one-rod buffer zone on each side of the Ditch would be implemented.

Mosloski responded in the affirmative.

Higgins presented the Resolution to Authorize Update to the Martin County Waterplan.

Motion by Commissioner Donnelly, seconded by Commissioner Potter,

R-#13/04

Resolution to Update the Martin County Comprehensive Water Management Plan

WHEREAS, Minnesota Statutes, Chapter 103B.301, Comprehensive Local Water Management Act, authorizes Minnesota Counties to develop and implement a local water management plan, and

WHEREAS, the Act requires that a county update and revise their local water management plan on a periodic basis, and

WHEREAS, the Act encourages that a county coordinate its planning with contiguous counties, and solicit input from local governmental units and state review agencies, and

WHEREAS, the Act requires that plans an official controls of other local governmental units be consistent with the local water management plan, and

WHEREAS, Martin County has determined that the revision and continued implementation of a local water management plan will help promote the health and welfare of the citizens of Martin County, and

NOW, THEREFORE, BE IT RESOLVED, that the Martin County Board of Commissioners resolves to revise and update its current local water management plan.

BE IT FURTHER RESOLVED that Martin County will coordinate its efforts in the revision and update of its plan with all local units of government within the county, and the state review agencies; and will incorporate, where appropriate, any existing plans and rules which have been developed and adopted by watershed districts having jurisdiction wholly or partly within Martin County into its local water management plan.

BE IT FURTHER RESOLVED that the Martin County Board of Commissioners authorizes the established Local Water Management Advisory Committee with the responsibility of revising and updating the plan and who shall report to the County Board on a periodic basis.

BE IT FURTHER RESOLVED that the Martin County Board of Commissioners delegates the Martin County Soil and Water Conservation District (SWCD) the responsibility of coordinating, assembling, writing and implementing the revised local water management plan pursuant to M.S. 103B.301.

CERTIFICATION

STATE OF MINNESOTA COUNTY OF Martin, MN

I do hereby certify that the foregoing resolution is a true and correct copy of a resolution presented to and adopted by the County of Martin at a duly authorized meeting thereof held on the 6th of April 2004

Clerk to the Board
Scott Higgins

Those voting AYES: Commissioners Potter, Schmidtke, Pierce, Boler and Donnelly.
NAYS: None. Passed and approved this 6th day of April 2004.

Commissioner Pierce inquired if there would be a cost to hire consultants for the Water Plan update.

Newville responded that the work will be done by the SWCD and is within the SWCD budget.

Newville informed the Board of a canoe trip being planned by staff of the Clean Water Partnership project on May 22, 2004 to view portions of the Blue Earth River. Newville provided a Clean Water Partnership (CWP) summary update.

Carol Cerney, Vice-President Donor Services and Outreach, of Southern Minnesota Initiative Foundation and Bob Wallace, Fairmont Chamber of Commerce and Board member of the Southern Minnesota Initiative Foundation were on hand to thank the Board for the county support to the Southern Minnesota Initiative Foundation.

Wallace informed the Board that since 1991 the County has contributed \$87,000 to the "Initiative Fund". Wallace reviewed the "Helping Build Stronger Communities and Businesses in 20 Southern MN Counties" project with the Board.

After the presentation, Chairman Potter thanked Carol Cerney and Bob Wallace, for their presentation.

Kay Wrucke, County Recorder, was on hand to provide a Legislative Update pertaining to the Recorder's Office. Wrucke informed the Board that the new proposed \$40 fee for Recordings statewide did not pass this year. Next year the Minnesota Recorders Association will be sending a "housekeeping" Bill to clean up the Bill and will not have

“fee increases” but “surcharges” due to the legislatures philosophy that “fees” are a tax and “surcharges” are not.

Wrucke informed the Board that the Minnesota Association of County Officers is establishing an Electronic Commerce Group that will include Auditor’s, Treasurers, Recorders, IT Department, Coordinators/Administrators, and Assessors. The purpose of this group is to establish electronic recording and the efficiencies therein. Wrucke further informed the Board that the Recorder’s office turn around time is within a week and that the office is functioning well.

Wrucke informed the board that the “Meth” bill has included a fifty-cent surcharge for recording of meth information on those properties. It is projected that this will generate 1.4 million dollars for the State and would be possibly used to fund the loan program for “Meth lab” cleanups. Wrucke stated that the “Meth” bill has become entangled in the legislative process.

The Board thanked Wrucke for her report.

The Board recessed at 10:55 a.m.

The Board reconvened at 11:00 a.m.

Lori Pomeranke, Martin County 4-H Coordinator, was on hand to review the County 4-H Program.

Holli Arp, Regional Extension Director, (Worthington Office) was also on hand and reviewed a document called “Atlas of Minnesota”. The document was a collaboration between the Minnesota Department of Planning, the University of Minnesota Extension Service.

There was discussion concerning the fire damaged 4-H Building on the Fairgrounds and the historical significance of the building.

Pomeranke informed the Board that to repair the building would be at an estimated cost of \$70,000 and it was deemed not feasible. Pomeranke stated that the building is available for free if someone would want to move it. Pomeranke further stated that the building was offered to the Heritage Acres in Fairmont and they did not want the building.

Flitter, requested that a Public Hearing date be set April 20, 2004 at 10:00 a.m. for consideration of the proposed amendments to the Martin County Zoning Ordinance.

Motion by Commissioner Pierce, seconded by Commissioner Schmidtke, Be It Resolved that the Martin County Board of Commissioners, for consideration of proposed amendments to Chapter 10 “Agriculture Districts,” of the Martin County Zoning Ordinance, hereby set the required public hearing to date for April 20, 2004 at 10:00 a.m. located at the Martin County Courthouse, 201 Lake Avenue, Fairmont, MN. Carried unanimously.

Higgins presented the applications for Non-Intoxicating Malt Liquor License (on & off sale) for Merritt and Janice Dale, dba State Line Store and the Fox Lake Golf Club located in Sherburn, MN. Higgins informed the Board that all was in order for the applications and recommended approval.

Motion was made by Commissioner Pierce, seconded by Commissioner Boler, Be It Resolved, that the Martin County Board of Commissioners hereby approve the applications for Non-Intoxicating Malt Liquor License (on and off sale) for Merritt and Janice Dale, dba State Line Store and Fox Lake Golf Club in Sherburn, MN for 2004. Carried unanimously.

Motion by Commissioner Schmidtke, seconded by Commissioner Donnelly to revise the Mobile Home Delinquent Tax List (MHDTL) 2001/2002 and to delete Parcel

M23.037.9520 from the 2001 MHDTL in the amount of \$151.38 and to delete from the 2002 MHDTL in the amount of \$134.06 for a total of \$285.44as the owners have paid the tax for those years. Carried unanimously.

Discussion ensued concerning the land owners complaints contingent to the Cenex Harvest States facility in Fairmont.

Commissioner Schmidtke informed the Board that he, Commissioner Potter and other county staff have met with Jerry Hawker, Plant Manager for Cenex Harvest States (CHS), and other CHS officials concerning the landowners concern on the jake breaking, sirens /alarms, tree buffer issues, truck traffic of highway 130, snow removal, etc.

Schmidtke informed the Board that the Cenex Harvest States officials have made progress in asking truckers not to do the jake breaking or park on County Road #130 and that Cenex Harvest States has made some accommodations for trucks to stage inside the gates of the plant site and suggested that the County provide the needed trees to those land owners who wish to have them as a buffer to the CHS site. After discussion,

Motion was made by Commissioner Schmidtke, seconded by Commissioner Donnelly, Be It Resolved, that the Martin County Board of Commissioners have discussed the major concerns of the immediate surrounding landowners of the Cenex Harvest States (CHS) facility and acknowledging that the officials of CHS have made necessary modifications and hereby approve the purchase of trees the Martin County Soil and Water Conservation District for the landowners immediately contiguous to the CHS facility in Fairmont. Carried unanimously.

Commissioner Potter asked if there was any open discussion from the Public. There was none.

Higgins presented the Rural Minnesota Energy Board Joint Powers Agreement and has submitted to the County Attorney for review before Board consideration. Higgins informed the Board that the purpose of the Rural Minnesota Energy Board is to provide policy guidance on issues surrounding energy development in rural Minnesota and that the focus of the Joint Powers Board is on renewed energy, wind energy, energy transmission lines, bio diesel energy use. The Joint Powers Agreement creates a formal structure for the Minnesota Counties participating in the group and in energy policy programs and developmental issues. After discussion, the Board took no action.

Reports and calendars were reviewed of previous and upcoming week's activities.

Motion by Commissioner Pierce, seconded by Commissioner Donnelly to authorize per diems and expenses for the Southwest South-Central Conference in Wabasso, MN on April 16, 2004. Carried unanimously.

With no further business, to wit, next regular meeting will be held April 20, 2004 at 9:00 a.m. at the Martin County Courthouse Boardroom.

Motion by Commissioner Schmidtke, seconded by Commissioner Donnelly to adjourn. Carried unanimously. The Meeting adjourned at 11:59 a.m.

Board of Commissioners
Martin County, MN

Jack Potter, Chair

Attest: _____
Scott Higgins, County Coordinator