

**MARTIN COUNTY BOARD  
OF COMMISSIONERS MEETING  
TUESDAY, SEPTEMBER 7, 2004  
@ 9:00 A.M.**

The meeting was called to order by Chairman Jack Potter at 9:03 a.m. Those present were Commissioners Steve Pierce, Dan Schmidtke, and Gerald Boler. Commissioner Steve Donnelly was absent. Also present were Terry Viesselman, County Attorney, Jim Forshee, Auditor/Treasurer, Scott Higgins, County Coordinator, Kevin Peyman, County Engineer, Faye O'Sell Administrative Assistant and Dave Smith, Sentinel.

Motion by Commissioner Boler, seconded by Commissioner Pierce, to approve the agenda with the following additions: (1) Billee Rabbe, Independent Contractor/Solid Waste (2) August 24 Special Budget Meeting Minutes and to delete 12 (f.) Consider Proposal for Part-Time Agriculture Technical Advisor Extension Position. Carried unanimously.

Motion by Commissioner Schmidtke, seconded by Commissioner Boler to approve the minutes of the August 17, 2004 Board of Commissioners meeting and the August 24, 2004 Special Budget Meeting. Carried unanimously.

Terry Viesselman, County Attorney, was present to report to the Board concerns from "Homier" regarding the County Transient Merchant Ordinance. Viesselman further stated that the permit process of the county ordinance was asked by Homier to be reviewed because of the large fees that are required in this county to acquire a permit.

Viesselman suggested that an ordinance be adopted by the County Board regarding the permitting of Transient Merchants. Viesselman stated that the County Auditor has a copy of a model ordinance and to send copies of the ordinance to the municipalities and that the Board considers setting a public hearing at a later date.

Viesselman also stated his approval as to form and content of the Contract for Terms regarding Billee Rabbe, Individual Contractor/Solid Waste use of county office space.

With no further business, the County Attorney left the meeting.

Chairman Potter proceeded to consider setting meeting date for the "Road and Forfeiture Land Tax Tour".

Kevin Peyman, County Engineer, was present and stated since there was no bridge bonding on county bridges there would not be many projects to view.

Commissioner Pierce asked Peyman what was going on with the "Itasca" project.

Peyman responded that this metro group top priority was lobbying for more funding regarding transportation and that they were also concerned with the County State Aid Highway (CSAH) formula and considering possible changes to the current CSAH formula.

The Martin County Board of Commissioners by consensus set Friday, September 10, 2004 at 7:00 a.m., as a special meeting date and time for the annual "Road and Tax Forfeited Land Tour" beginning of tour will be located at the Ranch Restaurant, Fairmont, MN and then will tour various Tax Forfeited parcels and various road construction projects and equipment.

Pam Flitter, Martin County Zoning Official, and Mark Johnson (applicant) were present to consider approval for three Conditional Use Requests.

Flitter stated that Mark Johnson is proposing to extract and process gravel for construction purposes on the property of Steve Pomerence in Fraser Township NE ¼ NW ¼ in Section 2, 103 -31 Martin County located in an "SL-1" Special Protection District.

The Martin County Zoning Ordinance requires a Conditional Use Permit for extraction of minerals in an "SL-1" Special Protection District.

R-#33/'04

## RESOLUTION

Motion was made by Commissioner Boler, seconded by Commissioner Pierce,

**WHEREAS**, a Conditional Use Permit requested by Mark Johnson (applicant) 28 W. Ken rue Lane, Fairmont, MN 56031, Steve Pomeranke (Owner) 2206 80<sup>th</sup> Street Fairmont, MN owner of property located in Northwest Quarter of Section 2, Fraser Township in the County of Martin in the State of Minnesota, has applied for a Conditional Use Permit for the extraction and processing of gravel for constructions purposes, and

**WHEREAS**, the Martin County Planning and Zoning staff has completed review of the application and made a report pertaining to the request, a copy of said report has been presented to the County Board of Commissioners; and

**WHEREAS**, the Planning Commission of the County on the 24<sup>th</sup> day of August 2004, following proper notice, held a public hearing regarding the request and, following the hearing, adopted a recommendation that the request for a Conditional Use Permit be granted; and

**WHEREAS**, the Martin County Board of Commissioner finds that Conditional Use Permit is to be issued for the following purpose:

For the extraction and processing of gravel for constructions purposes on property owned by Steve Pomeranke and requires a Conditional Use Permit in an "SL-1" Special Protection Zoning District, and

**WHEREAS**, the following conditions have been applied:

- Obtain all necessary permits concerning the Wetland Conservation Act from Martin County, department of Natural Resources (DNR), the Army Corps of Engineers and other jurisdictions before mining begins if needed.
- Follow Martin County and DNR regulations concerning "waters of the state", including watercourses.
- No mining or processing permitted within 200' of the ordinary high water level,
- A site use, development and restoration plan be submitted that address dust, noise, hours of operation, erosion control and anticipated vegetation and topographic alternations.
- Submit a schedule for rehabilitation as mining is completed in various locations.
- Possible reclamation bond for site

**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 titleholders 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.

This resolution shall become effective immediately upon its passage and without publication.

\_\_\_\_\_  
Jack Potter, Chairman

ATTEST: \_\_\_\_\_  
Scott Higgins, County Coordinator

Roll call: AYES, Commissioners Potter, Schmidtke, Pierce and Boler. NAY's: None  
Passed and approved this 17<sup>th</sup> day of August 2004.

Flitter further informed the Board that Mark Johnson is proposing to extract and process gravel for construction purposes on the property of Charles Johnson in Fraser Township SE ¼ NW ¼ of Section 2-103-31 Martin County located in an "A" Agricultural Zoning District. The Martin County Zoning Ordinance requires a Conditional Use Permit for extraction of minerals in an "A" Agricultural Zoning District.

**R-#34/'04**

## **RESOLUTION**

Motion by Commissioner Boler, seconded by Commissioner Schmidtke,

WHEREAS, a Conditional Use Permit requested by Mark Johnson (applicant) 28 W Ken rue Lane, Fairmont, MN 56031 Charles Johnson (owner) 1657 220<sup>th</sup> Street, Truman, MN, owner of property located in Northwest Quarter of Section 2-Fraser Township )legal description-SE1/4, NW1/4 2-103-31 Martin County, MN), in the County of Martin in the State of Minnesota, has applied for a Conditional Use Permit for the extraction and processing of gravel for constructions purposes, and

WHEREAS, the Martin County Planning and Zoning staff has completed review of the application and made a report pertaining to the request, a copy of said report has been presented to the County Board of Commissioners; and

WHEREAS, the Planning Commission of the County on the 24<sup>th</sup> day of August 2004, following proper notice, held a public hearing regarding the request and, following the hearing, adopted a recommendation that the request for a Conditional Use Permit be granted; and

WHEREAS, the Martin County Board of Commissioner finds that Conditional Use Permit is to be issued for the following purpose:

For the extraction and processing of gravel for constructions purposes on property owned by Charles Johnson and requires a Conditional Use Permit in an "A" Agricultural Zoning District, and

WHEREAS, the following conditions have been applied:

- No mining or processing permitted with structural setback of 200' from the centerline of the road
- A site use, development and restoration plan be submitted that address dust, noise, hours of operation, erosion control and anticipated vegetation and topographic alternations.
- Submit a schedule for rehabilitation as mining is completed in various locations.
- Possible reclamation bond for site

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 titleholders 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.

This resolution shall become effective immediately upon its passage and without publication.

ATTEST: \_\_\_\_\_  
Scott Higgins, County Coordinator

Roll call: AYES, Commissioners Potter, Pierce, Schmidtke, and Boler. NAYS: None.  
Passed and approved this 17<sup>th</sup> day of August 2004.

Flitter also stated that Mark Johnson is proposing to extract and process gravel for construction purposes on the property of Don Swanson in Jay Township NE ¼ of Section 28-102-33 Martin County located in an “SL-I” Special Protection District. The Martin County Zoning Ordinance requires a Conditional Use Permit for extraction of minerals in an “: SL-I” Special Protection District.

R-#35/'04

**RESOLUTION**

Motion by Commissioner Pierce, seconded by Commissioner Schmidtke,

WHEREAS, a Conditional Use Permit requested by Mark Johnson (applicant) 28 W Ken Rue Lane, Fairmont, MN 56031 Donald Swanson (owner) 367 90<sup>th</sup> Street Sherburn, MN, owner of property located in Northeast Quarter of Section 28- Jay township, in the County of Martin in the State of Minnesota, has applied for a conditional Use Permit for the extraction and processing of gravel for construction purposes, and

WHEREAS, the Martin County Planning and Zoning staff has completed review of the application and made a report pertaining to the request, a copy of said report has been presented to the County Board of Commissioners; and

WHEREAS, the Planning Commission of the County on the 24<sup>th</sup> day of August 2004, following proper notice, held a public hearing regarding the request and, following the hearing, adopted a recommendation that the request for a Conditional Use Permit be granted; and

WHEREAS, the Martin County Board of Commissioner finds that Conditional Use Permit is to be issued for the following purpose:

For the extraction and processing of gravel for constructions purposes on property owned by Donald Swanson and requires a Conditional Use Permit in an “SL-I” Special Protection Zoning District, and

WHEREAS, the following conditions have been applied:

- Obtain all necessary permits concerning the Wetland Conservation Act from Martin County, department of Natural Resources (DNR), the Army Corps of Engineers and other jurisdictions before mining begins if needed.
- Follow Martin County and DNR regulations concerning “waters of the state”, including watercourses.
- No mining or processing permitted within 200’ of the ordinary high water level,
- A site use, development and restoration plan be submitted that address dust, noise, hours of operation, erosion control and anticipated vegetation and topographic alternations.
- Submit a schedule for rehabilitation as mining is completed in various locations.
- Possible reclamation bond for site

Side note: A variance was requested and granted for setback from the ordinary high water level. Required setback is 200’ and variance was granted for mining operation from existing fence line or 100’.

**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 titleholders 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.

This resolution shall become effective immediately upon its passage and without publication.

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Jack Potter, Chairman

ATTEST: \_\_\_\_\_  
Scott Higgins, County Coordinator

Roll call: AYES, Commissioners Potter, Boler, Schmidtke and Pierce. NAYS: None passed and approved this 17<sup>th</sup> day of August 2004.

Motion was made by Commissioner Pierce, seconded by Commissioner Boler, Be It Resolved that the Martin County Board of Commissioners upon the recommendation of the Auditor/Treasurer's Office, deems the checks as uncollectible for a total amount of \$134.40 be paid.

Motion by Commissioner Pierce, seconded by Commissioner Boler to accept the resignation of Rebecca Schlorf Von Holdt from employment with the County of Martin as the Clean Water Partnership (CWP) Technician and to pay out severance benefits per the Courthouse Union contract, effective September 7, 2004. Carried unanimously.

Motion by Commissioner Pierce, seconded by Commissioner Schmidtke, Be It Resolved by the Martin County Board of Commissioners that due to the limited expectancy and nature of the Clean Water Partnership Watershed Technician position (CWP position), it is in the best interest of the county and its operations that the Martin County Soil and Water Conservation District assume the responsibility for any remaining functions of this position. Carried unanimously.

Sheriff Brad Gerhardt was present and updated the Board on the Sheriff's Office Activities and Homeland Security and Emergency Management Grant.

Gerhardt stated that he had submitted a plan for the Homeland Security and Emergency Management Grant. Gerhardt stated that the grant is for \$49,998 and is included in the CY2005 budget. The grant is a reimbursement grant. Gerhardt stated although the grant is included in the CY2005 budget, the Department may need to access some of the projected funds for this year. We receive the grant application around April and is approved around this time of the year.

Motion was made by Commissioner Schmidtke, seconded by Commissioner Boler to approve and authorize the Chair and the Auditor/Treasurer, James Forshee, to sign the Homeland Security Grant for \$49,998. Carried unanimously.

Sheriff Gerhardt stated that August 27, 2004 several staff and commissioners traveled to Freeborn County to tour the "soon to be opened" Freeborn County Jail. It was a great learning experience. Gerhardt reported on the following:

- The Sheriff's Office is in the final stages of creating ID's for all County employee's and Emergency Service Personnel.
- Operation "Night Cap" seemed to be met with positive response. Gerhardt referred to the documents that the commissioners had received, stated that it is safe to say that the good news is that people traveling to and from Martin County that evening did so in a safe manner.
- Information was given in regard to Short Term Offender's. This is starting to have a large financial impact on Counties throughout the state and Martin

- County is no exception.
- Permits to Carry. Sheriff Gerhardt reported so far we have felt no “Ill Effects” from the latest ruling. We have had no one come in for a permit.
  - On October 8 the Weekend Consequential Camp will have its second camp. We are currently in discussion with Watonwan County to have both operations’ merge.
  - Martin County Fair was a great success. Two deputies were on duty for three nights to provide security at the Fair. I’m asking the Commission to allow me to submit a bill to the Agriculture Society to compensate for the Deputy’s time that was dedicated to the Fair.
  - A Midwest Governor’s Meth. Summit is coming the week of October 11. Gerhardt further stated that the National Drug Policy Summit is coming the week of October 25<sup>th</sup>. Senator Rosen has done a lot to get these initiatives going in Minnesota.

With no further questions on the Sheriff’s report from the Board, Chairman Potter thanked the Sheriff for his report.

Chairman Potter referred to the deleted agenda item regarding the part-time Extension position for an Agriculture Technical Advisor. Potter stated that he had talked to Don Rudolph, Extension Committee member and that he would not be able to attend today’s meeting but would like to be on the agenda to present to the Board a proposal to hire a part-time Agriculture Technical Advisor through the University of Minnesota Extension Service at a future meeting.

Commissioner Pierce asked the Board if they wanted to waste time once again on reviewing this position.

The commission concurred that it had already been talked about at a previous Meeting. It was the consensus of the Commission that the issue had already been addressed and that there may not be a need to discuss the matter further.

Scott Higgins, County Coordinator, present the Resolution relating to the proposed Tax Levy for CY2005. The Preliminary proposed CY2005 levy is \$7,758,087, which equates to a 6.9% increase over CY2004 levy. Higgins stated that the increase is \$504,649 from the CY2004 levy. Higgins informed the Board that the proposed levy amount cannot be increased after it has been certified to the County Auditor/Treasurer, but can decrease. Higgins stated that the after the total projected budget expenditures for CY2005 are \$15,574,585 and the total projected revenues are \$15,802,404. The general budget breakdown is as follows

	<u>Expenditures</u>	<u>Revenues</u>
Revenue Fund	\$6,075,460	\$6,075,460
Special Funds	8,970,647	9,198,466
Debt Service	528,478	528,478

Motion was made by Commissioner Pierce, seconded by Commissioner Boler,

**R-#36/'04**

**RESOLUTION**

**Proposed Tax Levy for CY2005:**

**WHEREAS**, the Martin County Board of Commissioners met to review the recommended CY2005 Budget; and

**WHEREAS**, the CY2005 recommended budget and levy was prepared with the participation of the Martin County Department Directors, Elected Officials, and The Martin County Board of Commissioners, and

**THEREFORE, BE IT RESOLVED**, that on September 7, 2004 after review of the budgetary needs of the County for CY2005 and following discussion by the Martin

County Board of Commissioners, the Board establishes the 2005 proposed preliminary levy at \$7,758,087.

**BE IT FURTHER RESOLVED**, that the preliminary levy is the needed levy of \$8,868,010 less \$1,109,923 in County Program Aid (CPA) formally (HACA).

**BE IT FURTHER RESOLVED**, that before adoption of the final CY2005 budget, the Board may reduce the proposed levy but cannot increase the levy from the amount set this date.

UPON, motion by Commissioner Pierce, seconded by Commissioner Boler, and unanimously carried said resolution was duly passed and adopted this 7<sup>th</sup> day of September 2004.

BOARD OF COMMISSIONERS  
MARTIN COUNTY, MN

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Jack Potter, Chairman

ATTEST: \_\_\_\_\_  
Scott Higgins, County Coordinator

Roll call: AYES, Commissioners Potter, Pierce, Schmidtke and Boler. NAYS: None Passed and approved this 7<sup>th</sup> day of September 2004.

Higgins stated that the Three Rivers RC and D has requested a letter of support from the Board their grant application to the NRCS Conservation Partnership Initiative Grant Application process. The deadline is September 9, 2004. The Three Rivers RC&D Council is not asking for any cash match. They are asking an in-kind contribution of County feedlot Officers time in getting information on the various feedlot operators who may be eligible for to participate in the grant. The sponsors of the grant are the Three Rivers RC&D Council and the Greater Blue Earth Rive Basin Alliance. The main purpose of the grant is to determine and implement best practices in nutrient management being applied to the land within various watersheds.

Motion by Commissioner Schmidtke, seconded by Commissioner Boler, Be It Resolved that the Martin County Board of Commissioners hereby approve and authorize the Chair to send a letter of support to the Three Rivers RC&D Council for the NRCS Conservation Partnership Initiative Application. Carried unanimously.

The Board recessed at 9:55 a.m.

The Board reconvened at 10:10 a.m.

Chairman Potter convened the Board Commissioners as the Martin County Drainage Authority and called the Public Hearing to order in the Matter of the Re-determination of Benefits of Martin County Judicial Ditch No. 10.

Deb Mosloski, Drainage Specialist for Martin County, Ron Ringquist, Chuck Bowers, and Jim Weidemann Viewers for the Martin County Judicial Ditch No. 10, and members of the Public were present.

Ron Ringquist stated that the benefits of the Ditch system were figured in terms dating from 1911, the 1950's and the 1970's. Ringquist further stated that the re-determination to determine benefits in current dollar values. Ringquist said the ditch was created in 1911 to meet the needs of that time; needs that were mostly related to pasture and the growing of hay. The system was not originally created to meet the needs of today's commercial farmer. Ringquist stated that the original System only considered 1,800 acres while the re-determination includes 8,100 acres. Each

property owner in the system will pay a percentage of any maintenance or improvement done on the ditch system other than private improvements. After much public input a,

Motion was made by Commissioner Boler, seconded by Commissioner Schmidtke to close the Public portion of the meeting. Carried unanimously.

Chairman Potter asked for Board discussion and if there were any more questions for the viewers. With no further discussion,

Motion was made by Commissioner Schmidtke, seconded by Commissioner Boler Be It Resolved, that the Martin County Board of Commissioners as the Drainage Authority for Martin County has appointed viewers to re-determine the benefits and damages determined for the original construction and subsequent improvements to Judicial Ditch No. 10, and

Whereas, the Viewers report for the Re-determination of Benefits has been filed with the County Auditor, and

Whereas, upon proper notice and publication the Martin County Board of Commissioners acting as the Drainage Authority for Martin County has held the required public hearing on September 7, 2004, at 10:00 a.m. and have taken public testimony regarding the aforementioned drainage system,

NOW THEREFORE BE IT RESOLVED, that the Martin County Board of Commissioners as the Drainage Authority for Martin County hereby approves the Re-determination of benefits for Judicial Ditch No. 10 and that the redetermined benefits will replace those now being used and all future maintenance expenses will be assessed upon the redetermined benefits. All voting in favor. Carried unanimously.

Higgins updated the Board on the progress of the transit facility and the main options being explored. Higgins stated that the County continues to negotiate with the MDOT on the purchase of approximately 2.5-acre parcel from MNDOT located on Marcus Street. The second option is the continued negotiations with the City of Fairmont in the acquisition of a facility located on 10<sup>th</sup> Street (Aerospace Building). Commissioner Pierce updated the Board on the progress of the Aerospace facility.

Motion was made by Commissioner Pierce, seconded by Commissioner Schmidtke to approve per diems and expenses for Commissioner Boler to attend the RC&D Annual meeting in Minnesota on September 14,15 and 16<sup>th</sup> 2004.

Higgins reviewed briefly the Sentence To Serve second quarter report stating the STS has worked a total of 6,244 hours for a total value of labor at \$31, 220. In addition, the Board reviewed the September 2004 CWP Update. Higgins informed the Board that the Southern Minnesota Initiative Foundation has sent nomination forms for the "Outstanding Collaboration Award" to be awarded October 28<sup>th</sup>.

The Board gave reports and reviewed their calendars of previous and upcoming meetings.

The Board recessed at 11:35 a.m.

The Board reconvened for the Step III Grievance Hearing at 12:00pm

The Step III Grievance was open. Jo Eastvold, AFSCME Business Agent presented the Step III grievance on behalf of the grievant and Martin County Highway Union. After the presentation and careful consideration by the Board the following action was taken,

Motion by Commissioner Schmidtke, seconded by Commissioner Pierce, Be It Resolved that the Martin County Board of Commissioners, after further review and information presented during the grievance hearing, hereby denies the grievance. Carried unanimously.

With no further business to wit, Motion by Commissioner Pierce, seconded by Commissioner Boler, the meeting is hereby adjourned at 1:06pm. Carried unanimously. Dated this 7<sup>th</sup> day of September 2004.

**BOARD OF COMMISSIONERS  
MARTIN COUNTY, MN**

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Jack Potter, Chairman

ATTEST: \_\_\_\_\_  
Scott Higgins, County Coordinator