

PROCEEDINGS OF THE MARTIN  
COUNTY BOARD OF COMMISSIONERS  
TUESDAY, MAY 3, 2005  
@ 9:00 A.M.

The meeting was called to order at 9:00 a.m. by Chairman Dan Schmidtke. Commissioners present were Jack Potter, Gerald Boler, Steve Pierce, and Steve Donnelly. Also present were Scott Higgins, County Coordinator, James Forshee, County Auditor/Treasurer, Kevin Peyman, County Highway Engineer, Terry Viesselman, County Attorney, Sheriff Gerhardt, Christine Rupp, Fairmont Sentinel, Rod Halvorson, KSUM/KFMC, Julie Walters, Administrative Assistant, members of the public.

Motion by Commissioner Donnelly, seconded by Commissioner Pierce to approve the Agenda with the following additions: 10 g. Consider Approval of City of Welcome Agreement for Water Test Wells; and, 10 h. Consider Letter of Support for increase in Ethanol use to 20% Blend.

Motion by Commissioner Potter, seconded by Commissioner Donnelly to approve the minutes of the May 3, 2005 Board of Commissioners meeting. Carried unanimously.

Terry Viesselman, County Attorney, reported that the three ongoing tax appeals from K-Mart, Fairmont Townhouses, and Gordy's are set for trial soon so we will finally get some conclusion. There are no new court appeals this year.

Viesselman reviewed the proposed Mass Gathering Ordinance to be considered by the Board today stating that enforcement and penalties provision should be included into the proposed ordinance. As it currently stands, the provisions of the article may be enforced by an injunction. Due to the complexity and length of time it takes to obtain an injunction, the following language should be added to the proposed ordinance, Section 6 (b) of the proposed ordinance now states that any person, firm or corporation who shall violate any of the provisions of this Ordinance, or who fails, neglects or refuses to comply with any of the provisions of this Ordinance, or who shall make any false statements or knowing omission in any document required to be submitted under the provisions of this Ordinance, shall be guilty of a misdemeanor. Viesselman then stated that the county still has the right to do the injunction under the law and could incorporate such language also.

Viesselman concluded his report that Methamphetamine (meth) cases are taking a great deal of time. Viesselman stated that dealing with meth cases is much different than other drug cases. Mentally, people who are on meth lose their mental capacity for reasoning and judgment; and, unlike other illegal drugs it takes a much longer period for individuals to recover. People on meth usually suffer from some sort of permanent impairment. Everyday law enforcement and attorneys are enforcing the law against meth, but it seems that more and more people are still using the drug.

With no further matters to discuss, Chairman Schmidtke thanked Viesselman for his report.

Kevin Peyman, County Highway Engineer, presented an information sheet to the Board on the Bid Lettings that were held at the Highway Department on April 29, 2005 at 10:00 a.m. Bids for the following projects were considered:

C.P. 05:07 Maintenance Gravel Production

E & D Construction, Mankato, MN (Border Sand & Gravel, Inc.)	\$23,220.00	\$1.29/ton
Rupp Construction, Slayton, MN	\$24,822.00	\$1.379/ton
Southern MN Construction, Mankato, MN	\$25,560.00	\$1.42/ton

Motion by Commissioner Boler, seconded by Commissioner Potter, Whereas bids were advertised and received for C.P. 05:07 Maintenance Gravel Production, and, Now Therefore Be It Resolved, based on the bids received and upon the recommendation by the County Engineer, that the Martin County Board of Commissioners hereby award the bid contract to E & D Construction, Mankato, Minnesota for C.P. 05:07 Maintenance Gravel Production in the amount of \$23,220.00 (\$1.29/ton). Carried unanimously.

Peyman reviewed the bids received for County Project 05:08 Maintenance Gravel (Hauling) as follows,

C.P. 05:08 Maintenance Gravel (Hauling)

Weerts Construction, Winnebago, MN	\$43,787.50	\$5.65/ton
Southern MN Construction, Mankato, MN	\$44,020.00	\$5.68/ton
Hoffman Construction Co., New Ulm, MN	\$76,725.00	\$9.90/ton

Motion by Commissioner Pierce, seconded by Commissioner Boler, Whereas, bids were advertised and received for C.P. 05:08 Maintenance Gravel (Hauling), and Now Therefore Be It Resolved based on the bids received and upon the recommendation by the County Engineer, that the Martin County Board of Commissioners hereby award the bid contract to Weerts Construction, Winnebago, Minnesota for C.P. 05:08 Maintenance Gravel (Hauling) in the amount of \$43,787.50 (\$5.56/ton). Carried unanimously.

Peyman reviewed the bids received for County Project 05:04 Highway Pavement Striping as follows,

C.P. 05:04 Highway Pavement Striping

Traffic Marking Service, Buffalo, MN	\$57,876.00	\$8.74/gal. Yellow \$8.78/gal. White
AAA Striping, Rogers, MN	\$60,618.00	

Motion by Commissioner Pierce, seconded by Commissioner Donnelly,  
Whereas, bids were advertised and received for C.P. 05:04, and  
Now Therefore Be It Resolved after review of the bids and upon the recommendation by  
the County Engineer, that the Martin County Board of Commissioners hereby award the  
bid contract to Traffic Marking Service, Buffalo, Minnesota for C.P. 05:04 Highway  
Pavement Striping in the amount of \$57,876.00. Carried unanimously.

Peyman reviewed the bids received for County Project 05:01 Supplying of Bituminous  
Materials (MC-3000) as follows,

C.P. 05:01 Supplying of Bituminous Materials (MC-3000)  
Koch Materials Company, Savage, MN \$216,080.00

Motion by Commissioner Boler, seconded by Commissioner Donnelly,  
Whereas, bids were advertised and received, and  
Now Therefore Be It Resolved after review of the bids and upon the recommendation by  
the County Engineer, that the Martin County Board of Commissioners hereby award the  
bid contract to Koch Materials Company, Savage, Minnesota in the amount of  
\$216,080.00. Carried unanimously.

Peyman reported that all road restrictions will be lifted effective midnight tonight. In  
conjunction with the early lift on road restrictions, this will allow paving projects to begin  
this week and overlay projects by first of next week for the county.

Peyman next reported that Richard Olson has submitted his resignation as Park Caretaker  
for Cedar-Hanson Park and that the Department will advertise for the replacement  
immediately.

Commissioner Potter asked Peyman if Southern Minnesota Construction (SMC) will be  
constructing the access roads to the various wind towers for the Trimont Wind Farm and  
if so, where do they get the gravel from. Peyman responded that SMC will be doing the  
construction and that contractors will usually go into the area and dig around and see  
what gravel they can find. SMC knows where gravel is in this area from a project they  
worked on a few years ago. It is then up to the construction company to negotiate with  
the landowner as to what they are going to pay for the gravel and to extract it. Potter  
further inquired whether the county can offer to sell gravel to such projects. Peyman  
responded no, the county usually doesn't get into the business of selling gravel to  
contractors.

Commissioner Boler inquired if the Highway Department has done some work on staking put out and placing markers along the road right of ways. Peyman answered yes, the county roads have been done and that the townships have marked townships right of ways also. Peyman continued that letters were sent to individual landowners that the Department would be doing this. Commissioner Boler stated that he noticed that there are still some producers still farming into the right of ways. Boler further inquired of the penalty for farming in the road right of ways. Peyman responded that the first step is to notify people and make them aware of the problem. A lot of people are choosing to comply voluntarily while some are completely ignoring the notification. By state statute, it is a misdemeanor if a person is farming into the road right of ways. The letters sent to the landowners referenced the state statutes and that it is a misdemeanor. Commissioner Boler then asked if the county assists in the leveling and seeding to get the right of way line back into place. Peyman responded yes and that the landowner would need to contact the highway department. After discussion,

Chairman Schmidtke thanked Peyman for his report.

Rebecca Bentele, Victim/Witness Coordinator, introduced Kari Buntjer, the new Administrative Secretary II for the Victim Services Program. Kari was welcomed by the Commissioners.

James Sop, Minnesota Department of Corrections – Mankato District Supervisor, was present to review the proposed Sentence-to-Serve two-year contract that includes a 2 percent increase in the program's cost. The new two year contract, which will take effect July 1, 2005, raises the cost to \$203,367 over two years. The state, which shares the contract with the county, will pay the same amount. After discussion,

Motion by Commissioner Pierce, seconded by Commissioner Donnelly, Be It Resolved that the Martin County Board of Commissioners approve and authorize Chair to sign the contract between the State of Minnesota, acting through its Commissioner of Corrections, Sentence to Serve Program ("State") and Martin County ("Purchaser"), in the amount of \$203,367 effective July 1, 2005 -June 30, 2007. Carried unanimously.

Sop also discussed the quarterly Martin County STS report. According to the report, the number of offenders, both adult and juvenile, in the program in 2004 was 460. Out of those participants, 258 completed the program and 97 exited STS. The estimated market value of completed STS projects in 2004 was \$248,097 and the fine amount worked off through STS was \$101,992. With 3,489 jail hours worked in 2004, the estimated jail housing costs saved in 2004 came to about \$22,672. Sop stated that out of the three STS crew leaders in Martin County, he makes sure at least half of the crews' time is spent doing projects in the county. After discussion,

Chairman Schmidtke thanked Sop for his report.

Sheriff Gerhardt informed the Board that the fourth Consequential Camp has been completed. The program has now taken 29 kids to the camp and currently has a 50-60% success rate in the 12-18 age groups. Gerhardt reported that progress is tracked to determine the success of the program and for grant reporting purposes. Gerhardt continued that they are starting to see some positive effects on the juveniles and that they are not coming back into the system, they're not having problems at home, their grades are going up and there are no truancy problems. With the combined donated dollars and grant dollars still available there are enough funds to continue the camp for at least another two years.

Sheriff Gerhardt announced that Tyler Klunder from Ceylon, MN was awarded one of the Minnesota Sheriff's Association Scholarships. Klunder had the top score out of all of the applicants from the entire state. Gerhardt further reported the jail population is still down and they haven't had an inmate housed out of County for a couple of months. Gerhardt continued, stating the next Justice Council meeting is Friday, May 6<sup>th</sup>, 2005 starting at noon in the upstairs meeting room at Jake's Pizza. There are currently four (4) sub-committees working on the jail planning; Jail Data, Court Data, Crime Data, and the Frequently Asked Questions (FAQ) committee. The "FAQ" committee will get the "Regional Jail" questions referred to them. There is also a Fairmont City councilman and a county commissioner on that committee. Gerhardt next presented information pertaining to the Safe & Sober Grant. The Martin County Sheriff's Office and Fairmont Police Department will again participate in the Safe and Sober Campaign May 23 through June 5 to conduct seat belt checks and other traffic related issues. The purpose is to boost Minnesota's seat belt use rate and decrease traffic deaths and injuries. The Martin County Sheriff's Department and Fairmont Police Department will be adding patrol units on the local roads. This grant is funded by the National Highway Traffic Safety Administration. Gerhardt next reported that Martin County has been chosen to store and maintain an emergency medical disaster trailer. The trailer will address a serious need in our County with regard to a mass injury situation such as a train accident, plane crash, chemical incident, school bus accident, anything that would involve mass injuries. The county would be responsible for maintenance (i.e. insurance, licensing, etc.) of trailer also. Gerhardt stated that to formalize this process a memorandum of Agreement for the maintenance and storage of the medical disaster trailer will be forthcoming for Board consideration.

By consensus, the Board approved Sheriff Gerhardt moving forward with storing the emergency medical disaster trailer for the region.

With nothing further to report, Chairman Schmidtke thanked Sheriff Gerhardt for his report.

Scott Higgins, County Coordinator, presented a request for approval of an Off-Sale, Non-Intoxicating Malt Liquor License for Russell Mileham, d/b/a/ Uncle Buster's. After discussion,

Motion by Commissioner Pierce, seconded by Commissioner Donnelly, Be It Resolved that the Martin County Board of Commissioners hereby approves the application for an Off-Sale, Non-Intoxicating Malt Liquor License from Russell Mileham d/b/a Uncle Busters for CY2005. Carried unanimously.

Higgins presented to the Board for consideration three Conditional Use Permits (CPU's) for the following: Hawkeye Two L.L.P. within Section 28 of Lake Belt Township; Hawkeye Three L.L.P. within Section 4 of Rolling Green Township; and, Duane Behrens within Section 16 of Fraser Township, all proposing to expand current hog operations on an existing building site located in an "A" Agricultural District. Higgins stated that the Planning Commission has approved the CUP requests during their April 26, 2005 meeting and is recommending Board approval of the Conditional Use Permits.

Motion by Commissioner Donnelly, seconded by Commissioner Potter, WHEREAS, a Conditional Use Permit was requested by Hawkeye Two, L.L.P., applicant and owner of property; and,

On the 26<sup>th</sup> day of April, 2005, concerning the following described property located in the County of Martin and State of Minnesota to wit:

The West 830 feet of the South Half of the Southeast Quarter of Section 28, Township 101, Range 32, Martin County, Minnesota.

Subject to easements, reservations and restrictions of record, if any.

AND WHEREAS, on the 3<sup>rd</sup> day of May, 2005, 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 said application was approved by the Martin County Board of Commissioners this 3<sup>rd</sup> day of May, 2005, with the following conditions, to wit:

- a. Obtain MPCA feedlot permit approval
- b. Building permit(s) be obtained after MPCA's feedlot permit approval

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 Martin County Ordinance Chapter 6, 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/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 are not maintained as described above. Said Resolution unanimously carried and adopted this 3<sup>rd</sup> day of May, 2005.

Motion by Commissioner Pierce, seconded by Commissioner Donnelly:  
WHEREAS, a Conditional Use Permit was requested by Hawkeye Three, L.L.P.,  
applicant and owner of property; and,

On the 26<sup>th</sup> day of April, 2005, concerning the following described property located in  
the County of Martin and State of Minnesota to wit:

The North 50 feet of the Northwest Quarter of the Southwest Quarter, the North 50 feet  
of the West 770 feet of the Northeast of the Southwest Quarter and the South 790 feet of  
the West 770 feet of the Southeast Quarter of the Northwest Quarter, all in Section 4,  
Township 102 North, Range 31 West, Martin County, Minnesota.

AND WHEREAS, on the 3<sup>rd</sup> day of May, 2005, 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 said application was approved by the Martin County Board of  
Commissioners this 3<sup>rd</sup> day of May, 2005, with the following conditions, to wit:

- a. Obtain MPCA feedlot permit approval
- b. Building permit(s) be obtained after MPCA's feedlot permit approval

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 pursuant to MS. 394.301  
and Martin County Ordinance Chapter 6, 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/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 are not maintained as  
described above. Said Resolution unanimously carried and adopted this 3<sup>rd</sup> day of May,  
2005.

Motion by Commissioner Potter, seconded by Commissioner Boler:  
WHEREAS, a Conditional Use Permit was requested by West Ridge Pork, applicant and  
owner of property; and,

On the 26<sup>th</sup> day of April, 2005, concerning the following described property located in  
the County of Martin and State of Minnesota to wit:

A tract of land in the Southeast Quarter of the Northeast Quarter of Section 16, Township  
103 North, Range 31 West in Martin County, Minnesota described as follows:

Beginning at the Southeast corner of the Northeast Quarter of Section 16, Township 103 North, Range 31 West in Martin County, Minnesota; thence North 0 degrees 00 minutes 00 seconds East (assumed bearing) along the East line of the Northeast Quarter a distance of 1100.00 feet; thence North 89 degrees 34 minutes 50 seconds West a distance of 792.00 feet to an iron pipe survey marker; thence South 0 degrees 00 minutes 00 seconds West a distance of 1100.00 feet to the South line of the Northeast Quarter; thence South 89 degrees 34 minutes 50 seconds East along the South line of the Northeast Quarter a distance of 792.00 feet to the point of beginning. Subject to an easement for public roadway right-of-way along the East line of the Northeast Quarter and other easements of record in said County and State.

Said tract contains 20.000 acres including the aforementioned easements.

AND WHEREAS, on the 3<sup>rd</sup> day of May, 2005, the action requested in the foregoing application was recommended for approval to the Board of Commissioners by the Martin County Planning Commission with the following conditions, to wit:

- a. Obtain MPCA feedlot permit approval
- b. Building permit(s) be obtained after MPCA's feedlot permit approval

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 pursuant to MS. 394.301 and Martin County Ordinance Chapter 6, 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/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 are not maintained as described above. Said Resolution unanimously carried and adopted this 3<sup>rd</sup> day of May, 2005.

Jerry Voyles, SWCD Director, requested the Board approve and authorize signature for the 2005 Agricultural Best Management Practices (AgBMP) Loan Program Agreement in the amount of \$10,000. to assist landowners in the repair of individual sewage treatment systems and sealing of abandoned wells and other eligible projects.

Motion by Commissioner Potter, seconded by Commissioner Boler, Be It Resolved that the Martin County Board of Commissioners hereby approve and authorize Chair to sign AgBMP Loan Program Agreement in the amount of \$10,000. to assist landowners in the repair of individual sewage treatment systems and sealing of abandoned wells and other eligible projects.

The Board recessed at 10:00 a.m.

The Board reconvened at 10:10 a.m.

Chairman Schmidtke opened the public hearing for the consideration of the proposed Martin County Mass Gathering Ordinance. Scott Higgins, County Coordinator, reviewed the proposed Mass Gathering Ordinance, stating that the overall purpose of the proposed ordinance is to ensure that security, medical health and safety issues have been addressed in gatherings of 1,000 or more people in the county. The proposed ordinance requires a permit with a minimum license fee of \$100 per day.

Chairman Schmidtke asked if there were questions from the Board before proceeding to public input. There was none.

Chairman Schmidtke asked for input from the public. No representatives from the public in attendance nor public input or comments submitted in writing were received concerning the proposed Mass Gathering Ordinance.

Motion by Commissioner Donnelly, seconded by Commissioner Boler to close the public portion of the meeting. Carried unanimously. After further discussion,

Motion by Commissioner Boler, seconded by Commissioner Potter, Be It Resolved that the Martin County Board of Commissioners upon careful consideration and review hereby approve and adopt the Martin County Mass Gathering Ordinance as proposed and to direct county staff to publish and record the Ordinance as required. Roll Call AYES: Commissioners Donnelly, Pierce, Potter, Boler, Schmidtke. NAYS: None. Said Ordinance passed and adopted this 3<sup>rd</sup> day of May, 2005.

**R-#21/'05**

**ORDINANCE 2005-10**

**ADOPTION AND THE ENACTMENT OF THE MASS GATHERING ORDINANCE FOR MARTIN COUNTY, MN**

WHEREAS, the Martin County Board of Commissioners desire to establish an Ordinance to set forth the standards and procedures for mass assembly gatherings in Martin County, MN, and

WHEREAS, notice of the public hearing to be held by the Martin County Board of Commissioners on the MASS GATHERING ORDINANCE was published as required by law, and

WHEREAS, the Martin County Board of Commissioners has held a public hearing and took testimony from the public with respect to the MASS GATHERING ORDINANCE for Martin County during the Board of Commissioners regular meeting on May 3, 2005, and

WHEREAS, the Martin County Board of Commissioners have determined that the proposed MASS GATHERING ORDINANCE serves the best interest of the County in the protection, safety, comfort, health, convenience, and general welfare of the citizens of Martin County, MN, and

NOW THEREFORE, upon on a motion by Commissioner Boler, seconded by Commissioner Potter, that the Martin County Board of Commissioners does hereby ordain the following MASS GATHERING ORDINANCE and that this Ordinance shall be in effect after its passage an approval and publication as required by law.

Passed and approved the 3rd day of May 2005.

BOARD OF COMMISSIONERS  
MARTIN COUNTY, MN

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Dan Schmidtke, Chair

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

Roll Call AYES: Commissioners Donnelly, Pierce, Potter, Boler, Schmidtke. NAYS: None. Said resolution was duly passed and adopted this 3<sup>rd</sup> day of May, 2005.

Higgins presented a request to approve revisions to the By-Laws of the South Central Workforce Council Joint Powers Agreement; revisions consisted of changing the effective date of agreement to July 1, 2005 - June 30, 2006; and name change from “Minnesota Department of Economic Security,” to “Department of Employment and Economic Development (DEED).” After Board consideration,

Motion by Commissioner Potter, seconded by Commissioner Donnelly, Be It Resolved that the Martin County Board of Commissioners hereby approves amendments to the By-Laws of the South Central WorkForce Council Joint Powers Agreement and to authorize Commissioner Steve Pierce (Board delegate) to sign the amended Joint Powers Agreement. Carried unanimously.

Higgins continued with a request to approve disposing of county surplus property by auction. Higgins provided a listing of items to be placed on the auction and informed the Board that the City of Fairmont and Martin County will hold a joint auction to dispose of surplus city/county property and that auction expenses are shared between city and county. The auction is scheduled for May 12, 2005 at 5:00pm in Fairmont.

Motion by Commissioner Pierce, seconded by Commissioner Donnelly, Be It Resolved that the Martin County Board of Commissioners hereby approve the disposal of county surplus property as presented; and to be sold by auction May 12, 2005. Carried unanimously.

Higgins concluded his presentation with the proposed agreement between the City of Welcome and Martin County for project expenses incurred in the drilling of water test wells for an economic development project near the City of Welcome. After discussion,

Motion by Commissioner Pierce, seconded by Commissioner Donnelly, Be It Resolved that the Martin County Board of Commissioners hereby approve and authorize Chair to sign agreement between the City of Welcome and Martin County for funds to be allocated by the county up to \$100,000 for project expenses incurred in the drilling of water test wells for economic development project near the City of Welcome. Carried unanimously.

Commissioner Boler opened discussion on the need to do more and promote and support increasing the ethanol use and to increase ethanol blend to 20%, use of E-85 vehicles in our county fleet, and support for bio-diesel. Boler further stated that continued education in the use of these alternative fuels is needed. After much discussion,

Motion by Commissioner Pierce, seconded by Commissioner Boler, Be It Resolved that the Martin County Board of Commissioners hereby approve and authorize Chair to sign a letter of support for increasing ethanol blend from current 10% to 20% and to explore the use of E-85 vehicles in the county's vehicle fleet. Carried unanimously.

Higgins presented information from MCIT – 2005 Land Use Issues: An In-Depth Look; 2005 Transit Quarterly Report for Martin County Express; Sentence to Serve (STS) Quarterly Program Information; Three Rivers RC&D Council Meeting Minutes; 2005 Electric Transmission Planning Meeting for Southwest Minnesota; South Central Service Cooperative – Quarterly Tracking Report, Health Insurance; and, 2005 SCORE Funds Distributions.

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

The next regular meeting of the Martin County Board of Commissioners will be Tuesday, May 17<sup>th</sup>, 2005 at 9:00 a.m. in the Martin County Commissioners Room.

With no further business to wit, Motion by Commissioner Pierce, seconded by Commissioner Donnelly to adjourn the meeting. Carried unanimously. Meeting adjourned at 11:10 a.m.

BOARD OF COMMISSIONERS  
MARTIN COUNTY, MN

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Dan Schmidtke, Chair

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