

PROCEEDINGS OF THE MARTIN  
COUNTY BOARD OF COMMISSIONERS  
TUESDAY, SEPTEMBER 16, 2008  
@ 9:00 A.M.

The regular meeting of the Martin County Board of Commissioners was called to order at 9:02 a.m.

Those present were Commissioners Donnelly, Schmidtke, Boler, and Potter. Also present were Scott Higgins, Martin County Coordinator, James Forshee, Martin County Auditor/Treasurer, Terry Viesselman, Martin County Attorney, Jennifer Brookens, Sentinel Newspaper, Kevin Peyman, Martin County Highway Engineer, Julie Walters, Administrative Assistant, and members of staff and public.

Motion by Commissioner Schmidtke, seconded by Commissioner Potter, Be It Resolved that the Martin County Board of Commissioners, hereby approve the agenda with the following deletion: Delete Approval of Minutes of the September 2, 2008 regular Board of Commissioners meeting. Carried unanimously.

Kevin Peyman, Martin County Highway Engineer, reported on final contract for C.P. 08:04 Highway Pavement Striping. Peyman stated final examination has been made, contract has been completed, and the entire amount of work has been performed. Peyman noted the contract amount was \$72,111.50 and the final certified amount was \$67,336.44. Peyman recommends approval of the final contract to Traffic Marking Service, Inc. of Maple Lake, MN.

Motion by Commissioner Donnelly, seconded by Commissioner Boler, Be It Resolved that the Martin County Board of Commissioners, upon the recommendation of County Engineer, hereby approve the final contract payment for C.P. 08:04 Highway Pavement Striping with Traffic Marking Service, Inc. of Maple Lake, MN in the amount of \$67,336.44. Carried unanimously.

Peyman concluded with a brief Highway Department project update.

Motion by Commissioner Donnelly, seconded by Commissioner Potter, Be It Resolved that the Martin County Board of Commissioners move into a closed session per Minnesota Statute 13D.05 Subd. 3(b) at 9:06 a.m. Carried unanimously.

Meeting in closed session at 9:06 a.m.

Those present were Commissioners Pierce, Potter, Donnelly, Schmidtke and Boler. Also present were Scott Higgins, Martin County Coordinator, Terry Viesselman, Martin County Attorney, Sheriff Brad Gerhardt, Captain Brad Hady, James Forshee, Martin County Auditor/Treasurer, and Julie Walters, Administrative Assistant.

Motion by Commissioner Boler, seconded by Commissioner Schmidtke, to go back into open session. Carried unanimously.

Meeting returned to open session at 9:17 a.m.

No action taken pertaining to the closed session.

Terry Viesselman, Martin County Attorney, reviewed a letter received from Grant M. Willmert, requesting the Martin County Board of Commissioners change the name of Lake Wilmert to Lake Willmert to correct an error in spelling. Viesselman stated there is a procedure for changing names of lakes which is set forth in Minn. Stat. Ch. 83A.05 which provides that a petition may be presented to the County Board requesting a change of a name of a lake and that the petition must be signed by fifteen (15) or more legal voters residing in the county where the lake is located. Also stated in this statute is that a name which has existed for forty (40) years may not be changed under this statute. Viesselman noted that in the information included with Mr. Willmert's request, his petition did not contain the required number of fifteen names; and that Viesselman believes that the current name of Lake Wilmert has existed for more than 40 years and that therefore the County Board has no authority to change the Lake Wilmert name. Supporting documentation provided by Mr. Willmert was reviewed. After discussion,

Motion by Commissioner Potter, seconded by Commissioner Donnelly, Be It Resolved that the Martin County Board of Commissioners, hereby approve and authorize Board Chair to send a letter to Mr. Willmert, regarding the decision of the Board on the Lake Wilmert name change matter. Carried unanimously.

Brad Gerhardt, Martin County Sheriff, presented the resignation of part-time deputy, Andrew Noll, effective September 4, 2008.

Motion by Commissioner Donnelly, seconded by Commissioner Boler, Be It Resolved that the Martin County Board of Commissioners, hereby accept the resignation of Andrew Noll as part-time deputy for the Martin County Sheriff's Office, effective September 4, 2008. Carried unanimously.

Higgins stated the County Personnel Committee has reviewed and recommends reclassification of Pam Flitter, Zoning Official, from Grade 13 Step 12 at \$23.70 per hour to Grade 14 Step 9 at \$24.02 per hour effective October 1, 2008 due to the essential functions and responsibilities of the position. After discussion,

Motion by Commissioner Boler, seconded by Commissioner Potter, Be It Resolved that the Martin County Board of Commissioners, after careful review and study and upon the recommendation of the Martin County Personnel Committee, hereby approve the reclassification of Pam Flitter, Martin County Zoning Official from Grade 13 Step 12 at \$23.70 per hour to Grade 14 Step 9 at \$24.02 per hour effective January 1, 2009; to reclassify the position one Grade; per the Classification and Compensation Plan Policy;

and is warranted due to essential functions and job responsibilities of the position.  
Carried unanimously.

James Forshee, Martin County Auditor/Treasurer, presented a resolution requesting approval from the Minnesota Department of Natural Resources for the sale of said parcels of land that have been forfeited to the State of Minnesota for non-payment of property taxes.

Motion by Commissioner Donnelly, seconded by Commissioner Schmidtke,

**MARTIN COUNTY BOARD RESOLUTION #28 / '08**

WHEREAS, The County Board of Commissioners of the County of Martin, State of Minnesota, desires to offer for sale certain parcels of land that have forfeited to the State of Minnesota for non-payment of taxes, and

WHEREAS, Said parcels of land have been viewed by the County Board of Commissioners and have been classified as non-conservation lands as provided for in Minnesota Statutes 282.01.

NOW, THEREFORE, BE IT RESOLVED That the Martin County Board of Commissioners hereby certify that all parcels of land on the attached list have been viewed and comply with the provisions of Minnesota Statutes 85.012, 92.461, 282.01, Subd. 8, and 282.018, and other statutes that require the withholding of tax-forfeited lands from sale.

BE IT FURTHER RESOLVED That the Martin County Board of Commissioners hereby request approval from the Minnesota Department of Natural Resources for the sale of said lands.

MOTION WAS MADE by Commissioner Donnelly, seconded by Commissioner Schmidtke, and carried to adopt said resolution.

Dated the 16<sup>th</sup> Day of September, 2008.

BOARD OF COMMISSIONERS  
MARTIN COUNTY, MINNESOTA

\_\_\_\_\_  
Steven Pierce, Chairperson

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

Roll Call AYES: Commissioners Potter, Schmidtke, Donnelly, Boler, and Pierce.  
NAYS: None. Duly passed and adopted this 16<sup>th</sup> day of September, 2008.

The Board acting as the Drainage Authority with Chairman Pierce opening the Continuation Hearing for consideration of the petition received for the Improvement of a Separable Portion of JD #47, and the Partial Abandonment of Portions of JD #47.

Kurt Deter, legal counsel for the Drainage Matters to the County Board, stated that due to the issue of landowner access and additional acquisition of land issues, it was decided at the initial public hearing held on Tuesday, September 2, 2008 to continue the hearing on September 16, 2008. Deter continued that he received notification from Kevin Bittner of Bolton & Menk, engineer for the project, that Bittner has met with the landowners and has arrived at a resolution. Deter noted an additional issue was that Ron Ringquist, viewer for the project, had a couple of minor changes to the Viewer's Report and would present an amended report.

Kevin Bittner, Engineer with Bolton & Menk and for the Project, handed out sketches showing proposed field crossings and field approaches so landowners Wayne Maloney and Steve Graham could access their property. Bittner stated that in negotiations with the landowners it is proposed to include one additional field crossing at an approximate cost of \$50,000 and two field approaches at a cost of approximately \$5,000 for a total of approximately \$55,000 for the additional field accesses. Bittner stated in addition, it was also discussed and has been made a part of this amended report, the compensation for the approximate 4 to 5 acre strip of Mr. Maloney's land.

Ron Ringquist, viewer, confirmed that he has been in contact with Bittner and the viewers and discussed the size of the strip on Maloney's property. Ringquist stated the property will still have some value; but it will be diminished because it will be more difficult for farming. Ringquist continued it was our recommendation that Maloney be allowed \$3,000 per acre for the 4.1 acres, in addition to the original damages. Ringquist went on to state that on Graham's property, they had originally guesstimated 3/10ths of an acre for the triangular piece of property that Graham couldn't farm and we recalculated that as 4/10ths of an acre so we recommend increasing the damages for that as well.

There were no comments from the landowners at this time.

Chairman Pierce asked for input from the public.

Ed Sanders stated he represents a group of people on a private ditch east of the #47 Improvement project downstream and also some people in Watonwan County. Sanders stated the group he represents feels the outlet to the JD #47 project is inadequate. Sanders stated his concerns that their private ditch will overflow and not be able to keep up with the water from Truman and requests better control on the outlet of this ditch.

Deter stated the adequacy of the outlet was addressed at the preliminary hearing by the Board. Mr. Bittner gave his report on whether the outlet was adequate and the Board, at that time of the preliminary hearing, determined that the outlet was adequate. Deter continued you do have the right to change your mind but there would need to be technical information that contradicts what Mr. Bittner indicated which was based on engineering analysis of the outlets.

Bittner stated for clarification that what Mr. Sanders said about no control in the ditch, is not correct. Bittner continued to address the concern for the downstream interests, we did a control structure to the outlet of the ditch, and we are metering that flow; basically mimicking the existing outflow conditions and compensating for that through the storage of the ditch. Bittner continued we can certainly bring up the height of a portion of that weir structure so that we shorten that weir length to the same length of what that structure is out there. However like I said I think it's more of an aesthetic thing. The bottom line in my professional opinion is that we've addressed the concerns that you have for providing adequate control on the outlet of the ditch.

Commissioner Potter asked the Engineer if the flow would be slower if they raised the control structure that is currently in the design.

Wayne Maloney asked at what depth will the ditch overflow?

Bittner stated the ditch would have six feet of water at the downstream end of the control structure before it overtops.

Marvin Bosshart stated he is also concerned about getting flooded and questions if the same consideration or requirements have been met for already established landowners versus new construction and whether the county is requiring some type of holding pond as other projects have been required to handle the heavy storm events.

Discussion followed pertaining to the weir at the outlet. Mr. Deter asked the Engineer if he could estimate the costs if the wings of the weir were narrowed to control the high water flow into the private open ditch. Mr. Bittner estimated the cost of adjusting the weir wings at \$2,000; however the overtopping would still be at the same elevation as it currently exists now. The water will still go over but not as fast. The intent is that we empty Truman's water into the ditch where it would basically be stored and metered out. More discussion ensued pertaining to downstream flooding of the private ditch.

Commissioner Boler stated the main objective is to get the water out of Truman faster and not put any more pressure on the system downstream.

Deter stated he agrees with Commissioner Boler in that the purpose of the project was to resolve or help resolve Truman's flooding issue and it sounds like the project won't hurt Truman by reducing the capacity a little bit for high flows. By doing so, then I think you take away the issue of future damage claims, in my opinion, because it is the same outlet that you have now. The same height, same capacity.

Commissioner Schmidtke stated he thought the main concern today is the driveways and approaches. Where do we sit with that and what kind of total dollars are we looking at?

Bittner stated approximately \$55,000 total dollars.

Deter reviewed what he deems the issues are that need to be decided. It is my opinion that the project needs to be established including the amended Engineer's Report that covers the crossings and things we've talked about today; the amended Viewer's Report that includes the damages we talked about today; and the couple minor corrections that were made. Also, you have the ability to request the engineer make that change to the downstream control structure and that would be included in the amended Engineer's Report. If that passes, then you would order the engineer to put the project out for bids and go into construction. I would then draft and issue an Order for the chairperson's signature and would file that Order in the Ditch File at which time there is then a 30 day appeal period.

Sanders asked Mr. Deter if we as a group have damages and Steve Graham and Wayne Maloney have damages, unnecessarily due damages, who covers that?

Commissioner Pierce stated that Bolton & Menk would be the firm to contact.

Deter stated that if damages occur, you can always bring a claim. However, whether you can prove it or not is an entirely different issue.

Mr. Maloney stated he did not believe \$5,000 was enough for damages for the land they were taking for the new open ditch. He stated that a land sale within the last week brought \$5,900/acre and that was for land they were willing to sell. He believed the amount should be at \$7,000/acre for the taking of land. After further discussions, Commissioner Boler stated he thought that \$6,250 was about half way between the \$5,000 that was determined by the Viewers and \$7,000 Mr. Maloney was asking.

Chairman Pierce asked for further input from the public.

Sanders asked what the total project estimated cost is.

Bittner stated with the additional ditch crossings at approximately \$55,000 we are looking at a total project cost of approximately \$843,000.

Chairman Pierce asked for further input from the public. There was none. There was also no written comments submitted pertaining to the proposed Improvement of a Separable Portion of JD #47 and the Partial Abandonment of portions of JD #47.

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

The Board discussed the Engineer's Report including possible amendments of the addition of crossings and narrowing of the wings on the ditch outlet. After discussion,

Motion by Commissioner Donnelly, seconded by Commissioner Boler, Be It Resolved that the Martin County Board of Commissioners, acting as Drainage Authority for Martin County, and upon careful consideration and review, hereby approve and accept the amended final Engineer's Report and includes one additional field crossing at an approximate cost of \$50,000 and two field approaches at a total cost of approximately \$5,000 for an approximate total of \$55,000 for the additional field accesses; and to reduce the downstream weir length of the overflow to no greater than the existing. Carried unanimously.

The Board discussed the Viewer's Report including the actual taking of the land for the ditch and grass strip at \$5,000 per acre and \$400 per acre for temporary easement.

Deter stated yes, the Viewer's recommended \$5,000 an acre and \$400 for temporary. I think the issue is you can accept that as accepting the Viewers Report or if you want to change those values you have the right to change those. You've had a recommendation from the viewers, you've heard testimony from the landowners what they think its worth.

Commissioner Schmidtke stated the Viewer's recommend \$5,000 per acre and the landowners think \$7,000 per acre.

Deter stated this is not a negotiation. The Board has had a recommendation from the viewers, and have heard testimony from the landowners what they think its worth, now you make the decision. It's not a case of will you sell the land or won't you sell the land; you're going to award what you think is the correct value.

The Board discussed the recommended \$5,000 per acre value for the taking of land versus \$6,250 as recommended by Commissioner Boler. After discussion,

Motion by Commissioner Potter, seconded by Commissioner Schmidtke, Be It Resolved that the Martin County Board of Commissioners, acting as the Drainage Authority for Martin County, and upon careful consideration and review, hereby approve and accept the Viewer's Report as amended to include the per acre value of \$6,250 for the taking of property (Maloney and Graham); and the Viewers will submit a final report reflecting the \$6,250 per acre for the improvement of Judicial Ditch #47. Carried unanimously.

Motion by Commissioner Donnelly, seconded by Commissioner Boler, Be It Resolved that the Martin County Board of Commissioners, acting as Drainage Authority for Martin County, and upon careful consideration and review, hereby establish the project for the Improvement and Partial Abandonment of Judicial Ditch #47; approve and accept the amended Engineer's Report and amended Viewer's Report and find that the damages and benefits have been properly determined; and that the benefits exceed the cost of the project; and that the project will be a public utility and benefit and will promote the public health; and that the proposed project is practicable. Carried unanimously.

Motion by Commissioner Boler, seconded by Commissioner Schmidtke, Be It Resolved that the Martin County Board of Commissioners, acting as the Drainage Authority for Martin County, and upon careful consideration and review, hereby approve and accept the Final Viewer's Report for the Re-determination of Benefits of Judicial Ditch #47. Carried unanimously.

The Board recessed at 10:23 a.m.  
 The Board reconvened at 10:31 a.m.

Deb Mosloski, Drainage Specialist for Martin County, presented her recommendation to order the redetermination of CD #3 in Fraser Township. Mosloski stated there are 2,400 acres within the watershed and that 400 acres are paying benefits.

Chuck Patsche, landowner, was present to confirm the ditch is in need of cleaning and repairs, that there are blowouts and there is drainage deterioration.

Motion by Commissioner Potter, seconded by Commissioner Donnelly, Be It Resolved that the Martin County Board of Commissioners, acting as the Drainage Authority for Martin County, hereby approve and authorize the Order of Redetermination of County Ditch #3 in Fraser Township. Carried unanimously.

Motion by Commissioner Schmidtke, seconded by Commissioner Boler, Be It Resolved that the Martin County Board of Commissioners, hereby approve the payment of claims for the month of September, 2008 as presented; and includes the Martin County Highway Department claims as presented. Carried unanimously.

Warrants received and paid September 16, 2008 are registered on file in the Auditor/Treasurer's Office as follows:

Revenue Fund – Warrants Approved September 16, 2008	\$176,366.70
Enhanced 9-1-1 Fund	\$ 157.36
Recreation and Safety Fund	\$ 597.73
Martin Co. Economic Development Authority	\$ 944.23
Solid Waste Management Fund	\$ 16,423.98
Law Library	\$ 765.50
Martin County Transit Fund	\$ 48,114.18
Bank Building Fund	\$ 3,846.35
Forfeited Tax Fund	<u>\$ 5,000.00</u>
Grand Total	\$252,216.03
 Martin County Ditch Fund – Warrants Totaled	 \$ 35,734.95
Road and Bridge Funds Totaled	\$ 70,906.56

James Forshee, Martin County Auditor/Treasurer, stated a citizen has requested public information on the number of people employed with Law Enforcement, Human Services, and total number of county employees for the years of 1960, 1970, 1980, 1990, 2000, and

2008. Forshee noted that much of the information is stored at the Martin County Library and although staff spent more than three hours researching this request, the Auditor/Treasurer's office would like to invoice the individual requesting the information for three hours of time at the standard rate of \$50 per hour for a total of \$150. After discussion,

Consensus of the Board is to present the citizen requesting the information with an invoice for time spent researching the request for three hours time at \$50 per hour for a total of \$150.

The Board discussed a letter received from the SouthCentral Minnesota Multi-County H.R.A. stating that its Board of Directors has had discussions in recent months and has expressed an interest in addressing the issues of possible liquidation of the Amberfield Housing Project. After discussion,

Motion by Commissioner Boler, seconded by Commissioner Schmidtke, Be It Resolved that the Martin County Board of Commissioners, hereby approve and authorize Board Chair to draft a letter to the SouthCentral Minnesota Multi-County H.R.A. to proceed with the possible liquidation of the Amberfield Housing Project. Carried unanimously.

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

With no further business to wit, Board Chair declared the meeting adjourned at 11:00 a.m.

BOARD OF COMMISSIONERS  
MARTIN COUNTY, MN

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Steve Pierce, Chair

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