

PROCEEDINGS OF THE  
MARTIN COUNTY BOARD OF COMMISSIONERS  
TUESDAY, APRIL 19, 2011  
@ 9:00 A.M.

The regular meeting of the Martin County Board of Commissioners was called to order at 9:00 a.m. by Chairman Pierce.

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

Rebecca Bentele, Victim Witness Coordinator, presented a resolution Proclaiming the Month of April, 2011 as Sexual Assault Awareness Month in honor of all the Minnesotans who have experienced sexual violence, as well as those who have dedicated their lives and their time to serving victims and ending sexual violence in our State and Nation.

Motion by Commissioner Potter, seconded by Commissioner Schmidtke,

R-#19/'11

RESOLUTION  
PROCLAIMING THE MONTH OF APRIL, 2011 AS  
SEXUAL ASSAULT AWARENESS MONTH

WHEREAS, the many voices of those who have been victims of sexual violence must be heard; and

WHEREAS, every child deserves to grow up in an environment that supports their ability to reach their full potential; and

WHEREAS, the Minnesota Department of Health's "Violence Data Brief on Sexual Violence" indicates that the age of patients seeking medical attention after an incident of sexual violence ranged from less than age one to more than one hundred; and

WHEREAS, since 2002, the rate of hospital care due to sexual violence has climbed 6% every year; and

WHEREAS, the Minnesota Department of Health's "Report Costs of Sexual Violence" indicates that sexual violence injures our citizens, decreases productivity and costs our state \$8 billion annually; and

WHEREAS, in 2009, the total number of reported rapes represented 17% of total violent crimes in Minnesota, with an average of six per day; and

WHEREAS, a growing number of Minnesota leaders are committed to sexual violence prevention; and

WHEREAS, all Minnesotans must be part of the solution to eliminate crimes of sexual violence.

NOW THEREFORE BE IT PROCLAIMED, that we the Board of County Commissioners of Martin County Minnesota on this 19<sup>th</sup> day of April, 2011, hereby proclaim the month of April, 2011 Sexual Assault Awareness Month in honor of all the Minnesotans who have experienced sexual violence, as well as those who have dedicated their lives and their time to serving victims and ending sexual violence in our State.

BOARD OF COMMISSIONERS  
MARTIN COUNTY, MN

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Steve Pierce, Board Chair

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

Roll Call AYES: Commissioners Donnelly, Boler, Schmidtke, Potter, and Pierce.

NAYS: None. Proclamation duly passed and adopted this 19<sup>th</sup> day of April, 2011.

Motion by Commissioner Donnelly, seconded by Commissioner Boler, Be It Resolved that the Martin County Board of Commissioners, hereby approve the agenda with the following deletion: 3.1 Review Minutes of the April 5, 2011 regular Board of Commissioners meeting; and Add 8.10 Approve and Authorize Per Diems and Expenses for Commissioners to attend the Rural Minnesota Energy Board meeting on April 28, 2011 in St. Paul, MN. Carried unanimously.

Rebecca Bentele, Victim Witness Coordinator, stated that she along with two sergeants from the Fairmont Police Department participated in training in Duluth (Domestic Abuse Intervention Programs) in August and September of 2009 on enhancing our community's response to domestic violence. Bentele went on to state when they returned from training they formed a steering committee to review our system's response to domestic violence; specifically regarding our response to offender accountability, victim safety and how to better protect children from the damaging effects of growing up in violent homes. Bentele noted the steering committee has done a great deal of work over the past 18 months to move toward a better, more effective response to domestic violence in our county, but there is still more work to be done and would like to request Board support for Martin County to officially form a Community Coordinated Response (CCR) rather than only a steering committee. Bentele went on to note there will be no drastic changes

in forming an official CCR except that we would know that we've got your support behind us doing this and also we would then try to meet more regularly and work towards those specific things that we want to do. Bentele concluded in general we've got three main areas that we're looking at and that is how to better hold the offender accountable, to better keep the victim safe, and how we can work toward reducing the violence that the children grow up with in the homes.

Motion by Commissioner Schmidtke, seconded by Commissioner Donnelly, Be It Resolved that the Martin County Board of Commissioners, hereby support the formation of a Community Coordinated Response (CCR) to further enhance the effectiveness of Martin County's response to domestic violence. Carried unanimously.

Higgins stated the Board had previously authorized the recruitment and replacement of a Seasonal Parks Caretaker for Martin County and the Highway Department has completed interviews. There were forty-nine (49) applications and of those five (5) were interviewed and it is recommended to hire Gary Engler as Seasonal County Parks Caretaker to begin on April 25, 2011 and continue for six (6) months. Pay will be \$12,500.00/six month season at \$961.54/paycheck.

Motion by Commissioner Boler, seconded by Commissioner Schmidtke, Be It Resolved that the Martin County Board of Commissioners, hereby approve the hire of Gary Engler for the seasonal position of County Parks Caretaker, effective April 25, 2011 and will continue for six (6) months at a monthly compensation (with required payroll deductions) of approximately \$961.54 per pay period; and is not eligible for County benefits. Carried unanimously.

Jennifer Jepsen, Martin County Library Director, presented an annual report for the 2010 calendar year highlighting the following events and statistics of last year (including all branch libraries): with a little over 131,000 people attending the various library events or using the library services. The library was open 296 days so that averages out to about 442 people a day; circulation was 178,000 which is up about 3 ½ percent from 2009 and up 11 ¼ percent from 2008; there were 18,529 computer use sessions which averaged about 62 people per day; and there were approximately 68,000 website views. Jepsen continued programs and events are a big part of what we do to try and bring people into the Library and one nice thing that we were able access last year is to apply for grants through the Legacy funds that allowed us to provide arts and cultural programming. Jepsen noted that for adults in 2010 we had 65 different programs with over 1200 attendees, and there were 208 programs for kids and teens with over 5600 attendees. Jepsen concluded that they are always evaluating how to best serve the public in using those tax dollars and something that we really try to do is be involved in our community and working with partnerships and doing presentations. As an example some of the groups we've worked with in the last year were the Girl Scouts, Headstart, Lights on for Kids, the Fairmont School District, Martin County West School District, Martin County 4-H, all of the City Councils, Cognitive Skills Classes, Adult Basic Education Community Ed, Lakeview Methodist Home, and Goldfinch Estates.

Commissioners thanked Jepsen for her report.

Kay Wrucke, Martin County Recorder, reviewed information pertaining to a Land Surveyors Certificate of Correction to Plat received from Joseph A. Haefner, Licensed Land Surveyor. The plat of Outlot A of the Northwest Fractional Quarter of the Northwest Quarter of Section 3 Township 104 North Range 30 West dated December 1977 and filed on May 30, 1978 in the office of the County Recorder, Martin County, Minnesota, contains a plat error regarding the distance of 1908.02 feet from the northeast corner of the plat to the North Quarter Corner of Section 3, T104N, R30W as called for in said plat's legal description and graphically displayed on said plat. Wrucke stated the iron monument was located and distance re-measured and found that corrections are needed on this plat.

Motion by Commissioner Donnelly, seconded by Commissioner Potter, Be It Resolved that the Martin County Board of Commissioners, hereby approve and authorize the Land Surveyors Certificate of Correction to Plat, submitted by Joseph A. Haefner, Licensed Land Surveyor, for the purposes of correcting the measured distances of Outlot A of the Northwest Fractional Quarter of the Northwest Quarter of Section 3 Township 104 North Range 30 West. Carried unanimously.

James Forshee, Martin County Auditor/Treasurer, stated the Auditor/Treasurer's Office has completed interviews for the Accountant position. There were twenty-two (22) applicants and of those seven (7) were interviewed on Monday, April 4, 2011 and it is recommended to hire Jessica Korte effective April 25, 2011.

Motion by Commissioner Schmidtke, seconded by Commissioner Donnelly, Be It Resolved that the Martin County Board of Commissioners, hereby approve and authorize the hire of Jessica Korte as Accountant for the Martin County Auditor/Treasurer's Office at Grade 11 Step 1 at \$16.27/hour effective April 25, 2011; and is eligible for benefits per Courthouse Union contract as it applies to this position, subject to serving a twelve (12) month probationary period. Carried unanimously.

Scott Higgins, Martin County Coordinator, presented and reviewed the revised job description for the Account Technician II position in the Assessor's Office. Higgins stated the only change to the job description is found on page 2 under the Education heading and reads as follows: "Certified Minnesota Assessor is preferred or a willingness to attain within one year." Higgins noted that is what our incumbents have done and so it is recommended to include this qualification requirement to the job description.

Motion by Commissioner Donnelly, seconded by Commissioner Potter, Be It Resolved that the Martin County Board of Commissioners, hereby approve the revised job description (April, 2011) for the Martin County Assessor's Office Account Technician II position as presented, to include the following provision, "Certified Minnesota Assessor is preferred or a willingness to attain within one year."; and which more accurately reflects the educational qualifications for this position. Carried unanimously.

Commissioner Pierce reviewed a letter he received from the Fairmont School District offering to sell the Lincoln School Building to Martin County for \$1.00. Pierce stated the initial offer was declined by the City of Fairmont and per statute must be offered to the County before offering the sale of the building publicly. Pierce recommends referral of the purchase offer to the County's Building/Purchasing Committee for review and recommendation back to the County Board.

Motion by Commissioner Schmidtke, seconded by Commissioner Potter, Be It Resolved that the Martin County Board of Commissioners, hereby refer the proposal received from the Fairmont School District regarding the sale of the Lincoln School Building to the Martin County Building/Purchasing Committee for further review and study of the proposal. Carried unanimously.

Commissioner Potter stated the Rural Minnesota Energy Board will be meeting on April 28<sup>th</sup> in St. Paul, MN to discuss the Wind Energy Production Tax and proposed county levy reduction by the wind energy production tax income amount. Potter stated that he would like to attend this meeting with legislators to ask them not to make us (counties) reduce our levy just because we have that wind energy production tax income coming in.

Motion by Commissioner Donnelly, seconded by Commissioner Schmidtke, Be It Resolved that the Martin County Board of Commissioners, hereby approve and authorize per diems and expenses for Commissioner Jack Potter to attend the Rural Minnesota Energy Board meeting on Thursday, April 28, 2011 in St. Paul, MN. Carried unanimously.

James Forshee, Martin County Auditor/Treasurer, stated that a few townships, namely Manyaska, Nashville, and Westford Townships, have very high road assessments because of the redeterminations. Due to the increased assessments, staff recommends attaching the assessment onto one of their pieces of property that the township owns and spread their assessments out over a period of years so they are not overburdened by such amounts that they did not budget or levy for.

Motion by Commissioner Schmidtke, seconded by Commissioner Donnelly, Be It Resolved that the Martin County Board of Commissioners acting as the Martin County Drainage Authority, hereby approve and authorize an extended pay schedule on certain township road assessments with repayment schedule to be determined by the Martin County Auditor/Treasurer's Office. Carried unanimously.

Richard Perrine, WCA Water Plan Coordinator Martin SWCD, stated that the Martin County Water Plan Advisory Committee, at their March 29, 2011 meeting, recommended the draft mid-plan update of the Martin County Local Water Plan move forward in the approval process. The Martin Soil and Water Conservation District, at their April 14, 2011 regular monthly Board of Supervisors meeting approved forwarding the draft plan to the Martin County Board of Commissioners for the next step in the process; which would be to set a public hearing date to present and receive comments on the proposed revised 2011-2016 Martin County Local Water Management Plan.

Motion by Commissioner Donnelly, seconded by Commissioner Boler, Be It Resolved that the Martin County Board of Commissioners, hereby Set the Public Hearing Date of Tuesday, May 17, 2011 at 9:30 a.m. in the Board Room – First Floor – Martin County Courthouse, for final review of the Martin County Local Water Plan. Carried unanimously.

There was a member of the public that brought up concerns of pending legislation of permitting to haul away farm buildings debris. The Board responded that the issue is being addressed.

Motion by Commissioner Donnelly, seconded by Commissioner Potter, Be It Resolved that the Martin County Board of Commissioners, hereby approve payment of claims for the month of April, 2011; and includes the Martin County Highway Department as presented. Carried unanimously.

Warrants Received and Paid April 19, 2011 are registered on file in the Auditor/Treasurer’s Office as follows:

Revenue Fund – Warrants Approved April 19, 2011	\$257,707.89
Park & Recreation Fund	\$ 29,597.78
Enhanced 9-1-1 fund	\$ 8.25
Recreation and Safety Fund	\$ 355.68
Martin County Economic Development Authority	\$ 10,857.03
Solid Waste Management Fund	\$ 24,120.16
Law Library Fund	\$ 3,087.47
Martin County Transit Fund	\$ 39,355.59
Bank Building Fund	\$ 7,756.30
Total	\$372,846.15

Road and Bridge Funds Totaled	\$ 97,381.79
Martin County Ditch Fund – Warrants Totaled	\$131,759.11

The Board reviewed the Martin County Leadership Program Agenda for May, 2011 (Graduation); the Martin County Leadership Program Application for Year 2011-12; and Minutes of the South Central Service Cooperative Board Meeting on April 6, 2011.

Commissioners presented their Board Member Reports.

Commissioner Potter stated he attended Human Services Executive Board on Wednesday, April 6; Extension Committee on Wednesday, April 7; Agri Business Bureau and Library meeting on Tuesday, April 12; and Head Start.

Commissioner Schmidtke stated he had a lot of tile and ditch calls.

Commissioner Pierce did not have anything different to report.

Commissioner Donnelly stated he attended the Human Services Executive Board on Wednesday, April 6.

Commissioner Boler stated he attended Prairieland on Friday, April 15; and has had numerous tile calls.

The Board reviewed their calendars of upcoming meetings and activities: April 19 – lunch with Boy/Girl County representatives; April 20 – Human Services at Blue Earth and Ditch #49 Hearing at 2:00 p.m. in the Commissioners Board Room – Courthouse; April 27 – Retirement Open House for Chuck Poppe from 2-4 p.m. in the Sisseton Conference Room; April 28 – Rural Minnesota Energy Board at the Kelly Inn in St. Paul, MN; May 2 – Martin County Economic Development Authority meeting at 5:15 p.m.; May 3 – next regular Board of Commissioners meeting at 9:00 a.m.

Higgins stated Law Enforcement Labor Services has submitted a Step 2 Grievance in accordance with Article 9 of the Collective Bargaining Agreement and that the nature of the grievance is that effective February 12, 2011, Greta Olson was reassigned from her position as Head Communications Officer to General Dispatcher. Higgins introduced Kevin Hinrichs, Business Agent with Law Enforcement Labor Services, to review the Step 2 Grievance. Higgins noted that Greta Olson was not present at today's grievance hearing.

Hinrichs stated approximately a month ago Sheriff Markquart made a decision to make a change at the position of head communications officer. The conclusion that Sheriff Markquart had reached was that this job was an assignment and fell into managerial rights to make assignments within the Sheriff's Office. My position, the Union's position, is that it was a classification and a promotion within the confines of the labor collective bargaining agreement between the County and the correctional officers and dispatchers union. A couple points that I would make is that within that collective bargaining agreement under Article 15 Seniority there are three definitions: 1) is county seniority that talks about the length of continuous employment with Martin County; 2) bargaining unit seniority which has to do with the seniority within the bargaining unit should somebody get promoted within six months they can be moved back into the bargaining unit without the loss of seniority; and 3) classification seniority which is the employees length of continuous employment in a job classification. I would point out that under the article it contains pay rates and the contract specifically points to I guess I'll say four different positions that are assigned: EHM Director; Assistant Jail Administrator receives a certain amount of money per month; and then the employee assigned to Systems Administrator and Records position will receive an additional compensation per month of \$110. There are two other positions listed in there that don't talk about assignment but talk about the supervisory override for head corrections officer and head communications officer will be \$170 per month. My position on this is that with that language and that \$170.00 comes what's known as property rights. Meaning that the employee has a right to that money and that the job, while the contract does not specifically say that it is an assignment, so it makes it a classification.

So basically to kind of sum up, I think it's a classification within the means of the contract. It was a posted position, which would mean that it is different than an assignment, and then there was an additional \$170.00 that the employee is paid every month; and the contract specifically points to several positions that are assigned and based on the fact that it does not point to this head communications officer as an assignment, then it means that it's a classification within the meaning of the contract.

Therefore that's why you then received my letter in which I indicated that it was a demotion which falls under the guise of the discipline and you have to do that for cause and there was nothing that was pointed to that would indicate there was some cause to demote the individual.

Captain Corey Klanderud, Martin County Sheriff's Office, was present and stated from our position and under the rules of the authority of the Sheriff, our understanding is that these positions that the union pointed out are appointed positions those being our jail administrator, our assistant jail administrator, our Electronic Home Monitoring supervisor, and our head communications officer. This was a reassignment of duties, within the scope of the contract. Therefore, the contract is that it's an override for extra duties and she no longer performs those extra duties and so there is no rationale for extra pay. I have not seen any documentation that indicates that this is a posted position, when we spoke with the employee she herself advised us that she was asked to fill this job. It was never tested for. We did not post it or test for this position. It was just solely an appointment and it basically comes down to this position is responsible for managing the communications schedule and time off and getting the employees properly trained and those extra duties deserve extra above the normal wage. This position does these duties and is entitled to the benefit versus if they're no longer doing the duties. We do not see cause for why they should be compensated for not doing the duties.

Commissioner Donnelly asked what is her position now. Is she in one of these other three appointed categories?

Captain Klanderud stated she is a Communications Officer and I am not sure what year she was assigned as Head Communications Officer. Ms. Olson was recently reassigned back to the Communications Officer.

Commissioner Pierce asked for questions.

Commissioner Schmidtke stated, well I don't know, but I think every Sheriff that comes in has the prerogative to do whatever he needs to with those positions; and I'm sure just about every Sheriff has done it somewhat different. No two people are going to do things the same. I would believe that it would be the Sheriff's ability within the scope of his position to do what is best for the county.

Hinrichs stated I understand that administrations change but your contract it carries over and is a constant with it and just because an administration changes doesn't mean necessarily that the terms and conditions of employment change with the contract. Now

the administrator may come in and take a different interpretation of that and then everybody can look at that differently. But I think the longevity here is also an issue that you have to look at. I'll show you the sheet of paper I've got that shows that this position was posted. Assignments typically are not, by definition, posted.

Commissioner Schmidtke stated assignments could be noticed, (not formally) if you want to find out who is interested or whatever, you could post it and still assign the person you wanted. Just because you post it doesn't mean that only one you still have to make a decision of who's going to get it

Commissioner Donnelly inquired what the next step is, mediation or arbitration?

Hinrichs stated again I'm prepared to see this through. I think again as I said I don't think the correct conclusion is reached here as far as what the contract says. I mean the contract specifically points to assignment. It doesn't point to assignments on those two-head communications and the head jailer and the fact that it doesn't means that it would lend itself, you know, that it's not an assignment and what I would tell you is the fact that the other positions have assignment and what the contract's telling you is that the employee in that position does not necessarily have the property rights to that additional pay and because it's an assignment. Now the other ones, the contract is silent on which would tell you it's not an assignment because if there was an assignment it would probably say that in your collective bargaining agreement. I don't think there's a disagreement here that, you know, the Sheriff obviously wanted to go in with somebody else in that position. I'm just not so certain that the way that this was done followed the terms of the collective bargaining agreement. I can also tell you, but then again I'm speaking just on behalf of what my conversations with the employee, was if the confidence isn't there, the confidence isn't there; but they still have a right to that job. If we were talking about poor performance or some discipline issue that's a different deal because then you have to be able to show cause. What I'm saying is and what my assertion is, is that this was a demotion and you have to show cause and they've said it's not a discipline thing. This is a choice and the way the contract is written that choice is not there for them to make.

Commissioner Pierce stated a decision needs to be made to approve or deny the grievance presented. If we deny the grievance, the next step is to go to arbitration.

Higgins stated yes, that's the next step unless by mutual agreement the matter goes to mediation.

After further discussion,

Motion by Commissioner Schmidtke, seconded by Commissioner Boler, Be It Resolved that the Martin County Board of Commissioners, after review, hereby deny the Step 2 Grievance filed by Greta Olson and Law Enforcement Labor Services #115 Corrections and Communications Officers. Carried unanimously.

The Board recessed at 10:03 a.m.  
The Board reconvened at 10:37 a.m.

At this time, the Board welcomed and presented county government information to the 2011 Boy and Girl County participants. The Board thanked the students and chaperones for their interest and attendance.

With no further business to wit, Board Chair adjourned the meeting at 10:46 a.m.

BOARD OF COMMISSIONERS  
MARTIN COUNTY, MN

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Steve Pierce, Board Chair

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