

PROCEEDINGS OF THE  
MARTIN COUNTY BOARD OF COMMISSIONERS  
TUESDAY, MARCH 4, 2014  
@ 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 Dan Schmidtke.

Commissioners present were Steve Donnelly, Steve Flohrs, Elliot Belgard, Steve Pierce, and Dan Schmidtke. Also present were Scott Higgins, Martin County Coordinator, Kevin Peyman, Martin County Highway Engineer, Terry Viesselman, Martin County Attorney, Jennifer Brookens, Sentinel Newspaper, Rod Halvorsen, KSUM/KFMC Radio, Julie Walters, Administrative Assistant, and members of staff and public.

Motion by Commissioner Belgard, seconded by Commissioner Flohrs, Be It Resolved that the Martin County Board of Commissioners, hereby approve the agenda for the March 4, 2014 regular Board of Commissioners meeting as presented. Carried unanimously.

Motion by Commissioner Flohrs, seconded by Commissioner Donnelly, Be It Resolved that the Martin County Board of Commissioners, hereby approve the minutes of the February 18, 2014 regular Board of Commissioners meeting. Carried unanimously.

Terry Viesselman, Martin County Attorney, presented an office update including probable dismissal of “Driver’s License Look Up” lawsuit against Martin County; and revised Federal Forfeiture Equitable Sharing Agreement requiring Board signature.

Scott Higgins, Martin County Coordinator, stated the Auditor/Treasurer’s Office has received the application and other required paperwork from Rose Lake Golf Club for renewal of its Liquor, Wine, Club or 3.2% License and that all paperwork is in order.

Motion by Commissioner Pierce, seconded by Commissioner Belgard, Be It Resolved that the Martin County Board of Commissioners, hereby approve and authorize the renewal of Liquor, Wine, Club or 3.2% License with Sunday Sales beginning at 10:00 a.m. for Rose Lake Golf Club effective April 1, 2014 through March 31, 2015. Carried unanimously.

Pam Flitter, Martin County Zoning Official, presented a Conditional Use Permit (CUP) request from K & G Construction (Keith and Gary Ekstrom) for the purpose of constructing and operating a business on an existing building site located in an “A” Agricultural District. The Planning Commission approved the CUP request during their February 25, 2014 meeting and is recommending approval of the Conditional Use Permit. After discussion,

Motion by Commissioner Belgard, seconded by Commissioner Flohrs,

R-#16/’14

CONDITIONAL USE PERMIT  
K & G CONSTRUCTION

CONSTRUCTION AND OPERATING A BUSINESS  
ON AN EXISTING BUILDING SITE  
LOCATED IN AN "A" AGRICULTURAL DISTRICT  
WITHIN SECTION 23 OF WAVERLY TOWNSHIP

Motion by Commissioner Belgard, seconded by Commissioner Flohrs,

WHEREAS, a Conditional Use Permit was requested by K & G Construction (Keith & Gary Ekstrom), applicants and Sleepless Nights, LLC, owners of property located within Section 23 of Waverly Township in Martin County, Minnesota (legally described in applications) for the purpose of constructing and operating a business on an existing building site located in an "A" Agricultural District; and

WHEREAS, the Martin County Planning and Zoning staff has completed a 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 25<sup>th</sup> day of February, 2014 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 Commissioners finds that Conditional Use Permit is to be issued for the following purpose:

Construct and operate K&G Construction business, and

WHEREAS, the following conditions have been applied:

- Any additional permits required by the State of Minnesota, Martin County or Township must be obtained by the applicant.
- Building permit(s) must be obtained.

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 Martin County Ordinance #1, Chapter 6.01 and that this permit shall remain in full force and effect provided in the conditions as described above are met and maintained by the applicant and his/or her successors in interest. This permit is binding upon the applicant, the record titleholder to the property, and his/her successors in interest. Notice is hereby given that this permit may be revoked if the conditions set forth above are not maintained as described above. This resolution shall become effective immediately upon its passage and without publication.

Dated this 4<sup>th</sup> day of March, 2014.

BOARD OF COMMISSIONERS  
MARTIN COUNTY, MN

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

Roll Call AYES: Commissioners Donnelly, Pierce, Flohrs, Belgard, and Schmidtke. NAYS: None. Resolution duly passed and adopted this 4<sup>th</sup> day of March, 2014.

Flitter presented a Planning & Zoning Office update including the Livestock Truck Rollover Response Training held on January 23, 2014 stating funds raised for the training were \$4,278.56 and expenses were \$4,659; and that all grant funds awarded to Martin County in the amount of \$223,000 from the Board of Water and Soil Resources (BWSR) for septic system upgrades in Lake Belt Township and Lake Fremont Township have been depleted, allowing installation of sixteen (16) systems free to eligible applicants.

Flitter presented the 2014-2015 County Feedlot Program Delegation Agreement and Work Plan that describes the County's plans/strategies and goals for administration and implementation of the Feedlot Program.

Motion by Commissioner Flohrs, seconded by Commissioner Belgard, Be it Resolved that the Martin County Board of Commissioners, hereby approve and accept the 2014-2015 County Feedlot Program Delegation Agreement and Work Plan; and authorize Board Chair to sign. Carried unanimously.

Flitter next presented the Minnesota Pollution Control Agency (MPCA) Feedlot Program 2013 Annual County Feedlot Officer and Performance Credit Report (data for the period January 1, 2013 through December 31, 2013) noting there are currently 466 feedlots in Martin County; total number of inspections completed was 101; and 6 permits were issued for new construction.

Motion by Commissioner Flohrs, seconded by Commissioner Donnelly, Be it Resolved that the Martin County Board of Commissioners, hereby approve and accept the Minnesota Pollution Control Agency Feedlot Program 2013 Annual County Feedlot Officer and Performance Credit Report (data for the period of January 1, 2013 through December 31, 2013); and authorize Board Chair to sign. Carried unanimously.

Higgins stated Brent Schultze has indicated he is interested and willing to serve on the county's EDA Commission replacing Dale Schumann; Phillip Bettin (Galena Township) is willing to serve an additional term on the Water Plan Advisory Committee; and Glenda Clifford is interested and willing to serve on the Martin County Park/Trails Committee.

Motion by Commissioner Pierce, seconded by Commissioner Donnelly, Be It Resolved that the Martin County Board of Commissioners, hereby approve the (re)appointments of the following Martin County citizens to the following Citizen Advisory Boards/Commissions: Martin County Economic Development Authority Commission – Brent Schultze of Ceylon, MN; Water Plan

Advisory Committee – Phillip Bettin (Galena Township); and Martin County Park/Trails Committee – Glenda Clifford of Welcome, MN, representing 4<sup>th</sup> District. Carried unanimously.

The Board again reviewed the Joint Powers Agreement forming the South Central Minnesota Regional Radio Board.

Commissioner Pierce stated a Regional Radio Board meeting will be held on March 20, 2014 and Jackie Mines, Director, Minnesota Department of Public Safety, Emergency Communication Network will be in attendance to ask questions of the Board pertaining to the Joint Powers Agreement. Pierce went on to state he will be unable to attend this meeting but encourages one or two Martin County commissioners to attend this meeting in order to gain a better understanding.

After discussion,

By consensus of the Board it was determined to table resolution approving modifications to the Joint Powers Agreement forming the South Central Minnesota Regional Radio Board.

Motion by Commissioner Pierce, seconded by Commissioner Donnelly, Be It Resolved that the Martin County Board of Commissioners, hereby approve and authorize Regional Radio Board/PSAP/ARMER Board Representative (Commissioner Steve Flohrs, alternate) to vote on behalf of the Martin County Board of Commissioners pertaining to proposed changes to the Joint Powers Agreement forming the South Central Minnesota Regional Radio Board. Carried unanimously.

Kevin Peyman, County Highway Engineer, presented and reviewed bids received for the purchase of a budgeted 2014 Tandem Truck. Peyman noted we budgeted \$190,000 excluding a box, hoist, snow plows (underbody, wing, one-way), sander and corresponding electronics and controls (estimated at \$80,000) and that what we're asking for approval on now is just the truck itself and the equipment will be done as individual quotes once we get the truck up and running. Peyman went on to note Unit #64 is the current tile truck that will be replaced (it was converted to the tile truck in spring of 2004). Unit #18 will be coming out of the fleet and converted to the new tile truck. Unit #18 is a 2000 Sterling Tandem Truck with 175,000 miles. Unit #64 will then be sold on auction without a box. The old box from Unit #18 will also be sold separately at auction at the same time. Peyman also noted by the time we order the truck and the time to receive it and get it all built it's about a six month process so that's why we try and do it early so we can get it up and running by the next winter. Peyman recommends purchase of the budgeted 2014 Tandem Truck at the state contract price from I-State Truck Center in Minneapolis, MN at the delivered price of \$109,064.08

Results of Quotes on 2014 Tandem Truck  
Martin County Highway Department

Replacement Tandem Truck

2014 Budgeted amount: \$190,000\*

Replacing: Unit 64, 1995 Ford Tandem LT-9000 with 205,000 miles (see \*\* below).

I-State Truck Center, Minneapolis, MN (State Contract Price)  
2014 Freightliner 114 SD Tandem Truck

\$109,064.08

Westman Freightliner, Mankato, MN

2014 Freightliner 114 SD Tandem Truck

\$109,305.00

\*The budgeted amount of \$190,000 is for a fully equipped snow plow truck with box. Still need to add a box, hoist, snow plows (underbody, wing, one-way), sander and corresponding electronics and controls. The estimate for this is an additional \$80,000.

\*\*Unit 64 is the current tile truck that will be replaced (it was converted to the tile truck in spring of 2004). Unit 18 will be coming out of the fleet and converted to the new tile truck. Unit 18 is a 2000 Sterling Tandem Truck with 175,000 miles. Unit 64 then will be sold on auction without a box. The old box from Unit 18 will also be sold separately at auction at the same time if someone wants both.

Motion by Commissioner Pierce, seconded by Commissioner Belgard, Be it Resolved that the Martin County Board of Commissioners, after careful consideration and review of the bids for replacement tandem truck and upon the recommendation of Highway Engineer, hereby approve and authorize the purchase of a budgeted 2014 Tandem Truck from I-State Truck Center of Minneapolis, Minnesota, in the amount of \$109,064.08; and approve disposal of Unit #64 (1995 Ford Tandem with 205,000 miles) via online auction. Carried unanimously.

Peyman presented a Highway Department update including review of Highway Department staffing flowchart; notification from Mn/DOT that their proposed resurfacing of Highway 15 between Fairmont and Truman will include four foot paved shoulders, and that Peyman will invite Greg Ous, Transportation District Engineer, and Gordon Regenscheid, Assistant District Engineer/State Aid Engineer from the Minnesota Department of Transportation (Mn/DOT) to attend the next regular Commissioners meeting for introductions and project update.

Rob Baden, Assistant Area Wildlife Manager with the Minnesota Department of Natural Resources, was present to request consideration for the Department of Natural Resources (DNR) to accept approximately 112.5 acres from the Fox Lake Conservation League located in Section 18 of Westford Township. Baden stated this property will become part of the Perch Creek Wildlife Management Area; and the property is a mixture of tillable, pasture, wetlands, and woods along Perch Creek and abuts land currently owned by the DNR.

Motion by Commissioner Pierce, Seconded by Commissioner Flohrs,

R-#17/'14

RESOLUTION  
MARTIN COUNTY BOARD OF COMMISSIONERS  
REVIEW OF PROPOSED STATE LAND ACQUISITION  
LOCATED IN SECTION 18 of WESTFORD TOWNSHIP

In accordance with Minnesota Statutes 97A.145, Subd. 2, the Commissioner of the Department of Natural Resources on March 4, 2014 provided the county board with a description

of lands to be acquired by the State of Minnesota for water, forestry, wildlife, and natural plant community conservation purposes.

Lands to be acquired are described as follows:

The Southwest Quarter of the Northeast Quarter (SW ¼ of NE ¼); the Northwest Quarter of the Southeast Quarter (NW ¼ of SE ¼) and Government Lot Number Thirteen (13) all in Section Eighteen (18), Township One Hundred Four (104), Range Thirty (30), Westford Township, Martin County, and containing 112.5 acres, be the same more or less.

NOW THEREFORE BE IT RESOLVED, that the Martin County Board of Commissioners approve the State's proposed acquisition of the attached described property.

Motion by Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, said resolution was duly passed and adopted this 4<sup>th</sup> day of March, 2014.

BOARD OF COMMISSIONERS  
MARTIN COUNTY, MN

\_\_\_\_\_  
Dan Schmidtke, Board Chair

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

#### CERTIFICATION

I hereby certify that the foregoing resolution is a true and correct copy of a resolution presented and adopted by the Martin County Board of Commissioners at a duly authorized meeting thereof held on the 4<sup>th</sup> day of March, 2014, as shown by the minutes in my possession.

\_\_\_\_\_  
Scott Higgins, County Coordinator

#### LEGAL DESCRIPTION

The Southwest Quarter of the Northeast Quarter (SW 1/4 of NE 1/4); the Northwest Quarter of the Southeast Quarter (NW 1/4 of SE 1/4) and Government Lot Number Thirteen (13) all in Section Eighteen (18), Township One Hundred Four (104), Range Thirty (30), Westford Township, Martin County, and containing 112.5 acres, be the same more or less.

Roll Call AYES: Commissioners Belgard, Donnelly, Flohrs, Pierce, and Schmidtke. NAYS: None. Resolution duly passed and adopted this 4<sup>th</sup> day of March, 2014.

Higgins stated the Martin County Sheriff's Office went through the full standard process for hire of and Emergency Management Director position and the top two candidates received an interview

with the Sheriff; and the Sheriff recommended the hire of LuAnn Akers as Emergency Management Director for Martin County. Higgins went on to state the Board wanted an opportunity to speak with the Sheriff about his recommendation prior to hiring a full-time Emergency Management Director.

Jeff Markquart, Martin County Sheriff, was present and stated I've had a chance to speak with each commissioner individually on this subject and I think we covered all of your concerns and questions and this is one more opportunity for you to ask any questions you may still have. I think this hire will be a great thing for the county to have a full-time person in there with some continuity instead of an elected official who may come and go and have to start all over again in that position so it's a great opportunity.

Commissioner Belgard stated we voted as a group even though it was a 3-2 vote to create the position and we chose to put the position under the Sheriff's Department so I guess it's a question of whether we're comfortable filling the position. I think I was a little uncomfortable with it because I was involved in the interview process to make sure that we got the right person in there and I guess that we trusted the Sheriff to go through the procedure and I guess he's done it the way we asked.

Commissioner Schmidtke stated I've been through this whole process and although I may have some reservations I have to respect Sheriff Markquart and his decision. I think he's the one elected by the people to handle that position and so I will support Sheriff Markquart's decision.

Commissioner Pierce stated I want to respect the action of the Board in creating the position. We spent so much time trying to watch the budget and cutting overtime and doing this and that and over there (the Sheriff's Office) it's obviously always been an issue. Now adding this position seems like we just leap-frogged because I don't know what's really going to change. I mean with the bottom line. We talked that if we found the right person somebody who has some special skills and grant writing and computer would be more well-rounded and come in with a fresh view would accomplish some things for all of us. But I wonder and I don't know this person...but all I see is this going to be business as usual in the Department, and we've just leap-frogged our spending right back up because we've just created another position with not seeing any new efforts. And I still don't buy this full-time emergency disaster manager sitting there waiting for something to happen and fill out reports. I'm sorry I just don't buy that. So that's kind of my feeling on the situation. I'll support the action of the Board and I respect the Personnel Committee and certainly the Sheriff; but if I don't see changes, or grants being obtained, and if I don't see some of these changes with what's happening, I want to call this position and get rid of it. I just don't want us to be business as usual...that's my fear.

Commissioner Donnelly stated the ball is in the Sheriff's court and I'm willing to go along with him being responsible. We know how to get in touch with the Sheriff. Let's see what happens.

After further discussion,

Motion by Commissioner Belgard, seconded by Commissioner Donnelly, Be It Resolved that the Martin County Board of Commissioners, hereby approve and authorize the hire and promotion of

Luann Akers as the Emergency Management Director for Martin County, a non-union position at Grade 13 Step 9 at \$24.94/hour effective March 18, 2014; and is eligible for non-union benefits. Carried unanimously.

Deb Mosloski, Martin County Drainage Specialist, presented additional amendments to the Ditch Levy resolution that was originally approved December 17, 2013 and amended January 21, 2014. Annually the Drainage Authority (Board of Commissioners) levy and assess as part of real estate taxes in the amounts sufficient to take care of repairs and maintenance of County, Joint County, and Judicial Ditches and apportioned and assessed pro rata upon all lands, corporations, and municipalities, which have participated in the total benefits determined. Additional amendments include:

- JD #3 was levied for \$25,000 for one year. This needs to be changed to be levied for 5 years.
- Remove CD #71 from the Resolution – was not levied.
- Approve a new Viewer's Report for JD #6. Since no one's values went up this can be accepted as an obvious clerical error. All of the "D" acres were valued using a Commercial value instead of an Ag value.
- There were several errors on the Viewer's Report for JD #6. This ditch was levied in 2012 and 2014. It needs to be removed from the Resolution for 2014. Also, there will be several refunds from 2012 and will have to be removed for payable 2012 as well. All of the "D" acres were valued using a Commercial value instead of an Ag value. We will have to re-levy this ditch in 2014 payable in 2015.

After review and consideration,

## **RESOLUTION**

### **ORDER FIXING DITCH REPAIR AND MAINTENANCE LEVIES AND ASSESSMENTS ON COUNTY, JOINT COUNTY, AND JUDICIAL DITCHES OF MARTIN COUNTY, MN:**

WHEREAS, ditch repair and maintenance expenditures having been made, or to be made, on various County, Joint County, and Judicial Ditches located wholly or partly within Martin County, MN and it appearing that there are not sufficient funds to the credit of the ditches to finance said repairs and maintenance expenditures; therefore the Martin County Board of Commissioners do hereby, by resolution; levy and assess the following ditch fund accounts to pay for current expenditures for repairs and maintenance or to reimburse other funds where monies have been or will be loaned to the ditch fund, or for the designated purpose of payments on future repair and maintenance expenditures, and

WHEREAS, the various drainage system levy and assessments hereby made by the County Board of Commissioners shall be apportioned and assessed pro rata upon all lands, corporations, and municipalities which have participated in the total benefits theretofore determined; and such levy and assessments for repairs and maintenance of any one ditch system be limited in any one calendar year based upon pro rata percentage of the original calendar year based upon pro rata percentage of the original benefits of that particular drainage system thereof in Martin County, MN under the provisions of Minnesota Statutes Annotated 103-E.

THEREFORE, BE IT RESOLVED, by the Martin County Board of Commissioners of Martin County, MN that the following County, Joint County, and Judicial ditches hereby levied and assessed in the amounts so indicated as sufficient to take care of their obligations for repairs and maintenance heretofore made, or to be made, and equal installments be spread and made payable where necessary, with and made payable where necessary, with and as apart of the Real Estate Taxes in the indicated as follows, to-wit:

**DITCHES LEVIED FOR ONE YEAR PAYABLE 2014:**

<b>NUMBER</b>	<b>DITCH</b>	<b>AMOUNT</b>
1015	CD #19	\$ 1,000.00
1022	CD #26	\$ 5,000.00
1023	CD #27	\$ 1,000.00
1031	CD #32	\$ 1,000.00
1035	CD #36	\$ 3,000.00
1043	CD #46	\$ 1,000.00
1059	CD #63	\$ 2,000.00
1060	CD #64	\$ 3,000.00
1065	CD #70	\$ 5,000.00
9011	JD #8 M & F	\$ 200.00
9021	JD #12	\$ 2,000.00
9029	JD #20	\$10,000.00
9074	JD #50	\$ 5,000.00
9080	JD #60	\$ 5,000.00
9082	JD #64	\$ 5,000.00
9084	JD #66	\$ 2,000.00
9088	JD #70	\$ 5,000.00
9099	JD #81	\$ 6,000.00
9100	JD #82	\$12,000.00
9106	JD #89	\$ 5,000.00
9108	JD #91 M & J	\$ 5,000.00
9115	JD #99	\$ 1,000.00
9120	JD #104	\$ 7,000.00
9122	JD # 108	\$ 1,000.00
9125	JD #110	\$ 1,000.00
9137	JD #4 M & W	\$ 1,000.00
9175	JD #75 M & J	\$ 500.00

Upon motion by Commissioner Flohrs, seconded by Commissioner Belgard, and carried, said resolution was duly passed and adopted this 4<sup>th</sup> day of March, 2014.

**BOARD OF COMMISSIONERS**

\_\_\_\_\_  
**Elliot Belgard, Chairman**

**ATTEST:** \_\_\_\_\_

**James Forshee, Martin County Auditor/Treasurer**

**DITCHES LEVIED FOR MORE THAN ONE YEAR**

<b>Ditch #</b>	<b>Name of Ditch</b>	<b>Year Ending</b>	<b>Year Ending</b>
1001	County Ditch #1	2014 (3 years)	2016 (\$35,000)
1005	County Ditch #3	2014 (3 years)	2016 (\$10,000)
1013	County Ditch #14	2014 (3 years)	2016 (\$10,000)
1019	County Ditch #24	2014 (3 years)	2016 (\$15,000)
1025	County Ditch #29	2014 (5 years)	2018 (\$35,000)
1032	County Ditch #33	2014 (2 years)	2015 (\$13,000)
1033	County Ditch #34	2014 (3 years)	2016 (\$3,000)
1047	County Ditch #52	2014 (3 years)	2016 (\$10,000)
1054	County Ditch #58	2014 (5 years)	2018 (\$10,000)
1056	County Ditch #60	2014 (2 years)	2015 (\$5,000)
1063	County Ditch #67	2014 (15 years)	2028 (\$30,000)
1067	County Ditch #72	2014 (5 years)	2018 (\$30,000)
9001	Judicial Ditch #1	2014 (10 years)	2023 (\$45,000)
9002	Judicial Ditch #2 M & F	2014 (10 years)	2023 (\$285,000)
9005	Judicial Ditch #3	2014 (5 years)	2018 (\$25,000)
9009	Judicial Ditch #7 M & F	2014 (15 years)	2028 (\$245,000)
9015	Judicial Ditch #10	2014 (5 years)	2018 (\$60,000)
9022	Judicial Ditch #13	2014 (3 years)	2016 (\$9,387)
9025	Judicial Ditch #15 M & J	2014 (3 years)	2016 (15,000)
9034	Judicial Ditch #24	2014 (3 years)	2016 (\$12,000)
9139	Judicial Ditch #28	2014 (10 years)	2023 (\$185,000)
9092	Judicial Ditch #74	2014 (10 years)	2023 (\$51,000)
9103	Judicial Ditch #85	2014 (10 years)	2023 (\$150,000)
9112	Judicial Ditch #96	2014 (5 years)	2018 (\$10,000)
9128	Judicial Ditch #116	2014 (2 years)	2015 (\$20,000)
9054	Judicial Ditch #367	2014 (3 years)	2016 (\$40,000)
9150	Judicial Ditch #214	2014 (2 years)	2015 (\$65,000)
9152	Judicial Ditch #414	2014 (2 years)	2015 (\$50,000)

**\*\*\* The following drainage systems have borrowed from another ditch fund\*\*\***

**9001 (701) Judicial Ditch #1 borrowed \$30,000.00 from 9150 ( 850) JD 204 Hugoson Petition**

**9063 (769) Judicial Ditch # 41 borrowed \$10,000.00 from 9152 (951) JD #204 Br A-38 Petition**

**1009 (869) County Ditch #11 borrowed \$15,000.00 from 1070 (928) CD #75**

**This money must be paid back at 6% per annum interest from January 1, 2008 until paid back.**

**9036-2(739) Judicial Ditch #25 borrowed \$25,000 from Revenue Fund in 2002. Paid back \$15,000.00 in 2009**

**This money must be paid back at 6% per annum interest from January 1, 2010 until paid back.**

Motion by Commissioner Flohrs, seconded by Commissioner Belgard, Be It Resolved that the Martin County Board of Commissioners, acting as the Martin County Drainage Authority, hereby approve and authorize Board Chair to sign amended Resolution Order Fixing Ditch Repair and Maintenance Levies and Assessments on County, Joint County, and Judicial Ditches of Martin County, Minnesota, dated December 17, 2013 with first amendment dated January 21, 2014, to change JD #3 levied for \$25,000 for one year to be levied for five years. Roll Call AYES: Commissioners Pierce, Donnelly, Belgard, Flohrs, and Schmidtke. NAYS: None. Amendment to levy JD #3 for five years Resolution duly passed and adopted this 4<sup>th</sup> day of March, 2014.

Motion by Commissioner Belgard, 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 Board Chair to sign amended Resolution Order Fixing Ditch Repair and Maintenance Levies and Assessments on County, Joint County, and Judicial Ditches of Martin County, Minnesota, dated December 17, 2013 with first amendment dated January 21, 2014, to remove CD #71 from the Resolution as this ditch was not levied. Roll Call AYES: Commissioners Flohrs, Pierce, Donnelly, Belgard, and Schmidtke. NAYS: None. Amendment to remove CD #71 from the Resolution duly passed and adopted this 4<sup>th</sup> day of March, 2014.

Motion by Commissioner Belgard, seconded by Commissioner Pierce, Be It Resolved that the Martin County Board of Commissioners, acting as the Martin County Drainage Authority, hereby approve and authorize Board Chair to sign amended Resolution Order Fixing Ditch Repair and Maintenance Levies and Assessments on County, Joint County, and Judicial Ditches of Martin County, Minnesota, dated December 17, 2013 with first amendment dated January 21, 2014, to approve a new Viewer's Report for JD #6 as all of the "D" acres were valued using a Commercial value instead of an Ag value. Roll Call AYES: Commissioners Donnelly, Flohrs, Pierce, Belgard, and Schmidtke. NAYS: None. Amendment to accept new Viewer's Report for JD #6 Resolution duly passed and adopted this 4<sup>th</sup> day of March, 2014.

Motion by Commissioner Belgard, seconded by Commissioner Flohrs, Be It Resolved that the Martin County Board of Commissioners, acting as the Martin County Drainage Authority, hereby approve and authorize Board Chair to sign amended Resolution Order Fixing Ditch Repair and Maintenance Levies and Assessments on County, Joint County, and Judicial Ditches of Martin County, Minnesota, dated December 17, 2013 with first amendment dated January 21, 2014, for several errors on the Viewer's Report for JD #6. This ditch was levied in 2012 and 2014. It needs

to be removed from the Resolution for 2014, there will be several refunds from 2012 and will have to be removed for payable 2012, and all of the “D” acres were valued using a Commercial value instead of an Ag value. This ditch will have to be re-levied in 2014 payable in 2015. Roll Call AYES: Commissioners Donnelly, Pierce, Flohrs, Belgard, and Schmidtke. NAYS: None. Amendment to remove JD #6 from the 2014 resolution and 2012 tax rolls Resolution duly passed and adopted this 4<sup>th</sup> day of March, 2014.

Mosloski requested the Board set a public hearing date to hear the final Engineer’s Report for the CD #30 Improvement Project. Mosloski recommends setting the date the beginning of April, 2014.

Motion by Commissioner Flohrs, seconded by Commissioner Belgard, Be It Resolved that the Martin County Board of Commissioners, acting as the Martin County Drainage Authority, hereby sets the date of April 15, 2014 at 11:00 a.m. in the Commissioners Board Room – Martin County Courthouse, to hear the final Engineer’s Report for the CD #30 Improvement. Carried unanimously.

Tim Langer, R.S. Public Health Sanitarian Human Services of Faribault & Martin Counties, reviewed the proposed Martin County Public Swimming Pool Ordinance stating that the overall purpose of the proposed ordinance will provide consistency with the requirements of the Minnesota Department of Health (MDH) by adopting Minnesota Rules Chapter 4717 (Minnesota Pool Code) by reference. Langer stated the general objectives of this Ordinance are:

- Prevent waterborne illness.
- Provide a minimum standard for the design, construction, operation and maintenance of Public Swimming Pools.
- Correct and prevent conditions that may adversely affect persons utilizing Public Swimming Pools.
- Meet consumer expectations for the quality and safety of Public Swimming Pools.

Chairman Schmidtke asked if there were questions from the Board before proceeding to public input portion of the hearing.

Commissioner Pierce inquired if any public had commented on the proposed Public Swimming Pool Ordinance; and who reviews construction plans for new pools, Human Services or City hall. Langer stated he had not received one comment and quite honestly I don’t think they (the City) have a whole lot to do with swimming pools. It’s our office in terms of making sure the rules are followed and day to day inspections and so forth. And then the State Health Department is involved with reviewing building plans to meet building code.

Chairman Schmidtke opened the public hearing for the consideration of the proposed Martin County Public Swimming Pool Ordinance.

Chairman Schmidtke asked if there was any other public input. No representatives from the public in attendance nor public input or comments submitted in writing were received concerning the proposed Martin County Public Swimming Pool Ordinance.

Motion by Commissioner Belgard, seconded by Commissioner Flohrs, to close the public portion of the meeting. Carried unanimously.

Motion by Commissioner Belgard, seconded by Commissioner Flohrs,

# **Martin County Public Swimming Pool Ordinance**

**Adopted March 4, 2014**

**Providing for the Regulation  
of  
Public Swimming Pools**

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Statutes and Rules referenced in this Ordinance can be accessed to read or download at this website:  
<https://www.revisor.mn.gov/pubs/>

An Ordinance Providing for the Licensing and Inspection of public pools regulating their design, construction, operation and maintenance and providing for the enforcement of this Ordinance and the fixing of penalties throughout the entirety of Martin County, hereby is established as follows:

This Ordinance shall be applicable to all public pools as defined in MN Rules Chapter 4717.

The Human Services of Faribault and Martin Counties Community Health Board pursuant to MN Statute Chapter 145, Section 145A.05, Subdivision 8 ordains:

## **SECTION 1: Purpose**

The purpose and intent of this Ordinance is to provide a standard for the design, construction, operation and maintenance of public swimming pools so that public health and safety will be maintained.

## **SECTION 2: Scope**

This Ordinance shall be applicable to all public swimming pools as defined in MN Rules Chapter 4717, and shall provide for the licensing and inspection of all public swimming pools, regulation of the design, construction, operation and maintenance of such pools and the enforcement of violations of this Ordinance.

## **SECTION 3: Authority**

1. This Ordinance is enacted pursuant to MN Statute Chapter 145, Section 145A.05, Subdivision 8, which authorizes the Commissioner of Health to enter into an agreement to perform all or part of the licensing, inspection and enforcement duties authorized under the provisions of these sections.
2. The requirements contained in this Ordinance are intended to be comparable to the Minnesota Department of Health Rules and are intended to meet the minimum requirements set forth by the Minnesota Department of Health. Whenever the Minnesota Department of Health amends rules or adopts new rules setting more restrictive standards than the ones established in this Ordinance, the rules set by the Minnesota Department of Health shall govern and will be considered in the enforcement procedure as part of this Ordinance.

## **SECTION 4: Definitions**

The following definitions shall apply in the interpretation and the enforcement of this Ordinance.

1. Appeals Board shall mean six (6) members of the Human Services of Faribault and Martin Counties Board such that a minimum of two (2) members from the Faribault County and two (2) members from Martin County are included. The Chairperson of the Human Services Board will be the Appeals Board Chairperson and will be included as one of the six (6) members.
2. Board shall mean the Human Services of Faribault and Martin Counties Community Health Board acting under the provisions of Minnesota Statute 145, Chapter 145A, subdivision.10, as the Board of Health.
3. Commissioner of Health shall mean the Minnesota Commissioner of Health.
4. Director shall mean the Executive Director of Human Services of Faribault and Martin Counties.
5. Health Authority shall mean the Human Services of Faribault and Martin Counties Community Health Services Program Manager, Public Health Sanitarian or designated staff.

6. Health Department shall mean Human Services of Faribault and Martin Counties Environmental Health Department or the authorized representative.
7. Private Residential swimming pool shall mean any swimming pool located on private property under the control of the homeowner, the use of which is limited to swimming or bathing by members of the homeowners or their invited guest. (The design, construction, and operation of such pools are not subject to the provisions of MN Rules Chapter 4717).
8. Public swimming pool shall mean any swimming pool, other than a private residential swimming pool, that is: (1) open to the public generally, whether for a fee or free of charge; (2) open exclusively to members of an organization and their guests; (3) open to residents of a multiunit apartment building, apartment complex, residential real estate development, or other multi-family residential area; (4) open to patrons of lodging establishment or other public accommodation facility; (5) operated by a person in a park, school, licensed child care facility, group home, motel, camp, resort, club, condominium, manufactured home park, or political subdivision with the exception of swimming pools at family day care homes licensed under MN Statute Chapter 245, Section 245A.14, subdivision 11, paragraph (a).
9. Sanitarian shall mean the Public Health Sanitarian of Human Services of Faribault and Martin Counties.
10. Special purpose pool shall mean treatment pools, therapeutic pools, and special pools for water therapy whirlpools, spas and cold plunge.
11. Wading pool shall mean any pool used or designed to be used exclusively for wading or bathing and a maximum depth of 24 inches.

**SECTION 5: Adoption of Public Pool Standards**

The standards for Public Pools outlined in MN Rules Chapter 4717 and the Abigail Taylor Pool Safety Act; MN Statute Chapter 144, Section 144.1222 and any subsequent amendments thereto are hereby incorporated in and made part of this Ordinance. Wherein MN Rules Chapter 4717 refers to the Commissioner, Commissioner shall mean the Human Services of Faribault and Martin Counties Community Health Board and its designated Health Department staff.

**SECTION 6: Review of Construction Plans**

When a public pool in Martin County is licensed or to be licensed under the provisions of MN Rules Chapter 4717 is constructed, installed or materially altered, complete plans and specifications shall be submitted to the Minnesota Department of Health as specified in Minnesota Rules Chapter 4717, Part 4717.0450, along with the required fee.

**SECTION 7: Licensure**

1. The Health Department is authorized to issue licenses for the operation of public swimming pool and such pools are required to be licensed prior to commencing

operation in any calendar year. It shall be unlawful for any person to operate a Public pool within Martin County who does not possess a valid license issued to them by the Health Department as required by this Ordinance. Only a person who complies with the requirements of this Ordinance shall be entitled to receive and retain such a license.

2. Licenses issued pursuant to this Ordinance expire on December 31, of each year. License renewal applications shall be filed prior to January 31 or the first day of operation in each calendar year. Licenses shall become overdue and subject to a penalty if received after January 31 or 30 days after the first day of operation in each calendar year. Every person seeking to operate a public swimming pool shall make application in writing to the Health Department. Such application shall include: the applicant's full name and address and whether such applicant is an individual, firm, partnership or corporation, the location, as well as the signature of the applicant or applicants. Such application shall be provided by the Health Department. When a person is seeking to operate more than one swimming pool, an additional license and fee shall be required.
3. Applicants for license shall pay an annual license fee at a rate specified by the Board. This annual license fee may be adjusted as the Board shall deem appropriate. A penalty fee at a rate specified by the Board shall be added to the amount of the license fee and paid by the applicant if the annual license fee has not reached the office of the Health Department by the dates specified. Licenses shall not be transferable from one establishment, person or location to another establishment, person or location. When opening after October 1, and before January 1, a new business or new operator is required only to pay ½ of the normal annual fee.
4. If the Health Department should determine from the application that the health and safety of the public will be properly safeguarded, approval of the license may be given except for a newly constructed or altered pool.
5. If the Health Department should determine from the application or subsequent inspection that the health and safety of the public in the pool will not be properly safeguarded, the Health Department may deny the application for licensure. Such applicant is entitled to a hearing before the Appeals Board as outlined in Section 11 of this Ordinance.

#### **SECTION 8: Inspection**

1. Pursuant to MN Rules, Chapter 4717, Part 4717.0375, the Health Authority shall have the right to enter and have access to the Public Pool at any time during the conduct of business. No persons shall interfere with or hinder the Health Authority in the performance of its duties, or refuse to permit the Health Authority to make such inspections.
2. The person operating a public pool shall, upon request of the Health Department and after proper identification, permit access to all parts of the pool at any reasonable time for purpose of inspection and shall exhibit and allow copying of any records necessary to ascertain compliance with the provisions of this Ordinance.
3. When any of the conditions in the following items listed as A to F are found, a public pool must be immediately closed to use when so ordered by the Health Department. The owner of the pool or the owner's agent must place a sign at the entrance to the pool indicating

that the pool is closed. The pool must remain closed until the condition is corrected and approval to reopen is granted by the Health Department. A pool must be closed when:

- A. The units of lifesaving equipment specified in MN Rules Chapter 4717, Part 4717.1450 are not provided;
  - B. The water clarity standard specified in MN Rules Chapter 4717, Part 4717.1750, subpart 7, is not met;
  - C. The disinfectant residual specified in MN Rules Chapter 4717, Part 4717.1750 subpart 3, is not met;
  - D. The pool has been constructed or physically altered without approval of plans as required by MN Rules Chapter 4717, Part 4717.0450;
  - E. All pool drain equipment does not meet the requirements of MN Statue Chapter 144, Section 144.1222 Subdivisions 1, b, c, and d and any subsequent amendments thereto.
  - F. There is any condition that endangers the health or safety of the public.
4. All findings of an inspection of a public pool shall be recorded on the inspection report form. One copy of the inspection report form shall be furnished to the person in charge. The completed inspection report form is a public document that shall be made available for public disclosure to any person who requests it, except when report forms are a part of pending litigations.
  5. The inspection report form shall specify a specific and reasonable period of time for the correction of the violations. Correction of the violations shall be accomplished within the period specified.

#### **SECTION 9: Suspension of License**

1. Licenses may be suspended temporarily by the Health Authority at any time for failure by the holder to comply with the requirements of this Ordinance. Whenever a license holder or operator has failed to comply with any notice requiring corrective action, issued under the provisions of this Ordinance, that license holder or operator may be notified in writing that the license upon service of notice is immediately suspended and that an opportunity for a hearing before the Appeals Board will be provided if a written request for appeal is filed within ten (10) days with the Health Authority by the license holder.
2. Any person whose license or permit has been suspended may at any time make application for a re-inspection for the purpose of reinstatement of the license. Within ten (10) days following receipt of a written request, including a statement signed by the applicant that in their opinion the condition(s) causing suspension of the license has/have been corrected, the Sanitarian shall make a re-inspection. If the applicant is in compliance with the requirements of this Ordinance the license shall be reinstated.

### **SECTION 10: Revocation of License.**

For serious or repeated violations of any of the requirements of this Ordinance, MN Rules Chapter 4717 or MN Statute Chapter 144, Section 144.1222, the license may be permanently revoked after an opportunity for a hearing before the Appeals Board has been provided. Prior to such action, the Health Authority shall notify the license holder in writing, advising that the license shall be permanently revoked at the end of a five (5) day period.

### **SECTION 11: Appeals Procedure**

Appeals shall be heard by the Appeals Board, which shall consist of six (6) members of the Human Services of Faribault and Martin Counties Board such that a minimum of two (2) members from Faribault County and two (2) members from Martin County are included. The Chairperson of the Human Services Board will be the Appeals Board Chairperson and will be included as one of the six (6) members.

1. Request for Hearing. Any person affected by a notice of closure, suspension, or revocation shall be granted a hearing on the matter before the Appeals Board upon filing in the office of the Director, written petition requesting such a hearing and setting forth a brief statement on the grounds therefore. Said petition shall be filed within ten (10) days after the notice was served.
2. Date of Hearing. The hearing requested shall be held not more than ten (10) days after the date on which the petition was filed. The Chairperson of the Appeals Board may postpone the date of the hearing for a reasonable time beyond such ten (10) day period, if in the judgment of the Chairperson a good and reasonable reason exists for such postponement.
3. Notice of Hearing. The Health Authority shall cause five (5) days written notice of the hearing to be given to the petitioner or petitioners by personal service or by mailing to the petitioner's last known address.
4. Proceedings. At such hearing the petitioner, their agent or attorney shall be given an opportunity to be heard and to show cause why the notice of closure, suspension, or revocation issued by the Health Authority should be modified or withdrawn. The Health Authority shall present a detailed written statement of their findings and recommendation(s) to the Appeals Board at the time of the hearing.
5. Decisions of the Appeals Board. The Appeals Board, within three (3) days after such hearing, shall sustain, modify or withdraw the notice of closure, suspension, or revocation depending upon its findings. A copy of the decision of the Appeals Board shall be served by mail to the petitioner or petitioners. Any person aggrieved by the decision of the Appeals Board may seek relief therefrom in any court of competent jurisdiction as provided by the laws of the state.
6. Record of Proceedings. The proceedings of each hearing held before the Appeals Board pursuant to petition, including the findings and the recommendation(s) of the Health Authority shall be recorded and reduced to writing and entered as a public record in the office of the Director. Such record shall include a copy of every notice or order or writing issued in connection with the matter.

7. Notices not appealed. Any notice served pursuant to the provisions of this Ordinance shall automatically become final if a written petition for a hearing is not filed with the Director within ten (10) days after the notice is served.

**SECTION 12: Severability.**

The provisions of this Ordinance shall be severable. Should any section, paragraph, sentence, clause, phrase or portion of this Ordinance be declared invalid for any reason, the remainder of said Ordinance shall not be affected thereby.

**SECTION 13: Penalties.**

Any person, firm, or corporation who shall violate any of the provisions hereof or who shall fail to comply with any of the provisions hereof or who shall make any false statement in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed the maximum allowed under the Misdemeanor Statutes or by imprisonment not to exceed the maximum allowed under the Misdemeanor Statutes or both. Each day that a violation continues shall constitute a separate offense. Such persons may be enjoined from continuing such violations.

**SECTION 14: Effective Date**

This Ordinance, adopted this 4<sup>th</sup> day of March, 2014 shall be in full force and effect upon publication.

Signature: \_\_\_\_\_  
Chairperson, Martin County Board of Commissioners

Attest: \_\_\_\_\_  
Clerk of Board or Martin County Coordinator

Roll Call AYES: Commissioners Pierce, Donnelly, Flohrs, Belgard, and Schmidtke. NAYS: None. Martin County Public Swimming Pool Ordinance duly passed and adopted this 4<sup>th</sup> day of March, 2014.

Langer reviewed the proposed Martin County Food and Beverage Service Ordinance stating that the new Martin County Food and Beverage Ordinance will replace in its entirety the existing Food and Beverage Service Ordinance that was adopted in 1999. The new ordinance will provide consistency with the requirements of the Minnesota Department of Health (MDH) by adopting Minnesota Rules Chapter 4626 (Minnesota Food Code) by reference. Langer stated the general objectives of this Ordinance are:

- Prevent foodborne illness.
- Provide a minimum standard for the design, construction, operation and maintenance of Food and Beverage Establishments.
- Correct and prevent conditions that may adversely affect persons utilizing Food and Beverage Establishments.
- Meet consumer expectations for the quality and safety of Food and Beverage Establishments.

Chairman Schmidtke asked if there were questions from the Board before proceeding to public input portion of the hearing.

Chairman Schmidtke opened the public hearing for the consideration of the proposed new Martin County Food and Beverage Service Ordinance.

Chairman Schmidtke asked if there was any other public input. No representatives from the public in attendance nor public input or comments submitted in writing were received concerning the proposed new Martin County Food and Beverage Service Ordinance.

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

Motion by Commissioner Pierce, seconded by Commissioner Donnelly,

**Martin County  
Food and Beverage Ordinance**

**Adopted March 4, 2014**

**Providing for the Regulation  
of  
Food and Beverage  
Establishments**

# MARTIN COUNTY FOOD AND BEVERAGE ORDINANCE

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## MARTIN COUNTY ORDINANCE NO. \_\_\_\_\_

An Ordinance Providing for the Licensing and Inspection of Restaurants and Places of Refreshment and Similar Food Service; Regulating their Design, Construction, Operation and Maintenance and Providing for the Enforcement of this Ordinance and the Fixing of Penalties Throughout the Entirety of Martin County Thereof be and thereby is established as follows:

This Ordinance shall be applicable to all food and beverage establishments such as restaurants, boarding houses and places of refreshment as defined in Minnesota Statutes Chapter 157 and shall include temporary and push cart commissaries, drive-ins, bars, taverns, drive-in cafes, clubs, lodges, eating facilities at resorts, schools, public buildings and all other businesses and establishments where meals, lunches or drinks are served, except those exempted by Minnesota Statute 157.22.

This Ordinance is enacted pursuant to Minnesota Statutes Chapter 145A, Section 145A.05, which authorizes the Commissioner of Health to enter into an agreement with counties or cities organized under provisions of Section 145A.05 to perform all or part of the licensing, inspection, and enforcement duties authorized under the provisions of these sections.

The Martin County Board of Commissioners pursuant to Minn. Stat. 145A.05, Subd. 8 ordains:

### SECTION I -DEFINITIONS

The following definitions shall apply in the interpretation and the enforcement of this Ordinance.

- 1.1 Agency means Human Services of Faribault and Martin Counties acting under the provisions of Minn. Stat. 145A.10, as the Board of Health.
- 1.2 Health Department means Human Services of Faribault and Martin Counties and its community health personnel.
- 1.3 Staff means the Human Services of Faribault and Martin Counties Community Health Services Program Manager, Public Health Sanitarian and any related personnel acting under the Agency's authority.
- 1.4 Director means the Executive Director of Human Services of Faribault and Martin Counties.
- 1.5 Program Manager means the Community Health Services Program Manager of Human Services of Faribault and Martin Counties.
- 1.6 Sanitarian means the Public Health Sanitarian of Human Services of Faribault and Martin Counties.

## **SECTION II- ADOPTION OF FOOD & BEVERAGE ESTABLISHMENT STANDARDS**

- 2.1 The standards for Food and Beverage Establishments outlined in the Minnesota Food Code Minnesota Rules Chapter 4626, including the Certified Food Manager Requirements for Food Establishments, Minnesota Rules 4626.2000 through 4626.2025 and any subsequent amendments thereto, are hereby incorporated in and made part of this Ordinance. Wherein Minnesota Rules Chapter 4626 refers to the Commissioner; Commissioner shall mean Human Services of Faribault and Martin Counties Community Health Board and its designated agents.

## **SECTION III- EMBARGO, CONDEMNATION AND TAGGING**

- 3.1 General The Staff may condemn and cause to be removed, embargo, and/or tag any item deemed to be violation of Minnesota Rules 4626 in accordance with Section 4626.1805 through 4626.1815; or successor Rules.

## **SECTION IV- PLAN REVIEW OF FUTURE CONSTRUCTION**

- 4.1 General When an establishment in Martin County, licensed or to be licensed under the provisions of Minn. Stat. 157, is hereafter constructed or extensively remodeled, or when an existing structure is converted for use as a licensed establishment, it shall submit to the Health Department all required plans, specifications and materials, and comply with the requirements of Minnesota Rules 4626. Plans and the fee specified by the Agency shall be submitted at least 30 days before beginning construction, extensive remodeling or conversion of a food establishment.
- 4.2 General The Sanitarian shall inspect the establishment prior to the start of operation, to determine compliance with the approved plans and specifications. The licensee shall not begin operations until the Sanitarian has conducted a final inspection and approved issuance of the food license.

## **SECTION V - PROCEDURE WHEN INFECTION IS SUSPECTED**

- 5.1 General When the Staff has reasonable cause to suspect the possibility of disease transmission from a food or beverage service establishment employee; he/she shall secure an illness or morbidity history of the suspected employee and/or make other investigations as may be required and take appropriate action. The Staff may require any or all of the following measures:
- 1) The immediate exclusion of the employee from all food service establishments;
  - 2) The immediate closure of the food service establishment concerned until, in the opinion of the Staff, no further danger of disease outbreak exists;
  - 3) Restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease, and;

- 4) Adequate medical and laboratory examinations of the employee or other employees and their body discharges.

## **SECTION VI - COMPLIANCE PROCEDURES**

6.1 Licenses Needed It shall be unlawful for any person to operate a food and/or beverage service establishment within Martin County who does not possess a valid license issued to them by the Health Department as required by this Ordinance. Only a person who complies with the requirements of this Ordinance shall be entitled to receive and retain such a license. Licenses shall not be transferable from one establishment, person or location to another establishment, person or location. A valid license shall be posted in every food service establishment. All licenses expire as of December 31 each year.

6.2 Application for License

- A. Any person desiring to operate a food service establishment shall make written application for a license on forms provided by the Health Department. Such application shall include: the applicant's full name and address and whether such applicant is an individual, firm, partnership or corporation, the location and type of proposed food service establishment, as well as the signature of the applicant or applicants. If a partnership, the names of the partners, together with their addresses shall be included. Each application for a license, together with the appropriate license fee as described herein, shall be submitted to the Health Department not later than January 31 each year, following expiration of the previous year's license, or in the case of a seasonal or new business, within 30 days of the opening date of such a business. Any person who operates a food service establishment without submitting a license application and appropriate fee shall be deemed to have violated this Ordinance and shall be subject to prosecution as provided for in this Ordinance.
- B. Proprietors of any food and/or beverage establishment shall pay an annual license fee at a rate specified by resolution of Human Services of Faribault and Martin Counties. This annual license fee may be adjusted from time to time as the Agency shall deem appropriate. A penalty fee at a rate specified by Human Services of Faribault and Martin Counties shall be added to the amount of the license fee and paid by the proprietor if the annual license fee has not reached the Health Department office by the dates specified in section 6.2A.
- C. From and after October 1<sup>st</sup> of each year, the license fee for new food and beverage establishments, or new operators, shall be one-half of the appropriate annual license fees plus any penalties which may be required.

6.3 Inspection and Correction

- A. The Health Department shall inspect food, beverage and lodging establishments according to Minnesota Statute 157 and rules adopted under Minnesota Statutes 157.

The frequency of inspection shall be based on the degree of health risk and shall be in compliance with the inspection frequency outlined in Minnesota Statutes, Section 157.20; or successor Statutes.

- B. The person operating a food establishment shall, upon request of the Health Department and after proper identification, permit access to all parts of the establishment at any reasonable time for purpose of inspection and shall exhibit and allow copying of any records necessary to ascertain sources of foods or other compliance with the provisions of this Ordinance. Any interference with the Health Department in performance of his/her duties shall be grounds for immediate suspension of the license.
- C. Every person engaged in the operation of a food establishment, as herein defined, shall upon request, furnish reasonable samples free of charge to the Health Department for laboratory analysis.
- D. Whenever an inspection of a food service establishment is made, the findings shall be recorded on the inspection report form. One copy of the inspection report form shall be furnished to the person in charge of the establishment. The completed inspection report form is a public document that shall be made available for public disclosure to any person who requests it, except when report forms are a part of pending investigations.
- E. The inspection report form shall specify a specific and reasonable period of time for the correction of the violations. Correction of the violations shall be accomplished within the period specified.

#### 6.4 Suspension of License

- A. Licenses may be suspended temporarily by the Staff at any time for failure by the holder to comply with the requirements of this Ordinance. Whenever a license holder or operator has failed to comply with any notice requiring corrective action, issued under the provisions of this Ordinance, that license holder or operator may be notified in writing that the license upon service of notice is immediately suspended and that an opportunity for a hearing before the Appeals Board will be provided if a written request for appeal is filed within five (5) working days with the Staff by the license holder.
- B. Notwithstanding the other provisions of this Ordinance, whenever the Sanitarian finds insanitary or other condition(s) in the operation of a food establishment which, in their judgment, may constitute a substantial hazard to the public health, they can without warning, notice or hearing, issue a written notice to the license holder or operator citing such condition(s), specifying the corrective action to be taken, and specifying the time period within which such action shall be taken; and if deemed necessary, such order shall state that the license is immediately suspended, and all food and/or beverage

operations are to be immediately discontinued. Any person to whom such an order is issued shall comply immediately therewith, but upon written petition to the Staff, shall be afforded an appeal before the Appeals Board as soon as the Appeals Board may be convened.

- C. Any person whose license or permit has been suspended may at any time make application for a reinspection for the purpose of reinstatement of the license. Within ten (10) working days following receipt of a written request, including a statement signed by the applicant that in their opinion the condition(s) causing suspension of the license has/have been corrected, the Sanitarian shall make a reinspection. If the applicant is in compliance with the requirements of this Ordinance and Minnesota Rules Chapter 4626, the license shall be reinstated.

- 6.5 Revocation of License For serious or repeated violations of any of the requirements of this Ordinance or Minn. Rules Chapter 4626, the license may be permanently revoked after an opportunity for a hearing before the Appeals Board has been provided. Prior to such action, Staff shall notify the license holder in writing, advising that the license shall be permanently revoked at the end of a five (5) day period.
- 6.6 Appeals Board The Appeals Board shall consist of six (6) members from the Human Services of Faribault and Martin Counties Board such that a minimum of two (2) members from each county are included. The Chairperson of the Human Services Board will be the Appeals Board Chairperson and will be included as one of the six members.
- A. Request for Hearing Any person affected by a notice of embargo, suspension, or revocation shall be granted a hearing on the matter before the Appeals Board upon filing in the office of the Staff, written petition requesting such a hearing and setting forth a brief statement on the grounds therefore. Said petition shall be filed within ten (10) working days after the notice was served.
- B. Date of Hearing The hearing requested shall be held not more than ten (10) working days after the date on which the petition was filed. The Chairperson of the Appeals Board may postpone the date of the hearing for a reasonable time beyond such ten (10) day period, if in the judgment a good and sufficient reason exists for such postponement.
- C. Notice of Hearing The Staff shall cause five (5) working days written notice of the hearing to be given to the petitioner or petitioners by personal service or by mailing to the petitioner or petitioner's last known address.
- D. Proceedings At such hearing the petitioner, their agent or attorney shall be given an opportunity to be heard and to show cause why the notice of embargo, suspension, or revocation issued by the Health Department should be modified or withdrawn. The Program Manager or County Attorney shall present a detailed written statement of their findings and recommendation(s) to the Appeals Board at the time of the hearing.
- E. Decisions of the Appeals Board The Appeals Board, within three (3) working days after such hearing, shall sustain, modify or withdraw the notice of embargo, suspension, or revocation depending upon its findings. A copy of the decision of the Appeals Board shall be served by mail to the petitioner or petitioners. Any person aggrieved by the decision of the Appeals Board may seek relief therefrom in any court of competent jurisdiction as provided by the laws of the state.
- F. Record of Proceedings The proceedings of each hearing held before the Appeals Board pursuant to petition, including the findings and the recommendation(s) of the Program Manager or County Attorney shall be recorded and reduced to writing and

entered as a public record in the office of the Director. Such record shall include a copy of every notice or order or writing issued in connection with the matter.

- G. Notices not Appealed Any notice served pursuant to the provisions of this Ordinance shall automatically become final if a written petition for a hearing is not filed with the Health Department within ten (10) working days after the notice is served.
- 6.7 Severability The provisions of this Ordinance shall be severable. Should any section, paragraph, sentence, clause, phrase or portion of this Ordinance be declared invalid for any reason, the remainder of said Ordinance shall not be affected thereby.
- 6.8 Minnesota Department of Health The requirements contained in this Ordinance are intended to be comparable to the Minnesota Department of Health rules and are intended to meet the minimum requirements set forth by the Minnesota Department of Health. Whenever the Minnesota Department of Health amends rules or adopts new rules setting more restrictive sanitary standards than the ones established in this Ordinance, the rules set by the Minnesota Department of Health shall govern and will be considered in the enforcement procedure as part of this Ordinance.
- 6.9 Penalties Any person, firm, or corporation who shall violate any of the provisions hereof or who shall fail to comply with any of the provisions hereof or who shall make any false statement in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed the maximum allowed under the Misdemeanor Statutes or by imprisonment not to exceed the maximum allowed under the Misdemeanor Statutes or both. Each day that a violation continues shall constitute a separate offense. Such persons may be enjoined from continuing such violations.
- 6.10 In the event of a violation or a threat of violation of this Ordinance, the County Attorney may make take appropriate action to enforce this Ordinance, including application of injunctive relief, action to compel performance, or other appropriate action in court, if necessary, to prevent, restrain, correct, or abate such violations, or threatened violations.
- 6.11 Effective Date This ordinance shall be in full force and effect upon publication.

**SECTION VII - REPEAL OF PREVIOUS ORDINANCE**

7.1 This Ordinance, adopted March 4, 2014 hereby repeals and replaces in its entirety the Martin County Food and Beverage Ordinance adopted on July 20, 1999.

Adopted this 4th day of March, 2014

\_\_\_\_\_

Chairperson, Board of Commissioners

Attest:

\_\_\_\_\_

County Coordinator

Roll Call AYES: Commissioners Belgard, Flohrs, Donnelly, Pierce, and Schmidtke. NAYS: None. Martin County Food and Beverage Service Ordinance duly passed and adopted this 4<sup>th</sup> day of March, 2014.

Higgins stated with the recent approval for a replacement hire of the Account Technician 1 position in the Recorder's Office, Kay Wrucke, County Recorder, has revised the county's job description to reflect more accurately the essential functions and minimum qualifications for the job. After Board consideration and review,

Motion by Commissioner Pierce, seconded by Commissioner Belgard, Be It Resolved that the Martin County Board of Commissioners, hereby approve the revisions to the Account Technician 1 – Recorder's Office job description as presented dated March, 2014. Carried unanimously.

Higgins stated from time to time, county policies are reviewed and need to be updated. Higgins went on to state the County Credit Card Policy has been revised to add procedure and explanation for tip reimbursements to match the county's Training and Development Policy; and adds MIS Director to list of credit cards maintained by county staff. After Board consideration and review,

Motion by Commissioner Pierce, seconded by Commissioner Belgard, Be It Resolved that the Martin County Board of Commissioners, hereby approve the revised Martin County Credit Card Usage Policy, upon approval and adoption; and retroactive at the adoption of the county's Training and Development Policy (2012) allowing tip reimbursements; and that this policy is effective March 4, 2014, and that this supersedes all previous credit card usage policies. Carried unanimously.

Higgins stated Martin County's Training and Development Policy has been updated to state that request for business type reimbursements older than 60 days would be taxed and processed accordingly.

Commissioner Pierce requests the effective date for the Training and Development Policy to be April 1, 2014.

After Board consideration and review,

Motion by Commissioner Belgard, seconded by Commissioner Flohrs, Be it Resolved that the Martin County Board of Commissioners, hereby approve the revised Martin County Training and Development Policy, effective April 1, 2014, and that this policy supersedes all previous training and development policies. Carried unanimously.

Commissioners presented their individual board member reports.

Commissioner Flohrs stated he attended the Wellness Weigh-In and Human Services full board meeting in Faribault County on February 19<sup>th</sup>; MVAC on February 24<sup>th</sup>; AMC Legislative Conference February 26<sup>th</sup> & 27<sup>th</sup>; and Beyond the Yellow Ribbon meeting on March 3<sup>rd</sup>.

Commissioner Belgard stated he attended a meeting with Waste Management attorneys regarding some Prairieland issues on February 19<sup>th</sup>; AMC Legislative Conference February 26<sup>th</sup> & 27<sup>th</sup>; and Martin County EDA meeting on March 3<sup>rd</sup>.

Commissioner Pierce stated he had nothing new to add.

Commissioner Donnelly stated he attended a Building/Purchasing Committee meeting and met with the Martin County Sheriff.

Commissioner Schmidtke stated he had nothing new to add.

Commissioners reviewed their calendars of upcoming meetings and activities: March 4, 2014 – Building Committee meeting immediately following the regular commissioners meeting; March 5, 2014 – Human Services Exec. Board meeting; March 6, 2014 – LEAN 101 Training Sessions at 9:00 a.m. and 1:00 p.m. – LEC Basement meeting room; March 11, 2014 – Elm Creek Research meeting in the morning, Drug Court Graduation at 12:30 p.m., Library Board meeting at 1:30 p.m., and Township Election meetings; March 12, 2014 – Department Directors meeting at 8:30 a.m. (Commissioner Pierce will be leaving on vacation); March 13, 2014 – Soil Water meeting and Faribault-Martin Transit Restructuring Planning Study meeting at 10:00 a.m. in Blue Earth, MN; March 14, 2014 – Prairieland meeting, and Drug Court Steering Committee meeting at noon; March 18, 2014 – next regular Board of Commissioners meeting at 9:00 a.m. – Board Room (Scott Higgins will be absent for the March 18, 2014 meeting).

With no further business to wit, Board Chair adjourned the meeting at 10:39 a.m.

BOARD OF COMMISSIONERS  
MARTIN COUNTY, MN

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Dan Schmidtke, Board Chair

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