

PROCEEDINGS OF THE
MARTIN COUNTY BOARD OF COMMISSIONERS
TUESDAY, JULY 1, 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 Elliot Belgard, Steve Pierce, Steve Donnelly, Steve Flohrs, and Dan Schmidtke. Also present were Scott Higgins, Martin County Coordinator, James Forshee, Martin County Auditor/Treasurer, Jennifer Brookens, Sentinel Newspaper, Rod Halvorsen, KSUM/KFMC Radio, Terry Viesselman, Martin County Attorney, Julie Walters, Administrative Assistant, and members of staff and public.

Motion by Commissioner Donnelly, seconded by Commissioner Pierce, Be It Resolved that the Martin County Board of Commissioners, hereby approve the agenda for the July 1, 2014 regular Board of Commissioners meeting with the following: Add 8.11 Set Sale Price for Tax Forfeited Property, 8.12 Consider Resolution Delegating Legal Signing Authority – EMPG Grant Program, Sheriff's Office, 8.13 Consider Resolution Reaffirming Solid Waste Hauler Services Fees – Prairieland Solid Waste Facility; and Delete 8.4 Consider Hire of Maintenance Worker I Position – Highway Department. Carried unanimously.

Motion by Commissioner Belgard, seconded by Commissioner Flohrs, Be It Resolved that the Martin County Board of Commissioners, hereby approve the minutes of the July 17, 2014 regular Board of Commissioners meeting. Carried unanimously.

Terry Viesselman, Martin County Attorney, was present and had nothing new to report.

Joe Potter, Sonja Fortune, and Judy Wacholz, Fairmont Area Dog Park committee members were present to address the Board. Potter stated together we are committed to building a dog park within the City of Fairmont by raising funds and awareness. We are currently working with the Park Board and the City with the latter being our fiscal agent. After thorough research of other dog parks and receiving several quotes we have come up with an initial estimate of \$15,000 for fencing, benches and signage, for Phase I, with the potential of additional phases including water and lighting. Potter stated so far we have had several fundraising events, approached local businesses, and continues to raise awareness. Our events have consisted of pictures with Santa in November, a dog show in February, and currently we are selling T-shirts. For larger donations we have paver bricks and plaques. We have also been at Heritage Acres market square and we served root beer floats during a recent car show downtown. To promote the park in surrounding communities, we are walking in area parades. Potter went on to state our efforts have paid off as we've made over \$6,000 and that is over one-third of what our set goal was. Also due to the positive feedback from other communities we have realized that this is more than just a city park it's an area utilized by everyone. It has also been pointed out in a recent article in the Sentinel Newspaper by the director of the Convention and Visitors Bureau that having this type of park would give travelers another reason to stop in Fairmont. Potter noted we would greatly appreciate your help and support in making this dream a reality; and there are two ways

we are asking for your help. The first being through a monetary donation...our brochure gives an example of an individual contribution of \$50 in which you'd receive a paver brick; up to a corporate donation of \$2,500 in which you'd receive a plaque...both of which would be displayed at the park. We also have for dog enthusiasts T-shirts which come in a variety of sizes and colors. This brings me to the second way for you to help us. Potter went on to note we ask that you share our dream of building this dog park with all of Martin County and to let everyone know that together we can build a dog park. Potter and committee members thanked commissioners for their time and consideration and asked for questions, comments, or concerns.

Commissioners inquired if the City of Fairmont is committed and has made a monetary donation, and location and size of the dog park.

After discussion,

Motion by Commissioner Pierce, seconded by Commissioner Donnelly, Be It Resolved that the Martin County Board of Commissioners, hereby receive and file the monetary donation request from the Fairmont Area Dog Park Committee for the proposed Fairmont Area Dog Park. Carried unanimously.

Miranda Rosa, FMJ Drug Court Coordinator, presented a program update and her request for continuation of \$5,000 annual funding from Martin County.

Chairman Schmidtke opened the Public Hearing to consider revisions to the Martin County Solid Waste Service Fee Ordinance.

Billeye Rabbe, Director Prairieland Compost Facility, presented and reviewed the proposed amendments to the Martin County Solid Waste Management Service Fee Ordinance. Rabbe stated that for the last year we've been working on clarifying some issues that were important to bring Prairieland to a place where it could sustain itself. Rabbe went to state we're really not changing anything but we are clarifying the language to meet what we're presently doing. Rabbe noted in the Service Fee Ordinance there's a clause that says that the hauler collected service fee must equal \$40 a ton. That's very confusing and is hard to keep track of, it's hard for haulers and for Prairieland to regulate how that works. The new proposed language would clarify the ordinance greatly so that we have a solid percentage which is based on the service the hauler is providing.

Chairman Schmidtke opened up the public portion of the hearing for citizen input.

Mike Johnson, Hometown Sanitation Services LLC, stated my only concern in moving forward with the amended ordinance is that all haulers will be on an even playing field with no instability of the balance of competition. My main request is that things are applied equally.

Scott Higgins, Martin County Coordinator, stated we have not received any written public comments.

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

Motion by Commissioner Pierce, seconded by Commissioner Donnelly, Be it Resolved that the Martin County Board of Commissioners, after the required public hearing was held by the Prairieland Solid Waste Management Facility on July 1, 2014 for the consideration of amending the Martin County Solid Waste Service Fee Ordinance pursuant to the authority and procedures of Minnesota Statutes §400.08, would clarify language in the already existing solid waste service fee ordinance by eliminating reference to equating the hauler collected fee to \$40 per ton, and requiring that the fee be a percentage of the hauler's invoice amount by removing the option for a fee based on weight; and after having submitted the proposed amendments to the Martin County Board of Commissioners for consideration; and after careful review and consideration, hereby approve and adopt the amendments to the Martin County Solid Waste Service Fee Ordinance to clarify language by eliminating reference to equating the hauler collected fee to \$40 per ton, and requiring that the fee be a percentage of the hauler's invoice amount by removing the option for a fee based on weight as proposed. Roll Call AYES: Commissioners Donnelly, Flohrs, Belgard, Pierce, and Schmidtke. NAYS: None. Amended Ordinance duly passed and adopted this 1st day of July, 2014.

**MARTIN COUNTY
ORDINANCE NO. 37/14**

**AN ORDINANCE AMENDING THE MARTIN COUNTY SOLID WASTE
MANAGEMENT SERVICE FEE ORDINANCE**

The County Board of Martin does hereby ordain as follows:

Section 1. That the Martin County Solid Waste Service Fee Ordinance, adopted in November 1990, and amended in January 1999 and October 2005, shall be amended as follows:

**MARTIN COUNTY
SOLID WASTE MANAGEMENT
SERVICE FEE ORDINANCE**

SECTION I: PURPOSE AND AUTHORITY

This ordinance is enacted pursuant to Minn. Stat. §400.08, which grants Martin County the authority to impose reasonable charges for solid waste management services provided by the County or by others under contract with the County. The purpose of this ordinance is to establish methods of collection of such charges to fund such solid waste management services, which are intended to protect the public health and welfare and the environment pursuant to State of Minnesota mandates governing solid waste management.

SECTION II: DEFINITIONS

For the purpose of this ordinance, the following terms shall have the meaning given them, unless the context clearly indicates otherwise.

Subsection 1. “**Board**” is the Board of Commissioners of Martin County.

Subsection 2. “**County**” is Martin County, a political subdivision of the State of Minnesota.

Subsection 3. “**Generate**” is the act or process of producing waste.

Subsection 4. “**Generator**” is any Person who generates Solid Waste in the County or pays for Solid Waste collection or disposal services, or any Person who pays for Solid Waste collection or disposal services on behalf of a Person who generates Solid Waste in the County.

Subsection 5. “**Hauler**” is a Person engaged in the business of collecting, transporting or disposing of Solid Waste generated in the County, and includes a Self-Hauler.

Subsection 6. “**Hauler Services**” means collection, transportation, processing, or disposal of Solid Waste generated in the County, including but not limited to regularly scheduled service, on-call service, one-time service, rental and other use of equipment such as waste containers, compactors, compactor boxes, and the like, and any other service that involves or facilitates collection, transportation, processing or disposal of waste materials as Solid Waste.

Subsection 7. “**Solid Waste**” is garbage, refuse, and other solid waste from residential, commercial, industrial, and community activities that the Generator of the waste aggregates for collection, but does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural waste, tires and other materials collected, processed and disposed of as separate waste streams.

Subsection 8. “**Collection and Transportation License**” shall mean the license required of all Persons in order to collect or transport Solid Waste that is generated within the County, pursuant to the County’s Solid Waste Ordinance.

Subsection 10. “**Person**” includes, but is not limited to an individual, business, Self-Hauler, Hauler, public or private corporation, partnership, joint venture, association, trust, unincorporated association, government or agency or political subdivision thereof, landfill operator, Generator, any other legal entity, and any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing.

Subsection 11. “**Prairieland**” is the Prairieland Solid Waste Board, a joint powers board established pursuant to Minn. Stat. §471.59, which has Martin and Faribault Counties as its members.

Subsection 12. “**Self-Hauler**” is a Person who transports for disposal its own Solid Waste.

Subsection 13. “**Service Area**” is the area designated by the Board as an area needing Solid Waste Management Services pursuant to Minnesota Statutes § 400.08.

Subsection 14. “**Solid Waste Management Fee**” or “**Fee**” is the charge established by the Board, pursuant to Minn. Stat. § 400.08, payable to the County for Solid Waste Management Services provided within a Service Area.

Subsection 15. “**Solid Waste Management Services**” includes activities provided by the County, Prairieland, or Persons under contract with the County or Prairieland that support the waste management responsibilities described in Minnesota Statutes Chapters 115A, 116 and 400 including, but not limited to: waste reduction and reuse services; waste recycling; collection; processing through composting or waste-to-energy incineration; disposal; closure and post closure care of a solid waste facility; and response, as defined in Minn. Stat. § 115B.02, to releases from a solid waste facility or closed solid waste facility; and household hazardous waste management.

SECTION III: SERVICE AREA

Pursuant to Minn. Stat. §400.08, which grants Martin County the authority to establish and determine the boundaries of solid waste management service areas in the County, the boundaries of Martin County shall constitute the boundaries of the County’s solid waste management Service Area.

SECTION IV: GENERAL PROVISIONS

Subsection 1. **Compliance.** No Person shall collect, transport or dispose of Solid Waste generated in the County except in full compliance with this ordinance. This ordinance shall not prevent the transportation of Solid Waste through the County.

Subsection 2. **Solid Waste Management Fee.** A Solid Waste Management Fee may be imposed for Solid Waste Management Services provided within the Service Area. Generators (owners, lessees, or occupants of property in the County, or any or all of them) shall pay the Solid Waste Management Fee imposed in the manners set forth herein in amounts as established by the Board. Solid Waste Management Fee rates shall be just and reasonable. A copy of the current rate schedule shall be kept on file in the office of the County Auditor. In establishing or revising the rate schedule, the Board may take into account all factors relevant to solid waste management and disposal. Such factors include, but are not limited to: the character, kind and quality of service and of solid waste; the method of disposition; the number of people served at each place of collection; and all other factors that enter into the cost of providing service including, but not limited to depreciation and payment of principal and interest on money borrowed by the County for the acquisition and betterment of facilities; public education; recycling programs; household hazardous waste management; and solid waste management facility operating costs.

Subsection 3. **Procedures for Establishing the Amount of Solid Waste Management Fee.** The Board shall act to impose and establish the amount of the Solid Waste Management

Fee, as well as the method or methods of collection, by resolution following a public hearing, and shall state the effective date of the Solid Waste Management Fee.

Subsection 4. Procedures for Adjusting the Amount of Solid Waste Management Fee. The Board may adjust the amount and method or methods of collection of the Solid Waste Management Fee by resolution following a public hearing, and shall state the effective date of the adjusted Solid Waste Management Fee. There shall be a minimum thirty (30) day period prior to the effective date of such adjustment. [The current Solid Waste Management Fees shall be available from the County solid waste administrator and/or the director of Prairieland.](#)

SECTION V: FEE COLLECTION AND REMITTANCE

Subsection 1. Methods of Billing and Collection. The County may use one or both of the following methods of billing and collecting the Solid Waste Management Fee:

- A. A per parcel fee collected through an assessment levy payable with the real estate taxes;
- B. A fee collected by Haulers that is based on the amount of waste generated.

Subsection 2. Unpaid Per Parcel Charges. On or before October 15th of each year, the Board shall certify to the County Auditor all unpaid outstanding per parcel charges and a description of the lands against which the charges arose. It shall be the duty of the County Auditor, upon order of the Board, to extend the assessments with interest rate provided for in Minn. Stat. §279.03, subd. 1, upon the tax rolls of the County for the taxes of the year in which the assessment is filed. For each year ending October 15th, the assessment with interest shall be carried into the tax becoming due and payable in January of the following year, and shall be enforced and collected in the manner provided for the enforcement and collection of real property taxes in accordance with the provisions of the State of Minnesota. The charges, if not paid, shall become delinquent and be subject to the same penalties and the same rate of interest as the taxes under the general laws of the state. Unpaid charges on tax exempt properties may be collected in Small Claims Court or through such other means as may be approved by the County Attorney.

Subsection 3. Fee Collection by Haulers.

- A. As a condition of maintaining its license, each hauler shall bill a portion of the Solid Waste Management Fee to and collect the Fee from all Persons to whom they provide Hauler Services, according to the rates and provisions established herein. In the event a municipality contracts or otherwise arranges for Hauler Services on behalf of Generators and elects to bill the Fee to and collect the Fee from Persons who are billed for such services, and subsequently remits all Fees collected to the County, a Hauler is not required to bill the Fee to or collect the Fee from such Persons in such municipalities. In the event a municipality contracts or otherwise arranges for Hauler Services on behalf of Generators and elects to bill the Fee to and collect the Fee from Persons who are billed for such

services, and subsequently pays the Hauler for such services, including the Fees collected, the Hauler shall pay the Fees to the County.

- B. The Fee shall be placed on all Hauler Services provided on or after January 1, 2006. The Hauler must collect and remit the Fee for any Hauler Services provided on or after January 1, 2006, notwithstanding the fact that the Hauler may have billed or invoiced prior to January 1, 2006, for Hauler Services to be provided on or after January 1, 2006. The County may contract with Prairieland or another entity to administer the Hauler-Collected Fee program, with administrative functions delegated to Prairieland or another entity, but decision-making and enforcement functions performed by the County.
- C. Each Hauler shall make reasonable efforts to collect the Fee. The Fee is imposed on the amount of Solid Waste generated and shall be collected by the Hauler on the sales price of Hauler Services as incurred by any Person paying for Hauler Services. If the sales price does not represent the fair market value of the Hauler Services, the Fee shall be calculated on the fair market value of those Hauler Services. Any sales tax or other tax or fee imposed by a unit of government is not subject to the Fee.
- D. If a Generator does not pay the Fee to a Hauler or directly to the County, the County may directly bill the Generator or the owner, occupant, or lessee of the property on which the Solid Waste was generated. The amount billed will be calculated on the cost of Hauler Services incurred by the Generator. If the incurred cost is not known, the County may establish the Fee based on a reasonable estimate of such incurred costs.

Subsection 4. Remittance.

- A. The Fee collected by Haulers must be remitted to the County or its designee. Failure to remit the Solid Waste Management Fee collected may result in the revocation of the Hauler's license by the County.
- B. If a Generator makes partial payment to a Hauler, the Hauler shall then apply payment to the Fee proportionally.
- C. Each Hauler shall remit the Fee by the last day of the month following the month in which the Fee was collected by a Hauler, or incurred by a Self-Hauler. The County, if requested in writing by a Hauler, may grant a variance from this 30 day payment requirement due to Hauler billing practices. The duration of the variance will be determined by the County.
- D. In the event a Hauler does not receive the full amount billed on a statement or invoice when the statement or invoice includes the Fee, all payments the Hauler actually receives shall be divided on a pro rata basis between the amount owed the Hauler

and the Fee owed the County. The Hauler must remit the pro rata amount of the Fee to the County, or its designee.

Subsection 5. Statements.

- A. Each Hauler shall separately itemize the Fee on any statement or invoice issued for payment of Hauler Services. The Fee must be identified as “County Solid Waste Fee” and no other name or description. Failure to separately itemize the Fee or to properly identify the Fee is a violation of this ordinance.
- B. Each Hauler is required to provide notification of the Fee to all Persons that are billed for Hauler Services. This notification is required prior to January 1, 2006, through a letter jointly developed with the County. For any Person billed for Hauler Services that has not received such notification, each Hauler is required to provide a notification of the Fee through a letter jointly developed with the County at the time the Person receives the first statement or invoice on which the Fee is billed.

Subsection 6. Reports. Each Hauler shall complete a Solid Waste Management Fee report in accordance with instructions and on forms provided by the County, or its designee. The Fee Report, accompanied by any required Fees, must be submitted by the last day of the month in which the Solid Waste Management Fee was incurred or collected by a Hauler, or incurred by a Self-Hauler. The Fee Report may include, but not be limited to, total gross billings and receipts for all collection and disposal services performed within the Service Area, the number of residential and nonresidential Generators within the Service Area, the number of tons collected within the Service Area and disposed of within and outside of the Service Area, and such other information as requested by the County.

Subsection 7. Calculation of Solid Waste Management Fee. If the County determines, after review of the Fee Report, or upon failure of a Hauler to submit the Fee Report, that the Hauler has not supplied appropriate information, the County may recalculate the Fee in accordance with this subsection. If the County finds that the information supplied by the Hauler is inaccurate, incomplete or understated, the County may determine an appropriate amount for the Fee due from the Hauler. The County shall send the Hauler a notice, by U.S. Mail, setting forth the recalculated Fee amount. The notice shall include a statement of reasons why the Fee has been recalculated. The County may base the recalculation on information in County records or on any data currently or previously supplied by the Hauler. The written notice shall be deemed received by the Hauler three (3) days after the date of mailing.

Subsection 8. Generators Without Hauler Service. The County may require Haulers to provide Generator lists or otherwise cooperate to identify Generators within the County without Hauler service. Such Generators may be billed directly for the Solid Waste Management Fee in an amount determined by the County. The County, in assessing the Solid Waste Management Fee, shall send a written notice to the Generator by U.S. Mail advising the Generator of the amount of the Solid Waste Management Fee. The notice shall be deemed received by the Generator three (3) days after the date of mailing.

Subsection 9. Examination of Records. The County or its duly authorized agents shall have the right to examine records, including access to computer records, maintained by a Hauler. The term “record” shall include, but is not limited to, all accounts of a Hauler. The County shall be allowed access at all reasonable times to inspect and copy at reasonable cost all business records related to a Hauler’s collection, transportation, and/or disposal of Solid Waste to the extent necessary to ensure that all fees required to be collected or paid have been remitted to the County. Such records shall be maintained by the Hauler for no less than six (6) years.

Subsection 10. Late Payment. A late payment penalty in the amount of one-half of one percent (0.5%) per month, or the maximum interest rate allowed by law, shall be imposed upon Solid Waste Management Fees collected from the Generator but not remitted by the Hauler to the County on or before the last day of the month following the collection. If a Hauler fails to bill and collect the Solid Waste Management Fee from the Generator, the Hauler shall pay the Generator’s Solid Waste Management Fee plus the late payment penalty. The late payment shall be calculated from the date the Solid Waste Management Fee should have been billed.

Subsection 11. Collection Actions. Exercise of any remedy under this subsection does not preclude exercise of other remedies.

- A. If a Generator fails to pay the Fee to a Hauler in a timely manner, the County may use any available legal remedies to collect the overdue, unpaid Solid Waste Management Fees from the Generator, including, but not limited to, the process to collect the Fee via the property tax pursuant to Section V, Subsection 2, above.
- B. If a Hauler has collected Fees and failed to remit them to the County in a timely manner, the County may use any available legal remedies to collect the Fees from the Hauler.
- C. If a Self-Hauler fails to pay the Fee to the County in a timely manner, the County may use any available legal remedies to collect the Fee from the Self-Hauler.
- D. Unpaid Fees may be collected from tax-exempt properties as otherwise provided in this section.

SECTION VI: VIOLATIONS AND PENALTIES

Subsection 1. Penalty. Any Person who hauls Solid Waste and willfully or negligently fails to bill, fails to collect, or fails to pay or remit to the County the Fee, or any Generator without Hauler service who fails to pay to the County the Fee in the amount determined by the County, may be required to pay a civil penalty of up to \$1,000 for each violation, as determined by the County. Written notice of the penalty shall be mailed to the Person or Generator by U.S. Mail, and shall be deemed to be received by the Person or Generator three (3) days after the date of mailing.

For the purpose of this subsection, a Person who hauls Solid Waste for a Generator who subsequently fails to pay its bill has not acted negligently. This subsection shall not preclude

prosecution for any misdemeanors, gross misdemeanors, or felonies under State of Minnesota law committed by such Person while hauling Solid Waste.

Subsection 2. Injunctive Relief. The County may institute appropriate actions or proceedings, including application for injunctive relief, action to compel performance or other appropriate actions to prevent, correct or abate any violation or threatened violation of this ordinance.

Subsection 3. Costs. The County may recover costs, including staff and other related costs, incurred to enforce compliance with the provisions of this ordinance

SECTION VII: APPEALS

Subsection 1. Right of Appeal. Any Person or Generator aggrieved by a decision of the County in accordance with the provisions of this ordinance shall have the right to appeal the decision by serving the Board with a request for hearing. The request for hearing must be received within thirty (30) days after the Person or Generator receives written notice of the decision. If the Person or Generator fails to request a hearing with the time prescribed, the Person or Generator shall forfeit any right to a public hearing. Upon receipt of a written request for a hearing, the Board shall set a hearing not earlier than ten (10) days and not later than thirty (30) days from the date of receipt of the request.

Subsection 2. Hearing. Whenever a hearing is requested the hearing shall be governed by the following procedures:

- A. The Board shall have the power to conduct public hearings pursuant to this section. Upon receipt of a request for hearing, the Chair of the Board shall appoint three members of the Board (“Panel”) to conduct the hearing on behalf of the Board. The Panel shall submit to the Board, in writing, findings of fact and recommendations, and the Board may base its decision on this report.
- B. The Board shall notify the applicant in writing as to its decision within five (5) working days after a decision is reached.
- C. Any applicant aggrieved by a decision of the Board shall have the right to appeal to the District Court on questions of law and fact within thirty (30) days of the date of the decision.

SECTION VIII: SEVERABILITY

It is hereby declared to be the intention of the Board that the provisions of this ordinance are separable in accordance with the following:

Subsection 1. Validity of Provisions. If any court of competent jurisdiction shall rule that any provision of this ordinance is invalid, other provisions not specifically included in said judgment shall not be affected.

Subsection 2. Specific Application. If any court of competent jurisdiction shall rule that the application of any provision of this ordinance is invalid to a particular Generator, structure, site, facility, operation or Hauler such judgment shall not affect the application of said provision to any other Generator, Hauler, structure, site, facility or operation not specifically included in the judgment.

SECTION IX: PROVISIONS ARE CUMULATIVE

The provisions in this ordinance are cumulative and are additional limitations upon all other laws and ordinances covering any subject matter in this ordinance.

Section 2. That this ordinance amendment shall be in full force and effect following the adoption by the Martin County Board of Commissioners and publication as required by law.

NOW, THEREFORE, IT IS RESOLVED that this ordinance amendment is hereby adopted this 1st day of July, 2014.

**BOARD OF COMMISSIONERS
MARTIN COUNTY, MINNESOTA**

Board Chair

Attest: _____

Rabbe next presented a resolution reaffirming the percentages for hauler services under the fee ordinance shall continue to be 22% for residential customers and 34% for non-residential customers when the amended fee ordinance becomes effective. Rabbe noted the fees are staying the same and not changing.

Motion by Commissioner Belgard, seconded by Commissioner Donnelly,

R-#36/'14

MARTIN COUNTY

WHEREAS, Martin County ("County") is a member of the Prairieland Solid Waste Board ("Prairieland"), which was established through a Joint Powers Agreement ("Agreement") with Faribault County; and

WHEREAS, Prairieland owns and operates the Prairieland Resource Recovery Facility ("Facility") in Truman, Minnesota that recovers resources and produces renewable energy biomass fuel from solid waste generated by residences, businesses and institutions in the County and helps reduce reliance on landfills for management of solid waste pursuant to direction to the County under the Minnesota Waste Management Act (Minn. Stat. Chap. 115A); and

WHEREAS, the County has since 2006 implemented a Solid Waste Service Fee Ordinance ("Fee Ordinance") pursuant to Minn. Stat. §400.08 that established a service fee

collected from waste generators in the County by solid waste haulers and has been assessed based either upon a per ton basis or as percentage of the price for Hauler Services on the hauler's invoice to customers; and

WHEREAS, the most recent percentages of the price for Hauler Services established by the County have been Twenty-Two Percent (22%) for residential customers and Thirty-Four Percent (34%) for non-residential customers; and

WHEREAS, the County amended its Fee Ordinance on July 1, 2014 to implement the hauler-collected service fee in a manner such that it is collected solely based upon a percentage of Hauler Services; and

WHEREAS, implementation of a hauler-collected service fee to assist and enhance solid waste resource recovery has been recommended by the State of Minnesota and approved by the Minnesota Supreme Court in the case of *Zenith/Kremer v. Western Lake Sanitary, 572 N.W. 2d 300 (Minn. 1997)*; and

WHEREAS, proceeds from the hauler-collected service fee assist the operation of the Prairieland Facility and enhance the achievement of other goals in the County's Solid Waste Management Plan such as improved recycling of solid waste and proper management of household hazardous waste.

NOW, THEREFORE BE IT RESOLVED, that the County hereby reaffirms that the percentages for Hauler Services under the Fee Ordinance shall continue to be Twenty-Two Percent (22%) for residential customers and Thirty-Four Percent (34%) for non-residential customers when the Amended Fee Ordinance becomes effective.

Motion by Commissioner Belgard, seconded by Commissioner Donnelly, said resolution was duly passed and adopted this 1st day of July, 2014.

BOARD OF COMMISSIONERS
MARTIN COUNTY, MN

Dan Schmidtke, Board Chair

ATTEST: _____
Scott Higgins, County Coordinator

Roll Call AYES: Commissioners Pierce, Flohrs, Donnelly, Belgard, and Schmidtke. NAYS: None. Resolution duly passed and adopted this 1st day of July, 2014.

Kevin Peyman, Martin County Highway Engineer, provided a damage and assessment update from the Dunnell Shop fire noting the four areas focused on include the motor grader, the truck, the building itself and the other contents in the building. Peyman noted a fire broke out at the

site during the spring in the starter of the motor grader. Peyman individually summarized damage(s) resulting from the fire.

- Unit 6, 1999 Ford F150 – Considered a total loss by Minnesota Counties Insurance Trust (MCIT). The truck was given an actual cash value of \$4,995 with a high salvage bid of \$856. We received payment for the difference, \$4,139, and were able to clean up and repair the truck and keep it on the road.
- Unit 29, 2007 CAT 140H Motor Grader – Considered a total loss by MCIT. The Motor Grader was given an actual cash value of \$121,250 with a high salvage bid of \$16,100. We had no use for the salvage so we received payment from MCIT for \$121,250. We ordered a 2014 John Deere 770G as a replacement unit for \$231,912.
- Building Contents – We received a \$6,000 check from MCIT for the building contents. We were able to clean and salvage some of the building contents; others will need to be replaced out of the \$6,000 payment.
- Building – Given an actual cash value from MCIT of \$57,473. Not considered a total loss by MCIT. We have received payment from MCIT for \$57,473 (the actual cash value of the building) and will get the difference between this amount and our repair costs if the building is repaired, rebuilt or replaced within two years.

Peyman reviewed building repair/replacement options.

- Building Repair Options – The existing building is 48’ wide x 40’ deep x 10’6” (front), 14’2” (back) high. Has a flat rubber membrane roof. Built in 1941 with the second stall added in 1963. With repair option we would turn in receipts of our actual costs and get reimbursed from MCIT based on our actual costs.
 - Repair quote from Hertzke Construction for \$61,592. Does not include paint or some electrical. Can’t guarantee they will get to the repairs before winter.
 - Repair quote from Tech Builders for \$97,455. Tech would be able to complete the repairs right away.
- Building Replacement Option – Have an estimate to demo old structure and build a new 52’ x 52’ x 16’ metal building for \$126,000. Martin County forces could do some of the demo and removal. MCIT will pay us \$97,500 towards the cost of the new building if we build new instead of repair the existing building.

Peyman noted the original size of the building was not ideal and as technology has changed, and the equipment has gotten bigger, our equipment doesn’t all fit in the building and we’ve had to remove plows from the trucks before we put them in. Peyman noted in review of the building repair/replacement options, Peyman recommends building a new shop building in Dunnell.

After discussion,

Motion by Commissioner Pierce, seconded by Commissioner Donnelly, Be It Resolved that the Martin County Board of Commissioners, hereby approve and authorize County Highway Engineer to move forward with Dunnell Shop building replacement project. Carried unanimously.

Peyman presented a department update noting sealcoating was to begin July 8, 2014; however, Flint Hills' (low bidder this year) refinery has been under water for the last two weeks so we're not sure if we're going to be able to get oil. Peyman will receive an update on this oil by midweek. Peyman noted numerous roads were under water as a result from the June 16, 2014 storm and the Highway Department was doing more rock hauling for emergency repairs and are now coming back with maintenance gravel over the top to get the gravels back to their preexisting condition. Peyman went on to note they are basically doing normal activities for this time of year.

Jeff Markquart, Martin County Sheriff, was present to recommend step increases per Union Contracts LELS #136 and #115 for eligible employees effective July 1, 2014.

Motion by Commissioner Belgard, seconded by Commissioner Flohrs, Be It Resolved that the Martin County Board of Commissioners, upon the recommendation of Jeff Markquart, Martin County Sheriff, hereby approve and authorize step increases based on satisfactory performance evaluation and according to Union Contract(s) LELS #136 Deputies/Sergeants and LELS #115 Corrections/Communications, for eligible employees effective the first full pay period that includes July 1, 2014. Carried unanimously.

Markquart provided a Martin County Jail update including twenty-one (21) in-house, eight (8) in Faribault County, and six (6) on EHM.

Erin Busta, Martin County Emergency Management Director, presented a resolution delegating legal signing authority for all grants or required documentation from the Division of Homeland Security and Emergency Management, executed on behalf of Martin County.

Motion by Commissioner Belgard, seconded by Commissioner Donnelly,

R-#38/'14

RESOLUTION
DELEGATING LEGAL SIGNING AUTHORITY

BE IT RESOLVED, that the jurisdiction of Martin County, MN, has authorized Erin Busta, Martin County Emergency Management Director or County Board Chair to sign any and all grants or required documentation from the Division of Homeland Security and Emergency Management at the Department of Public Safety, executed on behalf of Martin County, MN.

Resolution duly passed and adopted this 1st day of July, 2014.

BOARD OF COMMISSIONERS
MARTIN COUNTY, MN

Dan Schmidtke, Board Chair

Attest: _____
Scott Higgins, County Coordinator

Roll Call AYES: Commissioners Belgard, Donnelly, Flohrs, Pierce, and Schmidtke. NAYS: None. Resolution duly passed and adopted this 1st day of July, 2014.

Busta next presented a resolution requesting a Presidential Declaration of a Major Disaster for flooding events of June 16, 2014 and ongoing in Martin County. Busta noted Homeland Security and Emergency Management (HSEM) will be contacting her sometime next week to set a date and time for Martin County's damage assessment where the state and FEMA will come and talk with our townships and county about the damage that happened during the storm. Busta went on to note once things progress from there they'll decide whether or not they're going to fund the townships and counties for the damage based on either state funds or federal funds if it gets declared a disaster by the president. The resolution is sent to the governor and from there he sends it to the president who decides if the damage the state sustained as a whole is enough for federal assistance. Busta also noted after that has been declared HSEM will again get in contact with the townships and the counties that sustained damage and then the individual townships and counties will have to decide if they want to apply for the funding and decide if they want to take it.

Much discussion ensued regarding why Martin County was not included in the governor's resolution for state funds or the available funding through the Department of Veterans Affairs.

After further discussion,

Motion by Commissioner Donnelly, seconded by Commissioner Flohrs,

R-#35/'14

RESOLUTION
REQUESTING A PRESIDENTIAL DECLARATION OF A MAJOR DISASTER

WHEREAS, the County of Martin has sustained losses of major proportion, caused by the flooding events of June 16, 2014 and ongoing impacted the population of Martin County and its cities and townships; and

WHEREAS, Substantial damage has been sustained to public property, as outlined in the attached damage assessment forms; and

WHEREAS, the cost of recovery from this disaster is beyond the resources available within the County, and state and federal resources are necessary;

NOW THEREFORE, BE IT RESOLVED, that the Board of Martin County Commissioners, for and on behalf of the citizens of Martin County, request the Governor of the State of Minnesota to petition the President of the United States to declare the County of Martin, Minnesota to be a major disaster area, through appropriate channels.

BE IT FURTHER RESOLVED, that this request is for:

1. The Public assistance (infrastructure support) and Human Services Programs as offered through P.L. 93-288 and 106.390
2. The Hazard Mitigation Program, as offered through P.L. 92-288-106.390

BE IT FURTHER RESOLVED, that the County Emergency Management Director is authorized to coordinate the damage survey teams with local government, and assist in the administration of the disaster recovery process, as needed.

Motion by Commissioner _____, seconded by Commissioner _____, said resolution was duly passed and adopted this 1st day of July, 2014.

BOARD OF COMMISSIONERS
MARTIN COUNTY, MN

Dan Schmidtke, Board Chair

ATTEST: _____
Scott Higgins, County Coordinator

Certification

I, Scott Higgins, County Coordinator, hereby attest that the foregoing resolution was duly adopted by the Martin County Board of Commissioners on the 1st day of July, 2014.

Scott Higgins, County Coordinator

Roll Call AYES: Commissioners Belgard, Pierce, Donnelly, Flohrs, and Schmidtke. NAYS: None. Resolution duly passed and adopted this 1st day of July, 2014.

Kay Wrucke, Martin County Recorder, presented an office update including Martin County's notification from the Secretary of State's Office that Minnesota's Satellite Office Agreements with counties for Uniform Commercial Code (UCC) filing and search services will terminate effective December 1, 2014; and that Martin County is a satellite office. Wrucke noted counties have operated UCC filing and search services under Satellite Office Agreements since 2001; and that terminating the Satellite Office Agreements will have a significant impact on the service provided to our communities. Wrucke went on to note UCC filings and searches will now solely be done at the Secretary of State's Office through existing services, including mail and courier delivery of filings as well as the online UCC filing service.

Wrucke next presented an update on the Secretary of State's "Safe at Home" Program. Wrucke noted that this statewide address confidentiality program was designed in collaboration with local victim service providers and law enforcement to allow its participants to go about their lives, interacting with public and private entities, without leaving traces of where they can

typically be located, such as their residential address. Wrucke went on to note the program privatizes certain records on domestic violence victims creating difficulty in real estate searches when there is not one single document or information on public record. Wrucke also noted the only way that we can create a public and a private record is to photocopy or keep the original documents in a private/safe place. This is an emotional program and nobody wants to vote against it. But what ends up happening is so against what public record is which is creating public notice to everybody on property and gives you the opportunity to have collateral on your property and to purchase homes and businesses and pay for college education and medical bills. Nobody wants to say no to a program like this but it is destroying public record. This will be very controversial with more legislation in the next year.

Wrucke concluded noting a new revenue source for the Recorder's Office.

James Forshee, Martin County Auditor/Treasurer, stated he received information from Minnesota Revenue that US Foods Inc. is no longer qualified to receive JOBZ tax benefits and must repay the JOBZ tax benefits received in the two tax years preceding the date of noncompliance. Forshee went on to state US Foods Inc. petitioned the commissioner of revenue for a waiver of the tax due. Forshee noted the commissioner may waive the tax due if it is found that repayment of JOBZ tax benefits is not in the best interest of the state or local units of government, and the qualified business ceased to operate as a result of circumstances beyond its control. Forshee recommends opposing this waiver of the obligation to repay JOBZ tax benefits based on the criteria that US Foods Inc. did not meet requirements for ceasing operations that include but are not limited to natural disaster, unforeseen industry trends, and loss of major supplier or customer.

Motion by Commissioner Pierce, seconded by Commissioner Donnelly, Be It Resolved that the Martin County Board of Commissioners, having received a letter from the Minnesota Department of Revenue (dated June 18, 2014) regarding petition of US Foods Inc. for waiver of obligation to repay JOBZ tax benefits; and that US Foods Inc. has ceased operations in Fairmont, MN; and that reasons to qualify for a waiver of such tax benefits must be a result of circumstances beyond US Foods Inc. control include, but not limited to, natural disaster, unforeseen industry trends, and loss of major supplier or customer; and after careful consideration, hereby believe that US Foods Inc. would not qualify for the waiver of the obligation to repay JOBZ tax benefits based on the criteria; and therefore opposes the waiver request, and ask that the Minnesota Department of Revenue denies the waiver request from US Foods Inc. Carried unanimously.

Forshee presented a Joint Powers Agreement for reimbursement by the state for assisting in the recount of ballots cast in the general election. In order to reimburse Martin County, a Joint Powers Agreement required by the Department of Administration, must be signed and returned in order to obtain payment if a recount occurs. Forshee recommends Board approval.

Motion by Commissioner Belgard, seconded by Commissioner Pierce, Be It Resolved that the Martin County Board of Commissioners, hereby approve and authorize Board Chair to sign the Joint Powers Agreement for reimbursement by the State in the amount of \$100 for assisting in

the recount of ballots cast in the 2014 General Election Recount if a recount occurs. Carried unanimously.

Higgins stated the Board discussed changing the election of the county surveyor to an appointed position during their regular meeting held on June 17, 2014. Per MN Statute 389.011, subd 2, the county board may by resolution adopted at least six months prior to the end of term of Office of the county surveyor declare its intention to fill the Office by appointment. Higgins went on to state he was advised to bring this matter to today's meeting for additional discussion and that John Madsen, Martin County Surveyor, along with Ben Madsen, candidate for County Surveyor was present to address the Board.

John Madsen, Martin County Surveyor, stated he had sent a letter addressing his views to the Commissioners as to why Martin County should keep the county surveyor as an elected position. Madsen went on to state I have been the elected county surveyor since 1982. I see no advantage of changing the position from an elected position to an appointed position, and I believe the position should remain an elected position as long as a qualified licensed surveyor wishes to fill that position.

Madsen noted being elected officials yourself, you are aware of the importance of the democratic process in giving the public a choice in who serves in particular offices. Although the county surveyor is not making policy decisions or impacting things politically within the County, I believe the job is an important one, and I believe the public should retain the right to decide who serves in that position.

Madsen also noted Martin County is one of the few counties in Minnesota to still have this office as an elected position. Martin County has had an elected county surveyor for most of the years since the 1850's; and believes that is the primary reason that the survey records within Martin County are some of the best survey records of any county within the entire state.

Madsen went on to note it is also true that many counties do not have a county surveyor position at all, and that many others have made the position an appointed position. Many of these counties do not have a licensed surveyor living within the county that wants the job of county surveyor; and there are many counties in Minnesota where no licensed land surveyor resides at all.

Madsen stated one of the primary jobs I do as county surveyor is maintaining, organizing and indexing the surveys done within the county. These records are kept in county surveyor books that are kept for safe keeping in the office of the county recorder. These records are crucial to having and maintaining complete and high quality land records. In addition to this I also maintain and update records and locational data on all of the Public Land Survey Government Corners throughout the county. On occasion I am consulted by the county engineer's survey technicians regarding section corners or boundary issues and am contacted by other governmental entities such as MN/DOT and the DNR for survey and section corner information. Madsen went on to state to date I have not billed the county for any of this record keeping, consultation, and maintenance. I do the work because I believe these are the duties of the county surveyor.

Madsen also stated as long as there is a licensed surveyor within the county that is willing to run for the office of county surveyor, that there would be no good reason to change the position from one where the voters of the county select a person to fulfill that position to where the county board appoints someone to that position.

Madsen noted my term will end the end of 2014 and my son Ben Madsen is well qualified and running for the county surveyor position.

After much discussion,

No action taken on Consider Changing County Surveyor from an Elected Position to an Appointed Position.

Madsen inquired as to why his office can't have full access to the county's Beacon System. As a county surveyor there have been several cases where on the Beacon System we will find mistakes and we then bring those mistakes up to the Assessor's Office for adjustments. If the county surveyor's office had open access to the system I could uncover more of these issues for the Assessor's Office to correct. Madsen noted he does not understand why his office is not granted full access to the system if it costs the county nothing and every other county office has access.

Higgins noted the Board established a policy in that you can subscribe to access additional services in the Beacon System and pay a subscription fee of \$50 per month.

Much discussion ensued.

Commissioner Schmidtke noted it's really not costing us anything if we open it up to the county surveyor and the only thing we maybe could get is \$50. We're really going to sit here for hours and talk about \$50? I think we open it up for him and I think it would improve our records.

Commissioner Belgard noted it certainly would and we've already wasted 15 minutes on it.

Motion by Commissioner Belgard, seconded by Commissioner Donnelly, to grant county surveyor office full access to the county's Beacon System.

Commissioner Pierce noted this item was not on today's agenda.

Chairman Schmidtke noted we can hold off and you (Commissioner Belgard) can rescind your motion.

Commissioner Belgard stated I'll rescind my motion and I'll make a new motion to table this request and put it on the next regular Board agenda.

Motion by Commissioner Belgard, seconded by Commissioner Flohrs, Be It Resolved that the Martin County Board of Commissioners, hereby table request from County Surveyor for open access to the county's Beacon System. Carried unanimously.

Higgins stated there was some discussion regarding the tax forfeited sale and setting a price for that. Commissioner Donnelly and Commissioner Pierce were involved in some of the discussions with Serenade's.

Chairman Schmidtke inquired is it going to matter if we split that or not? Or is the price going to be the price for the whole thing?

Commissioner Pierce noted we had met yesterday with the owners of Serenades Restaurant, and that was part of the discussion, and I think Jim (Forshee) had an excellent idea just offer them any or all for one price and they cover any costs. So if they want to see about splitting the property and the county attorney says it can be, they can do it.

Higgins noted that there is a concern with the buyers in regards to the current street assessments on the property. They could move forward on the purchase, but they're not going to purchase it until they get assessments cleared off, which will take action by the council for the City of Fairmont.

After discussion,

Commissioner Pierce stated I'll offer a motion that we offer \$1,000 for any or the entire parcel and purchaser will pay any legal costs associated with the purchase of tax forfeited property.

Motion by Commissioner Pierce, seconded by Commissioner Donnelly, to set price at \$1,000 for the purchase of any or all of tax forfeited Parcel No. 23.039.1560.

More discussion ensued regarding setting a price for the tax forfeited parcel of land.
After further discussion,

Commissioner Pierce stated I'll amend my motion and set the price at \$500.

Motion by Commissioner Pierce, seconded by Commissioner Flohrs, Be It Resolved that the Martin County Board of Commissioners, hereby approve and authorize the private sale of tax forfeited land bordering public water in Martin County – Parcel No. 23.039.1560, as approved and authorized by Legislative action SF2449 Section 27 Private Sale of Tax-Forfeited Land Bordering Public Water, Martin County, to the adjoining landowners Sara and Nate Brown d/b/a Serenade's by the Lake, for the amount of \$500.00; and that the new owners are responsible for any and all fees associated with the sale of the land parcel including required surveys, recording, etc., of the transfer of land as required by law. Carried unanimously.

The Board reviewed CY2015 Appropriation Request and Thank You Letter received from Red Rock Center for the Arts; and CY2015 Rural Minnesota Energy Board Dues.

Motion by Commissioner Pierce, seconded by Commissioner Belgard, Be It Resolved that the Martin County Board of Commissioners, hereby receive and file the CY2015 Budget Allocation Request received from Red Rock Center for the Arts. Carried unanimously.

Commissioners presented their individual board member reports.

Commissioner Flohrs stated he attended the Board of Equalization meeting on June 17, 2014; Human Services full board meeting on June 18, 2014; Sherburn Festival Parade on June 22, 2014; Corn and Soybean Growers breakfast on June 24, 2014; Drainage event in Mankato, MN, and Water Plan meeting on June 23, 2014.

Commissioner Belgard stated he had nothing new to add.

Commissioner Pierce stated he attended a placement meeting and looks forward to more information from that. The other thing we've had a few meetings with the City of Fairmont talking about lakes and all that and I don't know at what point...we need to resolve fairly quickly I think where the responsibility is going to lie for putting together the county plan to deal with invasive species?

Higgins stated it is proposed that the Martin Soil and Water Conservation District take care of this and they are willing put together a plan and will present their plan to the County Board for consideration and approval; and will be included on the agenda for the July 15, 2014 regular Board of Commissioners meeting.

Commissioner Donnelly stated he attended a meeting with Serenade's by the Lake on June 30, 2014.

Commissioner Schmidtke stated in addition to those already mentioned he attended the Planning and Zoning Commission meeting on June 24, 2014.

Commissioners reviewed their calendars of upcoming meetings and activities: July 1, 2014 – Labor Management Committee meeting at 1:45 p.m. – Sisseton Room; July 2, 2014 – Interviews for Administrative Assistant II – Probation Office; July 8, 2014 – Library Board meeting and Family Dependency Treatment Court meeting in the afternoon; July 9, 2014 – Department Directors meeting at 8:30 a.m., Park Board meeting at Perch Lake, and Region 9 meeting at 5:00 p.m. in Mankato, MN; July 10, 2014 – Soil and Water meeting; July 12, 2014 – Trimont Fun Fest Parade at 3:00 p.m.; July 15, 2014 – regular Board of Commissioners meeting at 9:00 a.m. in the Board Room.

With no further business to wit, Board Chair adjourned the meeting at 10:45 a.m.

BOARD OF COMMISSIONERS
MARTIN COUNTY, MN

Dan Schmidtke, Board Chair

ATTEST: _____
Scott Higgins, County Coordinator