

8:30 Resolution Closing Board Meeting for Performance Evaluation - Greg Haugen

Member Ritter introduced the following Resolution and moved its adoption:

RESOLUTION CLOSING BOARD MEETING

WHEREAS, the Minnesota Open Meeting Law, Mimi. Stat. § 1 3D.05, subd. 2(b) states that “A public body shall close one or more meetings for preliminary consideration of allegations or charges against an individual subject to its authority”; and

WHEREAS, the Board seeks to meet with its attorney to obtain advice regarding litigating or settling a particular employment dispute; and

BE IT RESOLVED by the Board of Commissioners of Lyon as follows:

1. The Board hereby closes this meeting for preliminary consideration of allegations or charges against an employee pursuant to Mimi. Stat. § 13D.05, subd. 2(b);
2. The specific subjects to be discussed, pursuant to Minn. Stat. § 13.01, subd. 3, are the allegations against the employee, the investigation of the allegations and the possible action(s) that could be taken by the County.

The motion for the adoption of the foregoing Resolution was duly seconded by Fenske and upon a vote being taken thereon, the following voted in favor thereof:

Ritter, Fenske, Nelson, Goodenow, and Stensrud

and the following voted against the same:

None

Whereupon said Resolution was declared duly passed and adopted. (Resolution 32-10 on file in the County Administrator’s Office).

9:00- Meeting was called to order by Chairman Stensrud. Members present: Stensrud, Fenske, Ritter, Nelson, Goodenow, County Attorney Maes, County Auditor/Treasurer Van Overbeke, and County Administrator Stomberg.

Pledge of Allegiance to the Flag

Approve Agenda

Stomberg - Add summary of performance evaluation of Greg Haugen after E.J. Moberg and under my time add discussion on agent of record. I passed out a copy of the lease and awarding the bids for the space build out. In the last 12 hours we have had an issue come up. If we can have the building out on tentatively. Maes – I would suggest putting it out until the end of the meeting and if not you can table it. Stomberg – We'll consider the MPCA lease and splitting the parcel. Ritter moved, seconded by Goodenow to approve the agenda. All voted in favor.

	Per Diems	Expenses
Fenske	\$150.00	-----
Ritter	\$140.00	-----
Goodenow	\$200.00	-----
Nelson	\$140.00	\$97.50
Stensrud	\$200.00	\$47.00

Consent Agenda:

1. Approve Minutes from October 19, 2010
2. Approve Commissioner Warrants 122507-122584 in the amount of \$143,209.90 dated 11/3/10.
3. Approve Auditor Warrants 122323-122326 in the amount of \$18,327.30 dated 10/20/10, 122467-122473 in the amount of \$1,328,187.93 dated 10/26/10 and 122507-122584 in the amount of \$143,209.90 dated 11/3/10.
4. Approve Per Diems & Expenses
5. Human Services Cancelled Checks
6. Consider final payment for SAP 42-609-031 and SAP 42-609-032

Ritter moved, seconded by Goodenow to approve the consent agenda. All voted in favor.

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Joint Drainage Authority minutes from June 1 and October 5, 2010

Fenske moved, seconded by Stensrud to approve the minutes from June 1 from the Joint Drainage Authority. All voted in favor.

Nelson moved, seconded by Walling to approve the minutes from October 5 from the Joint Drainage Authority. All voted in favor.

Summary of Performance Evaluation of Greg Haugen

At the Board meeting held on November 2, 2010 the Board conducted a performance evaluation of Greg Haugen. Pursuant to the Minnesota Open Meeting Law the Board summarizes its conclusions regarding the evaluation. Goodenow moved, seconded by Ritter to summarize the following conclusions.

1. The shop foreman job description requires a CDL
2. Lyon County Policy 3320 states:
“...the employee cannot obtain a valid/proper license within 90 days. No leave will be granted. Terminate the employee or allow the employee to resign”.
3. The county board supports county administration in enforcing Lyon County Policy 3320.

Voting in Favor:

Ritter
Nelson
Fenske
Goodenow

Opposed:
Stensrud

Motion carried 4 to 1

State Auditor's Report – E.J. Moberg

Moberg – We are required by auditing standards to communicate. Fenske – How come from 2008 to 2009 did the OPEG liability change? Moberg – It varies based on what the actuary study was. In 2008 we used the 2007 one and now we used the 2009 one. Fenske – How often does the study have to be done? Moberg – If the plan doesn't change once every three years. This is what is calculated as of 2009. You will see in 2009 net assets decreased. Discussion. Ritter – How come there is such a big increase in 07 for utilities? Moberg – I believe there was talk of the county general fund paying for some stuff. You would have to check with Paula. Discussion. Reviewed summary of major funds. Handout 17 shows the amounts reserved designated and undesignated from 2005 – 2009. Ritter – 8.1 months on our reserves, what does the state auditor suggest? Moberg – We recommend five. Fenske – Those 8.2 months includes the ditch? Moberg – Yes but the general has 8.1. Audit results the findings were on page 82 and 83. You got some American Recovery Act Awards. Moberg reviewed the findings.

Transfer excess municipal construction funds to regular construction funds resolution

Kanwar – This is for CSAH inside cities under 5,000. Goodenow moved, seconded by Nelson to approve and authorize the County Auditor to sign a resolution to transfer excess municipal construction funds to regular construction funds. All voted in favor. (Resolution 31-10 on file in the County Administrator's Office).

9:55 a.m. Meeting Recessed

10:12 a.m. Meeting called back to order

CD 70

Nelson moved, seconded by Ritter to approve spending more than \$5,000 on a ditch maintenance project without receiving quotes on CD 70. All voted in favor.

Public Hearing - Consider the amendments to Don DeLanghe CUP Number 172846 approved August 21, 2007 by the Lyon County Board of Commissioners

Biren – I would like it on the record here. I think it is clear we are addressing a violation. Ritter moved, seconded by Goodenow to acknowledge the violation of manure from over application entered waters of the state. All voted in favor.

Biren – He was allowed to transfer animal units. With Don DeLanghe's input I have drafted these. We will ask for public comment. Once it has been received and we will go through the check list. Stensrud asked for public comment. Joe Van Overbeke – As far as looking through some of these amendments I don't know that it does a lot more than the original conditional use

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permit says. What happens if it is violated again? I don't really see any teeth in any of these. The storage area what is the storage area, how many head is that storage area for. As far as manure storage areas have to be conformed to applicable state laws, what are those we should probably know those. Biren – Our existing permit lacks many of the reference to state statutes and code of federal regulations. The one that is most commonly mentioned is 7020 it is the state guideline for managing manure. It is typically administered by PCA. The question, is this doing any more, it is pointing out the rules that can be followed. Stensrud – Are we allowed to make stiffer regulations then the state? Biren – Yes, as long as it is analyzed. Stensrud - There should be some stricter regulations to protect neighbors downstream. Biren – Rick Maes just handed me a letter from an attorney's office dated November 1. Maes – This came in on my fax during the break. It is an attorney out of the cities. It is essentially requesting that this Board delay taking any action while things are being further explored. There is a conversation with a consulting firm. They indicated that they have been contracted by Mr. VanOverbeke and they want to look at all options to ensure it doesn't happen again. This is a letter that he wanted me to bring to the Commissions attention. VanOverbeke – Lindquist and Vennum are my attorneys. The reason we just got this in this morning is our computer was down and we just got it up this morning. Maes – The input they want you to know is in the last paragraph. VanOverbeke – I questioned whether MPCA would give out that information. Goodenow – I think the whole letter should be in it.

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November 1, 2010

Richard K. Maes, Esq.
Lyon County Attorney
607 West Main Street
Marshall, MN 56258-3021

Re: Manure Release, September 8, 2010, from DeLanghe feedlot

Dear Mr. Maes:

This office represents Joe and Shirley Van Overbeke. As I mentioned in my voicemail to you on Monday, November 1, 2010, we understand that the Lyon County Commissioners, on Tuesday, November 2, 2010, may consider an amendment to the existing Conditional Use Permit (CUP) for the DeLanghe feedlot adjacent to the Van Overbekes' property in Lake Marshall Township.

We would respectfully request that any final decision on such amendment be deferred until such time as the final enforcement position of the agencies having jurisdiction of this feedlot and its operation, in light of the recent release (described below), has been formulated and such agencies — principally Lyon County and the Minnesota Pollution Control Agency ("MPCA") — have received input from, or had an opportunity to discuss the matter with, Liesch Associates, Minneapolis (Bruce Rehwaldt, 763-489-3162, bruce.rehwaldt@lieseh.com), the Van Overbekes' environmental consulting firm currently characterizing the extent of soil, groundwater, and lakewater contamination to their property.

We understand the situation to be the following:

On September 8, a massive discharge of manure took place from the DeLanghe facility into a creek and possibly other water bodies in Lake Marshall Township, as the result of an over application of manure on about 26 acres of farmland. Such a discharge may well have violated both the existing CUP for the facility, the facility's National Pollution Discharge Elimination System (NPDES) Permit, as well as state and federal laws and regulations.

On September 22, the County Commissioners received an informal update from County Zoning Administrator, John Biren. We understand that the Minnesota Pollution Control Agency is already evaluating the situation.

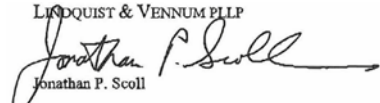
We also understand, anecdotally, that comparable discharges have occurred from the DeLanghe facility in the past.

In light of the foregoing, it may be appropriate for the County, among other things, to consider more stringent operating and/or monitoring requirements for this facility, as authorized under Minnesota feedlot regulations, Minnesota Rules Part 7020, and the Lyon County Zoning Ordinance, in particular Articles 19 (animal feedlots) and 22 (conditional uses) thereof. Before any final decision is made on an amended CUP, however, we believe a thorough discussion between, and sharing of information by, all stakeholders, public and private, essential to protect the interests of our clients and the public alike.

We look forward to working cooperatively with the County on this matter.

Very truly yours,

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LICQUIST & VENNUM PLLP

Jonathan P. Scoll
JPSvlh

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JPSvlh

cc: Joe and Shirley Van Overbeke
John Biren, Lyon County Zoning Administrator
Bruce Rehwaldt, Liesch Associates

VanOverbeke – If the amendments aren't written right, are we going to have to go through this again? Goodenow – One question is you mentioned all the codes, does that mean that we can't go back and enforce the rules in the past event and this is something for the future? Biren – Other counties have enforced the codes on other feedlots that weren't specifically part of a CUP. Maes- I think it is something you can look at doing. I think this makes it clear, what you don't want to see is something like this happening again. It clears it up but they should be followed anyway. Goodenow – There is nothing about damages, restoration that kind of thing. Is it possible to have that as a pre-determined? Maes – This ties in with an amount to pay with cost. You could tie the two together. Be mindful the ordinance itself is silent. Fenske – Didn't you at one time have something in about damages? If we adopt this the way it is if it does happen again does this give us the ability to punish the offense? Maes- We have gone the misdemeanor offense in the past. As far as restitution that is something that the county could look at. It is something I am anticipating would be in the PCA's enforcement action. Stensrud – I think our main thing is to look at the violation and try to enforce it so it doesn't happen again. Goodenow – I think the neighbors have just as much input. Maes – They have a huge stake in that as well. Stensrud called for public comment. Greg Boerboom – This is an isolated incident with Don Delanghe, I don't want any ramifications with all livestock operations. Don't involve the whole livestock industry in Lyon County. Biren – The action that Planning and Zoning takes on a variance and a CUP we look at each of the merits on a particular use. We are looking at the merits of the Don Delanghe cup. DeLanghe – I agree with those statements as far as not affecting the whole livestock industry. Also I feel there has been a lot of misinformation and rumors. I think everyone is in agreement that any misplaced nutrient is not a good thing. The amount of waste that was applied to the field was 99% water and ¼ inch. The nutrient amount was about 25% of next year's crop. Some product did filter through the soil into the water way. Some did get into the water way and followed into an intermittent stream. I do think there was hundreds if not thousands more nutrients that came off of every grain or livestock farm during this whole episode of rain. Mother nature throws us a fast ball everyone has to deal with it as best as it can. VanOverbeke – I know it is 99% water but there is also nutrients in it like you said. I think it is zero tolerance. This water was running down a water way through a culvert before there was any rain. It was a blatant misapplication and a blatant disregard for your neighbors, the citizens of Lyon County and state of Minnesota. DeLanghe – I do not agree with that statement at all. Stensrud asked for public comment, upon hearing none Stensrud closed the public hearing.

Biren – I feel we can leave his CUP alone and we can treat it as an addition. Fenske – How long are they asking for an extension? Goodenow – It says waiting until some of the other procedures are done and that can be months. Biren – This is a public hearing we did put it in the paper. I would like direction at this point and time. Nelson – If we extend the amendments and see what the MPCA does. I thought from the very beginning we should wait for them but it may be a long time. VanOverbeke – I don't know that he is asking you what the MPCA is going to do, he wants to share information between the two. Stensrud – I think they would like to talk to all parties involved. Maes –You can do it again following the ordinance and you can have another public hearing. You could continue the public hearing to a set time or extend the effective date of the revocation. Fenske – If we are going to extend it I don't think we should go further than a month. Maes – You could continue the public hearing and extend the effective date of your prior revocation. Fenske –Why did you take the damages out? Biren – These are things that we had agreed on. Stensrud – Is there a violation on a farm where he has cattle and they are not supposed to be there. Biren – This was an agreement with the MPCA and it was to be closed over time. There have not been cattle there for some time. DeLanghe – If it is under roof or grazing they can be there. Discussion. Goodenow moved, seconded by Fenske to extend the public hearing to 10:00 a.m. on Thursday December 9, 2010 and the conditional use permit to December 9, 2010. All voted in favor.

Goodenow moved, seconded by Ritter to pursue other avenues of violations. All voted in favor.

Mahlon Mace, Update on drug court

Mace – I did include in your packet for your information. You have approximately eleven members that meet weekly. Stensrud- Are you seeing successes yet? Mace – I would say so far we have had very good success. It is about 18 to 24 months. Mace gave an update on drug court.

SW H & HS – Sponsorship of the new JPA for MCIT membership

Goodenow moved, seconded by Ritter to approve and authorize the Chair to sign a letter to MCIT for Lyon County to become the sponsor for the new SW Health and Human Services Agency for membership with the Minnesota Counties Intergovernmental Trust. All voted in favor.

BCBS Health Insurance Renewal

Stomberg – The renewal information is in the packet. This is to offer the \$1200, \$2,600, and \$5,000 VEBA. We show a separate column that doesn't include a VEBA. That would be available if they chose not to have a savings account with it. Also the contribution amount has been modified to about half of the deductible. This was discussed at PAC and department head meetings. Our insurance agent Bill Chukuske is here. Chukuske – We had met with the insurance committee throughout the summer. The recommendation we came to was to offer three plans and eliminate the \$500 deductible and bring in the \$5,000. Stomberg – The plans we have talked about. We tried to incorporate that. I did have a conversation with Matt Miller from AFSCME and they are going to take it to vote next week he was concerned with the timing. I can't really speak to the Human Services and with their new joint powers. Ritter moved, seconded by Fenske to accept the insurance renewal from the Service Cooperative for the \$1,200, \$2,600, and \$5,000 deductible VEBA plans as proposed. All voted in favor.

Agent of Record

Chukuske – Over this last year we were hired to be your agent of record for health only. We came into that agreement in October 2009. And the agreement was based on that we would work for the county in 2009 and 2010. The commission works by being built into the premium. We started work in 2009. In 2010 we decided to get together with the Insurance Committee. Our renewal from the Service Cooperative we were faced with a 16% increase. We did an RFP and contacted all of the insurance companies in the state. We finally received back information from all of the carriers a lot of the companies weren't willing to look at us. Medica, Health Partners, and Preferred One declined to give us quotes. I would like to know where my firm stands. The half a percent has been done but they are in the premiums. That equates to \$4.60 per contract. I would like to know where we stand. Stomberg – We did talk to Human Services and PAC. The issue of not continuing with services had come up a couple of times primarily from Health and Human Services. My reply was to poll their employees to find out if there is interest in continuing services. Their poll was 64 no and 12 yes. I had the same conversations with PAC and our employees. Lyon County was 30 no to 5 yes. Personally I don't have a preference one way or another. It certainly provides some benefits. Ritter – As long as they are built in we might as well continue the services and revisit it next year. Fenske – I agree with that 100% and serving on the insurance committee I know what service Bill provided. He was also valuable to obtain quotes. One of the things we keep hearing is go out and get more quotes. Nelson – Is this a two year contract? You didn't charge the ½ percent for the first year? Stensrud – I don't think we need a motion because we passed this and it is in there. I have heard both ways on this.

Award of Bids for Tennant Space Build out 2nd floor public works

Filippi – The one thing we have done is started making phone calls to the contractors. I am looking for approval with the budget in hand. We did not obtain quotes for prices on the doors and windows. Goodenow – Gopher State Contractors are from where? Fenske – Rice. Discussion. Ritter – What was the estimated? Stomberg – The \$300,000 to \$350,000 range. Ritter- Architect and Construction management is \$104,000.

Goodenow moved, seconded by Nelson to approve low bids for the tenant space build out on the second floor public works subject to verifying the bids.

Voting in Favor:

Fenske
Stensrud
Nelson
Goodenow

Opposed:

Ritter

Motion carried 4 to 1.

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LYON COUNTY TENANT BUILD OUT - BID TAB
October 27, 2010 2:00 pm

	Bid Sec	Add	BASE BID
CATEGORY 1 - CARPENTRY			
Gopher State Contractors, Inc.	x	1	89,225.00
Baldholm Construction, Inc.	x	1	89,286.00
Tri-State General Contracting	x	1	89,740.00
Sussner Construction, Inc.	x	1	91,870.00
Doom & Cuypers, Inc.	x	1	92,836.00
CATEGORY 2 - DOORS AND WINDOWS			
No Bidders			
CATEGORY 3 - FLOORING			
Floor To Ceiling	x	1	40,680.00
Bladholm Construction, Inc.	x	1	43,821.00
Doom & Cuypers, Inc.	x	1	48,645.00
CATEGORY 4 - ACOUSTICAL TREATMENTS			
Doom & Cuypers, Inc.	x	1	10,935.00
Central Suspensions, Inc.	x		14,400.00
CATEGORY 5 - PAINTING			
Full Spectrum Finishing	x	1	5,490.00
Doom & Cuypers, Inc.	x	1	7,734.00
Geo's Painting	x	1	7,989.00
Steinbrecher Painting, Inc.	x	1	8,350.00
Bladholm Construction	x	1	8,480.00
CATEGORY 6 - FIRE PROTECTION			
Total Fire Protection, Inc.	x	1	10,250.00
CATEGORY 7 - MECHANICAL/PLUMBING			
Plumbing & Heating of Willmar, Inc.	x	1	46,228.00
CATEGORY 8 - HVAC			
Chappell Central, Inc.	x	1	74,300.00
CATEGORY 9 - ELECTRICAL			
L & S Electric, Inc	x	1	38,811.00
Werner Brothers, Inc.	x	1	39,900.00
B & J Lake Region Electric	x	1	45,593.00
T. Eric Enterprises Of Marshall, Inc.	x	1	48,900.00
Meier Electric Inc.	x	1	50,970.00
COMBINED			
Bisbee Plumbing (Category 7 & 8)	x	1	87,000.00

Lease with MPCA

Goodenow moved, seconded by Nelson to approve the lease with the MPCA subject to final review by the County Attorney.

Voting in Favor:

Fenske
 Stensrud
 Nelson
 Goodenow

Opposed:
 Ritter

Motion carried 4 to 1.

Split parcel 27-2345010-0

Stomberg – The city has asked that we split that out to better fit out the part for renting. Ritter moved, seconded by Fenske to authorize the Assessor to split parcel #27-2345010-0 Outlot 10 into West 827.03' of North 653.26' of Outlot 10, Fairgrounds Addition and Outlot 10 except the West 827.03' of the North 653.26' of Outlot 10, Fairgrounds Addition. All voted in favor.

Reviewed Meeting Schedule

Stensrud set the Truth in Taxation meeting for 7:00 p.m. on November 30, 2010.

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Commissioners Reports

Nelson reported on the Regional Radio Board.

Fenske reported on the Transit Advisory Board and AMC District meeting.

Ritter reported on AMC District meeting.

Goodenow reported on Advance and Plum Creek.

Stensrud reported on Western Mental Health.

12:00 p.m. Stensrud adjourned the meeting until November 16, 2010.

Rodney Stensrud, Chairman

Attest: Loren Stomberg
Lyon County Administrator