

September 11, 2007  
Cottonwood County Board of Commissioners  
Regular Meeting  
Minutes

The Cottonwood County Board of Commissioners met in regular session on Tuesday, September 11, 2007 at 9:00 a.m. at the Cottonwood County Courthouse in Windom, MN. Presiding over the meeting was Chairman Norm Holmen. Present for all or portions of the meeting were: Commissioners Norm Holmen, John Oeltjenbruns, Gary Sorenson, Tom White, Ron Kuecker; Administrative Assistant Kelly Thongvong; Auditor/Treasurer Jan Johnson; County Attorney Doug Storey; Dominic Jones, Mike Hanson, Karen Boysen, Gale Bondhus, Craig Myers, Bob Pankratz, Ron Gregg, Wendy Meyer and Leslie Makovsky. Motion by Kuecker, second by White, unanimous vote to approve additions to the agenda. Motion by Sorenson, second by Oeltjenbruns, unanimous vote to approve the minutes of the September 4, 2007 meeting.

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Dominic Jones, Red Rock Rural Water, met with the board for approval of a resolution. Motion by Sorenson, second by Oeltjenbruns, unanimous roll call vote to adopt resolution as follows:

**COUNTY RESOLUTION 07-09-11A**

RESOLUTION OF THE BOARD OF COMMISSIONERS OF COTTONWOOD  
COUNTY APPROVING AND AUTHORIZING AN ADVANCE AGREEMENT  
WITH MINNESOTA RURAL WATER FINANCE AUTHORITY AND  
AUTHORIZING PARTICIPATION IN A JOINT POWERS AUTHORITY

**WHEREAS**, pursuant to the requirements of Minnesota Statutes, Sections 116A.01 through 116A.26 (the "Act"), on July 20, 1984, the District Court of the Fifth Judicial District of the County of Cottonwood, State of Minnesota (the "Court") entered its order establishing the Red Rock Rural Water System (the "System") as a multicounty water system, including area in Brown, Cottonwood, Jackson, Lyon, Martin, Murray, Redwood and Watonwan Counties; and

**WHEREAS**, pursuant to the requirements of Section 116A.24 of the Act, the Court appointed a water commission for the System (the "Commission") to do all things necessary to establish, construct, operate and maintain the System, to act as agent of Cottonwood County, Minnesota (the "Governmental Unit"), in supervising the construction, improvement and extension of the System and in operating and maintaining the System as further set forth in Section 116A.24 of the Act; and

**WHEREAS**, the Board of Commissioners ("Governing Body") of the Governmental Unit has previously determined that it is in the public interest to acquire and construct certain facilities and improvements to the Governmental Unit's waterworks system (the "Project"); and

**WHEREAS**, the Governing Body, on December 13, 2005 adopted a resolution entitled *Resolution of the Board of Commissioners of Cottonwood County Approving and Authorizing an Advance Agreement with Minnesota Rural Water Finance Authority and Authorizing Participation in a Joint Powers Authority* pursuant to which the Governmental Unit entered into an Advance Agreement dated December 28, 2005, with the System and the Minnesota Rural Water Finance Authority, a Minnesota joint powers entity (the "Authority") organized under a Joint Powers Agreement dated

November 1, 1999, as amended (the "Joint Powers Agreement") pursuant to which the Authority provided temporary financing for the Project in the amount of \$5,000,000; and on May 23, 2006, adopted a resolution entitled *Resolution of the Board of Commissioners of Cottonwood County Approving and Authorizing an Advance Agreement with Minnesota Rural Water Finance Authority and Authorizing Participation in a Joint Powers Authority* pursuant to which the Governmental Unit entered into an Advance Agreement dated May 31, 2006, with the System and the Authority, pursuant to which the Authority provided temporary financing for the Project in the amount of \$760,000; and

**WHEREAS**, it is necessary to provide additional temporary financing for the Project in the amount of \$867,000; and

**WHEREAS**, in order to obtain such monies, the Governmental Unit hereby determines that it is necessary and expedient to enter into a third Advance Agreement with the System and the Authority.

**NOW, THEREFORE, BE IT RESOLVED** by the Governing Body of the Governmental Unit as follows:

SECTION 1. Authorization of Advance Agreement. The Governing Body hereby approves and authorizes the Advance Agreement between the Authority and the Governmental Unit substantially in the form on file with the Governmental Unit for the purpose of providing the necessary financing for the Project and the Governmental Note from the Governmental Unit to the Authority in the amount not to exceed \$867,000, (the "Governmental Note") subject to adjustment as provided in the Advance Agreement. Capitalized terms not otherwise defined herein have the meanings given in the Advance Agreement.

SECTION 2. Execution of Advance Agreement. The officers of the Governmental Unit authorized or required by law to execute contracts be and hereby are authorized, directed and empowered to execute the Advance Agreement, the Governmental Note and any other necessary or appropriate documents or agreements, and to otherwise act on behalf of the Governmental Unit to effect such financing.

SECTION 3. General Obligation. The Governmental Note is a general obligation of the Governmental Unit to which the full faith, credit and taxing powers of the Governmental Unit are hereby pledged and is payable from the sources described in the Advance Agreement.

SECTION 4. Approval of Joint Powers Agreement. The Joint Powers Agreement previously approved is ratified. The Governmental Unit shall take such additional action as may be necessary for the Governmental Unit to become a participating member of the Authority and a participant in the Program described in the Joint Powers Agreement. The Chair of the Governmental Unit is hereby confirmed as the Governmental Unit's representative under the Joint Powers Agreement.

SECTION 5. Extension Certificate. In the event permanent financing for the Project is not obtained prior to maturity of the Governmental Note, authority is hereby delegated to the following officers to approve an extension of the maturity, which approval shall be evidenced by execution of the Extension Certificate attached to the Advance Agreement: the Chair and the Auditor.

SECTION 6. Funds and Accounts.

(A) The Governing Body will create and cause the System to maintain or to continue to maintain:

(1) its Water Fund to which will be credited all gross revenues of the System, and out of which will be paid all normal and reasonable expenses of current operations of the System;

(2) so long as any funds remain outstanding under the Advance Agreement and prior to the Maturity Date, a separate bookkeeping account in the Water Fund designated the Governmental Note Construction Fund (the "Construction Fund"); and

(3) so long as any funds remain outstanding under the Advance Agreement and prior to the Maturity Date, a separate bookkeeping account in the Water Fund designated the Governmental Note Debt Service Fund (the "Debt Service Fund").

The depository bank selected by the Commission for deposit of the moneys constituting the Water Fund are hereby deemed designated by the Governing Body for purposes of Section 116A.24, subdivision 3(d) of the Act.

(B) Each disbursement of proceeds of the Governmental Note which is received pursuant to the terms of the Advance Agreement will be credited by the System to the Construction Fund. The System will use monies on deposit in the Construction Fund from time to time to pay the capital costs of the Project, including but not limited to costs of planning, engineering, legal, financial advisory, and other professional services, printing and publication costs, and costs of issuance of the Governmental Note, as such payments become due. Upon completion of the Project, any amounts left in the Construction Fund will be transferred to the Debt Service Fund.

(C) The proceeds of the Permanent Financing are pledged to the Debt Service Fund and shall be credited to the Debt Service Fund as received. Prior to the Maturity Date, the System Treasurer (the "Treasurer") is authorized and directed to transfer from the Water Fund to the Debt Service Fund amounts of net revenues of the System, including any special assessments levied or to be levied against property specially benefited by the Project (the "Special Assessments"), which along with Loan proceeds and other amounts on deposit in the Debt Service Fund available therefore are sufficient for the payment of all interest and principal then due on the Governmental Note. The money in the Debt Service Fund shall be used for no purpose other than the payment of principal of and interest on the Loan and the Governmental Note.

(D) Surplus System revenues from time to time accumulated in the Water Fund, in excess of payments due from and reserves required to be maintained in the Water Fund, Construction Account and the Debt Service Fund, may be used by the System for necessary capital expenditures for the improvement of the System, for the prepayment and redemption of bonds constituting a lien on the System, and for any other proper municipal purpose consistent with policies established by resolutions of the Governing Body and the Commission.

(E) Monies on deposit in the Water Fund, the Construction Account and the Debt Service Fund may, at the discretion of the Treasurer, be invested in securities permitted by Minnesota Statutes, Chapter 118A; provided, that any such investments shall mature at such times and in such amounts as will permit payment of the principal and interest on the Governmental Note when due.

#### SECTION 7. Certificate of Proceedings.

(A) The Auditor is directed to duly enter on his register a certified copy of this Resolution and such other information as may be necessary to comply with the requirements of

Minnesota Statutes, Section 475.61.

(B) The officers of the Governmental Unit are authorized and directed to prepare and furnish, as necessary certified copies of all proceedings and records of the Governmental Unit relating to the authorization and issuance of the Advance Agreement and the Governmental Note and other affidavits and certificates as may reasonably be requested to show the facts relating to the legality and marketability of the Governmental Note as such facts appear from the official books and records of the officers' custody or otherwise known to them. All of such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the Governmental Unit as to the correctness of facts recited therein and the actions stated therein to have been taken.

(C) In the event of the absence or disability of the Chair or the Auditor, such officers or members of the Governing Body as in the opinion of the Governmental Unit's attorney, may act in their behalf, shall without further act or authorization, execute and deliver the Advance Agreement and the Governmental Note, and do all things and execute all instruments and documents required to be done or executed by such absent or disabled officers.

SECTION 8. This resolution shall take effect at the earliest time provided by law.

S/Jan Johnson, Auditor/Treasurer

S/Norm Holmen, Board Chairman

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Motion by Oeltjenbruns, second by White, unanimous vote to authorize payment in the amount of \$57,891.25 to Hoglund Bus & Truck Co. for the purchase of a 2007 Ford Diamond bus for the transit system. After payment is received, the county will be reimbursed 80% (\$46,313) for the total cost of the bus.

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Discussion was held regarding a letter that was recently written to Stephanie Nyhus (Department of Revenue) by Rick Nordahl (Administrator of the Westbrook Health Center). The board agreed that they would like to send a letter to the Department of Revenue on behalf of the board letting them know that they would like to get this matter resolved as well. Motion by Sorenson, second by Kuecker, unanimous vote to send letter to the Department of Revenue on behalf of the County Board. Commissioner Kuecker will meet with the County Assessor in regards to this matter.

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Public Hearing regarding transferring money from the County Municipal Account to the County's Regular Account to complete the Mt. Lake Outlet Project was held. County Engineer Ron Gregg gave an overview of the intent of the transfer. It was noted that neither Ron Gregg nor County Attorney Doug Storey has heard any comments of opposition to the request at this time. Hearing no further comments, the public hearing was closed at 9:48 a.m.

Brief discussion was held in regards to the highway department budget request.

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Leslie Makovsky, Veteran's Administrative Assistant, appeared before the county board in regards to a grievance she recently filed with the county after her

initial request for reinstatement was denied. Makovsky had written a letter to each of the board members and this was read prior to beginning the public hearing. County Attorney Doug Storey read the portion of the Personnel Policy in regards to Reinstatement (Policy Number 386-2) to the board. After hearing all of the comments, the hearing closed at 10:38 a.m. The board will now have 30 days to make a decision in regards to this matter, which will need to be done with a written response.

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Environmental Officer Mike Hanson met with the board to discuss several items. He requested that the board adopt a resolution for the authorization of the General Obligation Note for the Cottonwood River Watershed Non-Point Pollution Reduction Project allowing Cottonwood County to borrow money from the Minnesota Pollution Control Agency (MPCA) to lend to eligible participants. Motion by Sorenson, second by Oeltjenbruns, unanimous roll call vote to adopt Resolution 07-09-11B (on file in Commissioner's Office).

Motion by Sorenson, second by White, unanimous vote to grant approval of General Obligation Note (MPCA).

Motion by Kuecker, second by Oeltjenbruns, unanimous roll call vote to adopt resolution as follows:

#### RESOLUTION 07-09-11C

**BE IT RESOLVED** by the Cottonwood County Board of Commissioners that it hereby designates C. Michael Hanson as Project Representative for the implementation of the Cottonwood River Watershed Non-Point Pollution Reduction Clean Water Partnership Project for Cottonwood County.

The Project Representative shall have the authority to represent the Cottonwood County Board of Commissioners in all Project matters that do not specifically require action by the Board.

**BE IT FURTHER RESOLVED** by the Cottonwood County Board of Commissioners that, as Loan Sponsor, the Cottonwood County Board of Commissioners enters into the attached Minnesota Clean Water Partnership Project Implementation Loan Agreement along with the Redwood-Cottonwood Rivers Control Area as Project Sponsor, and the Minnesota Pollution Control Agency to conduct the implementation of the Cottonwood River Watershed Non-Point Pollution Reductions Clean Water Partnership Project.

**BE IT FURTHER RESOLVED** by the Cottonwood County Board of Commissioners that the County Board Chair, Norman Holmen be authorized to execute the attached Minnesota Clean Water Partnership Project Implementation Loan Agreement for the above referenced Project on behalf of the Board as Loan Sponsor.

**BE IT FURTHER RESOLVED** by the Cottonwood County Board of Commissioners that the Environmental Office Administrator, C. Michael Hanson be authorized to execute loan disbursement requests for the above referenced project to the Minnesota Pollution Control Agency on behalf of the Board.

**WHEREUPON** the above resolution was adopted at a Regular Board Meeting this 11<sup>th</sup> day of September 2007.

Discussion was held regarding Des Moines River TMDL Project and whether or not the TMDL Coordinator position will be needed after September 30<sup>th</sup>. Hanson was asked to present a work plan at the next meeting to identify what Karen Boysen would be doing if they were to extend the position through the end of the year.

Hanson informed the board that a conditional use hearing for the Highwater Ethanol, LLC would be held on September 26<sup>th</sup> at 9:00 a.m. at the Environmental Office.

Hanson encouraged the board to continue to support the Ag Society with a yearly appropriation.

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County Assessor Gale Bondhus met with the board to ask for permission to move Jean Gode to permanent part-time appraiser due to the increased workload created by picking up 4 additional districts that need to be assessed. By doing this, Jean will no longer split her work hours between appraiser and technician. Motion by Sorenson, second by Kuecker, unanimous vote to move Jean Gode from part-time technician to part-time appraiser position effective September 1, 2007.

Motion by Oeltjenbruns, second by Kuecker, unanimous vote to allow Bondhus to post internally and to advertise simultaneously for a part-time assessment technician position.

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Family Service Agency Director Craig Myers met with the board to present a retirement resignation from Kathy McWilliams (Collections Officer) effective October 1<sup>st</sup>. Motion by Sorenson, second by White, unanimous vote to accept letter of retirement from Kathy McWilliams and to approve appropriate payout of benefits.

Motion by Kuecker, second by Sorenson, unanimous vote to allow Myers' to post internally and to advertise simultaneously for the position of Collections Officer.

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Motion by Oeltjenbruns, second by Sorenson, unanimous vote to approve September warrants as follows:

County Revenue Fund	\$ 76,926.83
Road & Bridge Fund	\$ 176.96
Long Term Capital Outlay	\$ 5,239.26
County Building Fund	\$ 8,236.29
Ditch Fund	\$ 20,877.31
Taxes and Penalties Fund	\$ 18,373.59
Road & Bridge Fund	\$ 96,684.49
Waste Abatement/SCORE	\$ 6,246.89
Landfill Enterprise Fund	\$ <u>13,148.07</u>
TOTAL	\$245,909.69

Motion by Kuecker, second by White, unanimous roll call vote to adopt resolution as follows:

**Resolution 07-09-11  
Authorizing Execution of Agreement**

Be it resolved that the Cottonwood County Sheriff's Department will enter into a cooperative agreement with the Office of Justice Programs in the Minnesota Department of Public Safety.

Sheriff Jason Purrington is hereby authorized to execute such agreements and amendments, as are necessary to implement the project on behalf of the Cottonwood County Sheriff's Department.

I certify that the above resolution was adopted by the Board of Commissioners of Cottonwood County on September 11, 2007.

S/Jan Johnson, Auditor/Treasurer

S/Norm Holmen, Board Chairman

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Motion by Sorenson, second by Oeltjenbruns to approve payment in the amount of \$33.23 for rolls for Regional Sheriff's Department Meeting. Voting as follows: Aye: Sorenson, Oeltjenbruns, Holmen. Nay: Kuecker and White. Motion carried.

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Motion by Holmen, second by Sorenson to set 2008 preliminary levy at \$6,218,000. Voting as follows: Aye: Holmen and Sorenson. Nay: Oeltjenbruns, Kuecker, White. Motion failed.

Motion by White, second by Oeltjenbruns, unanimous vote to set 2008 preliminary levy at \$6,260,000. This is approximately a 5.75% increase from last year.

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There being no further business, the meeting was adjourned.

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Jan Johnson, Auditor/Treasurer

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Norm Holmen, Board Chairman

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Kelly Thongvong, Bd. Adm. Assistant