

May 4, 2010
Cottonwood County Board of Commissioners
Regular Meeting
Minutes

The Cottonwood County Board of Commissioners met in regular session on Tuesday, May 4, 2010 at 9:00 a.m. at the Cottonwood County Courthouse in Windom, MN. Presiding over the meeting was Chairman Tom White. Present for all or portions of the meeting were: Commissioners Tom White, Ron Kuecker, Norm Holmen, John Oeltjenbruns, Gary Sorenson; Administrative Assistant Kelly Thongvivong; Auditor/Treasurer Jan Johnson; County Attorney Doug Storey; Dominic Jones, Kim Hall, Jason Purrington and Ron Gregg.

Motion by Holmen, second by Oeltjenbruns, unanimous vote to approve additions to the agenda. Motion by Kuecker, second by Oeltjenbruns, unanimous vote to approve the minutes of the April 27, 2010 meeting as amended.

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Dominic Jones met with the board representing Red Rock Rural Water. Motion by Sorenson, second by Kuecker, unanimous roll call vote to adopt resolution as follows:

COUNTY RESOLUTION 10-05-04

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 multi-county 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 "County"), 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 County has previously determined that it is in the public interest to acquire and construct certain facilities and improvements to the County's waterworks system (the "Project"); and

WHEREAS, in order to obtain such monies, the County determines that it is necessary and expedient to enter into an Advance Agreement with 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");

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the County as follows:

SECTION 1. Authorization of Advance Agreement. The Governing Body approves and authorizes the Advance Agreement among the Authority, the County and the Water Commission

of the Red Rock Rural Water System substantially in the form on file with the County for the purpose of providing the necessary financing for the Project and authorizing the Governmental Note from the County to the Authority in the amount not to exceed \$1,768,000 (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 County authorized or required by law to execute contracts 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 County to effect such financing.

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

SECTION 4. Approval of Joint Powers Agreement. The Joint Powers Agreement is approved and the County shall take such action as may be necessary for the County 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 confirmed as the County's representative under the Joint Powers Agreement.

SECTION 5. Extension Agreement. In the event permanent financing for the Project is not obtained prior to maturity of the Governmental Note, authority is 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 Commission 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 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 Commission to the Construction Fund. The Commission 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 Commission 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 Commission 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 County are authorized and directed to prepare and furnish, as necessary certified copies of all proceedings and records of the County 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 County 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 County'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/Tom White, Board Chairman

S/Jan Johnson, Auditor/Treasurer

An old business item regarding SWCD was briefly discussed. It seems that no further information has been received from SWCD at this time. Chairman White asked Commissioner Kuecker if he would follow up on this with Kay Clark of the Cottonwood County SWCD. Kuecker agreed to do so.

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Sheriff Jason Purrington met with the board to ask approval to apply for 2010 Federal Recreational Boat Safety Supplement Grant that has a deadline of May 10th. Purrington is hoping to purchase an ARMER radio to be mounted in the boat if awarded the grant. The cost would be approximately \$3,530. Motion by Sorenson, second by Holmen, unanimous vote to allow Purrington to apply for this grant.

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Emergency Management Director Kim Hall met with the board to ask permission to apply for a few different grants. The first grant entitled FY 2009 State Homeland Security Grant does not require a match and includes two different parts to the grant. Cottonwood County's intent is to acquire microwave equipment in order for the PSAP to microwave link to the State of Minnesota's ARMER System Infrastructure and to acquire multi-band mobile radios for vehicles. Motion by Holmen, second by Oeltjenbruns, unanimous vote to allow Hall to apply for the FY 2009 State Homeland Security Grant.

The second grant entitled FY 2010-2011 ARMER Integration Grant requires a 50% match from Cottonwood County. This grant is for purchasing and establishing PSAP infrastructure to fully link to and utilize the ARMER System Infrastructure. Motion by Oeltjenbruns, second by Sorenson to allow Hall to apply for the FY 2010-2011 ARMER Integration Grant. Voting as follows: Aye – Oeltjenbruns, Sorenson, Holmen. Nay – Kuecker. Motion carried.

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Brief discussion was had regarding Wayne Brede's recommendation to hire an Executive Officer of some kind for Cottonwood County. The board agreed that they do not feel that it would be cost-effective at this time.

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County Engineer Ron Gregg met with the board to review the Tri-County Recycling Report and reported that he would be attending a recycling meeting on Friday in Slayton. The board suggested that Cottonwood County continue working with Tri-County without a contract.

A few questions regarding road issues and a gravel pit site were discussed with Gregg.

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Additional old business items were discussed at this time. The board briefly discussed how to proceed with the possibility of a new phone system. It was reported that Cisco is currently gathering information and is working on putting some preliminary figures together. The other two companies will be contacted to see if they would like to gather further information as well. The board agreed that an RFP might be the next step.

A policy related to laptop usage is still being considered and further information will be obtained.

The Minnesota River Board Joint Powers Agreement has not yet been reviewed so that a determination can be made on whether or not the county would like to remain a member of this group or to withdraw.

Question was asked as to when the board has the authority to close a meeting to discuss personnel issues.

It was reported that the buffer strip enforcement letters have been sent out and all but three landowners have responded at this time.

A recommendation was made to keep separate meeting minutes for the Ditch Authority. Motion by Kuecker, second by Sorenson, unanimous vote to direct the Ditch Authority to keep separate meeting minutes for ditch meetings along with the regular meeting minutes.

Question was asked regarding County Ditch 38 in Storden and whether or not this is a county or city ditch. Further research will be done to try to find out the answer.

Discussion was held regarding aggregate taxes. A hearing date will be set at the next board meeting and more information will try be gathered before the hearing.

A closed session will be held at a future date to discuss strategy for union negotiations.

A request was made at the last board meeting in regards to possibly getting a picnic table for the courthouse lawn. The board is not in favor of purchasing one at this time.

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Commissioner Sorenson gave an update regarding Area II. He reported that Brown County is requesting a reduction to the Area II appropriation. Sorenson will find out more on Thursday when Area II meets again.

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There were no ditch business updates at this time. There may be a lateral petition request at the next board meeting.

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Further discussion was held regarding setback permits and whether the title of the permit should be changed to building site permits. Further information will be gathered from other counties.

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Brief discussion was held regarding the financial status of the Mt. Lake Pool. The board does not wish to contribute funding for this cause.

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There being no further business, the meeting adjourned at 11:54 a.m.

Jan Johnson, Auditor/Treasurer

Tom White, Board Chairman

Kelly Thongvong, Bd. Adm. Assistant