

# **CARVER COUNTY COMMISSIONERS PROCEEDINGS**

**REGULAR SESSION – April 18, 2023**

A Regular Session of the Carver County Board of Commissioners was held in the County Government Center, Chaska, on April 18, 2023. Chair John P. Fahey convened the session at 9:00 a.m.

Members present: John P. Fahey, Chair, Tom Workman, Vice Chair, Gayle Degler, Tim Lynch and Matt Udermann.

Members absent: None.

No public comments were received.

Degler moved, Workman seconded, to approve the agenda. Motion carried unanimously.

Degler moved, Fahey seconded, to approve the minutes of the April 4, 2023, Regular Session and April 10, 2023, Emergency Meeting. Degler, Fahey, Lynch, Udermann voted aye. Workman abstained. Motion carried.

For the record, Udermann noted the Emergency Meeting was needed to declare a flood emergency and after the initial declaration was signed by the Chair, a special meeting was required to continue that declaration.

Lynch moved, Degler seconded, to approve the following consent agenda items:

## **Resolution #28-23**

**Requesting a Variance from Standard for State Aide Operation for Project No. S.A.P.  
010-661-010 and 010-661-011**

**WHEREAS**, the Carver County is preparing plans for two segments of County State Aid Highway (CSAH) 61 from approximately 1,000 feet east of Mount Hope Road to 500 feet west of Creek Road and also from Yellow Brick Road to Bluff Creek Drive; and

**WHEREAS**, Minnesota Rules for State Aid Operation 8820.2900 Subpart 1 requires that former state highways with approved State Aid improvement projects must be completed within 15 years from the reversion from state to county jurisdiction in order to be eligible for County Turnback Funds; and

**WHEREAS**, the reason for this variance request is to request a 10-year extension to the County Turnback Funding eligibility in order to complete said two remaining project segments.

**NOW, THEREFORE BE IT RESOLVED**, that the County Board of Commissioners do hereby request a variance from the Minnesota Department of Transportation State Aid Operations Rules Chapter 8820.2900 Subpart 1 Eligibility; former trunk highways, to allow approval of plans and construction within 25 years after the date of reversion in lieu of 15 years after the date of reversion of Trunk Highway 212 to Carver County CSAH 61.

# **CARVER COUNTY COMMISSIONERS PROCEEDINGS**

## **REGULAR SESSION – April 18, 2023**

---

**BE IT FURTHER RESOLVED**, that the Carver County Board of Commissioners hereby indemnifies, saves and hold harmless the State of Minnesota and its agents and employees of and from claims, demands, actions, or causes of action arising out of or by reason of extending the project funding eligibility for said two segments of CSAH 61 in accordance with Minnesota Rules 8820.2900 Subpart 1 and further agrees to defend at their sole cost and expense any action or proceeding commenced for the purpose of asserting any claim arising as a result of the granting of this variance.

Approved the signing of the Shared Detention Bed Agreement with Prairie Lakes Youth Programs 2023.

Approved a professional services agreement with Borgen, Inc., for crack sealing services pending finalization of the contract review process.

### **Resolution #29-23** **Continuing the Elimination of Direct Discharge Sub-Surface Treatment** **Systems (SSTS) Program**

**WHEREAS** approximately 4,500 homes and businesses in Carver County are served by a private sewer system on the property; of these systems, about 700 are in cities and 3,800 lie in unincorporated areas; as of 2008, it was estimated that 500-700 of the systems in the unincorporated areas were still served by systems that likely had little or no treatment of sewage prior to discharge into the surface water and were considered Direct Discharge SSTS; and

**WHEREAS** Carver County is responsible for the management and regulation of SSTS in the County except in cities that have elected to assume responsibility; and

**WHEREAS** Carver County is responsible for water management, including water quality within the Carver County Water Management Organization (CCWMO); and

**WHEREAS** Bevens Creek, Carver Creek and the Crow River have been listed as impaired for bacteria with test showing loads of fecal coliform bacteria substantially in excess of MN state standards and direct discharge of untreated human sewage into the waters of the State is a potential significant contributor to the load; and

**WHEREAS** the Carver County Board of Commissioners has determined that it is necessary to institute a program to accelerate the replacement of Direct Discharge SSTS in order to reach public health and water quality goals;

**WHEREAS** the Carver County Code of Ordinances section 52.043 gives the Board the authority to identify priority areas for SSTS compliance, including elimination of direct discharge systems, and to establish programs, including incentives and deadlines; and

**WHEREAS** the programs for SSTS Direct Discharge from 2008 through 2022 were

# CARVER COUNTY COMMISSIONERS PROCEEDINGS

REGULAR SESSION – April 18, 2023

largely successful in their goals; and

**WHEREAS** due to technology and record keeping improvements some SSTs were not accounted for in 2008-2010 and could be likely direct discharge systems; and

**WHEREAS** the 2023 sub-watersheds are identified with 20 “likely systems;” and

**WHEREAS** the CCWMO Citizens Advisory Committee has recommended the 2023 SSTs Direct Discharge Program, funding, and sub-watersheds to the County Board;

**THEREFORE, BE IT RESOLVED, THAT** the Carver County Board of Commissioners hereby adopts the “Carver County 2023 Direct Discharge SSTs Program” as follows:

Part I. The County Board identifies the “SI2, SI3, SI4” sub-watersheds in the Bevens Creek watershed as the priority sub watersheds.

The County will provide a cash grant of 25% of the cost of a new system up to \$2,000 for the upgrade of systems identified as a likely direct discharge system in the priority sub-watersheds. Owners of likely direct discharge systems in the priority sub-watersheds with no previous trigger (i.e. current enforcement, compliance inspection as a result of property transfer, complaint, or building permit) must sign up by June 30, 2023, and must install the system by June 30, 2024. Owners that do not sign up shall be required to submit an As-Built Inspection to the County by June 30, 2023. The County will also offer a low interest loan with an amortization of up to 10 years to qualified applicants. If a landowner needs additional time to install their system due to weather conditions, contractor availability or other, a written request for an extension will need to be submitted prior to June 30, 2024.

Part II. For systems outside of the priority sub-watersheds, the loan funds with an amortization of up to 5 years and the cash incentive of \$2,000 will be available on a first-come, first-serve basis after June 30, 2023 until allocated funds are depleted. For systems outside of the priority sub-watersheds, the owner would be required to replace SSTs within 12 months of submitting a cost share application.

Part III. Authorize the Finance Director, in cooperation with the Public Services Division, to continue to operate the current “safety net” program to assist property owners with extremely limited financial capability.

Authorized the Chair to sign the 2022 County Feedlot Officer Annual Report and approved submittal of the report to the Minnesota Pollution Control Agency.

## Resolution #30-23

Family Homeless Prevention and Assistance Program 2021-2023 Second Amendment  
for Fast Track Funding and related HH&S budget amendment

**WHEREAS**, Minnesota Housing has been authorized to undertake a program to provide

**CARVER COUNTY COMMISSIONERS PROCEEDINGS**

REGULAR SESSION – April 18, 2023

funds for Family Homeless Prevention and Assistance Program (FHPAP) Projects; and

**WHEREAS**, Carver County, in collaboration with Scott County, received funding for the Minnesota Housing FHPAP; and

**WHEREAS**, Carver County has been named the Grantee regarding the FHPAP grant for grant period October 1, 2021, to September 30, 2023; and

**WHEREAS**, Carver County has agreed to be the fiscal agent for funds distributed by The Minnesota Housing Financing Agency (MHFA) via the reawarding of the FHPAP Grant for the grant period October 1, 2021, to September 30, 2023, in the amount of \$615,300; and

**WHEREAS**, the Minnesota State Legislature (H.F. 1440/S.F. 1367) approved legislation signed by the Governor on 03/30/2023 authorizing an immediate increase of \$50 Million statewide, of which, an amount of approximately \$1,010,500 is anticipated to be provided to Carver County in addition to the current budget of \$615,300 for a new total of approximately \$1,625,800; and

**WHEREAS**, Carver County, in its role as the Fiscal Agent, agrees to distribute grant dollars to the Community Action Partnership (CAP) Agency, and Greater Twin Cities United Way, two of Carver County's sub-grantees, as defined in the Sub-Grantee Contracts, Grant Application, and Work Plan.

**NOW, THEREFORE BE IT RESOLVED**, That Carver County will meet all the requirements of the MHFA as the Grantee of the FIIPAP grant and meet its responsibilities as defined in Grant Application as well as the Work Plan which has been submitted to MHFA.

Professional services agreement with Mi C.A.S.A. for an amount not to exceed \$101,000 for community engagement, community outreach, health promotion and case management activities with the Latino Community in Carver County, pending approval through the contract review process.

**Resolution #31-23**

**Authorizing Offers of Just Compensation to Owners for Acquisition of Real Property  
Interests Needed for the Highway 50 Project-West Hamburg Area**

**WHEREAS**, the County obtained either an appraisal(s) from a licensed real estate appraiser when the estimate of the damages from the County's proposed acquisitions of the real property interests described in said Exhibit A exceeds \$25,000, or the County obtained a minimum damage acquisition report from a qualified person with appraisal knowledge, in lieu of an appraisal, when the estimate of the damages from the County's proposed acquisitions of the real property interests described in said Exhibit A is under \$25,000; and

**CARVER COUNTY COMMISSIONERS PROCEEDINGS****REGULAR SESSION – April 18, 2023**

---

WHEREAS, County must determine and submit an initial written offer of just compensation to the Owners of said needed real property interests covering the full amount of damages caused by the County's proposed acquisitions; and

WHEREAS, the Owners of said real property interests may obtain an independent appraisal by a qualified appraiser of the real property interests which the County proposes to acquire for the Project; and

WHEREAS, the Owners of said real property interests are entitled to reimbursement for the reasonable costs of the appraisal from the County up to a maximum of the limits stated in Minn. Stat. §117.036, provided the Owners submit to the County the information necessary for reimbursement.

NOW, THEREFORE, BE IT RESOLVED that County's acquisition of the real property interests described in said Exhibit A and the construction of highway and related improvements of pavement improvements as part of the Highway 50 Project – West Hamburg Area constitute a valid public use or public purpose; and

BE IT FURTHER RESOLVED that based upon the estimate of damages from the County's proposed acquisitions of the real property interests described in said Exhibit A which the County obtained either from an appraisal(s) or a minimum damage acquisition report(s), the Public Works Division Director or agents under his supervision, shall make initial written offers of just compensation to the Owners of the real property interests described in Exhibit A from whom the County must acquire real property interests needed for the Project; and

BE IT FURTHER RESOLVED that the Public Works Division Director or agents under his supervision, shall reimburse the Owners of said real property interests for an independent appraisal of damages from a licensed real estate appraiser to estimate the full amount of damages which will be caused to Owners by the County's proposed acquisition of the real property interests described in said Exhibit A, and that, upon the Owners providing to County a copy of that appraisal report, evidence of the cost of that report, and evidence of payment of that amount to the appraiser, County shall reimburse Owners for the cost of Owners' independent appraisal report, subject to the limits stated in Minn. Stat. §117.036. In lieu of said independent appraisal of damages, the Public Works Division Director or agents under his supervision, may offer in addition to the initial written offer to property Owners, an amount up to said limits in Minn. Stat. §117.036.

**Exhibit A****to****Resolution Authorizing Offers of Just Compensation to Owners for Acquisition of Real Property Interests**

# CARVER COUNTY COMMISSIONERS PROCEEDINGS

REGULAR SESSION – April 18, 2023

## Highway 50 Project – West Hamburg Area

Carver County Public Works No. 218909

**Property Tax Identification No. 11.0300200**

**Parcel Number(s): NA**

Fee Owners: Patricia J. Mackenthun

Property Address: 18970 County Road 50, Hamburg, MN 55339

Permanent easement for public right-of-way purposes contains 1,008 sq. ft., more or less; 315 sq. ft., after excluding existing easements.

**Property Tax Identification No. 11.0310400**

**Parcel Number(s): NA**

Fee Owners: Thalmann Seeds Inc.

Property Address: Vacant Land, County Road 50, Hamburg, MN 55339

Permanent easement for public right-of-way purposes contains 3,110 sq. ft., more or less; 1,064 sq. ft., after excluding existing easements.

Temporary Easement for construction purposes contains 1,659 sq. ft., more or less.

### Resolution #32-23

Awarding of the 2023 Box Culverts CSAH 51, Rose Ave, Salem Ave., Carver County  
Contract 23-147 PR 148740, 178839, 208885

WHEREAS, The County Engineer has secured and designated funding for this contract in the current fiscal year Road and Bridge budget; and

WHEREAS, On Tuesday, April, 4th at 02:00 P.M. at Carver County Public Works, 11360 Highway 212, Cologne, Minnesota, six (6) bids were received by Carver County Public Works and opened by two (2) representatives of Carver County Public Works for the 2023 Box Culverts CSAH 51, Rose Ave., Salem Ave., said bids for the responsible bidders are summarized as follows:

| Bid Name                         | Total        | Percent +/- |
|----------------------------------|--------------|-------------|
| <i>Engineer's Estimate</i>       | \$857,965.90 | -           |
| Landwehr Construction, Inc.      | \$737,480.66 | -14%        |
| Minger Construction Co. Inc.     | \$781,771.45 | -9%         |
| Midwest Contracting, LLC         | \$834,334.83 | -3%         |
| Northland Grading and Excavating | \$920,165.00 | 7%          |
| Valley Paving Inc                | \$983,044.25 | 15%         |
| Meyer Contracting Inc.           | \$985,180.65 | 15%         |

And WHEREAS, after examination of the bids by Carver County Public Works, Landwehr Construction, Inc. is the successful low responsible bidder.

# **CARVER COUNTY COMMISSIONERS PROCEEDINGS**

**REGULAR SESSION – April 18, 2023**

NOW THEREFORE, BE IT RESOLVED that the Carver County Board of Commissioners hereby authorizes and directs the Carver County Board Chairman and Carver County Administrator to enter into Carver County Contract 23-147 Landwehr Construction, Inc. of St. Cloud, MN, in the name of the County of Carver for the construction of the 2023 Box Culverts CSAH 51, Rose Ave., Salem Ave. in accordance with the construction plans and specifications contained in the project manual; and

BE IT FURTHER RESOLVED that Carver County Public Works is hereby authorized and directed to return the proposal guaranty to the bidders, except that of the successful low responsible bidder and second and third lowest bidder, which shall be retained until the construction contract has been signed and the performance and payment bonds of the low responsible bidder have been executed; and

BE IT FURTHER RESOLVED that Carver County Engineer, or his designee, is hereby authorized to take actions necessary and to enter into all change orders on behalf of Carver County as the lead contracting agency for the project, with the approval of the partnering agency(ies) for their respective cost share increase. The approval of the Carver County Engineer, or his designee, of Carver County's cost share of the change orders is limited to an amount less than thirty five thousand dollars (\$35,000) and an increased aggregate project total of all project changes of seventy thousand dollars (\$70,000.00), when time is of the essence to make contract changes due to unforeseen construction conditions in order to minimize construction delays and to efficiently carry out the planned project improvements.

Approved issuing a charitable gambling license to the Ridgeview Foundation for a raffle to be held on June 26, 2023.

Approved acceptance of money donation for the Encore Adult Day Services program.

Approved professional services agreement with Midwest Electric and Generator for the purchase and installation of the generator pending completion of the contract review process and transferring ownership of the generator to City of Cologne once installation of the generator and all project deliverables have been completed.

Approved contract with Burns & McDonnell to create a plan for future service and facility planning for managing household hazardous waste, problem materials and recycling in Carver County, pending the contract review process.

Professional services agreement with SRF Consulting Group for \$665,055.91 for preliminary design and fully electronic plans for the Highway 40 project-Silver/Bevens Creek Area, pending contract review.

Approved amendment to the professional services agreement with SRF Consulting Group for subsurface utility location work needed for Highway 212 Project-Benton Township in the amount of \$111,837.12, pending finalization of the contract review process.

## **CARVER COUNTY COMMISSIONERS PROCEEDINGS**

### **REGULAR SESSION – April 18, 2023**

---

Authorized the issuance of a certificate of zoning compliance (A20230027) for the May 21, 2023, St. Peter Lutheran Church Maifest celebration.

Authorized the Sheriff's Office Dive Team's acceptance of the following donations: City of Chaska Lions Club \$5,000; City of Waconia Lions Club \$4,000; City of Victoria Lions Club \$2,000 and related Sheriff's budget amendment.

Reviewed April 11, 2023, Community Social Services' actions/Commissioners' warrants in the amount of \$491,601.13 and reviewed April 18, 2023, Community Social Services' actions/Commissioners' warrants in the amount of \$391,926.00.

Motion carried unanimously.

Jason Mielke, Land Management, appeared before the Board to request approval for the Phyllis Wheatley Community Center (PWCC) conditional use permit for an educational large-scale activity. He indicated this was reviewed at the March 21<sup>st</sup> Planning Commission and the Commission voted 4-3 to recommend approval. He stated the activity had an educational component and the PWCC owns approximately 105 acres on Oak Lake in Watertown Township.

He explained the property was used as a camp in the past. The PWCC was proposing to update the facilities with the replacement and construction of camp buildings, the reconstruction of an access road and creating dedicated parking areas as part of Phase I. Phase II would require the applicant to come back to the Planning Commission and go through another public hearing.

He noted the camp was established in 1955 and remained dormant since the late 1990's. No CUP had been issued as it was a grandfathered activity and there is now an opportunity to go through the CUP process. He reviewed the proposal to provide camping activities to a maximum of 100 people, with 20 of those being staff.

Mielke stated this type of activity does meet the 2040 comp plan standards and follows the zoning code requirements. He pointed out the March 17<sup>th</sup> revised operational plan and March 18<sup>th</sup> amended letter from Oak Lake residents. He stated this information was not part of the initial application submitted to the Planning Commission, but the changes made were part of the Planning Commission discussion. He reviewed the revisions made with the exception to the number of people.

A number of governmental entities had the opportunity to review the proposal and provide input. He stated Watertown Township recommended denial based on the original application and the neighborhood group concerns. Mielke indicated the Township however did not get an opportunity to hear this application with the revised information the Planning Commission had. He stated the applicant would like to move forward with the 100-maximum number of people knowing they compromised on the other issues. He pointed out the draft March 21<sup>st</sup> Planning Commission minutes were provided to the Board

**CARVER COUNTY COMMISSIONERS PROCEEDINGS****REGULAR SESSION – April 18, 2023**

---

that outlined the discussion that took place.

Mielke recognized allowing Carver County youth was brought up and would be able to access the site for educational purposes.

Anthony Taylor, representing PWCC, stated they see this not just as a camp but part of a statewide ecosystem of outdoor programming and have reached out to Parks and School Districts to ask if there were opportunities to partner on educational opportunities for County youth.

Laura Danielson, PWCC, introduced members from the PWCC in attendance and stated they were all interested in seeing this process going through. She stated Katherine Parsons was very involved in bringing kids to the outdoors and PWCC has a long history of doing that. She stated they did reach out to the neighbors to resolve the neighborhood concerns and the only remaining issue was the number of campers. She indicated PWCC would not rent the facility out and there would be supervision at all times at the camp. She stated they hoped to start off on a cooperative level and any issues that would arise would be ones they could resolve as good neighbors.

She highlighted the reasons they were requesting the 100 maximum that included robust programming to reach all kids, historical number of campers, the numbers from a comparable camp in the County, and busing costs. She also pointed out they would be relying on donations and those individuals that donate want to make an impact to a significant number of children served. She noted they would be using the entire site and the Land Trust was aware of this plan.

Taylor stated he was inspired by the stewardship of the community members and environmental stewardship was also important to them. He stated they are both environmental and youth development professionals. He noted PWCC has been in existence for 100 years and highlighted their community engagement.

Jenny Verner, Dahlgren Township resident, pointed out Phyllis Wheatley has been good neighbors throughout their ownership and worked with the Land Trust to preserve the property. She stated they have listened to the community and spoke in favor of the CUP.

Fahey noted, as a liaison to the Planning Commission, they did thoroughly discuss the number of campers and the Planning Commission consensus was that 100 was acceptable.

Aaron Raivo-Lynch, representing PWCC, explained the topography of the property and timeline for future construction.

Danielson confirmed the Land Trust was aware they were intending to renew the camp when they entered into the agreement.

Raivo-Lynch stated they would use the property for day camps during the summer and fall

**CARVER COUNTY COMMISSIONERS PROCEEDINGS**REGULAR SESSION – April 18, 2023

---

through spring would focus on outdoor education. He pointed out the work that would occur during Phase I and recognized Phase II would require a variance. He stated road construction costs were not known as this time, but they do have a legislative ask and were starting a capital campaign.

Workman acknowledged he previously had a working relationship with the former executive director who was his boss as an elected Minneapolis Park Board Commissioner where he did some lobbying, but Mr. Bourne has not been there for ten months, so he did intend to vote today.

The Board thanked the applicants for reaching out to the neighbors to address their concerns and the partnership with the local schools.

Udermann moved, Workman seconded, to adopt the Findings of Fact and issue Order #PZ20230005 for the issuance of a Conditional Use Permit, Phyllis Wheatley Settlement House (Community Center) Watertown Township. Motion carried unanimously.

Shelby Sovell, Public Works, requested the Board approve 2023 fleet equipment purchases. He stated the annual long term plan included replacement of these vehicles and pointed out the length of time before they these vehicles are actually delivered. He noted they used the State contract and reached out to local vendors to determine if they are able to provide the equipment and match the State contract pricing.

Udermann moved, Lynch seconded, to approve the purchase of budgeted fleet equipment replacements and additions for 2023. Motion carried unanimously.

Sonja Wolter, Risk Management, requested the Board approve an agreement with MCIT related to worker's compensation claims. She explained from 1992-1996 the County self-insured the worker's comp program, paid MCIT to provide claims handling, and made contributions to a self-insured loss fund. In 1996 the County then transferred to a high deductible self-insured retention program with MCIT. Since 2003 there has been no activity on these claims and the agreement indicates that should any of the claims reopen, MCIT will manage claims under current practices. She stated remaining funds currently held by MCIT, from the self-insured loss fund associated with claims incurred from 1992-1996, will be returned to the County.

Dave Hemze, Administrator, clarified the funds would be placed in the self-insurance fund and re-evaluated at a future date.

Degler moved, Udermann seconded, to approve the agreement between Carver County and MCIT regarding workers compensation claims incurred 1992-1996, to approve receipt of funds from MCIT to Carver County in the amount of \$133,588.41, plus additional accumulated interest, to direct Finance to deposit the funds into the County's insurance fund upon receipt and approved related budget amendment. Motion carried unanimously.

# CARVER COUNTY COMMISSIONERS PROCEEDINGS

REGULAR SESSION – April 18, 2023

Administrator Hemze requested the Board approve the Suburban County Transportation Finance Principals. He explained the Suburban Counties group was initially created due to Met Council concerns and the actions they were taking on the 2040 transportation plan. He indicated they recently regrouped to look at what was going on with the transportation funding proposals being considered at the legislature. Hemze stated he was asking the Board to adopt the Finance Principles developed by the group.

Lyndon Robjent, Public Work, pointed out the unprecedented debate taking place on the Omnibus transportation bill and the crux of this is the revenue sources in the bill. He stated the revenue sources in the bill were dramatic and the policy language was detrimental to the growth of the County. Robjent indicated the first policy goal is for every County to be treated equally and everything considered. He explained each of the principals related to State funding, transportation resources, distribution of the leased vehicle sales tax, new funding going directly to the Counties vs the Met Council, the State's commerce of corridors program and new transit funding.

Workman moved, Degler seconded, to approve the Suburban County Transportation Finance Principles as outlined. Motion carried unanimously.

Under Administrator's reports, Commissioner Udermann entered into the record his memo to the County Board dated April 18, 2023, outlining his concerns with the revised Board Operating Rules and the use of one-time funds for ongoing operations. The full text of the memo is available in the Office of the County Administrator.

Degler moved, Lynch seconded, to adjourn the Regular Session at 10:58 a.m. Motion carried unanimously.

Dave Hemze  
County Administrator

ATTEST:

  
County Administrator

  
Chair