

CARVER COUNTY COMMISSIONERS PROCEEDINGS

REGULAR SESSION – May 2, 2023

A Regular Session of the Carver County Board of Commissioners was held in the County Government Center, Chaska, on May 2, 2023. Chair John P. Fahey convened the session at 9:06 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, Lynch seconded, to approve the agenda as presented. Motion carried unanimously.

Workman moved, Degler seconded, to approve the minutes of the April 18, 2023, Regular Session. Udermann offered a friendly amendment to include verbatim his April 18th memo to the Board as part the minutes. Workman moved to amend his motion to accept the amendment, Degler withdrew his second. Motion failed for lack of second.

Workman agreed to withdraw his motion.

Udermann moved, Workman seconded, to approve the April 18th minutes with the amendment to include the full text of Udermann's April 18th memo to the Board as part of the minutes

Mark Metz, County Attorney, clarified that at the last meeting, Commissioner Udermann requested that his memo be part of the record and in the minutes, as prepared, there is a statement that if anyone wanted the full text they could contact County Administration. He stated if this motion were passed, the full text would be included in the minutes.

On vote taken on the above motion. Udermann, Workman voted aye. Degler, Fahey, Lynch voted nay. Motion failed.

Lynch moved, Degler seconded, to approve the minutes of the April 18, 2023 Regular Session. Fahey, Degler, Lynch, Workman voted aye. Udermann voted nay. Motion carried.

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

Resolution #33-23

Modifying and Clarifying the Carver County SSTs Safety Net Program

WHEREAS, the Carver County Board of Commissioners originally created the SSTs Safety Net in 2008, by placing \$100,000 into the Safety Net account, to protect our local environment while assisting low-income Carver County families with failing septic

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systems; and

WHEREAS, the existing AgBMP Direct Discharge low-interest loan and cost share programs will help most residents, who reside in specified watersheds and have a failing septic system with a direct discharge; and

WHEREAS, the Environmental Services Department is also seeking funding from sources including the MPCA and their Fix-up Grants and other programs, to help low-income Carver County residents with failing septic systems; and

WHEREAS, the Carver County SSTS Safety Net will serve county residents who have extremely low and fixed incomes but also own land that contains a failing septic system; and

WHEREAS, this SSTS Safety Net could provide funding, when needed, for Carver County to pay to update or replace a failing septic system when Environmental Services is working through the Attorney's Office to address a non-cooperative enforcement or compliance situation.

THEREFORE, the Carver County Board, at its regular meeting on April 18, 2023, has authorized as follows:

1. In addition to other existing programs the Carver County SSTS Safety Net will be available as a helpful tool for county residents, thereby aiding qualified property owners with efforts to upgrade a failing septic system and bring their system(s) into compliance with applicable Minnesota Pollution Control Agency (MPCA) and Carver County codes, standards, and ordinances. Qualification will be determined through consultation with Carver County CDA.
2. The Carver County SSTS Safety Net will serve as an additional level of assistance for qualified Carver County residents, after the AgBMP low-interest loan and cost-share and MPCA Grant programs have first been considered.
3. To qualify for the SSTS Safety Net loan, applicants must have a household income at or below 80% of the Area Median Income, as established by HUD, with incomes verified by Carver County CDA. No Application Fee or Special Assessment Certification Fee will be charged for qualified applicants or loan recipients, with no asset limitations.
4. No interest will accrue during the first 10 years of an SSTS Safety Net loan. However, a once-per-year payment of \$10 will be charged as a special assessment on the property (no direct payment is necessary), to facilitate tracking of the loan during that interest-free period.
5. After that initial 10-year period, interest will begin to accrue at 1.5% annually. Payments will then be required 2x-per-year, during a repayment period up to 10 years, with a total loan duration of up to 20 years.
6. If at any time during the 20-year life of this loan, any portion of the land receiving this improvement is sold, transferred, subdivided, and/or refinanced, the entire principal and interest will be required to be repaid in full.

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7. Carver County can use the fund to pay the cost to update or replace a failing septic system when Environmental Services is working with the Attorney's Office to address an enforcement or compliance scenario.

8. Those costs incurred by the County in the enforcement efforts mentioned above, and all funds collected for both principal and interest from any SSTS Safety Net loan, shall be collected from the owner of any property being improved by a lien or special assessment, with said funds then being deposited back into the SSTS Safety Net account.

9. Any property owner receiving an SSTS Safety Net loan must sign and uphold the terms of a septic maintenance agreement, to protect and extend the life of their new septic system.

THEREFORE, BE IT FURTHERMORE RESOLVED that the Carver County Board of Commissioners hereby adopts these modifications to the Carver County SSTS Safety Net Program.

Approved creating STOC Detention Deputy positions (200 hours) to comply with the minimum staffing requirements mandated by the licensing authority and related Sheriff's budget amendment.

Approved Caseload/Workload Reduction Grant FY 2024-2025.

Contract with Carp Solutions LLC for the Benton Lake Carp Management Feasibility study contingent upon the contract review process.

Approved amendment to the Master Grant contract with MN Department of Health to incorporate the CDC Federal Infrastructure Grant and related HH&S budget amendment.

Approved PSA with WGH Group, LLC for jail mental health services through 12/31/23 and related HH&S budget amendment.

Resolution #34-23

Awarding of the Furnish Bituminous Material – 2023 County Wide Seal Coat Project,
Carver County Contract 23-180 Project # 2302

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 18th at 02:00 P.M. at Carver County Public Works, 11360 Highway 212, Cologne, Minnesota, two (2) bids were received by Carver County Public Works for the Furnish Bituminous Material – 2023 County Wide Seal Coat Project, said bids for the responsible bidders are summarized as follows:

Bidder Name	Total Amount	% Over/Under Estimate
Engineer's Estimate	\$589,067.50	
Pearson Brothers, Inc.	\$548,017.50	-7.49%

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Henry G. Meigs, LLC \$558,280.00 -5.51%

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

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 23-180 with Pearson Brothers, Inc. of Hanover, MN, in the name of the County of Carver for the construction of the Furnish Bituminous Material – 2023 County Wide Seal Coat Project in accordance with the construction plans and specifications contained in the project manual; 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 seventy five thousand dollars (\$75,000) and an increased aggregate project total of all project changes of one hundred and fifty thousand dollars (\$150,000.00), 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 the addition of a professional level STOC position at First Street Center.

Professional service agreement First Call for Help Itasca County pending finalization through the contract review process.

Resolution # 35-23 Carver County Right of Way Plat No. 34

WHEREAS, Carver County will be improving County State Aid Highway (CSAH) No. 40 from MN State Hwy No. 25 northerly to County State Aid Highway (CSAH) No. 52; and

WHEREAS, the County Surveyor has prepared Carver County Right of Way Plat No. 34 to simplify the writing of legal descriptions and to identify to the public the County's interest in the highway right of way.

NOW, THEREFORE BE IT RESOLVED, that the Carver County Board of Commissioners approves Carver County Right of Way Plat No. 34 and authorizes the Chair of the County Board to sign the plat.

Approved reorganization of the Parks Department utilizing funding from the existing sources of site and grounds improvements and eliminate 0.80 FTE in STOC budget to create a B22 0.60 FTE Park Maintenance Technician and related Parks budget amendment.

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Approved issuing a charitable gambling license to the Augusta Ball Club for a raffle to be held on October 7, 2023.

Approved the one day to four day temporary on sale liquor license application for Augusta Ball Club, Chaska for June 1-4, 2023 and October 7, 2023.

Approved \$10,034.58 in Commissioner contingency funds to purchase and implement OneMeeting board action solution and related IT budget amendment.

Authorized the issuance of a Certificate of Zoning Compliance (#20230028) for the June 10, 2023, Youth and Amateur Rodeo event.

Adopted the Findings of Fact and issue Order #PZ20230017 for the issuance of a Conditional Use Permit, Kevin Ciernia, Dahlgren Township.

Adopted the Findings of Fact and issued Order #PZ20230014 for the issuance of an Interim Use Permit, Mathiowetz Construction, Watertown Township.

Approved a professional services agreement with Alliant Engineering, Inc., for \$234,520 for the Highway 11 Project-Carver Park Reserve for preliminary and final design services, pending finalization of the contract review process.

Resolution #36-23

Approving the Final Plat of Serenity Place

WHEREAS, the preliminary plat has been submitted and approved by the County Board of Commissioners by Resolution No. 66-22, adopted August 2, 2022; and

WHEREAS, the final plat of SERENITY PLACE has been prepared and submitted for consideration; and

WHEREAS, the Carver County Planning Commission, by Resolution No. 22-12, waived any additional review of the final plat if no significant changes were made from the preliminary plat it approved; and

WHEREAS, the final plat conforms to the approved preliminary plat (#PZ20220031); and

WHEREAS, the County Board has reviewed the final plat and accompanying documents and finds as follows:

1. The final plat of SERENITY PLACE meets all the requirements of County Board Resolution No. 66-22.
2. The County Surveyor has reviewed the information pertaining to the Certificate of Title (dated: April 11, 2022) and determined that Roger and Julie Falkenstein are the fee owner of the subject property to be platted.
3. The Assistant County Attorney, in consultation with the Land Management

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Department and Planning & Water Department, has reviewed the Declaration of Restrictive Covenants and Conservation Easement Agreement, which contain all items required by the August 2, 2022, Board of Commissioners' Resolution #66-22, and Conditional Use Permit #PZ2022009.

4. The final plat conforms to the requirements of Chapter 151 (Subdivisions), Chapter 152 (Zoning), Chapter 153 (Water Resource Management, all of the Carver County Code, and Conditional Use Permit #PZ2022009.

5. The San Francisco Town Board has approved the final plat (dated: April 12, 2023).

6. The County Surveyor has approved the final plat (dated: April 19, 2023).

THEREFORE, BE IT RESOLVED THAT THE Carver County Board of Commissioners hereby approves the final plat of SERENITY PLACE.

BE IT FURTHER RESOLVED THAT THE Carver County Board of Commissioners hereby authorizes the Board Chair to sign the plat mylar.

Adopted the Findings of Fact and issue Order PZ20230016 for the issuance of a Conditional Use Permit, Dennis Henning, Hollywood Township.

Resolution #37-23

Approving the Preliminary Plat of Hilk Acres

WHEREAS, the following application for a Preliminary Plat has been submitted and accepted:

FILE: PP-PZ20230013

APPLICANT: Mark Eklo

OWNER: Golf Lake Condos, LLC

SITE ADDRESS: 112XX 66th Street, 55387

PURSUANT TO: County Code, Chapters 151 & 152 LEGAL DESCRIPTION: See attached Exhibit "A" PARCELS #: 09-003-1130

WHEREAS, said application was duly considered at a public hearing held by the Carver County Planning Commission at its regular meetings of April 18, 2023, and forwarded to the Carver County Board of Commissioners for action; and

WHEREAS, the County Board has reviewed the recommendations and proposed conditions put forward by the Planning Commission after the public hearings on the matter and concurs with the findings, recommendations and conditions of the Planning Commission; and

WHEREAS, the plat substantially meets the requirements of applicable county ordinances except where noted by Planning Commission Resolution No. 23-07 and the areas of deficiency can be addressed through conditions placed on the preliminary plat that must be complied with prior to acceptance of the Final Plat.

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1. Mr. Eklo recently purchased the subject 8.13-acre parcel located in the Northeast Quarter (NE¼) of the Southeast Quarter (SE¼) Section 3, Waconia Township. The property is undeveloped, currently wooded with no wetlands. The site is adjacent to the Dakota Rail Trail (Carver County Regional Rail Authority) and is also located in the Agricultural Zoning District, Rural Service Overlay District (Maple), and the Carver County Water Management Organization - CCWMO (Carver Creek watershed).
2. On January 3, 2023, Conditional Use Permit (CUP) #PZ20220046 (see attached) was issued to the subject property in order to create three (3) residential parcels pursuant to the additional density provision (Section 152.078 B – Wooded Lots) of the Carver County Zoning Code. With the approval of the CUP, the applicant is now requesting an approval of the Preliminary Plat “Hilk Acres” Subdivision. The request would consist of three residential lots (Lots 1-3, Block 1) for single-family homes.
3. Copies of the preliminary plat (signed date 3/24/23) have been sent to the Waconia Township Clerk (Sue Goede), CCWMO (Kristen Larson), Carver County Soil & Water Conservation District (SWCD), Carver County Environmental Services (Jacob McLain), Carver County Regional Rail Authority (Marty Walsh), Waconia Schools District 110 (Finance & Operations Office), CenterPoint Energy (natural gas utility company serving the area), and Xcel Energy (electric utility company serving the area). As of this report, Environmental Services and the CCWMO have submitted comments. Other comments may also be available at the time of the public hearing.
4. The additional density, wooded lots, are laid out in such a manner that there are no more than four (4) homes per quarter- quarter as permitted by the density regulations of the Carver County Zoning Code. The residential lot sizes range from 2.5 acres to 2.6 acres. Each lot has a defined building site (i.e. minimum of a 1-acre building site) that conforms to code requirements, and any home constructed within the site would meet the zoning setback requirements. Prior to submitting a building permit application for a new house, the Permittee shall identify the lowest floor elevation to document an emergency overflow for stormwater. Said homes shall be set to allow for positive drainage on the property without impacting adjacent properties.
5. The preliminary plat shows 5-foot utility & drainage easements around each of the three (3) lots. There are no wetlands identified on the subject property; therefore, no wetland “drainage” easements are being provided as part of the platting process. No obstructions shall be permitted in any of the drainage and utility easements located around the perimeter of each lot. The covenants should address the preservation of the easements and that no obstructions shall be permitted within those areas.
6. The Hilk Acres plat does not involve the construction of an interior road (i.e. township road). Each of the subject lots would be provided access from the existing township road (i.e. 66th Street). Therefore, there would not be a development contract

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agreement as part of this platting process. Each proposed driveway access would be reviewed and approved by the road authority (Waconia Township) prior to driveway access permits and prior to building permit approvals.

7. The Carver County Environmental Services Department has received a report from a licensed SSTS professional identifying the primary and alternate Subsurface Sewage Treatment System (SSTS) locations. Environmental Services has reviewed the material and conducted a site visit. In an email dated November 30, 2022, Senior Environmentalist Jacob McLain reported “All lots include suitable areas for primary and alternative sites. Soils have been reviewed and approved.” No changes to primary and alternate SSTS sites have been proposed since the original submittal. All of the SSTS system locations would need to be fenced off and protected prior to any land alteration for driveway or house construction, etc.
8. The approximate 8.13-acre plat is located within the CCWMO jurisdiction. Stormwater management, and erosion control measures would need to be addressed pursuant to Chapter 153 of the County Code (i.e. Water Management Rules). A combined erosion and sediment control and stormwater permit from the CCWMO would be required if the cumulative impervious surface constructed on all lots (drive, house pad, garage, other outbuildings, etc.) is greater than 1-acre. An erosion and sediment control permit from the CCWMO would be required if lots are constructed at the same time and the total disturbed area for all lots is greater than 1-acre. Additional information on stormwater and erosion and sediment control permits (requirements, application, guidance documents) is available on the County’s website.
9. The Carver SWCD typically reviews the project with regard to the CCWMO “Water Management Rules”. All lots shall be reviewed for erosion/sediment control measures during the building permit process. The Carver SWCD would also be involved in the review and approval of the plans as they relate to the Water Rules, Wetland Conservation Act (WCA), and the Stormwater Pollution Prevention Plan (SWPPP), if applicable.
10. The draft covenants, as required by Conditional Use Permit #PZ20220046, have been submitted with the application and would need to be reviewed and approved by Carver County prior to final plat approval. The covenants shall address the preservation of the drainage and utility easements and that no obstructions shall be permitted within those areas. The required covenants shall address that each lot would be reviewed in the field prior to issuance of any building permits. The covenants shall be filed with the final plat and include minimum requirements as identified in the CUP.

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11. The plat substantially meets the requirements of applicable County Zoning Code sections except where noted. The areas of deficiency would need to be addressed through conditions placed on the preliminary plat approval that must be complied with prior to acceptance of the final plat.

12. The Waconia Town Board reviewed and recommended approval of the Hilk Acres Preliminary Plat Mr. Eklo recently purchased the subject 8.13-acre parcel located in the Northeast Quarter (NE¼) of the Southeast Quarter (SE¼) Section 3, Waconia Township. The property is undeveloped, currently wooded with no wetlands. The site is adjacent to the Dakota Rail Trail (Carver County Regional Rail Authority) and is also located in the Agricultural Zoning District, Rural Service Overlay District (Maple), and the Carver County Water Management Organization - CCWMO (Carver Creek watershed).

13. On April 18, 2023, the Planning Commission opened the public hearing, where a neighboring property owner asked about the expansion (widening) of the Township Road (66th Ave), and potential tree removal prior to the homes being constructed. Scott Wakefield, Carver County Planning Commission Chairman and Waconia Township Treasurer, stated the Waconia Town Board has agreed to make improvements (widen) to 66th Street in this area, after the tree removal within the township road right of way was completed. The tree removal is the responsibility of Mr. Eklo, the developer of the project, and is scheduled to be completed Spring 2023.

14. The County Board of Commission has considered all the factors required by Section 152.251 of the Carver County Code and finds that all are either true in this case or can be mitigated by conditions placed on the preliminary plat.

THEREFORE, BE IT RESOLVED, THAT the Carver County Board of Commissioners hereby approves the Preliminary Plat of Hilk Acres for the land described on the preliminary plat, and with the following conditions attached to the preliminary plat approval:

1. A total of three (3) residential wooded lots are permitted. The property shall be platted in accordance with M.S. Chapter 505, Carver County Zoning Subdivision Code 151, and the Carver County Zoning Code 152.

2. The layout of the final plat must substantially conform to the preliminary plat. Any significant departure from the preliminary plat must be approved by the Planning Commission before final plat consideration. As part of the preliminary plat approval, each lot shall document a suitable one (1) acre building site including a house location and primary & alternate septic site locations. All conditions of CUP #PZ20220046 shall be satisfied prior to the recording of the final plat.

3. The Covenants as required by CUP #PZ20220046 shall be reviewed and approved

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by Carver County prior to final plat consideration by the County Board. The Assistant County Attorney shall review and approve the covenants and County Surveyor shall review and approve any title work. The covenants shall address at least the following:

A. A covenant must clearly state the building eligibility status for each parcel in the development. The keeping of animals, with the exception of dogs, cats and similar animals kept as household pets, is prohibited on any lot in the residential area.

B. A covenant stating that the area is rural, and that commercial agriculture and other rural land use activities shall likely be occurring in the area. A notification must be provided regarding “odors, dirt, dust, noises, long hours of operation and other factors associated with agriculture and feedlot activities”. Complaints relating to these activities shall be considered unwarranted so long as such activities are being conducted in accordance with existing standards. A condition clearly stating and restricting the use of the land in the agricultural area to agriculture and to certain conditional uses listed in the “A” district.

C. If the home sites include any environmentally sensitive land, then restrictions must be placed in the covenants addressing: clear cutting of land, vegetation removal, plus the development and implementation of an erosion control plan to control erosion during and after building construction.

D. A covenant must be added requiring that the alternative sewer site must be preserved for a future sewer site. No buildings can be erected on the alternative site and no trees can be planted on the site. Heavy equipment must be kept off the site. If the lot owner must build on the site, they would have to submit soil borings for another site before any building permit will be issued.

E. A covenant must be added requiring the preservation of the easements and that no obstructions shall be permitted within any easement areas.

4. The above-required Covenants shall become part of the plat approval.

5. Each lot must be reviewed in the field prior to the issuance of any building permit and/or SSTS permit. All septic system locations (i.e. primary & alternate) shall be marked and protected (rope, fencing, etc.) to prohibit any disturbance to those areas. Furthermore, prior to the commencement of any construction related activity, the primary and alternate septic locations for each lot shall be protected.

6. Each lot shall be reviewed and approved by CCWMO pursuant to Chapter 153 of the Zoning Code. Specific details for each lot must be submitted to the CCWMO for approval prior to issuance of building permit(s) on individual lots.

7. The driveways for each lot shall conform to the Carver County Land Management Department and CCWMO requirements. The applicant shall comply with any and/or all requirements established by the appropriate road authority (i.e. Waconia Township). An

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access permit for each driveway from 66th Street shall be obtained from the Township (or appropriate road authority) prior to issuance of an access permit or new home building permit(s).

8. Prior to submitting a building permit application for a new house, the Permittee shall identify the lowest floor elevation to document an emergency overflow for stormwater. Said homes shall be set to allow for positive drainage on the property.

9. As per Section 151.163 of the Carver County Code, all utility facilities are to be located underground. The access and drainage ways will be designed so that public utilities can be installed at a later date.

Resolution #38-23

Agreement No. 1032833 with MN Department of Transportation to accept grant funds from the Local Bridge Replacement Program pending finalization of the contract review process

WHEREAS, Carver County has applied to the Commissioner of Transportation for a grant from the Minnesota State Transportation Fund for construction of Bridge No. 10J36 (SAP 010-651-012); and

WHEREAS, the Commissioner of Transportation has given notice that funding for this project is available; and

WHEREAS, the amount of the grant has been determined to be \$206,922.54 by reason of the lowest responsible bid;

NOW THEREFORE, be it resolved that Carver County does hereby agree to the terms and conditions of the grant consistent with Minnesota Statutes, section 174.50, and will pay any additional amount by which the cost exceeds the estimate, and will return to the Minnesota State Transportation Fund any amount appropriated for the bridge but not required. The proper county officers are authorized to execute a grant agreement and any amendments thereto with the Commissioner of Transportation concerning the above-referenced grant.

Contract with OpenGov pending finalization of the contract review process.

Reviewed April 25, 2023, Community Social Services' actions/Commissioners' warrants in the amount of \$188,813.82 and reviewed May 2, 2023, Community Social Services' actions/Commissioners' warrants in the amount of \$146,781.75.

On vote taken, Degler, Fahey, Udermann, Workman voted aye. Lynch abstained. Motion carried.

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Richard Scott, HH&S, requested the Board approve a Proclamation to recognize May as Mental Health Awareness Month. He introduced Stephanie Combey who presented on the state of mental health in Carver County.

Combey stressed the importance of mental health. She reviewed statistics related to mental health and pointed out systemic and societal barriers faced. She noted gaps in care for those needing specialty care and lack of beds. Combey stated the County was still small enough to coordinate care, that they have committed staff and have school districts that embrace school linked community health. She also noted they have strong partnerships with community providers and were always looking for ways to meet the needs of the community.

She identified the services provided by the County and stated, where there are gaps, they work with partners to provide services. For the future, they will continue with work with partners to address gaps, stay responsive to community needs, work with third party payers toward mental health parity and continue to work to address stigma related to mental health.

Scott read the proposed Proclamation into the record.

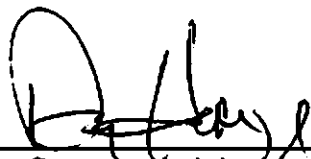
Lynch moved, Udermann seconded, to approve Proclamation recognizing May as "Mental Health Awareness Month". Motion carried unanimously.

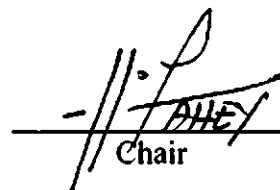
Degler moved, Lynch seconded, to go into closed session to discussion confidential negotiations related to the Highway 40 and CSAH 33 projects. Fahey explained the closed sessions related to confidential negotiations for right of way acquisitions on the Highway 40 project-Belle Plaine and to discuss confidential negotiations related to an easement purchase on CSAH 33. Motion carried unanimously.

The Board adjourned the closed and Regular Session at 12:10 p.m.

Dave Hemze
County Administrator

ATTEST:


County Administrator


Chair