

WADENA COUNTY BOARD OF COMMISSIONERS MEETING
FEBRUARY 3, 9:00 A.M.

The Wadena County Board of Commissioners Meeting was held on Tuesday, February 3, 2009, at the Wadena County Courthouse in the Commissioners Room at 415 Jefferson St. S., Wadena Minnesota. The meeting was called to order at 9:00 a.m. by Chairman Dave Schermerhorn and the pledge of allegiance to the flag was said.

Also Present: Commissioners William Stearns, Rodney Bounds, Ralph Miller, Lane Waldahl, and Auditor/Treasurer Char West.

Motion by Waldahl, seconded by Bounds, to amend the day's Agenda to include i.) 2009 State Annual Boat and Water Safety Grant Agreement, j.) Board Agenda Deadline, and k.) Unallocated County Program Aid – 2009 and 2010, motion carried.

Motion by Stearns, seconded by Miller, to approve the Board Meeting Minutes of January 6, 2009, the Special Board Meeting Minutes of January 7, 2009, and the Adjourned Board Meeting Minutes of January 22, 2009, motion carried.

9:00 a.m. Agenda item, Jim Rude, was not in attendance.

Mike Gibson, HR Consultant, came before the Board to provide them with a draft of the Teamsters #320 General and Essential Unit Union Contracts. He reviewed the contracts with the Board pointing out that the "gray highlighted" areas indicated language changes. Mr. Gibson pointed out that the final draft would be done by the Teamsters, reviewed one more time by Mr. Gibson and then brought before the Board for approval and signatures by the Auditor/Treasurer and Chairman of the Board.

Mr. Gibson stated that he had talked with Bob Payne, 49'ers Business Agent, who advised that there were still issues that exist with the Highway Department and that he was planning to meet with them soon; Mr. Payne would then call Mr. Gibson.

Commissioner Waldahl stated that he felt Mr. Gibson should continue to work with the 49'ers to get the contract completed.

Chairman Schermerhorn responded that he also agreed with Commissioner Waldahl.

Commissioner Miller commented that he was under the impression that Mr. Gibson would have something positive that day.

Mr. Gibson responded that there was just one issue which he felt was worth letting the business agent work on.

Commissioner Bounds questioned Mr. Gibson if he had any idea of how long that would take.

Mr. Gibson responded that getting back together with them may take two hours; if any agreement could be reached it should be done in two hours. He added that Mr. Payne had suggested that the County put the contract together.

Commissioner Bounds stated that he thought that they were told last time that they were ready to wrap it up.

Mr. Gibson responded that Mr. Payne had hoped to.

Motion by Waldahl, to extend Mr. Gibson's hours to complete the 49'ers contract;

Commissioner Schermerhorn stated that instead of extending the contract that was finished, it should be a new contract for a certain amount of hours.

Kyra Ladd, County Attorney, added that the Board set up funds and set a cap for Mr. Gibson based on his estimate of how long it would take to complete the work.

Mr. Gibson stated that the bill that he was currently submitting reflected a donation of a little over \$1,000. He added that if they wanted him to continue and keep track of the hours, he would be agreeable.

Mr. Bounds commented that Ms. Ladd might work on the contract.

Ms. Ladd responded that for her to work on the contract, of which she had had little input in thus far, would be a disservice to the County and could open up errors.

Commissioner Miller questioned if Mr. Gibson could give a low and high estimate in hours.

Mr. Gibson responded from 10 to 20 hours.

Commissioner Bounds questioned if the Union Contract issue being addressed was a money or language issue.

Mr. Gibson responded that it involved money.

Ms. Ladd advised that this was part of the negotiation and was a matter for a closed meeting.

Commissioner Stearns stated that the other aspect of this was when Mr. Gibson started as Human Resource Consultant and negotiator for the County, the County severed the relationship with Tom Fitzpatrick, Labor Attorney from Brainerd, and that the County was accustomed to paying him quite a few thousands of dollars a year and more on a negotiating year. He pointed out that Mr. Gibson used another Labor Attorney and the County paid about \$5,000. Commissioner Stearns added that Mr. Gibson would probably want to continue to use that person for professional services and that there was another place in the budget to pay for this expense.

Commissioner Stearns added that he had received a letter from Pemberton, Sorley and Ruffer offering their services to work under contract for Wadena County advising that they would be willing to reduce their charges from \$200 to \$170 per hr. He pointed out that this needed to be considered when Mr. Gibson's contract was complete as the County would need a human resource person as well as labor consulting firm.

Commissioner Waldahl added to his motion that the County implement a new contract with Mike Gibson, Human Resource Consultant, for up to 20 hours at \$60 per hour;

Chairman Schermerhorn called for a second to the motion twice; motion died for lack of a second.

Commissioner Miller stated that he would like assurance that this could be wrapped up in 20 hours.

Mr. Gibson responded that there was no way he could assure a definite time period.

Commissioner Waldahl requested that the rest of the Board members speak up or volunteer to negotiate.

Commissioner Bounds stated that if the Contract negotiations could not be wrapped up in two weeks, there must be some issue.

Ken Moyer, Highway Department employee and 49'ers Union member, stated that the union members met one month ago and questioned whether there was a problem due to the Business Agent not getting back to Mr. Gibson.

Commissioner Stearns reminded the Board of the alternative offered at \$170 per hour. He addressed Commissioner Waldahl questioning whether the new Contract would be just to complete labor negotiations.

Commissioner Waldahl responded that this was his intent.

Motion by Bounds, seconded by Waldahl, to write a new contract with Mike Gibson, Human Resources Consultant, for 20 hours at \$60 per hour, to complete 2009 Union negotiations, Waldahl – aye, Bounds – aye, Miller – nay, Stearns – aye, Schermerhorn – aye, motion carried.

Mr. Gibson referred to three letters that came over his desk; one from Mark Richie, Secretary of State, addressed to Rosalie Miller thanking and complimenting her and the staff for their work during the recount.

Mr. Gibson also referred to a complimentary letter regarding Debbie Mursu, Auditor's Office, for the work she performed relating to the change in coverage of insurance, as a great deal of detailed work was involved.

Mr. Gibson also read a letter from the City of Menahga complimenting Rosalie Miller, Elections Coordinator, stating they wanted to give special recognition to Ms. Miller and the Auditor's Office staff for the manner in which the Menahga City Mayor recount was handled; they also express their gratitude to all of the volunteers.

Joel Ulring, Highway Engineer, came to the Board to inform them that the Highway Department's air compressor had failed and it was necessary to replace it at a cost of \$650; the air tank and electric motor were in good condition.

Mr. Ulring updated the Board on the Stimulus Funds pointing out that some funds would be coming to Wadena County as well as the cities with a population of over 5,000. Mr. Ulring stated that the projects submitted for Wadena County were:

- 1) Bridge replacement on CSAH 2 over the Partridge River (NE of Aldrich). SAP 80-602-08.
- 2) CSAH 23 Reconstruction (Last phase from TH 227 north). SP 80-623-16.

Mr. Ulring added that the purpose of the Stimulus Funds was for new work which would be funded 100%; no local match required.

Mr. Ulring was questioned what the engineers estimate for the bridge project would be and the process in notifying typical bidders.

Mr. Ulring responded that the plan was 90% complete so it was eligible for Stimulus Funds. He pointed out that the project cost would be something less than one million; the average daily traffic count was approximately 300 to 400 cars per day; and the normal bidding procedures would be used.

Commissioner Miller questioned whether the distribution of Stimulus Funds was based on per capita rather than geographical area.

Mr. Ulring responded that he was not sure, but felt it would be distributed as closely as possible to the current process.

Mr. Miller questioned exactly what the above 5,000 population meant and that there appeared to be a correlation between the 5,000 population number and some of the stipulations of the County Program Aid dollars.

Mr. Ulring responded that funding went to cities over 5,000 in population and that counties were current recipients of federal funds or gas tax dollars. He added that for those cities under 5,000 population, the County acted as the fiscal agent.

Mr. Ulring updated the Board on the Mn/DOT Projects: TH 10 Overlay from Wadena to Staples was a go for this summer; TH 71 Mill and Overlay including turning lanes from Menahga north to Park Rapids was a go. Traffic would be detoured from TH 71 on Wadena CSAH 31 and 23.

Mr. Ulring updated the Board on the State Transportation Improvement Program (STIP); on February 11, 2009, there would be a meeting of the Region 5 Development Commission Transportation Advisory Board; the federally funded projects for 2013 would be selected at the meeting and submitted to the Area Transportation Partnership for approval and inclusion in the 2013 STIP. He pointed out that the projects submitted by Wadena County were: CSAH 4 – Mill & Overlay with Shoulder Paving from TH 10 in Wadena to CSAH 23; CSAH 8 – Mill & Overlay with Shoulder paving from Red Eye River bridge in Sebeka to the west county line.

Commissioner Stearns questioned whether the paving of the bike trail in the City of Wadena starting near TH 10 and going out past Fair Oaks Lodge would be included in the Project. He stated his concern for the safety of children as the trail was deteriorating.

Mr. Ulring responded that the Project was just shoulder paving but he would check with the City of Wadena as to the possibility of adding the paving of the bike trail to the Project.

Mr. Ulring informed the Board that the Region 5 Develop Commission had been looking for ways to fund a recreational trail inventory of the five county area. He stated that they became aware of a grant from the University of Minnesota, Crookston that would make this possible; they requested a letter of support from all five counties in the region. Mr. Ulring added that he had contacted Commissioner Stearns, Chairman Schermerhorn and a Region 5 representative to review the request. He provided the Board with a copy of the letter to U of M Crookston in support of the Project.

Commissioner Waldahl commented that he had been approached by two constituents who stated that they were really happy that the County employees pushed back the snow from the shoulders.

Karen Nelson, Public Health Director, came to the Board to request approval of Merlyne Bissell's appointment to the Public Health Advisory Board and advised that there would still be time before their meeting to appoint someone from District 5.

Motion by Miller, seconded by Waldahl, to appoint Merlyne Bissell, Verndale, District 2, to a 3-year term on the Wadena County Public Health Advisory Committee effective January 1, 2009 to December 31, 2011, motion carried.

Ms. Nelson distributed the February 12th Public Health Advisory Committee Meeting Agenda as well as the Board of Health 2009 Meeting Schedule and Board of Health Executive Committee draft agenda for February 27 to be held in the Wadena Public Health Conference Room.

The Board recessed at 10:04 a.m.

The Board reconvened at 10:15 a.m.

Sean Uselman, Building Services Director, reviewed with the Board a handout of his request for funds to be transferred to the Building Maintenance Reserve account. He requested the Board

rollover the funds into a Building Maintenance Reserve account #01-111-2784 for the upcoming need for HVAC equipment; snow removal equipment as well as the idea of moving people around; it appeared these monies could be used.

Mr. Uselman stated there was a motion in 2008 to move the left over funds of 2007 into 2008.

Commissioner Waldahl advised to check to see if this had actually been done.

The Board tabled action of Mr. Uselman's request until the February 19, 2009 Board Meeting so Mr. Uselman and Ms. West could review the information.

The Board set the following future Board Meeting dates: March 3, 2009, March 19, 2009, April 7, 2009, April 23, 2009, May 5, 2009, May 21, 2009, June 2, 2009 and June 18, 2009.

Nichole Scoultz came to the Board to advise that she did not feel the CHIPS case she was involved in was being run properly or that she had been given proper chances to get her children back into her home.

Chairman Schermerhorn informed Ms. Scoultz that it was good that she come, but the County Board did not deal with these kinds of items. He referred her back to her to Attorney.

Deana Skov, Zoning/Parks Director, came to the Board informing them that the Parks Board did meet on January 27, 2009 to discuss the situation with Glen Motzko and what the different options might be. She stated that the Parks Board did discuss prorating his wages and different ways to try to reinstate him within the current budget that they had. Ms. Skov added that she did check with the Department of Labor and Industry to research the statutes; the County Attorney also did research and found case law where the County was not allowed to prorate his wages. She stated that the Parks Board recommended and Ms. Skov was bringing the same recommendation, was to reinstate Glen Motzko to his previous status as Parks Operator with no break in his service and recommend that the budget be amended to show that reductions could be made in some line items expenses without jeopardizing services to the Campground. She added that this would make up what was projected to be paid out as unemployment and keep the approved budget the same, while also covering the cost of his unemployment. Ms. Skov also recommended that unemployment be paid quarterly. She referred the Board to a handout of the Parks Budget Summary Report pointing out that there were no changes from 2008 to 2009.

Commissioner Bounds stated that he was under the assumption that Mr. Motzko would forgo unemployment as the County would be going through some rough times. He pointed out that he did not want to lose Mr. Motzko.; figures could be jockeyed around to make them come out and yet there would still be the expense of unemployment.

Commissioner Waldahl stated that he had been approached by some citizens and other employees questioned how the County could pay someone part time and then him pay unemployment. He added that there were other things the Board needed to look at; could the County afford 800 to 900 hours and when you look back, Mr. Motzko used over 100 hours of

sick and vacation time.

Joanne Derby, Teamsters #320 Union Business Agent, stated that Mr. Motzko did not receive health insurance or \$300 waived insurance that other employees received. She also stated that the County did not give him the courtesy of a lay-off notice required by Contract. Ms. Derby added that there were funds available that could be used to pay unemployment.

Commissioner Waldahl commented that the State was also considering cutting their Parks out because of tough times and that the County was going to have to cut somewhere.

Commissioner Miller stated that, based on his conversation with Ms. Skov, she was anticipating an increase in participation in the Parks.

Ms. Skov stated that they were anticipating an increase in use of the Parks because people were going to stay closer due to the economy; the County fee was \$10 and the State fee was \$12. She stated that she strongly believed there would be more loss of revenue than what the cost of unemployment compensation was.

Commissioner Stearns questioned what the cost would be if Mr. Motzko were to be retained during the winter months and given full-time employment and put into other capacities. He added that instead of paying unemployment he would rather see him work.

Commissioner Bounds stated that he would not agree to the creation of a new position as the Board needed to look at positions that may have to be cut.

Ms. Skov informed Commissioner Stearns that the cost would be approximately \$9,500.00 for the additional five months.

Rin Porter, Verndale Sun, questioned what the bidding requirements were for a contract over \$50,000 or under \$50,000.

Ms. Skov responded that from \$30,000 to \$50,000 you had to get at least two quotes.

Mr. Gibson also added that they had checked with the County Attorney who indicated that it would have to go out on a Request For Proposal.

Commissioner Stearns pointed out that an individual Contractor would have to use their own equipment, have their own insurance and have their own lawn mower. He added that if they were hurt on the job they would not be allowed to collect worker's compensation from the County; if they were a County employee, they would use County equipment to do the work; the actual cost may not be cheaper; it may be more expensive as they had to cover their investment.

Ms. Skov stated that she would like to reiterate that the Parks were one of the few draws to

the County and if they were not taken care of in the manner that they were being taken care of now, which was not to say an independent person could not also do this, she did not think they would do it in 800 hours and the County would begin to see a loss there.

Ms. Derby stated that public employment positions could be contracted out, but many return to public employees; most contracted out services were there to make money and if they were not making enough money they would cut services in order to make enough money.

Ms. Skov stated that she felt Mr. Motzko had proven that he was there to serve the County, do the best job possible and had gone above and beyond that.

Ms. Derby stated that she felt the County would lose more than they would save by dropping Mr. Motzko.

Ms. Skov stated that she thought their track record would show that if there was money to be saved, then they do it; their Department did not expend their budget every year just because we were allowed that amount of money; if there were places we could save and make do, we saved and made do. She added that she was aware of the County's predicament; however she could see the County losing without this employee.

Chairman Schermerhorn questioned the Board if they were ready to vote.

Commissioner Bounds questioned whether the Board would have to rescind the original motion to "discontinue Permanent Full-time Seasonal Parks Maintenance".

Commissioner Stearns responded that he believed the original contract was to terminate the position.

Commissioner Bounds questioned Mr. Gibson stating that the Board passed the original motion to do away with the position and now was looking at offering a new position for the same thing; could the Board just reinstate.

Mr. Gibson responded that this was correct.

Commissioner Bounds stated that the Union Representative advised that it may cost the County more by contracting rather than keeping Mr. Motzko as a full-time seasonal worker. He added that he felt that was the option the Board had to go with.

Motion by Bounds, seconded by Miller, to reinstate Glen Motzko to the previous status of Parks Operator with no breaks in service, as recommended by the Park's Board,

Commissioner Stearns requested clarification that the two Commissioners on the Parks Board were Chairman Schermerhorn and Commissioner Miller and called for their opinion.

Commissioner Miller stated that he had not been advised of the meeting.

Ms. Skov responded that she had left a message and that it would have been a benefit to have had him attend.

Chairman Schermerhorn responded that he felt the position was required and that it was an asset to the County. He added that the County may be sending the wrong signal to others by having one person on unemployment, but he felt the position was needed at this time.

Roll call vote: Commissioner Waldahl – nay; Commissioner Bounds – aye; Commissioner Miller – aye; Commissioner Stearns – aye; Chairman Schermerhorn – aye.

Motion carried.

Commissioner Waldahl stated that he would like to let Mr. Motzko know he did excellent work but it was just the unemployment and the people who had contact him.

Chairman Schermerhorn recessed the Board Meeting to the Courthouse Auditorium at 11:00 a.m.

Chairman Schermerhorn reconvened the Board Meeting in the Courthouse Auditorium at 11:03 a.m.

Ms. Skov came to the Board recommending approval of the January Planning Commission Minutes.

Motion by Stearns, seconded by Waldahl, to accept the January 15, 2009, Planning Commission Meeting Minutes, as sent, motion carried.

Ms. Skov informed the Board that as a result of the Planning Commission Meeting there was one Condition Use Permit (CUP) application submitted by Erik H. & Melissa J. Olsson for a commercial feedlot allowing up to 999 animal units in Wing River Township. She informed the Board that the Planning Commission had approved the CUP and read the authorizing Resolution to the Board.

Chairman Schermerhorn called for the Public Hearing to be in session at 11:05 and reviewed the rules for a Public Hearing. He questioned whether there was anyone in the audience in favor of the Conditional Use Permit.

Response in favor: Matt and Holly Richter, 15076 200th St., Sebeka; Walter McManigle, 20307 Co Rd 23, Sebeka; Brett Daily, 15789 200th St., Sebeka; Pat Nelson, 19041 Co Rd 23, Sebeka.

Dan Mittendorf, 17784 Co Rd.7, Verndale, commented that the County needed animal agriculture as the County had infrastructure for agriculture and the population base was mostly familiar with agriculture. He added that he would like to see more agriculture in the country as animal agriculture was needed for the financial base and for the people.

Jeff Youngbauer, 17652 204th St, Sebeka, stated that he was in favor of the operation. He

pointed out that he lived a half mile north and did not believe anyone had the right to tell a taxpayer in the County what to do; if anyone had the right to tell him what to do, then he should have the right to tell others what to do.

Chairman Schermerhorn questioned whether there was anyone against the Conditional Use Permit:

Mr. Cottrell, 17591 204th St., Sebeka, stated that even though the area that was being discussed was in an A-3 Agriculture area, everyone paid taxes, so doesn't everyone have rights; will the Commissioners be responsible to make an educated decision in this matter; will they look at all sides; do they have the true facts and all the information needed to decide on a proposal that had such an impact. He questioned what the positives and negatives of such an operation would be if approved; had the Board actually seen the documents that provide all the details in regard to this proposed operation such as a manure management plan, references and experiences of the operator, whose cattle they were, who was really running the operation and who was behind the financing of this operation. Mr. Cottrell stated that, in conclusion, he questioned whether the Board would like the operation next to them as this operation was something much greater level than the average family farm.

Ken Moyer, 10877 151st Ave, Verndale, stated that he had information from the University of Minnesota regarding the number of head and the estimated amount of waste; he felt there was not enough land for that amount of waste. Mr. Moyer added that as there was more and more manure, the roads would be traveled on further and further to get rid of the waste, which would take a toll on the infrastructure; there would be anywhere from 17 to 20 semi more per month running up and down the County road. He stated that the Permit, the way it was stated at the Planning Commission Meeting, there were a few words left out from of the original stipulation, i.e. request would not create adverse effect as far as general unsightly or glare for nearby property owners; "odor" was left out. Mr. Moyer questioned whether the operator had to have a Manure Management Plan in place, which stated "producers do not have to submit to MPCA for review unless requested by MPCA, or by County Feedlot Officer or when applying for a Permit". He stated that when he came before the Zoning Board, the operator just told them he was working with Molly Costen, SWCD, on a Permit and Mr. Moyer would like to know if there was a Manure Management Plan in place now being he was already over the allotted 500 animals units a breaking the law already.

Doug Bounds, Jamestown, ND, stated that he owned 40 acres just north of the property where the operation was. He stated that a very valid point of dealing with the odor was brought up and omitted from the recommendation of the Zoning Committee and that there were many studies about distances separating feedlots from adjoining property where there was habitation. Mr. Bounds stated that, in this particular feedlot, if you go by their calculations, it was within the area that would be subjected to health hazards related to odor and hydrogen sulfide. He pointed out that this was a concern for him as he planned to live in the area in the future; the land had quite a slope which encouraged run off and liquid waste into ground water; the noise was going to be a problem as it would involve cattle being weaned. Mr. Bounds stated that he felt the

Commissioners should reject the Conditional Use Permit at this time; this would give the operator more experience, demonstrate that they could manage a feedlot operation, the negative factors could be looked into to see how serious they were and what measures could be taken to litigate them.

Beth Cottrell, 17591 204th St., Sebeka, referred to the material she had sent to the Commissioners. She pointed out that they always had done all they could to be good neighbors; in the fall of 2005 they had bought their 120 acres; every home surrounding them was beautiful. Ms. Cottrell stated that they had recently moved into their brand new home but their quality of life they had now was in jeopardy. She added that they had talked to people north of Verndale who stated that they could not open windows in the summer as the smell was constant and awful. Ms. Cottrell added that from the information Ms. Skov had read it stated that it would not decrease values “that much” and requested someone tell her what “that much” meant.

Mr. Bounds stated that one thing mentioned during the Planning Meeting was economic impact and the pace of agriculture in the future; what was being considered here was a business and should be considered and scrutinized; agri-business was business and not just the family farm.

Chairman Schermerhorn questioned whether there had been any correspondence received by the Zoning Office.

Ms. Skov responded that there had not been any correspondence received.

Chairman Schermerhorn asked for any questions by the Board.

Commissioner Stearns questioned if the area was zoned A-3 and asked for a definition.

Ms. Skov responded that it was in an A-3 zone and explained that A-3 was general agriculture; A-2 was mixed ag forestry and A-1 was transitional agriculture; A-3 was the highest zoned agriculture use permitted in Wadena County.

Commissioner Miller stated that he had heard pros and cons on both sides and that he would like nothing better than to see a 100 people raise the number of cattle that Mr. Olsson was proposing, which was hindsight. He added that the law stated that there were procedures that had to be followed. Commissioner Miller added that at this point he was not absolutely confident everything had been researched and that he was under the opinion that more needed to be said before he could make a judgment on the issue that was going to be fair to both sides and he was not comfortable at that time to make a decision. He stated that we are suppose to put faith in our Zoning Commission and others working for the concerns of our County and State.

Ms. Skov stated that Mr. Olsson was in attendance to try to reclassify the violation. She pointed out that he had been informed of the violation, what he would have to do to continue as he was and that he had followed procedure to date. Ms. Skov pointed out that by statute the County had to act on the Conditional Use Permit within 60 days and it was now day 57, so unless Mr. Olsson

was willing to put a hold on this himself through a written statement indicating that he was in agreement to extending the time period, there had to be action taken within 60 days of the application.

Commissioner Miller questioned if he were being told in a round about way that if he were picked up by the Highway Patrolman doing 75 in a 50; that he could submit a permit based on what might be resolved by increasing the number.

Ms. Skov responded “no”; that what she was saying that he was trying to correct his violation; if the Permit was not approved then they would have to deal with getting Mr. Olsson down under the number of head that he needed.

Commissioner Miller stated that he had discussed this with Ms. Skov and that she was going to get advisement from the County Attorney on if this permit passed; the County would have to be assured that the numbers that were authorized by the Permit were not exceeded and questioned who was going to do the counting. He questioned Ms. Skov as to whether she had found out anything from the County Attorney.

Ms. Skov responded that she had not been able to speak with the County Attorney but it was her understanding that conditions could be imposed along with a Conditional Use Permit, as long as the conditions that would be imposed on him would also be conditions that would be subject to be imposed on other similar Permit Use applications.

Chairman Schermerhorn stated that if an extension was possible it should be considered.

Ms. Skov responded that this depended on what the Board wanted to look at and who the Board would want to look at it. She added that the testimony given by the people, as well as at the Planning Commission Meeting, was complete and for their purposes, they still had to do everything according to the Feedlot Rules. Ms. Skov reiterated that the first step was for the applicant to agree to extend the time frame.

Mr. Olsson responded that he would agree to the extension.

Commissioner Waldahl stated that he felt the Board needed to set a time frame and that he was a stickler on following the law; if the County followed the law with MPCA and it was an A-3 Ag zone, he was not going to be a Commissioner to deny the application.

Commissioner Stearns stated that he agreed with Commissioner Waldahl and that he did not ever remember not following the Zoning and Planning Commissions recommendation. He added that it would be hard for him not to vote for this due to the fact that it was in an A-3 agricultural area and the Ag Community needed to know the rules ahead of time.

Commissioner Bounds stated that he had talked with the County Attorney who advised him that he should probably refrain from voting. He added that he felt there were a lot of issues that Commissioner Miller brought out that he was not aware of which should be addressed before the

Board made a decision.

Chairman Schermerhorn tabled Board action on the Conditional Use Permit application submitted by Erik and Melissa Olsson until the February 19, 2009 Adjourned Board Meeting.

The Board recessed at 11:42 a.m.

The Board reconvened at 11:50 a.m.

Kyra Ladd, County Attorney, came before the Board regarding the County's payment plan for legal counsel for Child Protection Cases (CHIPS). She reminded the Board that at the previous Board Meeting Judge Robertson had come before the Board stating a concern over the County's payment plan. Ms. Ladd added that the following the meeting Judge Robertson issued an Order stating how the County was to pay for legal counsel as it related to CHIPS cases, which the Board had been provided a copy of. She advised the two new Commissioners of the background of the mandate that came from the Public Defender's Office in July 2008 stating that they would not be paying for Public Defender services anymore; when the Board was drawing up a payment plan and budgeting for the expense in the future, they had requested the attorneys on the CHIPS cases and the 7th District Court Administrators Office to provide the County with the number of hours previously spent on CHIPS cases, which they did not have available. Ms. Ladd added that a temporary fee structure was set up based on the number of hours spent in the County Attorney's Office on these cases until the County received additional information indicating that the current fee schedule was unfair or unreasonable; to date this information had not been received. She stated that the Order Appointing Counsel signed by Judge Robertson indicated that the County's rates were unreasonable but the County had not been provided evidence indicating this. Ms. Ladd recommended that the Board request from the Courts information stating the number hours spent by attorneys on CHIPS cases.

Commissioner Waldahl pointed out that Mille Lac's County and Benton County had the same system as Wadena County in the 7th Judicial System and others in the state. He added that a Judge in Rice County had issued the same Order and it was challenged in Court stating that the Judge could not issue such an Order.

Ms. Ladd responded that this was correct and there were two issues relating to the issue; first issue was that statute prohibited the state from issuing an unfunded mandate within a budget year; second issue was the appointment of counsel, there was a statute stating that reasonable fees were to be charged. She pointed out that the County fee could not be deemed unreasonable without information indicating to the contrary. Ms. Ladd added that the County was required to pay for all expenses relating to a CHIPS case. She reiterated her suggestion that the Board request some sort of accounting of hours spent by the attorneys.

Chairman Schermerhorn questioned whether the reason the Board received no information on hours was due to the fact that there were no cases from August until December 2008.

Ms. Ladd responded that there were no new cases through a three month period but there were still open cases that information on the number of hours spent could be reported on.

Commissioner Stearns stated that he had made a proposal to the Board for a \$15,000 budget for the remainder of 2008 and a motion was made and second to set this in action; then the motion was reconsidered due to the fact that the Board was in uncharted territory; at that time the attorneys requested \$40,000 for all of 2009, which the Board did not approve. He informed the Board that the County had paid \$6,700 for CHIPS Attorney's fees for all of 2008 so the \$15,000 budget would have been way too much; whether or not the \$40,000 for 2009 was too little, it was still a gamble. Commissioner Stearns stated that now a \$75 per hr. fee had been set by the Court as well as another offer for \$175 per hr. for attorney services relating to labor negotiations.

Ms. Ladd clarified that the \$75 per hr. at this time had just been ordered for one case, however, the same Attorney would appear in all of these cases and it was her guess that same Attorney would request the same compensation in future cases when it had already been granted.

Commissioner Schermerhorn stated that it was his understanding that the issue was that "a case" was not defined; was it per child in the same family or per family.

Ms. Ladd responded that the attorney representation went to the parent not the children. She added that that particular Attorney had been assigned to cases with multiple children and did not request additional monies.

Commissioner Stearns stated his concern over the Mother that came before the Board that morning stating that her attorney in her CHIPS case was not providing representation.

Commissioner Waldahl commented that if the Judge ordered the County to pay \$75 per hr. then the attorneys need to account for their time in 15 minute increments. He also requested the County Attorney keep tabs on what was going on in Rice, Benton and Mille Lacs County.

Ms. Ladd replied that it would be helpful to the Board to find out how many hours were spent on current cases, which would need to be known for every budgeting year; it was not known what was reasonable.

Chairman Schermerhorn stated that he was under the impression that this was what the Board had requested and to date had not been provided the information.

Ms. Ladd pointed out to the Board that the attorneys in CHIPS cases were not public defender attorneys they were private attorney. She reiterated that the private attorneys had cases where multiple children were involved and they had not requested extra money. Ms. Ladd stated that it was unsettling to her when people working in this County, as well as taxpayers, were requested to tighten their belts and then private attorneys come in and hold the Board hostage by saying "you pay me this or else".

Chairman Schermerhorn reiterated that the Board needed to follow up on the request made of the attorneys made in July to receive a report on what hours they worked on CHIPS cases.

Ms. Ladd stated that there were things the Board could consider doing, but that would be a litigation matter between attorney and client which would require a closed meeting since it was litigation strategy.

Scott Carpenter, Solid Waste Director, came to the Board to inform them of the filling of the temporary part-time Recycling Processor position that had recently been vacated. He stated that the position had been posted in-house with no applicants so it was then publicly advertised; there were 11 applications and five people were interviewed. He recommended the appointment of Chris Harshaw and requested Board approval of this recommendation.

Motion by Bounds, seconded by Waldahl, to approve the appointment of Chris Harshaw to the temporary, part-time (67%) Union Recycling Processor position at Grade 48, Step 1, \$10.15 per hr., start date of February 19, 2009, motion carried.

Sole Henriksen, County Recorder, came before the Board to request their approval of the computer software purchase called LandShark/LandLink from the Compliance Fund in the amount of \$12,083.62 with the remaining balance of the \$24,167.25 expense being paid through the Technology Fund, which did not require Board approval. She added that the Compliance Fund Committee had met and recommended approval of the payment.

Commissioner Waldahl added that the Committee had met and agreed that this was a good decision.

Motion by Waldahl, seconded by Bounds, to approve the recommendation of the County Recorder and the Compliance Fund Committee to pay \$12,083.62 for the purchase of computer software LandShark/LandLine from the Recorders Compliance Fund, motion carried.

The Board recessed at 12:32 p.m.

The Board reconvened at 1:00 p.m.

Joel Ullring, Highway Engineer, came before the Board and expressed his thanks to the Building Services Committee and to the Department Heads for their work in developing a plan addressing the current space issues the County was experiencing.

Also present were Building Services Committee members; Karen Nelson, Public Health Director, Paul Sailer, Social Services Director, Sean Uselman, Building Services Director, Scott Carpenter, Solid Waste Director, Mike Carr, Sheriff, Char West, Auditor/Treasurer, as well as Department Heads who's offices were proposed to be relocated; Deana Skov, Zoning/Parks Director, Jim Carlson, Regional Extension Director, Lee Brekke, County Assessor, Dave Anderson, Veteran's Service Officer and Kevin Stensrude, MIS Director.

Mr. Ullring stated that for many years there had been discussion of space utilization and currently this had been charged to the Building Services Committee, which was established a few years ago to address the needs and issues surrounding various County owned facilities. Mr. Ullring presented the Wadena County Short-Term Facility Capital Improvement Plan that had been developed by the Committee. He pointed out that the focus was on the Plan, at this time, and not on the cost. Mr. Ullring reviewed the issues that were known to exist;

- 1) There was a desire to make the law library more accessible to the public.
- 2) The Sheriff had safety, security and space related issues that he needed to resolve.
- 3) There was a security concern for the lower level of the Courthouse, the goal was to occupy it solely with law enforcement and court related offices. This would involve moving all non-law enforcement and court related offices out of the lower level of the Courthouse in addition to relocating the Auditorium meeting room.
- 4) There was a security concern of after hour use of the lower level Auditorium because the remainder of the Courthouse could not be secured or access limited.
- 5) The MIS Department had a very poor working environment.
- 6) There was a desire to better manage the County's motor vehicle fleet.

Mr. Ullring reviewed the Building Services Committees recommendations to the Board to address the issues, as outlined in the proposed Short-Term Facility Improvement Plan;

- 1) There was a plan to move the Law Library. This plan could be done at any time and the Committee viewed it to be independent of the other space needs discussed in this proposal. There was no impact on the other items so this had been set aside.
- 2) To facilitate the Sheriff in addressing safety and security issues and space needs it was recommended that the Probation Office be moved from their present location allowing the Sheriff's Administrative Offices to occupy the space.
- 3) It was proposed to keep the Probation office in the lower level of the Courthouse. To do this it would be necessary to move either Planning and Zoning or the Assessor's Office. The Committee believed the best option was to relocate the Planning and Zoning Department to the Highway Department building.
- 4) The Veteran's Officer was proposed to be moved to the County Work Force Center.
- 5) The changes proposed above did not provide for security of the lower level of the Courthouse. It was the Committee's opinion that this was not an immediate need, but that it should be discussed and included in a mid-term (3 to 5 year) facility improvement plan.
- 6) The MIS Department had very poor working conditions. It was necessary to remove the employees from the server room and provide them a better environment to perform their jobs. It was proposed to move the County Extension Office out of their current location to the Highway Department building and move the MIS offices to this space.
- 7) The items proposed above involved relocating two county office groups to the Highway Department building. The common opinion was that there was excess space within the Highway Department building. The fact was, although the space may not be utilized to its full potential, it was being used to house the materials testing lab, sign making and surveying supplies. The area was also used for full staff meetings including safety meetings. Therefore, there was not enough space to house the current Highway Department activities and the additional offices proposed. In order to make room for the

two work groups from the Courthouse, it would be necessary to move the Highway Department sign shop, materials testing lab and survey storage to make room. There was an opportunity to purchase the neighboring property and building (Qwest Building) directly north of the Highway Department. It was proposed for the Highway Department to purchase this building and move the materials testing laboratory, sign shop and survey storage to it.

- 8) The purchase of the Qwest building, as mentioned above, provided the future opportunity to develop a county motor pool, achieving the goal of better managing the County's vehicles. Additionally, the property provided space making possible the future installation of a vehicle and equipment fueling system.

Mr. Ulring stated that the presentation was from the standpoint of a plan for action; there were costs associated with it, but what he hoped to accomplish today was the establishment of a plan. He added that if the Board saw fit to approve the plan the Committee would then put costs down and return to the Board at the February 19th Board Meeting.

Chairman Schermerhorn requested questions from the Board starting with Commissioner Waldahl.

Commissioner Waldahl questioned what was meant by the proposal to relocate the Auditorium.

Commissioner Stearns added that he did not feel the Courthouse Auditorium could be relocated as it was a hardened building and paid for through Civil Defense Funds; in terms of catastrophes, that was the area that Home Land Security and the EMS Director take over. He stated that what was needed was a multi-purpose meeting room some place outside the Courthouse so at night the building could be locked down and no one could come into the building but through the Sheriff's office and sign in.

Commissioner Waldahl commented that he felt the County Commissioners Board Room should be down in the Auditorium as an all purpose Room; if there was a disaster the Sheriff and EMS Director could drop the lines down and it would already be set up. He added that the Courthouse was the place where the County Commissioners Room should be.

Chairman Schermerhorn stated that he felt meetings for 4-H, Extension, Township, etc. should be utilizing other areas in the community.

Mr. Ulring stated that part of the Committee's thoughts were that they realize some things could not be resolved that day.

Commissioner Waldahl stated that he thought there were some good ideas and Mr. Ulring needed to meet with the people that it was going to affect; the ones that would be moving needed to be contacted and meet. He added that the Quest Building sounded nice and he wished the County could own it, but there was a problem right now in spending the money; there was enough room right now with the buildings the County had to work with.

Chairman Schermerhorn pointed out that he felt that all agreed that the main purpose was to move the Sheriff's Department to a safe and secure location; the Board needed to step back and revisit what they were doing.

Mr. Ulring reported that the Committee had become aware, the previous Wednesday when they met, that Probation had not been contacted and that he had since discussed the proposal with the Todd Wadena Community Corrections Director.

Commissioner Bounds stated that he liked the proposal that Sheriff Carr and Ms. Skov had put together; Planning and Zoning should be kept in the Courthouse. He added that this was a good start, however, if the Board were to vote now, he would be in favor of what Sheriff Carr and Ms. Skov proposed. Commissioner Bounds pointed out that he realized MIS had a problem but he was not sure how to address it; there was a big Lobby in the front of the Courthouse; could a small section of that be used for offices.

Commissioner Miller stated that he agreed with Commissioner Waldahl on non-procurement of additional buildings and reacquire some of them that had been eliminated for use. He added that as far as security in the lower level, that was almost impossible without locking the outside doors. He stated that he had talked with Mr. Gibson in reference to having an office in the main lobby, as Commissioner Bounds had talked about; it was rather nice to walk into the main lobby and see the pillars, so to speak, but that was not necessary when money and space were an issue.

Commissioner Stearns questioned Commissioner Miller as to what he was referring to when he stated "reacquire existing space" and "offices."

Commissioner Miller responded that he was referring to the Verndale garage and that MIS had a poor working environment; he had met with Mr. Gibson, Commissioner Bounds and the MIS Director and discussed the space in the main lobby and to leave the equipment where it was.

Commissioner Stearns stated that was not a bad idea but it would have to be run by an architect as the area was considered an assembly area for a fire escape; the number of people in the offices determines the size of an assembly area needed for fire escape, so there probably was a reason why that area was as big as it was. He pointed out that the Board had discussed this for 6 years now, had done some things and had look at different things. Commissioner Stearns added that the Board had talked about the booking area at the jail and moving Sheriff Carr out of his office into the Probation Office, which made sense.

Mike Carr, Sheriff, pointed out that the booking area would not move but eventually he would like to move the visitation area offices into the Probation area. He pointed out that the offices that would possibly be moved into the Probation Office would be the Chief Deputy, Administrative Assistant, Secretary, Jail Administrator and his office.

Commissioner Waldahl stated this was a good start and when the group met again he would like to present some ideas to consider: move the Assessor out to Highway, Extension to Highway, Veteran's Administration to Social Services, Commissioners Room to Auditorium, EMS

Director to Probation, Planning and Zoning to the Commissioners Room or Extension Office, MIS to the office not taken by Zoning, County Attorney to Assessor and Probation to Planning and Zoning. He further commented that, if he figured right, there would be one extra room which could be used for storage of files that needed to be at the Courthouse, however, the rest of the files needed to go to the Wensman Building, as it was all environmentally controlled.

Commissioner Bounds stated that he preferred Sheriff Carr's and Ms. Skov's way that the Assessors and Planning and Zoning should stay here.

Kevin Stensrude, MIS Director, stated that the driving factor appeared to be driven by the Sheriff Office involving security and space; that with the concept of being able to support security in the lower level we don't need to go with the thought that all non-law enforcement had to be eliminated.

Commissioner Miller reiterated his supported of Ms. Skov and Sheriff Carr's ideas and incorporate Mr. Stensrude's in with that.

Ms. Skov commented that she supported Commissioner Wahldahl's idea of moving the Board as far as utilizing the Auditorium.

Commissioner Bounds responded that he would not like to give up the Commissioner's Room as it was needed for an overflow room, but he did not care if the Board met in the Auditorium.

Mr. Ullring stated that the Committee tried to take in the needs and concerns of each Department. He pointed out that Ms. Skov had some concerns about moving to the Highway Department but the Assessors Office probably had less ties with Highway than Planning and Zoning did; traffic back and forth between the buildings were already made to the Courthouse daily.

Ms. Skov commented that she felt all options needed to be looked at but her office did not need a courier service to bring things back and forth; but they did deal with person to person activity.

Chairman Schermerhorn stated that we all need to go back and look at all ideas and in all fairness to Sheriff Carr, Mr. Ullring and everyone, we need to move forward.

Commissioner Waldahl suggested Department Heads meet every week to work on the proposal; two meetings could take place before the next Board Meeting so then the Board would know what the next step was. He stated that if this were the case, was it necessary to recess to the Highway Dept and look at the Quest Building.

Chairman Schermerhorn commented that the Board did not seem to feel it was necessary.

Commissioner Stearns stated that Commissioners Waldahl, Schermerhorn and he had listened to the architect several times and had a lot of information that perhaps Commissioners Bounds and Miller did not have but may want. He added that he was more than willing to bring the architect over for their questions.

Commissioner Bounds stated that it would be years down the road before the County got back on its feet to be able to afford architects and engineers.

Mr. Sailer stated that it would be helpful if the Board provided a clear direction; whether they wanted the Department Heads to look at additional buildings that do not belong to the County; was it their preference that any Department that had to be moved because of the Sheriff's space, be kept in the Courthouse or Highway Building or the Workforce Center; provide a dollar amount to stay under.

Chairman Schermerhorn stated that the dollar amount should not even enter into it at this point.

Commissioner Stearns commented he did not feel the Wensman Building was off limits; the County had a Building Fund with some funds in it and it could be used in this fashion; it was dedicated for buildings, lands, remodeling and repair. He added that a portion of the Workforce Center was leased by Minnesota CEP (MNCEP) from the County; MNCEP contracts with the County Social Services Department to carry out the ENFEP and the DWP Minnesota Family Investment Plan and the Diversionary Work Program; the County paid MNCEP \$275,000 a year to carry out those programs; if the County did not pay that each year it would have to provide our own Social Workers and supervisory employees to carry out these programs, which would cost the County more. Commissioner Stearns stated that the County could not kick MNCEP offices out.

Commissioner Waldahl stated that the plan was not to remove anyone from the Work Force Building, there were two offices available not being used.

Chairman Schermerhorn questioned whether there was any further discussion on the topic and if not he thanked those in attendance for their presentation.

Motion by Waldahl, seconded by Stearns, to approve the payment of \$36,170.00 to the Wadena Soil & Water Conservation District for their first half 2009 allocation,

Commissioner Miller questioned what the allocation was for and could the Board reduce it.

Chairman Schermerhorn pointed out that it was approved in the budget and questioned whether it could be reduced. He questioned Commissioner Miller as to the amount he would propose to cut it to.

Commissioner Miller responded that he felt some things were going to have to be cut and was not sure if it was going to be so much for this area or that area or across the board.

Commissioner Waldahl questioned whether Commissioner Miller would feel more comfortable by tabling action until it was know how much the State was going to cut.

Commissioner Stearns stated that he felt by only paying the first half allocation the Board would then have an opportunity to cut the second half allocation. He pointed out that the Soil and

Water Board did not have levy authority so they relied on the County to do their levying.

Discussion was held as to whether “Maintenance of Effort” would affect the payment; it was pointed out that the Water Plan allocation of \$1,170 and the Wetland Conservation Act allocation of \$2,500 were required by the State as well as the possibility of the allocation being tied to a match of state and/or federal grants.

Commissioner Waldahl withdrew his motion and Commissioner Stearns withdrew his second.

Chairman Schermerhorn tabled Board action on the 2009 allocation request from Wadena Soil & Water Conservation District until the February 19, 2009 Board meeting, as which time Malinda Dexter, Soil & Water Conservation District Director, would be asked to come before the Board to explain their budget.

Board Consensus was to nominate Commissioner Bill Stearns to fill the MN Counties Insurance Trust Board mid-term vacancy.

Motion by Stearns, seconded by Waldahl, to authorize the Chairman of the Board and the Auditor/Treasurer to sign the 2009 State of Minnesota Annual Boat and Water Safety Grant Agreement in the amount of \$4,875.00, motion carried.

The Board set a Board Agenda deadline of Thursday noon prior to the Regular Tuesday Board Meeting and Monday noon prior to the Thursday Adjourned Board Meeting; emergency items, as well as the Board’s addition of agenda items at the beginning of a Board Meeting, would still be added to the Agenda.

Ms. West distributed a handout from the Association of MN Counties outlining the Governor’s proposed unallocation of County Program Aid for pay 2009 and 2010.

Ms. West reminded the Board that she had been requested to contact the State Auditor regarding Commissioner Bounds’ suggestion of having the Board of Commissioner Bills audited by one Commissioner for the purpose of saving time during a Board Meeting. Ms. West read an e-mail from the State Auditor’s Office referring to MN Statutes 375.18, 471.38 and 384.13 stating that the county board as a whole was responsible for auditing and approving the claims and that it appeared that any procedure used by the Board should make sure that all of the itemized support documentation was available to each board member.

The Board felt it was best to continue with the current practice of reviewing all the bills during a Board Meeting.

Ms. West also presented the Board with the County Attorney’s legal opinion on the use of “Other” as a County Board Agenda item, as requested; if something or someone wanted to be on the agenda, they had to be specific about what it concerned, that was the reason for the agenda and the notice requirements, notice and opportunity to be heard; a specific topic had to directed to the County Board.

Commissioner Bounds stated that he had also talked to the County Attorney who indicated the same response to him, but anything that did not pertain to an agenda item could be listed as “Other”. He provided several examples stating that his intent was for the purpose of reporting not something to be acted on. He recommended that the County Attorney be questioned again on her opinion.

Commissioners Waldahl and Commissioner Stearns stated that discussion such as this was currently being done under “Commissioner Reports”.

Commissioner Bounds responded that he was not aware of “Commissioner Reports” being an area where such items could be discussed and stated that this was fine.

Commissioners Reports:

Commissioner Waldahl; CHAMPS – planning for spring town hall meetings; Chemical Health and Drug Free Community Grant – recognition of businesses passing the alcohol compliance check; Regional Radio Board – most counties discussing the ARMER System - discussion on use of E-911 funds to purchase equipment - Public Safety Grant Resolution; West Central Regional Juvenile Center Meeting –deficit payment; Emergency Management Systems Meeting – needed further information; Todd Wadena Community Corrections Meeting-Director was reducing their budget which would be savings to Wadena County of approximately \$16,000 - out-of-home placement.

Commissioner Bounds; Otter Tail Wadena Community Action Council – received background on Organization.

Chairman Schermerhorn; no report as attended same meetings as Commissioner Waldahl.

Commissioner Miller; Otter Tail Wadena Community Action Council - availability of additional funds for fuel assistance and 7 houses for sale; Building Services Committee Meeting – everything discussed during the current Board Meeting ;Economic Development Association Meeting in Verndale – attended knowing County garage was on agenda; did not attend as representative of County Board but as a concerned citizens of District 2. EDA was waiting to see what the County Board did and considerable interest in reestablishing facility as a County Highway garage.

Commissioner Stearns; Perham Resource Recovery Facility – explained loss in revenue due to reduction of gas prices - \$300,000 to \$400,000 loss in revenue – Wadena County’s estimated share was 19% or \$76,000-probably adequate cash reserves to pay for the entire deficit in one year and then increase tipping fee or counties decide if want to absorb and pay through Solid Waste assessment – repairs of the facility – development of Joint Powers Agreement; South Country Health Alliance Meeting-received background information on the organization, will take several months to know financial condition of SCHA; AMC Counties Future Task Force Committee-had been requested to be on Committee by AMC Board Chair – no expense to Wadena County.

Motion by Bounds, seconded by Stearns, to approve payment of the Board of Commissioner bills in the amount of \$50,595.78, motion carried.

Motion by Miller, seconded by Stearns, to adjourn the Board of Commissioner Meeting at 2:55 p.m., motion carried.

Charleen West, Auditor/Treasurer

Dave Schermerhorn, Chairman