

WADENA COUNTY BOARD OF COMMISSIONERS MEETING
AUGUST 3, 2010, 9:00 A.M.

The Wadena County Board of Commissioners Meeting was held on Tuesday, August 3, 2010, 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 William Stearns and the pledge of allegiance to the flag was said.

Present: Commissioners Dave Schermerhorn, Rodney Bounds, Ralph Miller, and Auditor/Treasurer Char West. Absent: Commissioner Lane Waldahl

Agenda: Motion by Miller, seconded by Bounds, to amend the day's Agenda to table d.) Non-Sufficient Funds Policy, motion carried unanimously.

Minutes: Motion by Miller, seconded by Schermerhorn, to approve the Emergency Board of Commissioners Meeting Minutes of June 18, 2010, Special Board of Commissioners Meeting Minutes of June 21, 2010, Emergency Board of Commissioners Meeting Minutes of June 21, 2010, Emergency Board of Commissioners Meeting Minutes of June 25, 2010, Board of Commissioners Meeting Minutes of July 6, 2010 and Emergency Board of Commissioners Minutes of July 9, 2010, as sent motion carried.

Commissioners Reports:

Commissioner Schermerhorn: Region 5 Development Commission Recognition in Leader.

Commissioner Miller: Old Wadena Society - Rendezvous scheduled for August 14 & 15, 2010; Wadena County Fair – read two letters he had received indicating appreciation for all the efforts from all who worked to make the Fair what it was.

Commissioner Stearns: Perham Resource Recovery Center – Wadena County invoice in the amount of \$24,260 to Prairie Lakes Municipal Solid Waste Authority and information relating to the bonding for the expansion project; Highway Department Committee Meeting; Solid Waste Committee Meeting – Wadena County, City of Wadena and Otter Tail County met with FEMA regarding the County Debris Management Site at the Airport, FEMA raised concerns about mixing all the debris which would have to be separated between private and public beginning August 13, 2010, charge will be \$8.60 per yd. for private property storm related debris hauled by a construction contractor, no charge if personally hauled.

Commissioner Bounds: Complimented and expressed thanks to the Fair Board on their work as well as Sentence To Serve, and the Review Messenger for their promotion.

Commissioner Schermerhorn: thanked the Commissioners for changing the 4-H Extension Coordinator from one-half time to three-fourths time. On behalf of the Extension Committee, he had presented the Farm Family of the Year Award to Dennis and Nancy Benson of Nimrod.

Commissioner Stearns: received an invitation from the Department of Affairs to attend a re-naming ceremony for Community Based Out Patient Clinic in Alexandria; West Central Regional Treatment of Corrections Center letter and a check for \$201.92 thanking the County for participation in the 11-County State of the Art Facility raising \$65,000, the check received was an apportioned amount to participants of the unused balance.

Wadena Soil & Water Conservation District: Kari Tomperi, Local Water Management Plan Coordinator, came before the Board to request their approval of a Resolution that would initiate the updating of the Wadena Comprehensive Water Management Plan that was required every five years. She pointed out several grants received by the SWCD as a result of the Local Water Management Plan; the Water Plan was not mandated but when seeking grants they were asked if an approved Water Plan was in place. Ms. Tomperi invited Commissioner Miller, Water Plan County representative, to attend the Crow Wing River Water Shed Education Meeting on August 25th in Bemidji that would be presented by an Extension Education.

Motion by Schermerhorn, seconded by Miller, to approve the following Resolution:

**Resolution to Update the Wadena
Comprehensive Water Management Plan**

WHEREAS, Minnesota Statutes, Chapter 103B.301, Comprehensive Local Water Management Act, authorizes Minnesota Counties to develop and implement a local water management plan, and

WHEREAS, the Act requires that a county update and revise their local water management plan on a periodic basis, and

WHEREAS, the Act encourages that a county coordinate its planning with contiguous counties, and solicit input from local governmental units and state review agencies, and

WHEREAS, the Act requires that plans and official controls of other local governmental units be consistent with the local water management plan, and

WHEREAS, Wadena County has determined that the revision and continued implementation of a local water management plan will help promote the health and welfare of the citizens of Wadena County, and

NOW, THEREFORE, BE IT RESOLVED, that the Wadena County Board of Commissioners resolve to revise and update its current local water management plan.

BE IT FURTHER RESOLVED that Wadena County will coordinate its efforts in the revision and update of its plan with all local units of government within the county, and the state review agencies; and will incorporate, where appropriate, any existing plans and rules which have been developed and adopted by watershed districts having jurisdiction wholly or partly within Wadena County into its local water management plan.

BE IT FURTHER RESOLVED that the Wadena County Board of Commissioners authorizes the establishment of a Water Management Task Force with the responsibility of revising and updating the plan and who shall report to the County Board on a periodic basis.

Be It Further Resolved that the Wadena County Board of Commissioners delegates the Water Soil and Water Conservation District the responsibility of coordinating, assembling, writing and implementing the revised local water management plan pursuant to M.S. 103B.301.

Adopted this 3rd day of August, 2010.

Attest: _____
Charleen West, Auditor/Treasurer William Stearns, Chairperson

Motion carried.

Ms. Tomperi questioned whether the Board had suggestions to increase the SWCD's service to the County.

Discussion was held relating to SWCD's assistance in dealing with the water problems on the Fairgrounds grounds.

Ms. Tomperi responded that she had previously discussed the water problem with them and would be available for further discussion. She referred to a water contamination problem in Wadena Township.

Discussion was held regarding the water contamination issue.

Karen Nelson, Public Health Director, was in attendance and provided additional information regarding the issue.

Public Health Department: Karen Nelson, Public Health Director, came before the Board for approval of an increase in hours for Public Health Nurse Erica Keppers.

Motion by Schermerhorn, seconded by Bounds, to authorize a 20% temporary increase in employment for Erica Keppers, PHN from 80% to 100% effective September 1, 2010 to June 30, 2011 at her current PHN Grade and Step to be paid by the 3-County Board of Health SHIP grant, motion carried.

Ms. Nelson and Char West, Auditor/Treasurer, informed the Board of the need for a cash advance from the General Revenue Fund to the Public Health Fund due to cash flow shortage as a result of a large Public Health grant that was funded on a reimbursement basis.

Motion by Schermerhorn, seconded by Miller, to approve the cash advance of \$100,000 from the General Revenue Fund to the Public Health Fund for cash flow purposes as of August 3, 2010, motion carried unanimously.

Solid Waste Department: Mike Hanan, Solid Waste Director, and Tammy Ehrmantraut, Transfer Station Lead Supervisor, came before the Board.

Mr. Hanan informed the Board that a meeting had been held with FEMA, Wadena County, City of Wadena and Otter Tail County regarding the Debris Management Site. He pointed out that as a result of the meeting there would be changes in the operation of the Site; contractor hauled loads would need to be identified and charged but there would be no change in personally hauled loads by residents, tree debris or scrap metal.

Discussion was held regarding contractors request to have the Debris Management Site open earlier.

Mr. Hanan responded that he was hesitant in doing this as the increase of one hour per day would cause overtime for the five employees at the Site. He pointed out the Site was open until 6:00 p.m. for the residents that were working.

Board discussion was held as to possible funding of overtime at the Debris Management Site.

The Board was in agreement to authorize Mr. Hanan to make the decision on the hours of operation for the Debris Management Site.

Mr. Hanan recommended that the Debris Management Site remain open until October 2, 2010. He added that, if the Board felt comfortable, he would distribute a draft Request For Proposals in one week.

Motion by Miller, seconded by Bounds, to authorize the Wadena County Debris Management Site be in operation through October 2nd, 2010, motion carried.

Mr. Hanan recommended that a credit application be used when setting up new accounts with contracts as some of them were not local contractors.

Motion by Schermerhorn, seconded by Bounds, to approve the use of a Credit Application after August 12, 2010, for Contractors charging for the hauling of debris to the Debris Management Site, motion carried.

Mr. Hanan reviewed a letter received from the MPCA requesting that Wadena County continue moving forward on the removal of the Debris Management Site and returning the Site to it's original condition. He pointed out that the process had been initiated.

Chairman Stearns recessed the Board of Commissioners Meeting at 10:00 a.m.

Chairman Stearns reconvened the Board of Commissioners Meeting at 10:30 a.m.

Board Bills: Motion by Bounds, seconded by Schermerhorn, to approve payment of the Board of Commissioners bills in the amount of \$225,365.51, motion carried unanimously.

Highway Department: Ryan Odden, Highway Engineer, Sole Henriksen, County Recorder, and Jeff Adolphson, Assistant Highway Engineer, came before the Board.

Mr. Odden informed the Board that the Highway Department had been considering the purchase of GPS survey equipment; staff needed to currently conduct a survey would reduce from two staff to one staff. He pointed out that the Highway Department, as well as the Recorder, would like to purchase this GPS Office as there was a need for the corner section work to be done.

Ms. Henriksen, County Recorder, informed the Board that she had sufficient funds available in the Recorder's Technology Fund and that she could pay for the entire purchase price of \$52,082.50 for the GPS survey equipment.

Discussion was held regarding the benefit of the new GPS survey equipment.

Mr. Odden commented that he and the County Recorder were requesting Board authorization to purchase the GPS survey equipment from Frontier Precision, which was a state contract. He added that he used this system in Todd County and Hubbard County also used a similar system; contractors were moving towards stake less grading with GPS equipment, which would reflect a cost savings.

Motion by Miller, seconded by Bounds, to authorize the purchase of Highway Department GPS Survey Equipment from Frontier Precision, state contract, in the amount of \$52,082.50, to be paid for from the Recorder's Technology fund, motion carried unanimously.

Mr. Odden informed the Board that his part-time seasonal summer help would be returning to school. He requested Board approval to hire additional seasonal staff to assist in catching up with the summer work that was delayed due to the disaster clean-up work that the Department conducted. The new seasonal employee would be hired for 67 days, it was within the Highway Department budget and they would contact individuals off of the current Highway Department hiring list.

Motion by Schermerhorn, seconded by Bounds, to authorize the hiring of one Highway temporary seasonal employee at \$10.00 per hr., motion carried unanimously.

Appointment of Commissioners/Primary Canvas Board: Chairman Stearns appointed Commissioner Miller and Commissioner Bounds to serve on the Primary and General Election Canvassing Board.

Zoning/Parks Department: Deana Skov, Zoning/Parks Director, informed the Board that Todd-Wadena Electric Coop had provided a \$600 grant to replace fencing at Cottingham Park. She added that the Parks Department also received a 75% grant from the Board of Soil and Water Resources to complete several erosion control projects in the parks; the total cost of the project was \$3,952.00 and \$625.85 of the cost would be paid by the County, which was in the Parks Department budget.

Motion by Miller, seconded by Schermerhorn, to accept the July 15, 2010, Planning Commission and Public Hearing Minutes, motion carried unanimously.

Ms. Skov presented the Board with a Resolution approving a Conditional Use Permit Application submitted by Jeffrey and Teresa DeGeest to operate an in-home day care business located in Thomastown Township; the Application had been approved by the Planning Commission. She read the Resolution aloud.

Chairman Stearns questioned whether anyone in the Audience was opposed to the Permit. No response. Chairman Stearns questioned whether anyone in the Audience any in favor of the Permit. No response. Chairman Stearns questioned whether any correspondence had been received relating to the Permit.

Ms. Skov responded that no correspondence had been received..

RESOLUTION

Commissioner Miller moved that the following Resolution be adopted:

RESOLVED: That the County Board approves issuance of the following Conditional Use Permit:

Jeffrey & Teresa DeGeest application for Conditional Use Permit to permit operating an in-home day care business in their residence with the following findings of fact:

1. The requested use will not create an unreasonable excessive burden on the existing roads or other utilities;
2. The requested use is compatible with the surrounding area and will not significantly depreciate nearby properties;
3. The structure and the use shall have an appearance that will not have an unreasonable adverse effect on nearby properties and the property since there won't be any change in the structure;
4. The requested use is reasonably related to the existing land use and environment;
5. The request is consistent with the Wadena County Land Use Control Ordinance;
6. The request will not conflict with the Wadena County Comprehensive Plan;
7. The requested use should not create an unreasonably adverse affect because of noise, odor, glare, or general unsightliness for nearby property owners because there was no one in the audience regarding it or correspondence received.

on property described as: Part of the NW1/4 Section 24, Township 134, Range 33, Thomastown Township located in an A-3 General Agriculture District.

Commissioner Schermerhorn seconded the motion and the same carried unanimously.

Adopted this 3rd day of August, 2010.

Attest: _____
Charleen West, Auditor/Treasurer

William Stearns, Chairperson

Ms. Skov informed the Board that a second Conditional Use Permit Application had been presented to the Planning Commission from Russell and Susan Nystrom; Mr. Nystrom was in attendance as well as representatives from the energy company who were assisting him with the project. She pointed out that the Conditional Use Permit Application was for a 1.65 mega watt wind energy conversion system which was a small wind energy conversion system with an associated 262 foot tower. Ms. Skov read the Resolution to the Board. She pointed out that the Planning Commission recommended approval of the Application and that several people were in attendance of the Hearing.

Commissioner Stearns questioned whether there had been any correspondence relating to the Application since the Planning Commission meeting – no written correspondence.

Commissioner Stearns questioned whether there was anyone in the room in favor of this conditional use permit.

Russell Nystrom introduced himself as the landowner requesting the Conditional Use Permit.

Bob Christenson, Director of Operations of Private Energy Systems, commented that he had been hired by Mr. Nystrom to assist with the Project.

Mark Thyron, Co-Owner of Private Energy Systems, commented that he was the general contractor for the Project.

Mr. Nystrom informed the Board that he had owned the property for seven years with the intent to live there in the future. He pointed out that he felt it would be a good thing for the community as it would bring new dollars to the area due to the materials that would have to be purchased for the Project.

Mr. Christenson informed the Board that it was his responsibility to conduct a site evaluation and assessment as well as review applicable County ordinances. He pointed out that he had reviewed all of the Wadena County Wind Energy Conversion System Ordinance and reviewed the specific requirements and Mr. Nystrom's property for a site complied with all of the requirements. Mr. Christenson reviewed information indicating the setbacks from property lines, road right-of-ways and residents; pointing out that they far exceeded the requirements.

Mr. Thyron informed the Board that they see this as an individual turbine; this would not become a wind farm. He pointed out that it had the potential of providing electricity for 350 homes in the Wadena area which was a definite benefit for the area.

Commissioner Stearns questioned whether the electricity went on the grid and if so, who was it sold to.

Mr. Christenson responded that this was part of negotiations; the power purchase agreement would be with Todd-Wadena Electric, Great River Energy, or possibly MN Power.

Tim Pavek, Todd-Wadena Electric Coop Service Manager, informed the Board that the Coop would either issue a letter of intent or look at the value of this venture, not only on the grid, but to purchase power. He pointed out that the State mandated that all generation facilities have 25% renewable energy by the year 2025 and that the Coop's wind energy purchases had subsidized a little based on price and need.

Commissioner Miller commented that he had contacted Mr. Pavek to obtain insight on how the power generated from this device would be distributed, the contracts and all that would have to be in place. He added that he had also invited County Assessor Lee Brekke to provide information on the tax ramifications, if any, relating to the project. Commissioner Miller commented that some of the equipment on his land had been classified, which brought up the valuation of his property and his understand from Mr. Brekke was that this particular project was tax exempt for the addition of this piece of equipment on this piece of property.

Mr. Brekke informed the Board that this equipment was not valued but it would have to pay tax on the power generated, which was done through the State of Minnesota. He pointed out that the County Board actually had the option to decide to value the land like the rest of the land around it; the counties he had contacted indicated that they were valuating the land the same as the surrounding land. Mr. Brekke added that the Board would need to approve a resolution to value the land this way, which should be look at.

Further discussion was held comparing the valuation of a wind tower versus an irrigation system.

Commissioner Stearns question whether there was anyone in attendance opposed to the Conditional Use Permit Application.

Chuck Davis informed the Board that he resided across the street from where the turbine was proposed to be place. He referred to the Wadena County Wind Conversion System Ordinance, section 18.b1 which referred to small wind energy conversion systems with towers under 60 feet and producing less than 40 kilowatts; and 18.c1 that described larger systems over 60 feet and over 40 kilowatts. He commented that the Ordinance referred to all of them as "SWCS", and his question was whether the first "S" stood for small; if that was the case they were all classified as small towers.

Ms. Skov responded that they were all small wind energy conversation systems; the County chose to regulate small wind energy conversation systems as the State of Minnesota, by statute; anything under 5 megawatts were considered small wind energy conversion systems, the statutes do not apply to those, so the County took those on to regulate. She pointed out that anything larger than 5 megawatts the State of Minnesota would regulate.

Mr. Davis commented that section 18.c2 of the Ordinance referred to 20 requirements that had to be attached to the application but it did not list those requirements; section 18.c2i of the Ordinance required that a contract with a power company that was purchasing the power generated accompany the application. He pointed out that the application did not include this and was not complete as outlined in the County ordinance. Mr. Davis commented that section

18.d1a referred to decommissioning and indicated that \$3,000 be held by the County in escrow to cover the cost of decommissioning; in California right now they were looking at removing some abandoned wind turbines at a cost of \$150,000 to \$200,000 each to be paid for by the county. He recommended that the County require a bond of at least \$250,000 to cover decommissioning expenses. He referred to Ordinance provisions relating to setback from residences of 750 feet and referenced an article written by a diagnostic radiologist who recommended that any turbine of more than 1.5 megawatts should be at least 7,000 feet from homes due to health ramifications. Mr. Davis commented that he recommended the County deny the Application on the grounds that their application was not complete and that this was not in the best interest of the residents of Wadena County; the County look at rewriting their Ordinance to protect the people they were elected to serve; to increase the \$3,000 escrow to a bond of at least \$250,000 for the removal of the abandoned system and to be proactive with the setbacks and keep a safe distance to homes of at least 7,000 feet.

Lorinda Davis, 17048 150th St., informed the Board that they had considered installing a wind turbine themselves but found that it was not feasible nor did it reduce the use of electricity as it was not a constant energy source. She referred to information relating to the Golden Eagle and Bald Eagle Protection Act, indicating that wind towers may cause a violation of this Act. Ms. Davis referred to the Conditional Use Permit resolution that stated that it would not create an unreasonably adverse affect due to noise, order, glare or general unsightliness for nearby property owners; she pointed out that it was a 200 foot tower with 400 foot blades that cause low frequency noise that could change your heart rhythm and affect your internal organs. She also pointed out that in California the abandoned wind towers could not even be sold for scrap metal.

Commissioner Miller commented that he lived approximately one mile from the proposed wind tower; he did not feel the noise would bother him. He added that he felt there were so many questions that deserve more scrutiny. Commissioner Miller commented that it would take approximately 150 semi trucks to haul the tower in; he did not believe it would damage the roads other than where the axels turn off the delivery sight.

Mr. Christenson responded that a permit would be obtained through the County Highway Coordinator and the road plan for transportation was very meticulously planned out as far as what bridges were crossed or underpasses they had to go under. He reviewed the details of a road plan for transportation of the tower.

Keith Radniecki commented that he was a neighbor of the Davis's, lived within 1,200 feet of the proposed tower and felt more information was needed. He pointed out that he had purchased his home for quietness and privacy; other turbines were noisy and something he did not need to listen to. Mr. Radniecki indicated that he was concerned about the sale of his property as buyers would not like the noise.

Discussion was held relating to the Wadena County Comprehensive Plan.

Chairman Stearns questioned whether the Ordinances was the document that stated that a contract must be attached to the request.

Ms. Skov responded that the Ordinance required that evidence of a power purchase contract and power transmission contract or documentation that the power would be utilized on site, be attached. A letter from Todd-Wadena Electric Coop was received that indicated what they would pay; it did not specifically state that they would purchase the power as there had been no approval of that, but they provided evidence to us that they had been in contact with the power company that would be involved and we allowed that.

Chairman Stearns commented that decommissioning would occur at the end of the project life. He questioned how long the project life was.

Mr. Christenson responded that the project life was approximately 25 years. He added that everything that was visible would be removed and the standard was up to 4 feet below ground would also be removed; everything else would be buried and graded with the surrounding area.

Commissioner Bounds questioned if County Ordinance allowed leaving the cement; that may be industry standard but I don't believe Wadena County Ordinance authorizes the burying of cement.

Ms. Skov responded that this was not addressed in the Zoning Ordinance but would be part of the Solid Waste Ordinance; she did not believe, at this point, it was addressed in the Solid Waste Ordinance. She added that it would have to be look at and MN Pollution Control Agencies rules may be different. Ms. Skov reviewed Permit by Rule guidelines.

Commissioner Miller questioned what the guidelines were for airport clearance.

Mr. Christenson responded that there was an FAA form they would fill out to document the proposed site which would be submitted to the FAA. He added that if a tower was located 10 miles away from an airport there usually were no restrictions; if it was located closer than that there were various height vs. distance; the FAA did not necessarily disapprove, but did update their documents to reflect this.

Commissioner Miller commented that in the materials he was provided there was a private airport within 1.2 miles of the tower site.

Mr. Christenson responded that he would check into the FAA requirements relating to this. He commented that he would like to point out to the Commissioners that this was the first step in a process of developing this project and there were other questions that they did not know the answers to. Mr. Christenson added that the power purchase agreement was kind of a chicken and egg thing; if all of the answers were known and then came to the County for a permit only to find out that they couldn't obtain a permit, then all the effort was wasted. He reviewed the process used in determining the location of the wind tower on Mr. Nystrom's property.

Commissioner Miller commented that if the Board approved this Project that day then it would be out of the hands of Wadena County.

Mr. Christenson responded that they would have to obtain a land use, zoning permit or construction permit; there was another review to answer those questions.

Ms. Skov referred the Board to the Planning Commission Meeting minutes and a statement made at that Meeting; they would apply for Conditional Use Permit approval first, then they would follow all of the steps to have the Purchase Agreement in place, the FAA approval and all the other approvals that they need, that cost a considerable amount of money; to spend all of the money to come to the County and the County say 'no', we do not feel this would be a reasonable use of property.

Commissioner Stearns stated that discussion would now be limited to the Board.

Commissioner Schermerhorn commented that he had mixed emotions and had to agree with Commissioner Miller in that he had read most of the package from Ms. Davis but a person had to be careful of keeping facts as facts and opinions as opinions.

Commissioner Bounds commented that he was not convinced; that he served on the Planning Commission Board and that Board only addressed the small 60 foot/100 foot blade; the Board never address the larger wind towers and felt they would not know anything about what the Board was looking at. He added that he did not feel that the Board really knew the potential of this wind tower.

Ms. Skov pointed out that this wind tower was "small" by definition in County Ordinance.

Commissioner Bounds further commented that he did not feel the tower was small; the Board needed to look at what the County wanted and that he disagreed with their site as it was by a river and by the woods.

Chairman Stearns pointed out that the Application was dated June 29, 2010 and that there were 60 days to either approve or deny the Application. He questioned the Board as to whether it would be prudent to have the County Attorney review this matter in terms of the County's position in the Ordinance and what options were available to the Board; the pros and cons of whatever our action may be and what future litigation could result from this. Chairman Stearns pointed out that the next County Board Meeting would be held on August 19, 2010 which would be within the 60-day time period.

Discussion was held relating to the pros and cons of tabling action on the Conditional Use Permit Application.

Ms. Skov responded that she was in agreement with Chairman Stearn's suggestion. She added that she and Commissioner Bounds, as Liaison and a member of the Planning Commission, could meet with the County Attorney to discuss the matter.

Chairman Stearns recommended that they assure that the County Attorney would be available during the August 19, 2010 Board Meeting. He requested a Board motion tabling action on the Conditional Use Permit.

Further discussion was held relating to whether there was a need to table action on the Conditional Use Permit Application.

Motion by Miller, seconded by Schermerhorn, to table Board action on the Conditional Use Permit Application submitted by Russell and Susan Nystrom until August 19, 2010 at 11:00 a.m. for the purpose of providing time for the Zoning/Parks Director and Commissioner Bounds to meet with the County Attorney to review the matter,

Ms. Skov commented that during the Board's discussion it was mentioned that the Ordinance could be changed; she pointed out that the Ordinance should not be change in mid-application.

Motion carried.

Mr. Christenson commented that Commissioner Miller had referred to facts; he requested that they receive a list of the facts being referred to so they could return with some answers to those facts.

Commissioner Miller responded that he would not relinquish his copy, however, they were from the National Windwatch website.

Chairman Stearns informed the Board that he would be limiting discussion on August 19, 2010 to the Board as well as the County Attorney's opinion; testimony had been received.

Chairman Stearns adjourned the Board of Commissioners Meeting at 12:04 p.m.

Charleen West, Auditor/Treasurer

William Stearns, Chairman