

ADJOURNED MEETING OF THE COUNTY BOARD
March 17, 2009

The Board of County Commissioners of Freeborn County met in the Freeborn County Boardroom at 8:30 a.m. on Tuesday, March 17, 2009. Members present: Shoff, Mathiason, Nelson, Belshan and Tuttle.

Commissioner Tuttle offered the following motion:

MOVED, approve the minutes from the March 3, 2009 regular board meeting.

Motion seconded by Commissioner Belshan.

After discussion, a vote was taken and the Chair declared the motion unanimously approved.

Commissioners reported on Board Committee meetings they attended.

During the public forum: Warren Jensen discussed the following items; Freeborn County employee wage freeze, employee recognition policy adopted at a previous meeting.

The Chairman opened the public hearing. Dennis Distad, Auditor-Treasurer introduced and gave an overview of the process and recommendation on County Ditch #4. No one addressed the Board as a proponent, opponent, or neutral party to the proposed changes. The Chairman closed the public hearing.

Dennis Distad, Auditor-Treasurer introduced and gave an overview of the process and recommendation on County Ditch #76. No one addressed the Board as a proponent, opponent, or neutral party to the proposed changes. The Chairman closed the public hearing.

Richard Hoffman, from the Environmental Services introduced and gave an overview of the changes to Ordinance #16 Sewage Treatment System Ordinance. No one addressed the Board as a proponent, opponent, or neutral party to the proposed changes. The Chairman closed the public hearing.

Public forum continued with the following people addressing the Board;

Brian Bashan: asked if the board wanted to consider Mr. Jensen's' issue in regards to wages, land issues in regards to the bridge and dam on County Road # , is the Freeborn County Engineer moving forward with the process of repairing the bridge and the summary of minutes doesn't' give enough information on what is discussed,

Ken Varland: DNR representative addressed the drawdown on Bear Lake and the need to update the bridge on the lake.

Winston Baser – Bear Lake issue, against drawdown, needs more communication with the DNR and landowners.

Don Yost – Bear Lake issue, against drawdown.

Scott Murphy – Nunda Chairman, in favor of the DNR managing Bear Lake as a public entity not a private entity.

Commissioner Belshan offered the following motion;

COUNTY OF FREEBORN

STATE OF MINNESOTA
BEFORE THE BOARD OF
COUNTY COMMISSIONERS OF
FREEBORN COUNTY, MINNESOTA

In the Matter of the Redetermination
of Benefits of County Ditch No. 4,
Freeborn County, Minnesota.

ORDER REDETERMINING BENEFITS AND DAMAGES

The above matter came on for hearing by the Board of Commissioners of Freeborn County, Minnesota, on March 17, at 8:45 a.m., upon the report of the Viewers to redetermine and report the benefits and damages and the benefited and damaged areas of Freeborn County Ditch No. 4.

Jones, Haugh & Smith, Inc., Engineer appointed by the Board of Commissioners of Freeborn County, Minnesota, to assist the Viewers was present. Thomas L. Dahl, Daniel E. Johnson, Wesley J. Tennis and Mark Behrends, the appointed Viewers, were present.

The Board of Commissioners of Freeborn County, Minnesota, having heard the report of the Viewers, all persons interested, both for and against the redetermination of benefits and damages of Freeborn County Ditch No. 4, and all evidence produced by them, and considered it, together with the report of the Engineer, finds the following facts:

I.

Notice of the hearing was given to the Commissioner of Natural Resources and all persons, corporations and public bodies affected by the proposed system as required by law and proofs of such service have been filed in the office of the Freeborn County Auditor. There was no report of the Commissioner of Natural Resources of the State of Minnesota.

II.

The report of the Viewers, including amendments, has been made and filed in the office of the Freeborn County Auditor and the report is complete, just and correct, and all proceedings have been conducted in accordance with the law.

III.

Estimated benefits to be derived from the Redetermination of Benefits and Damages of Freeborn County Ditch No. 4, Freeborn County, Minnesota, are greater than total estimated costs, including damages; damages and benefits have been determined as required by law; the drainage system will be of public utility and benefit, and promote the public health, and is practicable. The outlet is adequate.

IV.

Environmental and land use criteria set forth in M.S. §103E.015, Subd. 1, was considered. A permit from the State of Minnesota, Department of Natural Resources, Division of Waters, Soils and Minerals is not required; no protected waters or wetlands are affected by the proposed project; proper consideration has been given to conservation of soil, water, forests, wild animals and related natural resources and to other public interests affected, together with other material matters as provided by law in determining whether the project will be of public utility, benefit or welfare.

V.

The Viewers have assessed damages for acreage required for planting a strip of grass 16½ feet in width on each side of the top edge of the channel of the ditch pursuant to M.S. §103E.021.

VI.

Original benefits or damages determined in drainage proceeding for construction of Freeborn County Ditch No. 4, Freeborn County, Minnesota, do not reflect reasonable present day land values and the benefited or damaged areas have changed.

NOW, THEREFORE, it is ordered and adjudged:

1. The report of the Viewers is adopted and confirmed and benefits and damages and benefited and damaged areas, as redetermined, are allowed and confirmed.
2. Damages shall be paid as provided by law; tracts of land benefited and damaged, names of owners of such lands, and the amount of benefits and damages are as set forth in the Viewers' Report, which is made a part hereof as if fully set forth herein.
3. Costs of the redetermination of benefits and damages and all other expenses are allowed and confirmed and shall be paid as provided by law.
4. Liens to be assessed for benefits against the tracts of land as shown in the Viewers' Report shall be payable pursuant to statute.
5. The redetermined benefits and damages and benefited and damaged areas shall be used in place of the original benefits and damages and benefited and damaged areas in all subsequent proceedings relating to Freeborn County Ditch No. 4.
6. Further proceedings shall be had pursuant to statute.

Motion seconded by Commissioner Mathiason.

After discussion, a vote was taken and the Chair declared the motion approved.

Commissioner Tuttle offered the following resolution;

Resolution 09-052

Resolved, to approve an order in the Matter of the Redetermination of Benefits of County Ditch No. 4, Freeborn County, Minnesota.

ORDER REDETERMINING BENEFITS AND DAMAGES

The above matter came on for hearing by the Board of Commissioners of Freeborn County, Minnesota, on March 17, at 8:45 a.m., upon the report of the Viewers to redetermine and report the benefits and damages and the benefited and damaged areas of Freeborn County Ditch No. 4.

Jones, Haugh & Smith, Inc., Engineer appointed by the Board of Commissioners of Freeborn County, Minnesota, to assist the Viewers was present. Thomas L. Dahl, Daniel E. Johnson, Wesley J. Tennis and Mark Behrends, the appointed Viewers, were present.

The Board of Commissioners of Freeborn County, Minnesota, having heard the report of the Viewers, all persons interested, both for and against the redetermination of benefits and damages of Freeborn County Ditch No. 4, and all evidence produced by them, and considered it, together with the report of the Engineer, finds the following facts:

I.

Notice of the hearing was given to the Commissioner of Natural Resources and all persons, corporations and public bodies affected by the proposed system as required by law and proofs of such service have been filed in

the office of the Freeborn County Auditor. There was no report of the Commissioner of Natural Resources of the State of Minnesota.

II.

The report of the Viewers, including amendments, has been made and filed in the office of the Freeborn County Auditor and the report is complete, just and correct, and all proceedings have been conducted in accordance with the law.

III.

Estimated benefits to be derived from the Redetermination of Benefits and Damages of Freeborn County Ditch No. 4, Freeborn County, Minnesota, are greater than total estimated costs, including damages; damages and benefits have been determined as required by law; the drainage system will be of public utility and benefit, and promote the public health, and is practicable. The outlet is adequate.

IV.

Environmental and land use criteria set forth in M.S. §103E.015, Subd. 1, was considered. A permit from the State of Minnesota, Department of Natural Resources, Division of Waters, Soils and Minerals is not required; no protected waters or wetlands are affected by the proposed project; proper consideration has been given to conservation of soil, water, forests, wild animals and related natural resources and to other public interests affected, together with other material matters as provided by law in determining whether the project will be of public utility, benefit or welfare.

V.

The Viewers have assessed damages for acreage required for planting a strip of grass 16½ feet in width on each side of the top edge of the channel of the ditch pursuant to M.S. §103E.021.

VI.

Original benefits or damages determined in drainage proceeding for construction of Freeborn County Ditch No. 4, Freeborn County, Minnesota, do not reflect reasonable present day land values and the benefited or damaged areas have changed.

NOW, THEREFORE, it is ordered and adjudged:

1. The report of the Viewers is adopted and confirmed and benefits and damages and benefited and damaged areas, as redetermined, are allowed and confirmed.
2. Damages shall be paid as provided by law; tracts of land benefited and damaged, names of owners of such lands, and the amount of benefits and damages are as set forth in the Viewers' Report, which is made a part hereof as if fully set forth herein.
3. Costs of the redetermination of benefits and damages and all other expenses are allowed and confirmed and shall be paid as provided by law.
4. Liens to be assessed for benefits against the tracts of land as shown in the Viewers' Report shall be payable pursuant to statute.

5. The redetermined benefits and damages and benefited and damaged areas shall be used in place of the original benefits and damages and benefited and damaged areas in all subsequent proceedings relating to Freeborn County Ditch No. 4.

6. Further proceedings shall be had pursuant to statute.

Resolution seconded by Commissioner Nelson.

After discussion, a vote was taken and the Chair declared the resolution unanimously adopted.

Commissioner Mathiason offered the following motion;

STATE OF MINNESOTA

COUNTY OF FREEBORN

BEFORE THE BOARD OF
COUNTY COMMISSIONERS OF
FREEBORN COUNTY, MINNESOTA

In the Matter of the Redetermination
of Benefits of County Ditch No. 76,
Freeborn County, Minnesota.

ORDER REDETERMINING BENEFITS AND DAMAGES

The above matter came on for hearing by the Board of Commissioners of Freeborn County, Minnesota, on March 17, at 8:45 a.m., upon the report of the Viewers to redetermine and report the benefits and damages and the benefited and damaged areas of Freeborn County Ditch No. 76.

Jones, Haugh & Smith, Inc., Engineer appointed by the Board of Commissioners of Freeborn County, Minnesota, to assist the Viewers was present. Robert M. Hansen, Chris Christianson, Joel Stensrud and Wesley J. Tennis, the appointed Viewers, were present.

The Board of Commissioners of Freeborn County, Minnesota, having heard the report of the Viewers, all persons interested, both for and against the redetermination of benefits and damages of Freeborn County Ditch No. 76, and all evidence produced by them, and considered it, together with the report of the Engineer, finds the following facts:

I.

Notice of the hearing was given to the Commissioner of Natural Resources and all persons, corporations and public bodies affected by the proposed system as required by law and proofs of such service have been filed in the office of the Freeborn County Auditor. There was no report of the Commissioner of Natural Resources of the State of Minnesota.

II.

The report of the Viewers, including amendments, has been made and filed in the office of the Freeborn County Auditor and the report is complete, just and correct, and all proceedings have been conducted in accordance with the law.

III.

Estimated benefits to be derived from the Redetermination of Benefits and Damages of Freeborn County Ditch No. 76, Freeborn County, Minnesota, are greater than total estimated costs, including damages; damages and benefits have been determined

as required by law; the drainage system will be of public utility and benefit, and promote the public health, and is practicable. The outlet is adequate.

IV.

Environmental and land use criteria set forth in M.S. §103E.015, Subd. 1, was considered. A permit from the State of Minnesota, Department of Natural Resources, Division of Waters, Soils and Minerals is not required; no protected waters or wetlands are affected by the proposed project; proper consideration has been given to conservation of soil, water, forests, wild animals and related natural resources and to other public interests affected, together with other material matters as provided by law in determining whether the project will be of public utility, benefit or welfare.

V.

The Viewers have assessed damages for acreage required for planting a strip of grass 16½ feet in width on each side of the top edge of the channel of the ditch pursuant to M.S. §103E.021.

VI.

Original benefits or damages determined in drainage proceeding for construction of Freeborn County Ditch No. 76, Freeborn County, Minnesota, do not reflect reasonable present day land values and the benefited or damaged areas have changed.

NOW, THEREFORE, it is ordered and adjudged:

1. The report of the Viewers is adopted and confirmed and benefits and damages and benefited and damaged areas, as redetermined, are allowed and confirmed.
2. Damages shall be paid as provided by law; tracts of land benefited and damaged, names of owners of such lands, and the amount of benefits and damages are as set forth in the Viewers' Report, which is made a part hereof as if fully set forth herein.
3. Costs of the redetermination of benefits and damages and all other expenses are allowed and confirmed and shall be paid as provided by law.
4. Liens to be assessed for benefits against the tracts of land as shown in the Viewers' Report shall be payable pursuant to statute.
5. The redetermined benefits and damages and benefited and damaged areas shall be used in place of the original benefits and damages and benefited and damaged areas in all subsequent proceedings relating to Freeborn County Ditch No. 76.
6. Further proceedings shall be had pursuant to statute.

Motion seconded by Commissioner Tuttle.

After discussion, a vote was taken and the Chair declared the motion unanimously approved.

Commissioner Tuttle offered the following resolution;

Resolution 09-053

Resolved, to approve an order in the Matter of the Redetermination of Benefits of County Ditch No. 76, Freeborn County, Minnesota.

ORDER REDETERMINING BENEFITS AND DAMAGES

The above matter came on for hearing by the Board of Commissioners of Freeborn County, Minnesota, on March 17, at 8:45 a.m., upon the report of the Viewers to redetermine and report the benefits and damages and the benefited and damaged areas of Freeborn County Ditch No. 76.

Jones, Haugh & Smith, Inc., Engineer appointed by the Board of Commissioners of Freeborn County, Minnesota, to assist the Viewers was present. Robert M. Hansen, Chris Christianson, Joel Stensrud and Wesley J. Tennis, the appointed Viewers, were present.

The Board of Commissioners of Freeborn County, Minnesota, having heard the report of the Viewers, all persons interested, both for and against the redetermination of benefits and damages of Freeborn County Ditch No. 76, and all evidence produced by them, and considered it, together with the report of the Engineer, finds the following facts:

I.

Notice of the hearing was given to the Commissioner of Natural Resources and all persons, corporations and public bodies affected by the proposed system as required by law and proofs of such service have been filed in the office of the Freeborn County Auditor. There was no report of the Commissioner of Natural Resources of the State of Minnesota.

II.

The report of the Viewers, including amendments, has been made and filed in the office of the Freeborn County Auditor and the report is complete, just and correct, and all proceedings have been conducted in accordance with the law.

III.

Estimated benefits to be derived from the Redetermination of Benefits and Damages of Freeborn County Ditch No. 76, Freeborn County, Minnesota, are greater than total estimated costs, including damages; damages and benefits have been determined as required by law; the drainage system will be of public utility and benefit, and promote the public health, and is practicable. The outlet is adequate.

IV.

Environmental and land use criteria set forth in M.S. §103E.015, Subd. 1, was considered. A permit from the State of Minnesota, Department of Natural Resources, Division of Waters, Soils and Minerals is not required; no protected waters or wetlands are affected by the proposed project; proper consideration has been given to conservation of soil, water, forests, wild animals and related natural resources and to other public interests affected, together with other material matters as provided by law in determining whether the project will be of public utility, benefit or welfare.

V.

The Viewers have assessed damages for acreage required for planting a strip of grass 16½ feet in width on each side of the top edge of the channel of the ditch pursuant to M.S. §103E.021.

VI.

Original benefits or damages determined in drainage proceeding for construction of Freeborn County Ditch No. 76, Freeborn County, Minnesota, do not reflect reasonable present day land values and the benefited or damaged areas have changed.

NOW, THEREFORE, it is ordered and adjudged:

1. The report of the Viewers is adopted and confirmed and benefits and damages and benefited and damaged areas, as redetermined, are allowed and confirmed.

2. Damages shall be paid as provided by law; tracts of land benefited and damaged, names of owners of such lands, and the amount of benefits and damages are as set forth in the Viewers' Report, which is made a part hereof as if fully set forth herein.

3. Costs of the redetermination of benefits and damages and all other expenses are allowed and confirmed and shall be paid as provided by law.

4. Liens to be assessed for benefits against the tracts of land as shown in the Viewers' Report shall be payable pursuant to statute.

5. The redetermined benefits and damages and benefited and damaged areas shall be used in place of the original benefits and damages and benefited and damaged areas in all subsequent proceedings relating to Freeborn County Ditch No. 76.

6. Further proceedings shall be had pursuant to statute.

Resolution seconded by Commissioner Nelson.

After discussion, a vote was taken and the Chair declared the resolution unanimously adopted.

Commissioner Nelson offered the following motion;

MOVED, setting the final hearing date on the completion of County Ditch #16 repairs and improvements for April 7, 2009 at 9:00 a.m.

STATE OF MINNESOTA

COUNTY OF FREEBORN

BEFORE THE BOARD OF
COUNTY COMMISSIONERS OF
FREEBORN COUNTY, MINNESOTA

In the Matter of the Repair and Improvement
of a Separable Part of Freeborn County Ditch
No. 16, Freeborn County, Minnesota.

NOTICE OF HEARING AND ACCEPTANCE
OF CONTRACT ON COMPLETION OF DITCH

TO THE OWNERS OF ALL PROPERTIES AFFECTED BY THESE PROCEEDINGS:

You are hereby notified that the final certificates of the engineer have been issued to the contractor, Hodgman Drainage Company, Inc., in the above-entitled ditch proceeding, certifying that the contractor has completed the construction of said ditch in accordance with the contracts and specifications therefore and certifying that the contractor is entitled to final payment on such contracts. A complete report thereof showing the completion of the contract and the work performed thereunder, the contract prices thereof and the amounts paid on partial certificates and the balance unpaid have been filed in the office of the County Auditor-Treasurer of said County.

You are further notified that hearing will be held on said certificates and report in the Commissioners Room at the Freeborn County Government Center, 411 Broadway Avenue S., in the City of Albert Lea, Minnesota, on the 7th day of April, 2009, at 9:00 o'clock a.m., and at said time and place all parties, if any, objecting to the acceptance of the work in accordance with the certificates of the engineer and to the final payments to the contractors may appear and be heard.

Motion was seconded by Commissioner Mathiason.

After discussion, a vote was taken and the Chair declared the motion unanimously approved.

Dennis Distad informed the Commissioners of the meeting at 3:00 p.m. today with the Secretary of State to update the surrounding counties about the November elections.

Commissioner Belshan offered the following motion;

MOVED, to reconsider changes made to Ordinance #22.

Motion seconded by Commissioner Tuttle.

After discussion, a vote was taken and the Chair declared the motion unanimously approved.

Commissioner Belshan offered the following resolution;

RESOLUTION 09-054

RESOLVED to approve Ordinance 22, which reads as follows:

**FREEBORN COUNTY, MINNESOTA
ORDINANCE NO. 22**

Aggregate Material Removal Production Tax

An ordinance imposing a production tax on the removal of aggregate from pits, quarries, or deposits located within the County; establishing reporting requirements; providing penalties for failure to comply with the provisions of this ordinance; and providing for distribution of revenues as collected under this ordinance, pursuant to Minnesota Statute 298.75, as amended by Minnesota Laws 2001.

THE COUNTY BOARD OF FREEBORN COUNTY ORDAINS:

1.00 Definitions. The following words and phrases, when used in this ordinance, unless the content clearly indicates otherwise, shall have the meanings given them in this section.

1.01 "County" shall mean the County of Freeborn.

1.02 "County Board" shall mean the Freeborn County Board of Commissioners and their authorized representatives.

1.03 "Aggregate material" shall mean nonmetallic natural mineral aggregate including, but not limited to, sand, silica sand, gravel, crushed rock, limestone, granite, and borrow, but only if the borrow is transported on a public road, street, or highway. Aggregate material must be measured or weighed after it has been extracted from the pit, quarry, or deposit.

1.04 "Person" shall mean any individual, firm, partnership, corporation, organization, trustee, association, or other entity.

1.05 "Operator" shall mean any person engaged in the business of removing aggregate from the surface or subsurface of the soil, for the purpose of sale, either directly or indirectly, through the use of the aggregate in a marketable product or service.

1.06 "Extraction Site" shall mean a pit, quarry, or deposit containing aggregate material and any contiguous property to the pit, quarry, or deposit that is used by the operator for stockpiling the aggregate material.

1.07 "Importer" shall mean any person who buys aggregate material produced from a county that does not impose an aggregate material removal production tax or another state and causes the aggregate material to be imported into a county in this state that imposes a tax on aggregate material.

2.00 IMPOSITION OF TAX

2.01 The County imposes upon every importer and operator a production tax of 21.5 cents per cubic yard or of 15 cents per ton of aggregate material removed. Except that the County Board may decide not to impose this tax if it determines that in the previous year operators removed less than 20,000 tons or 14,000 cubic yards of aggregate material from the county.

2.02 The tax shall be imposed on aggregate material produced in the county when the aggregate material is transported from the extraction site or sold. When aggregate material is stored in a stockpile within the State of Minnesota and a public highway, road, or street is not used for transporting the aggregate material, the tax shall be imposed either when the aggregate material is sold, or when it is transported from stockpile site, or when it is used from the stockpile, whichever occurs first. The tax shall be imposed on an importer when the aggregate material is imported into Freeborn County. If the aggregate material is transported directly from the extraction site to a waterway, railway, or another mode of transportation other than a highway, road, or street, the tax imposed shall be proportioned equally between the county where the aggregate material is extracted and the county to which the aggregate material is originally transported. If that destination is not located in Minnesota, then the county where the aggregate material was extracted shall receive all of the proceeds of the tax.

3.00 REPORTING REQUIREMENTS

3.01 By the 14th day following the last day of each calendar quarter every operator or importer shall make and file with the County Auditor of the county in which the aggregate material is removed or imported, a correct report under oath, in such form and containing such information as the Auditor shall require relative to the quantity of aggregate material removed or imported during the preceding calendar quarter. The report shall be accompanied by a remittance of the amount of tax due.

3.02 If any of the proceeds of the tax is to be apportioned, as in subdivision 2, the operator or importer shall also include in the report any relevant information concerning the amount of aggregate material transported, the tax and the county of destination. The County Auditor shall notify the County Treasurer of the amount of such tax and the county to which it is due. The County Treasurer shall remit the tax to the appropriate county within 30 days.

3.03 If the County Auditor has not received the report required by Section 3.01 by the 15th day after the last day of each calendar quarter from the operator or importer, or has received an erroneous report, the County Auditor shall estimate the amount of tax due and notify the operator or importer by registered mail of the amount of tax so estimated within the next 14 days. An operator or importer may, within 30 days from the date of mailing the notice, and upon payment of the amount of tax determined to be due, file in the office of the County Auditor a written statement of objections to the amount of taxes determined to be due. The statement of objections shall be deemed to be a petition within the meaning of Chapter 278 and shall be governed by Sections 278.02 and 278.13.

4.00 ENFORCEMENT, VIOLATIONS, AND PENALTIES

4.01 Failure to file the report and submit payment shall result in a penalty of \$5 for each of the first 30 days, beginning on the 15th day after the last day of each calendar quarter, for which the report and payment is due and no statement of objection has been filed as provided in 3.03, and a penalty of \$10 for each subsequent day shall be assessed against the operator or importer who is required to file the report. The penalties imposed shall be collected as part of the tax and credited to the county revenue fund. If neither the report nor a statement of objection has been filed after more than 60 days have elapsed from the date when the notice was sent, the operator or importer who is required to file the report is guilty of a misdemeanor.

4.02 It is a misdemeanor for any operator or importer to remove aggregate from a pit, quarry, or deposit, or for any importer to import aggregate material unless all taxes due under this ordinance for the previous reporting period have been paid or objections thereto have been filed.

4.03 It is a misdemeanor for the operator or importer who is required to file and report to file a false report made with intent to evade the tax.

4.04 The County Auditor or its duly authorized agent may examine records, including computer records, maintained by an importer or operator. The term "record" includes, but is not limited to, all accounts of an importer or operator.

The County Auditor or its duly authorized agent must have access at all reasonable times to inspect and copy all business records related to an importer's or operator's collection, transportation, and disposal of aggregate material to the extent necessary to ensure that all aggregate material production taxes required to be paid have been remitted to the county. The records must be maintained by the importer or operator for no less than six (6) years.

4.05 Any person who shall violate this ordinance shall be guilty of a misdemeanor and upon conviction thereof, punished by a fine not to exceed seven hundred dollars (\$700) or by imprisonment in the county jail for a period not to exceed ninety (90) days or both.

5.00 DISTRIBUTION OR REVENUES

5.01 All money collected as taxes under this ordinance shall be deposited in the County treasury and credited as follows, for expenditure by the County Board:

(Five Percent (5%) of the total tax collected by the County shall be retained by the County Auditor as an Administrative Fee)

a) Forty-two and one-half (42.5) percent to the County road and bridge fund (after 5% is deducted) for expenditure for the maintenance, construction, and reconstruction of roads, highways, and bridges;

b) Forty-two and one-half (42.5) percent to Township/City General Fund where mine is located (after 5% is deducted) or to the County, if the mine is located in an unorganized township; and

c) Fifteen (15) percent (after 5% is deducted) to a special reserve fund which is hereby established, for expenditure for the restoration of abandoned pits, within the County.

If there are no abandoned pits, quarries, or deposits located within the County, this portion of the tax shall be used for any other unmet reclamation needs or for conservation or other environmental needs.

6.00 SEVERABILITY

6.01 It is hereby declared to be the intention of the County Board that this ordinance, and every provision thereof, shall be severable in accordance with the following:

a) If any Court of competent jurisdiction shall adjudge any provision of this ordinance to be invalid, such judgment shall not affect any other provisions of this ordinance not specifically included in said judgment.

b) If any Court of competent jurisdiction shall adjudge invalid the application of any provision of this ordinance to a particular pit, quarry, deposit, or operator or importer, such judgment shall not affect the application of said provision to any other pit, quarry, deposit, or operator or importer not specifically included in said judgment.

7.00 PROVISIONS ARE CUMULATIVE

7.01 The provisions of this ordinance are cumulative to all other laws, ordinances, and regulations heretofore passed, or which may be passed hereafter, covering any subject matter in this ordinance.

8.00 EFFECTIVE DATE

8.01 This ordinance shall be effective the day after passage by the County Board.

Resolution was seconded by Commissioner Mathiason.

After discussion, the Chair declared the resolution unanimously adopted.

Randy Tuchtenhagen, Environmental Services informed the Board of some upcoming changes that may occur with the Recycling Contract with Waste Systems. They are suggesting weekly service versus every other week pickup.

Commissioner Mathiason offered the following resolution;

RESOLUTION 09-055
SYSTEM STAFF SHARING AGREEMENT BETWEEN FREEBORN COUNTY AND THE CITY OF ALBERT LEA

A.1 PARTIES

A.1.1 THIS CONTRACT made this 17th day of March, 2009, by and between the City of Albert Lea, Minnesota, herein called "City," a municipal corporation organized and existing under the laws of the State of Minnesota, and Freeborn County, Minnesota, herein called the "County," organized and existing under the laws of the State of Minnesota.

Whereas, the County has an Information Systems Department within the County consisting of an Information Systems Director, an AS400 Technician, a Computer Technician and a PA Technician, and

Whereas, the City is in need of the information services, technical expertise and skills that are available and offered by the persons who work within the Information Systems Department of the County, and

Whereas, the Information Systems Department of the County and its Director are willing and able to assist the City with its Information Systems needs, and

In consideration of the mutual undertakings and agreements hereinafter set forth, the City and the County by its Information Systems Department agree as follows:

B.1 AGREEMENT

B.1.1 NOW, THEREFORE, it is mutually agreed that the City shall purchase services from the Information Systems Department of the County as follows: The services and skills of the Information Systems Director at the rate of \$36.70 per hour; the AS 400 Technician and Computer Technician at the rate of \$32.70 per hour; and the services and skills of the PC technician at the rate of \$19.00 per hour.

C.1 TERM OF CONTRACT

C.1.1 The term of this Contract shall be from April 1, 2009 to December 31, 2009, inclusive.

C.1.2 This Agreement may be renewed and extended thereafter at the option of the City and County upon mutual Agreement upon sixty (60) days' written notice by the City to the County prior to the expiration of this Agreement, for a one year term beginning January 1 and ending December 31 thereafter.

D.1 PAYMENT

D.1.1 The City does hereby agree to pay the County each month for the information and technical services performed by the members of the Information Services Department.

D.1.2 The County will provide the City an invoice on or before the 10th of each month showing the total hours worked by the individual members of the Information Services Department at their hourly rate during the previous month for the City and the total amount owed to the County for the

Information and technical services provided. Hours of work performed will be rounded to the nearest 15 minutes.

E.1 POINT OF CONTACT

- E.1.1 The City shall establish a Point of Contact which shall be an individual or office authorized to contact the Information Systems Director when particular services are needed by the City or individual departments and offices within the City.
- E.1.2 The Point of Contact shall describe in detail the type of problem, task, or work to be performed by the Information Systems Department of the County and when appropriate provide a time frame for the work to be completed.
- E.1.3 The Information Systems Director will attempt to comply with the requests for services received from the Point of Contact as promptly as possible, but in all events the needs of the County and duty owed to the County by the Information Services Department will take priority over those of the City.

F.1 INSURANCE

- F.1.1 Subject to the limitations of Minnesota Statutes Sections 466.01 to 466.15, every City and County is subject to liability for their torts and those of its employees and agents acting within the scope of their employment or duties whether arising out of a governmental or proprietary function.
- F.1.2 As to the tort claim, the City and the County acknowledge that they shall only be liable as provided by statute and where there is no applicable statute they shall be immune from liability.

G.1 UNAVOIDABLE CIRCUMSTANCES

- G.1.1 The Information Services Department and/or the County shall not be held responsible for damages caused by delay or failure to perform hereunder, when such delay or failure is due to the need of the Information Systems Director or individual employees of the Information Systems Department to give priority to the information and technical service needs of the County, its individual departments and offices.

H.1 RIGHT TO TERMINATE

- H.1.1 Both City and County reserve the right to terminate this Contract upon sending the other a written Notice of Intent to Terminate the Information Staff Sharing Agreement. Thereafter, the Agreement and the information and technical services to be performed by the County Information Systems Department shall cease on the last day of the succeeding month following the month in which the receipt of the Notice was received by either the City or County.

I.1 ASSIGNMENT

- I.1.1 The Information Services Department of the County or the County shall not enter into any subcontract for performance of any of the information services, technical expertise and skills contemplated under this Agreement, nor assign any part of this Contract, without the prior written approval of the City Manager and subject to such conditions and provisions as the City may deem necessary.

J.1 COMPLIANCE WITH LAWS

J.1.1 The Information Services Department, its Director and individual employees shall abide by all Federal, State and local laws, statutes, ordinances, rules and regulations now in effect or hereinafter adopted pertaining to any work or services to be performed pursuant to this Agreement.

K.1 RECORDS AUDITING AND RETENTION

K.1.1 The records, documents, papers, accounting procedures and practices, and other evidences relevant to this Agreement kept by the Information Services Department of the County and by the Point of Contact/City are subject to the examination, duplication and audit by the County, City or State Auditor. The County agrees to maintain such evidences for a period of six (6) years from the date services or payment were last provided or made or longer if any audit in progress required a longer retention period.

L.1 MODIFICATIONS/AMENDMENTS

L.1.1 Any alterations, variations, modifications, amendments or waivers of the provisions of this Agreement shall only be valid when they have been reduced to writing, and signed by authorized representatives of the City and County.

M.1 FINAL AGREEMENT

M.1. This Contract is the final expression of the agreement of the parties and the complete and exclusive statement of the terms agreed upon, and shall supersede all prior negotiations, understandings or agreements. There are no representations, warranties, or stipulations, either oral or written, not herein contained.

N.1 EXECUTION

N.1.1 **IN WITNESS WHEREOF**, the City and the County has caused this Contract to be signed by its duly authorized officers.

Resolution seconded by Commissioner Tuttle.

After discussion, a vote was taken and the Chair declared the resolution unanimously adopted.

John Kluever, Administrator requested a Special Meeting for March 20, 2009 at 8:30 a.m. to discuss the DHS contract.

Commissioner Nelson offered the following resolution;

**RESOLUTION # 09-056
A RESOLUTION ADOPTING THE REVISED SANITARY SEWAGE TREATMENT SYSTEMS
ORDINANCE #4**

WHEREAS, the Minnesota Pollution Control Agency promulgated revised rules for the regulations of subsurface sewage treatment systems; and

WHEREAS, Freeborn County is authorized to establish requirements for the regulation of individual and mid-sized sewage treatment systems; and

WHEREAS, Freeborn County shall provide for the protecting of the public's health and safety and eliminate or prevent the development of public nuisance conditions;

NOW, THEREFORE, BE IT RESOLVED by the Freeborn County Board of Commissioners to adopt and implement Ordinance #4 Sanitary Sewage Treatment System, effective April 1, 2009.

Resolution seconded by Commissioner Tuttle.

After discussion, a vote was taken and the Chair declared the resolution unanimously adopted.

Commissioner Belshan addressed the following issues; glad the DNR was present to discuss issues with Bear Lake, would like a meeting set up between the landowner, Commissioners and the DNR to further discuss this issue. Sharing Information services with the City of Albert Lea is a good thing, maybe look into building inspectors next.

Commissioner Tuttle congratulated Freeborn County Engineer Sue Miller for being invited to the White House and all the work she put into the stimulus package for the roads in Freeborn County.

Commissioner Mathiason, reminded the Commissioners of the League of Cities meeting tonight in Geneva at 7:00 p.m. and congratulated Sue Miller on the invitation to the White House,

Commissioner Shoff stated that the deficit Mr. Jensen addressed earlier incomplete at state level.

Commissioner Belshan offered the following resolution;

**RESOLUTION 09-057
APPROVAL OF CLAIMS**

RESOLVED, that the following claims be allowed and paid on March 20, 2009.

<u>Fund</u>	<u>Name</u>	<u>Amount</u>
01	General Fund	\$ 248,278.13
03	County Road and Bridge	\$ 132,326.22
05	Human Services	\$ 98,041.98
31	Capital Improvements Fund	\$ 18,192.94
34	Debt Ser-Turtle Creek Watershed	\$ 431.25
40	County Ditches	\$ 38,781.68
70	Trust and Agency Fund	<u>\$ 53,487.24</u>
	TOTAL	\$ 589,539.44

GENERAL FUND

Albert Lea Electric 788.79, Albert Lea Medical CTR Outpatient 303.54, Albert Lea Newspapers Inc 2,523.50, Albert Lea Tribune 423.70, Alliant Energy/IPL 6,944, Alliant Energy 694, Arrow Printing Inc 404.12, Assoc of MN Counties 350, Ban-Koe Systems Inc 4,500, Barna Guzy Steffen Ltd 564, City & County Employees Feder 18,305.64, City of Albert Lea 851.23, Christian and Peterson PA 2,250, Cole Papers Inc 627.89, Commissioner of Revenue 9,979.15, D&T Ventures LLC 1,449, Distad Dennis 1,125.13, Distad Dennis 2,823.36, Distad Dennis 29,767.88, ESRI405.20, Express Services Inc 2,374.17, FFF Enterprises Inc 716.14, Folie Allison 348.75, Fredrickson Donald F 400, Freeborn Co Chemical Dependency 1,750, Goldman Sturtz & Halvorsen 1,860, Healthsmart Benefit Solutions 441, IBM Corp 2,789.01, Laser Product Technologies Inc 1,122.90, Manpower Inc 843.48, MCF-Red Wing 7,440, MN Child Support Payment Center 1,659.21, MN Elevator Inc 487.81, NACO/Midwest Nationwide Retirement 8,586.92, National Business Systems Inc 5,152, Office of Enterprise Technology 965, Paragon Printing and Mailing 2,688.94, Peterson Savelkoul & Benda 1,187.18, Public Emp Retirement Assn 39,244.12, Qwest 435, Quill Corp 506.06, Riverside Psychological Services 1,080, Schilling Supply Co 503.23, Scotts Office Products 1,063.70, State Supply Do 396.92, Sterling Solutions Inc 700, Teigen Paper and Supply Inc 421.81, Three Eagles Communications 500, TSG 3,112.50, Twin City Filter Serv Inc 861.18, Waste Management of Southern 1,187.19, Weinberg Ellen 925, Wells Fargo 6,638.43, Wells Fargo Bank 7,081.60, Wells Fargo Bank 25,571.10, Wells Fargo Bank 23,363.81, West Payment Center 648.88, Xerox Corp 470.67, Yost Susan 433.39, Zack Jones and Magnus 1,185.63.

COUNTY ROAD AND BRIDGE

B&H Petroleum Equipment 308.34, City & County Employees Feder 5,709.31, Commissioner of Revenue 2,270.07, Dept of Natural Resources 74,298, Distad Dennis 735.01, Distad Dennis 6,293.07, Freeborn Mower

Coop Se 1,357, MN Dept of Revenue 734.91, Karls Carquest Auto 503.92, MN Child Support Payment Cent 930.26, MR Sign 9,561.31, NACO/Midwest Nationwide Retire 2,253, Public Emp Retirement Assn 7,312.78, Raleighs Ace Hardware 483.83, Vasco Inc 586.58, Wells Fargo 1,477.15, Wells Fargo Bank 1,549.90, Wells Fargo Bank 6,627.16, Wells Fargo Bank 5,476.71, Ziegler Inc 760.53.

HUMAN SERVICES

AFSC & ME 1,370.58, City & County Employees Feder 6,733.54, Commissioner of Revenue 5,320.48, Distad Dennis 2,081.99, Distad Dennis 18,294.93, Healthsmart Benefit Solutions 304, MN Child Support Payment Center 485.92, NACO/Midwest Nationwide Retir 6,388.31, Public Emp Retirement Assn 18,619.36, Wells Fargo 4,959.79, Wells Fargo Bank 3,892.74, Wells Fargo Bank 16,644.96, Wells Fargo Bank 12,738.78.

CAPITAL IMPROVEMENTS FUND

Businessware Solutions 4,236.57, Girards Business Solutions Inc 13,908.37.

DEBT SER-TURTLE CREEK WATERSHED

US Bank 431.25.

COUNTY DITCHES

Albert Lea Tribune 431.55, Finseth Jeffery 1,298, Jones Haugh & Smith Inc 6,252, Knutson Wayne 325, Kuhn Dennis 4,758, Lair Loren 6,107, Lysne Maurice & Henrietta 5,688, Mower County Treasurer 5,546.99, Reynen Trust Albert J822, Stegenga Trust Labonna D 779, Stensrud Joel 364.28, Tennis Wesley 1,648.51, Viktora Kevin & Marxcy 4,628.

TRUST AND AGENCY FUND

Distad Dennis 1,604.61, MN Dept of Revenue 16,812.46, MN Dept of Revenue 35,070.17.

Number of claims not exceeding \$300.00 – 110

Dollar amount of claims not exceeding \$300.00 - \$9,540.60

Resolution seconded by Commissioner Tuttle.

After discussion, a vote was taken and the Chair declared the resolution unanimously adopted.

Chair, Commissioner Shoff adjourned the meeting until 8:30 a.m., March 20, 2009.

BY: _____
Christopher Shoff
Chairman of the County Board

ATTEST: _____
John Kluever
Administrator