

PROCEEDINGS OF THE ROSEAU COUNTY BOARD OF COMMISSIONERS

May 23, 2006

The Board of Commissioners of Roseau County, Minnesota met in the courthouse in the City of Roseau, Minnesota on Tuesday, May 23, 2006, at 8:30 a.m.

CALL TO ORDER

The meeting was called to order at 8:30 a.m. by County Board Chairman Orris Rasmussen. The Pledge of Allegiance was recited. Roll call was taken. Commissioners present were Orris Rasmussen, Alan Johnston, Mark Foldesi, Jack Swanson and Russell Walker. Also present were members of the media.

APPROVAL OF AGENDA

Commissioner Johnston requested to add the re-appointment of Steve Haugen and Carmen Przekwas to the Roseau Area Hospital & Homes District Board to the agenda. A motion was made by Commissioner Foldesi, seconded by Commissioner Johnston and carried by unanimous vote to approve the revised agenda.

CONSENT AGENDA

A motion to adopt the consent agenda was made by Commissioner Walker, seconded by Commissioner Swanson, and carried by unanimous vote.

The Board, by adoption of its consent agenda, received and approved the warrant payment list submitted by the Auditor's Office as follows:

AMOUNT	VENDOR NAME	AMOUNT	VENDOR NAME
411.75	TONY DORN INC	2898.17	FARMERS UNION OIL CO-ROSEAU
930.44	FARMERS UNION OIL CO-WARROAD	360.08	GREENBUSH SANITATION LTD
2110.00	HOFFMAN DALE & SWENSON PLLC	4693.15	JOHNSON OIL CO INC
10542.00	KAMAR SOLID WASTE FUND	861.33	LAB SAFETY SUPPLY, INC
2800.00	LAKE OF THE WOODS CO SHERIFF	693.25	MN SHERIFF'S ASSN
611.25	PRO-WEST & ASSOCIATES INC	2513.85	ROSEAU AREA HOSPITAL INC
1508.38	ROSEAU CITY	445.79	ROSEAU CO COOP ASSN
1062.60	ROSEAU FIRE DEPT	2049.00	SETTER & ASSOCIATES LLC
1876.00	SIMPLEX GRINNELL LP	4900.00	U OF MN EXTENSION SERVICE
1603.09	U SAVE FOODS	1200.00	UND FORENSIC PATHOLOGY
725.00	LAVERNE VOLL		
	24 PAYMENTS LESS THAN \$300	3,064.23	
	**** FINAL TOTAL.....	\$47,859.36	****

And the summary of auditor warrants, as follows:

5-11-06	\$41,004.91
5-11-06	\$ 5,000.00
5-18-06	\$92,935.75

The Board, by adoption of its Consent Agenda, approved the proceedings of the May 9, 2006 Board meeting.

The Board, by adoption of its Consent Agenda, re-appointed Mavis Brandli to the Welfare Board for a two-year term.

The Board, by adoption of its Consent Agenda, approved the change of status for Stephanie Whitlow from part-time dispatch/jailer to full-time dispatch/jailer effective May 7, 2006.

The Board, by adoption of its Consent Agenda, approved the 2006-07 Department of Natural Resource Boat & Water Grant application in the amount of \$1,572 and authorized the Board Chair and County Coordinator to sign the grant documents.

The Board, by adoption of its consent agenda, approved the Klein McCarthy AUTHORIZATION TO PROCEED WITH A CONSTRUCTION CHANGE NO. 1 request, for placement of a lean concrete pad below social service footings for an added cost of \$5,247.67.

EMERGENCY MANAGER GRACIA NELSON APPOINTMENT

Emergency Manager Gracia Nelson met with the Board. Ms. Nelson advised the Board that the legislature approved the request to fund a third Department of Transportation communications tower in Roseau County. This tower will likely be placed in Malung. One tower is in Greenbush and a second tower is slated for construction near Warroad.

Ms. Nelson requested the Board pass a resolution approving the purchase of a 200-foot self-sustaining tower to be located near the new county jail. This tower will be funded in part by an emergency management regional grant and in part by E-911 funds. A motion was made by Commissioner Johnston, seconded by Commissioner Swanson, and carried by unanimous vote to adopt the following resolution:

2006-05-07

BE IT RESOLVED, that the Board does hereby authorize the purchase of a 200-foot self-sustaining communications tower in the amount of \$49,591, plus tax.

BE IT FURTHER RESOLVED, that the Board understands that the communication tower will be paid for by a combination of Department of Homeland Security Regional Grant funding and E-911 funds.

Ms. Nelson reviewed the equipment that has been selected for the dispatch console in the new jail facility. Ms. Nelson has received grant funding to pay for \$188,914.42 of the total cost. Sheriff Jule Hanson has authorized the use of E-911 funds to pay the remaining cost. A motion was made by Commissioner Johnston, seconded by Commissioner Walker, and carried by unanimous vote to adopt the following resolution:

2006-05-08

BE IT RESOLVED, that the Board does hereby authorize the purchase of radio dispatch equipment from JayEN Engineering, Duluth, in the amount of \$209,525.34, plus tax.

BE IT FURTHER RESOLVED, that it is understood that this equipment will be paid for by a combination of Department of Homeland Security funds and E-911 funds.

PELAN TRAIL GRANT ADMINISTRATOR RICK KERNER

Mr. Kerner met with the Board to request approval of the 2006-07 Department of Natural Resources (DNR) Performance Based Grant application for maintenance of the 290-mile Pelan Trail.

A motion was made by Commissioner Johnston, seconded by Commissioner Swanson, and carried by unanimous vote to adopt the following resolution:

2006-05-09

BE IT RESOLVED that the Roseau County Board of Commissioners agrees to act as the legal sponsor for an application for 2006-07 funding in the amount of \$74,400 to the State of Minnesota Department of Natural Resources for grooming and maintenance of 290 miles of snowmobile trails managed by the Roseau County Trailblazers.

BE IT FURTHER RESOLVED that upon approval of its application by the state, the Roseau County Board of Commissioners may enter into an agreement with the State of Minnesota for the above referenced project and that it will comply with all applicable laws and regulations as stated in the agreement.

BE IT FURTHER RESOLVED that Roseau County hereby agrees to serve as the fiscal agent for the above referenced project and authorizes the Board Chair to sign all related documents on behalf of Roseau County.

Mr. Kerner informed the Board that the DNR has changed the process for trail maintenance in the Beltrami Island State Forest from contracting for the service to having the work done through performance based grants (PBG). Mr. Kerner requested the Board approve the Roseau County Trailblazers PBG grant application. A motion was made by Commissioner Johnston, seconded by Commissioner Foldesi, and carried by unanimous vote to adopt the following resolution:

2006-05-10

BE IT RESOLVED, that the Roseau County Board of Commissioners agrees to act as the legal sponsor for an application for 2006-07 funding in the amount of \$13,562.40 to the State of Minnesota Department of Natural Resources for grooming and maintenance of fifty miles of trail in the Beltrami Island State Forest.

BE IT FURTHER RESOLVED, that upon approval of its application by the state, the Roseau County Board of Commissioners may enter into an agreement with the State of Minnesota for the above referenced project and that it will comply with all applicable laws and regulations as stated in the agreement.

BE IT FURTHER RESOLVED, that Roseau County hereby agrees to serve as the fiscal agent for the above referenced project and authorizes the Board Chair to sign all related documents on behalf of Roseau County.

Mr. Kerner informed the Board that the Trailblazers organization has written a grant to add twenty-one new miles of trail between Warroad and Roseau. Mr. Kerner requested Board

approval of the application. A motion was made by Commissioner Swanson, seconded by Commissioner Johnston, and carried by unanimous vote to adopt the following resolution:

2006-05-11

BE IT RESOLVED, that the Roseau County Board of Commissioners supports the submission of a grant and agrees to act as the legal sponsor for 2006-07 funding in the amount of \$12,974.65 from the State of Minnesota Department of Natural Resources to develop twenty-one miles of ditch trail between the cities of Roseau and Warroad, build two replacement shelters, and remove two existing shelters.

BE IT FURTHER RESOLVED, that upon approval of its application by the state, the Roseau County Board of Commissioners may enter into an agreement with the State of Minnesota for the above-referenced project and that it will comply with all applicable laws and regulations as stated in the agreement.

BE IT FURTHER RESOLVED, that Roseau County hereby agrees to serve as the fiscal agent for the above referenced project and authorizes the Board Chair to sign all related documents on behalf of Roseau County.

TREASURER DIANE GREGERSON APPOINTMENT

Treasurer Diane Gregerson met with the Board to provide an investment summary of the General Obligation Jail Bond sale proceeds. Ms. Gregerson informed the Board that she utilized PFM Asset Management as an investment consultant and provided the Board with a detailed portfolio of the bond issue investment. Ms. Gregerson's investment strategy will yield approximately \$200,000 in earnings over the course of the building project.

COMMITTEE REPORTS

The Board gave committee reports. Commissioner Swanson reported on the Northwest Minnesota Household Hazardous Waste Joint Powers Board held on May 17, 2006 in Bagley. This is a quarterly meeting comprised of ten counties in northern Minnesota. Commissioner Swanson noted that he had attended a Building Committee meeting on May 15, 2006.

Commissioner Foldesi reported on a Two River Watershed (TRW) meeting he attended and a discussion regarding a new impoundment in Nereson. There has been interest in this project for some time, but due to its small size, the watershed has not moved forward. A strong interest was demonstrated at this meeting by Commissioner Foldesi as well as a number of constituents and it is likely that the TRW will do this project provided the 2200 acres of land can be acquired at a reasonable rate. Commissioner Foldesi noted that while the \$600 per acre price is rather high, the land has just been placed in CRP and would net nearly \$400,000 over the term of the CRP contract period. Commissioner Foldesi reported on the Roseau River Watershed (RRW) Wildlife Management Area meeting he attended.

Commissioner Rasmussen reported on the May 15, 2006 Building Committee meeting he attended. He noted the committee discussed the county attorney office and court administration office access control plan. Rasmussen noted that the ICS Project Superintendent Ron Dazell met with the committee. Rasmussen noted that he would be attending a Northwest Regional Development Commission meeting in Warren later in the day and a Minnesota Rural Counties Caucus video conference meeting on May 24, 2006.

Commissioner Walker reported on a Highway Committee meeting he attended. He noted that Engineer Ketring is pursuing additional funding for the Springsteel Road project and is also working on securing 100% funding for the bridge projects on CSAH No. 2. Walker noted that he attended a Warroad Watershed meeting. Walker stated that the Beltrami Island State Forest Trail Planning Committee work is nearly complete and that the draft plan that will be submitted for approval includes recommendations to keep more than 90% of the 3,200 trail segments open. Walker advised the Board that he has re-thought his request to send a letter to the legislature requesting de-listing of the timber wolf and stated that he believed Roseau County should join with neighboring counties and regionalize our comments. The Board concurred. Walker will organize a Border Counties Coalition Committee meeting to discuss this matter.

SITE MANAGER ARNOLD PEDERSON APPOINTMENT

Site manager Arnold Pederson met with the Board. Mr. Pederson gave an update on the building project, highlighting several issues that he was working on resolving with Klein McCarthy & Co Architect and Industrial Contract Services (ICS)

DISCUSSION ITEMS

Due to time constraints, the Board agreed to table discussion items one (1) through three (3) to the next Board meeting and to discuss only item four (4), Exempt Employee Policy.

Ms. Harren discussed the distinction between exempt and non-exempt employment status and the practices necessary to maintain exempt status. Ms. Harren provided a copy of the Fair Labor Standards Act and Overtime Exemption Charts and a list of Roseau County positions that meet the exempt status definition based on the three exempt decision charts. These positions include: Assessor, Assistant County Attorney, Victim Services Coordinator, Maintenance Supervisor, Engineering Supervisor, Assistant County Engineer, County Engineer, County Coordinator, Building Maintenance Supervisor, Environmental Services Officer, Chief Deputy Sheriff, Jail Administrator, Fiscal Supervisor, Financial Assistance Supervisor, Social Services Supervisor, Social Services Director, and Veteran's Service Officer. Ms. Harren informed the Board that elected officials do not accrue sick or vacation benefits and are typically not included in a county's list of exempt positions. Ms. Harren advised the Board that the requirement for exempt employees to complete hourly time sheets undermines the intent of the exempt status and jeopardizes exempt eligibility. Ms. Harren recommended the Board either adopt a written policy that provides for the accrual of compensatory time at a one hour to one hour rate for exempt position and clarifies that exempt employees are not eligible for paid overtime, or eliminate the requirement for exempt employees to track daily hours on time sheets. After discussion, the Board decided to remove the requirement for exempt employees to track time on time sheets. The Board discussed the Engineering Supervisor position. The Board concurred that this position would continue in its current structure and accrue compensatory time due to the seasonal demands placed on this position. Ms. Harren noted that exempt status does not preclude the Board from allowing for the accrual of compensatory time or from paying overtime. Ms. Harren was directed to inform employees impacted by this decision of the change and to request the Auditor's Office develop time sheets to accommodate this change. A motion was made by Commissioner Johnston, seconded by Commissioner Foldesi, and carried by unanimous vote to adopt the following resolution:

2006-05-12

BE IT RESOLVED, that the Board does hereby remove the requirement to track hourly time from the following exempt county positions: Assessor, Assistant County Attorney, Victim Services Coordinator, Maintenance Supervisor, Assistant County Engineer, County Engineer, County Coordinator, Building Maintenance Supervisor, Environmental Services Officer, Chief Deputy Sheriff, Jail Administrator, Fiscal Supervisor, Financial Assistance Supervisor, Social Services Supervisor, Social Services Director, and Veteran's Service Officer.

BE IT FURTHER RESOLVED, employees in exempt positions shall complete time sheets that track vacation and sick benefit use only.

Chair Rasmussen recessed the Board at 10:45 a.m. The meeting reconvened at 11:00 a.m.

COUNTY ENGINEER APPOINTMENT

Assistant County Engineer Tim Erickson met with the Board. A bid opening was held for SAP 68-624-03, Contract No. 06-02. This project includes aggregate base and geotextile fabric on approximately 3 miles of road located north of Roosevelt on CSAH No. 34. Two bids were received, one from Davidson Construction in the amount of \$597,813.25 and one from Northstar Materials in the amount of \$567,435.12. After tabulating bids, Assistant Engineer Erickson recommended the Board award the contract to Northstar Materials. A motion was made by Commissioner Swanson, seconded by Commissioner Walker, and carried by unanimous vote to adopt the following resolution:

2006-05-13

BE IT RESOLVED, that the Board does hereby authorize awarding a contract to Northstar Materials in the amount of \$567,435.12 for State Aid Project 68-634-03.

Assistant Engineer Erickson requested the Board award the 2006 herbicide bid to Farmer's Union Oil Company, Roseau. A motion was made by Commissioner Johnston, seconded by Commissioner Swanson, and carried by unanimous vote to adopt the following resolution:

2006-05-14

BE IT RESOLVED, that the Board does hereby award the 2006 Herbicide Supply Bid to Farmers Union Oil Company at the following price:

Acme Hi Dep 2, 4-D Amine	\$18.10 per gallon
Glypro	\$28.81 per gallon
Garlon 3A	\$76.78 per gallon

Assistant Engineer Erickson requested the Board approve the revised 5-year Roseau County Highway Department Construction Schedule. The Board tabled the request.

Commissioner Johnston asked if the Highway Department could provide the Board with a spreadsheet detailing activity on county roads including dates and expense of road

construction and maintenance. Mr. Erickson stated that a spreadsheet with that information is available and he would provide the Board with copies.

Assistant Engineer Erickson requested the Board approve a call for bids on a bridge replacement approximately six miles southeast of Greenbush. A motion was made by Commissioner Johnston, seconded by Commissioner Foldesi, and carried by unanimous vote to adopt the following resolution:

2006-05-15

BE IT RESOLVED, that the Board does hereby approve a call for bids for SAP 68-599-82 on June 27, 2006 at 11:00 a.m.

ASSISTANT COUNTY ATTORNEY APPOINTMENT

Assistant County Attorney Lisa Hanson met with the Board. Ms. Hanson requested the Board act on the Methamphetamine Ordinance. The Board discussed their concerns regarding undue hardship that this ordinance may cause property owners. Ms. Hanson advised that passing the ordinance would not preclude the Board from taking action to mitigate unique hardship circumstances. Ms. Hanson told the Board that there are two primary reasons to pass this ordinance, one is to limit the county's liability and the second is to provide revolving loan fund eligibility to county residents. A motion was made by Commissioner Johnston, seconded by Commissioner Swanson, and carried by a 4-1 vote with Commissioners Johnston, Rasmussen, Swanson and Walker voting in favor and Commissioner Foldesi opposed, to adopt the following ordinance:

ROSEAU COUNTY ORDINANCE NO. 32

CLEAN UP OF CLANDESTINE DRUG LAB SITES ORDINANCE

ARTICLE I. GENERAL PROVISIONS

SECTION 1.10 Title and Statutory Authority

1.11 This ordinance shall be known and referenced as the "Clean up of Clandestine Drug Lab Sites Ordinance."

1.12 This ordinance is enacted pursuant to the powers specified in Minn. Stat. § 145A.05.

SECTION 1.20 Purpose

1.21 Professional reports, based on assessments, testing, and investigations, show that chemicals used in the production of illicit drugs can condense, penetrate, and contaminate on the land, surfaces, furnishings, and equipment in or near structures where Clandestine drug labs are located.

1.22 These conditions present health and safety risks to occupants and visitors of such structures and land through fire, explosion, and skin and respiratory exposure to chemicals.

- 1.23 This ordinance establishes responsibilities and guidelines for involved parties to assure that:
- a) people are not unnecessarily exposed to the dangers of these contaminated structures or land; and
 - b) proper steps are taken to remove contaminants and assure appropriate tests are completed to verify that affected structures and land are sufficiently cleaned for human contact.
- 1.24 This ordinance assists and guides appropriate public authorities, property owners, and occupants to prevent injury and illness to members of the public, particularly children.
- 1.25 This ordinance is intended to reduce exposure to chemicals used at clandestine drug lab operations in structures including dwellings, buildings, motor vehicles, trailers, appliances or the land where they are located, and to minimize the cost to Roseau County and its residents for clean up of clandestine drug lab sites.

SECTION 1.30 Jurisdiction

- 1.31 This ordinance shall apply to all incorporated and unincorporated municipalities and land (city or township) within the boundaries of Roseau County.
- 1.32 Where a municipality has lawfully passed an ordinance to regulate and enforce the clean up of Clandestine drug labs that is more restrictive, the County shall coordinate regulation and enforcement with that municipality.

SECTION 1.40 Interpretation and Application

- 1.41 The provisions of this ordinance shall be interpreted and applied as the minimum requirements necessary to protect public health, safety, and welfare.
- 1.42 Where the conditions imposed by any provision of this ordinance are either more restrictive or less restrictive than comparable provisions imposed by any other law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall apply.

SECTION 1.50 Disclaimer Of Liability

Liability on the part of, or a cause of action against, Roseau County or any employee or agent thereof for any damages that may result from reliance on this ordinance shall be eliminated or limited as provided by Minn. Stat. §466.02.

SECTION 1.60 Fees

Fees for the administration of this ordinance may be established and amended periodically by resolution of the Roseau County Board of Commissioners.

SECTION 1.70 Definitions, Rules, and Word Usage

For the purpose of this ordinance, the following terms or words shall be interpreted as follows:

- 1.71 Child means any person less than 18 years of age.

- 1.72 Chemical investigation site means a clandestine drug lab site that is under notice and order for clean up and/or remediation as a public health nuisance, as authorized by Minnesota Statute Chapter 145A, and this ordinance.
- 1.73 Clandestine drug lab operation means the unlawful manufacture or attempt to manufacture a controlled substance within any area of a structure such as a dwelling, building, motor vehicle, trailer, boat, or other structure or appliance.
- 1.74 Clandestine drug lab site means any parts of a structure such as a dwelling, building, motor vehicle, trailer, or appliance occupied or affected by conditions and/or chemicals, typically associated with a clandestine drug lab operation.
- 1.75 Clean up means proper removal and/or containment of substances hazardous to humans and/or the environment at a chemical investigation site. Clean up is a part of remediation.
- 1.76 Controlled substance means a drug, substance or immediate precursor in Schedules I through V of Minnesota Statute § 152.02, as amended in the future. The term shall not include distilled spirits, wine, malt beverages, intoxicating liquors, or tobacco.
- 1.77 Environmental Services Department means the Environmental Services Director, or his or her designees.
- 1.78 Owner means any person, firm, or corporation who owns, in whole or in part, the land and/or structures such as buildings, motor vehicle, trailer, boat or other appliance at a clandestine drug lab site.
- 1.79 Public Health Nuisance shall have the meaning attributed to it in Minnesota Statutes § 145A.02, Subd. 17.
- 1.80 Public Health Authority means the Public Health Director, or his or her designee within the Environmental Services Department, who are authorized to act as agents of the Roseau County Board of Commissioners, in their role as the Community Health Board, pursuant to the Local Public Health Act, Minnesota Statutes § 145A.09 to 145A.13.
- 1.81 Remediation means methods such as assessment, evaluation, testing, venting, detergent scrubbing, enclosure, encapsulation, demolition, and/or removal of contaminated materials from a chemical investigation site.
- 1.82 Structure means a dwelling, building, motor vehicle, trailer, boat, appliance or any other area or location, either fixed or temporary.

ARTICLE II. ADMINISTRATION

SECTION 2.00 Declaration of Site as a Chemical Investigation Site Public Health Nuisance

Clandestine drug lab sites, as defined herein, are declared by this ordinance to be “chemical investigation site public health nuisances”.

SECTION 2.10 Medical guidelines for assessing health status of exposed persons

Medical guidelines for assessing the health status and determining medical care needs of persons – particularly children – that are found or known to be occupants or frequent visitors at a clandestine drug lab site, may be established and updated as necessary by the Roseau County Public Health Department.

SECTION 2.20 Law Enforcement notice to affected public, public health, and child protection authorities

2.21 Law enforcement authorities who identify a clandestine drug lab site, or clandestine drug lab operation shall promptly notify the Roseau County departments responsible for child protection, the Roseau County Environmental Services Department, and the Minnesota Pollution Control Agency State Duty Officer.

2.22 The obligation to promptly notify may be delayed to accomplish appropriate law enforcement objectives, but only to the extent that public health and child protection responsibilities are not unnecessarily compromised.

2.23 The notice shall include sufficient information to inform the recipients of the following:

- a) property location by street address and other identifiable location;
- b) property owner’s and occupant’s identities – especially the identities of any children and women of child-bearing age found or known to be associated with the site;
- c) chemicals found and indications of chemical residues;
- d) presumed duration of the lab;
- e) equipment in a dwelling or structure that is typically associated with the manufacture of a controlled substance; and
- f) conditions typically associated with a clandestine drug lab site or operation including weapons, illicit drugs, filth, fire, or electrical shock and other harmful conditions as determined by Minnesota law.

2.24 Upon identification of the clandestine drug lab site or operation, law enforcement agencies may treat, store, transport or dispose of all hazardous waste found at the site in a manner consistent with Minnesota Department of Health, Minnesota Pollution Control, and Roseau County rules and regulations.

2.25 When a law enforcement agency completes its work under 2.22 and is prepared to leave such sites, the agency shall affix a warning sign to the entrance of the affected part of the structure. The warning sign shall be those that have been prepared in advance for such situations through the collaboration of County Law Enforcement, Public Health

Authority, Environmental Services Department and city officials if applicable. The warning sign shall be of a size and contain information sufficient to alert visitors or returning occupants that the site is a chemical investigation site public health nuisance, may be dangerous to enter, and must not be entered except by authorization of the Public Health Authority, Environmental Services Department, and/or Law Enforcement agency identified on the sign.

- 2.26 During the time that a warning sign is attached to the property, the owner shall not permit any person to enter the affected structure, other than State, County or Federal authorities, or any firm hired to conduct an assessment or clean up the property.

SECTION 2.30 Notice of Chemical Investigation Site Public Health Nuisance to Owner and Occupant

- 2.31 After the Environmental Services Department receives notice from a law enforcement agency that they've identified a clandestine drug lab site and posted the appropriate Chemical Investigation Site Public Health Nuisance warning sign, the Environmental Services Department shall serve the known lawful occupants and owners of the site pursuant to Minnesota Statute § 145A.04, Subd. 8(b) with notice of their responsibilities relative to the chemical investigation site public health nuisance.

- 2.32 The Environmental Services Department shall notify and order the property owner of record and known occupant or agent to have the public health nuisance removed or abated within 10 days as provided in Minnesota Statute § 145A.04 and this ordinance. The Environmental Services Department notice and order shall include the following:
- a) A replica of the Chemical Investigation Site Public Health Nuisance declaration that is posted at the site's entrance(s).
 - b) Information about the potentially hazardous condition of the chemical investigation site.
 - c) A summary of the property owner's and occupant's responsibilities under this ordinance.
 - d) Information on locating professional services necessary to remove and abate the chemical investigation site public health nuisance status as provided in this Ordinance and Minnesota Statute § 145A.04.

- 2.33 The Environmental Services Department shall endeavor to provide information in writing about the Chemical Investigation Site Public Health Nuisance declaration and potential hazard(s) to the following additional concerned parties:
- a) Neighbors within close proximity that can be reasonably affected by the conditions found;
 - b) The local municipal clerk;
 - c) Local law enforcement;
 - d) Other state and local authorities, such as the Minnesota Pollution Control Agency and Minnesota Department of Health, that may have public and environmental protection responsibilities at the site.

SECTION 2.40 Notice Filed with Property Record and/or Motor Vehicle Record

- 2.41 If after 10 days notice and order, Environmental Services Department is unable to obtain any reasonable assurance or plan from the property owner or occupant that the structure

is being properly vacated, cleaned, remediated, and tested, Environmental Services Department may provide a copy of the Chemical Investigation Site Public Health Nuisance notice and order to the County Recorder and to the lien and mortgage holders of the affected structure and/or properties. The County Recorder is authorized to file that information with the property record, to notify other persons with interest in the property about the property's chemical investigation site public health nuisance status.

- 2.42 When the affected property is a motor vehicle, boat, or trailer, Environmental Services Department shall notify the appropriate State and local agency that maintains motor vehicle, boat, or trailer records, and the holders of liens or security interests against the vehicle or trailer.

SECTION 2.50 Property Owner's and Occupant's Responsibility to Act

- 2.51 Property owner(s) and occupant(s) provided with a notice, which also includes the posted warning sign informing them about the chemical investigation site public health nuisance, shall promptly act to vacate occupants from those parts of a structure that are a chemical investigation site public health nuisance. This includes dwellings, buildings, motor vehicles, trailers, boat, appliances or any other affected area or location.
- 2.52 Within ten business days of receiving the Public Health notice and order to clean up the Chemical Investigation Site Public Health Nuisance, the property owner(s) and/or occupant(s) shall take the following actions:
- a) Notify Roseau County Environmental Services Department that the affected parts of the dwellings, buildings, and/or motor vehicles have been and will remain vacated and secured until the Public Health Authority provides notice that the public health nuisance no longer exists.
 - b) Contract with one or more acceptable environmental hazard testing and cleaning firms (acceptable firms are those that have provided assurance of appropriate equipment, procedures, and personnel, as determined by the Minnesota Department of Health) to accomplish the following:
 - 1) A detailed on-site assessment of the extent of contamination at the site and the contamination of the personal property therein;
 - 2) Soil testing of the site and testing of all property and soil in proximity to the site that the environmental hazard testing and cleaning firm determines may have been affected by the conditions found at the site;
 - 3) A complete clean up of the site (including but not limited to the clean up or removal of contaminated plumbing, ventilation systems, fixtures and contaminated soil) or a demolition of the site and a complete clean up of the demolished site;
 - 4) A complete clean up, or disposal at an approved dumpsite, of all personal property in the site;
 - 5) A complete clean up of all property and soil in proximity to the site that is found to have been affected by the conditions found at the site, and
 - 6) Remediation testing and follow-up testing to determine that all health risks are sufficiently reduced, according to Minnesota Department of Health guidelines, to allow safe human occupancy and use of the site and use of the personal property therein.

- c) Provide Roseau County Environmental Services Department with the identity of the testing and cleaning firm the owner or occupant has contracted with for remediation of the structure(s) as described above.
- d) Provide Roseau County Environmental Services Department with the contractor's plan and schedule for remediation.
- e) The property owner or occupant may request an extension of time to consider options for arranging clean up or removal of the affected parts of the structure. The owner or occupant must show good cause for any such extension. Any such extension shall be dependant on the owner's assurance that the affected parts of the structure will not be occupied pending appropriate clean up or demolition.

2.53 Within 5 days of the completion of the clean up of the property, the property owner and/or occupant shall file with the Roseau County Environmental Services Department a certification from the firm responsible for clean up of the property a certificate, certifying that the clean up was performed in accordance with the applicable MDH General Cleanup Guidelines for Clandestine Drug Labs and this Ordinance.

SECTION 2.60 Property Owner's Responsibility for Costs and Opportunity for Recovery

- 2.61 Consistent with Minnesota Statutes Chapter 145A, the property owner shall be responsible for a) private contractor's fees, clean up, remediation, and testing of chemical investigation site public health nuisance conditions; and b) Roseau County's fees and costs of administering notices and enforcing, vacating, clean up, remediation, and testing of affected parts of the property.
- 2.62 Nothing in this ordinance is intended to limit the property owners, agents, occupants, or the County's right to recover costs or damages, from persons contributing to the public health nuisance, such as the operators of the clandestine drug lab and/or other lawful sources.
- 2.63 The County's administrative and enforcement services, referenced in subsection 2.61, include but are not limited to, the following:
- a) Posting warning notices or signs at the site,
 - b) Notification of affected parties,
 - c) Securing the site, providing limited access to the site, and prosecution of unauthorized persons found at the site;
 - d) Expenses related to the recovery of costs, including the assessment process;
 - e) Laboratory fees;
 - f) Clean up services;
 - g) Administrative fees; and
 - h) Other associated costs.

SECTION 2.70 Special Assessment to Recover Public Costs

- 2.71 The County is authorized under Minnesota Statute § 145A.04, Subd. 8(c) to proceed within ten business days of service of a notice for abatement or removal of the Public Health Nuisance to initiate the assessment and clean up when a) the property owner is not located, or b) the Environmental Services Department determines that the owner refuses to, or cannot pay the costs, or arrange timely assessment and clean up that is acceptable to the designated Environmental Services Department.

- 2.72 The County Coordinator (or the Coordinator's formally identified designee) shall be fully authorized to act, consistent with Minnesota Law, on behalf of the County to direct funds to assure prompt remediation of chemical investigation sites.
- 2.73 When the estimated cost of testing, clean up, and remediation exceeds seventy-five percent of the County Assessor's market value of the structure and land, the County Coordinator (or the Coordinator's formally identified designee) is authorized to notify the property owner of the county's intent to remove and dispose of the affected real property instead of proceeding with cleaning and remediation.
- 2.74 The property owner shall be responsible for all costs, including those of the County, incurred to abate the public health nuisance, including contractor's fees and public costs for services that were performed in association with a clandestine drug lab site or chemical dump site clean up. The County's costs may also include, but shall not be limited to those set forth in Section 2.63. Fees and costs specified above that are not paid for in any other way may be collected through a special assessment on the property as allowed by Minnesota Statute § 145A.08, or by any other applicable Federal, State, and County Laws, Ordinances, and/or applicable County Board Resolution.
- 2.75 Payment on the special assessment, shall be at the annual rate of at least One Thousand Dollars (\$1000) or more as needed to assure full payment to the County within ten (10) years. This amount shall be collected at the time real estate taxes are due. The amount due and/or payment rate may be adjusted by action of the Roseau County Board of Commissioners.
- 2.76 The County may also seek recovery of costs through other methods allowed by Federal or State law.

SECTION 2.80 Authority to Modify or Remove Declaration of Chemical Investigation Site Public Health Nuisance

- 2.81 The designated Environmental Services Department may modify conditions of the declaration and order removal of the declaration of Chemical Investigation Site Public Health Nuisance.
- 2.82 Such modification or removal shall occur only after the Environmental Services Department has determined that levels of contamination are sufficiently reduced through remediation to warrant modification or removal of the declaration. The Environmental Services Department may rely on information from competent sources, including those supplied by the property owner and/or others such as state and local health, safety, law enforcement and pollution control authorities to reach such decisions.
- 2.83 When the declaration is modified or removed the Environmental Services Department shall forward that information to the County Recorder for addition to the property record if notice of the nuisance declaration was previously filed with the Recorder as described above. Similarly, notice shall be provided to the motor vehicle or other license records agencies and lien holders if a notice had previously been provided to them.

SECTION 2.90 Waste Generated From Cleaning Up A Clandestine Drug Lab.

Waste generated from chemical investigation site public health nuisances shall be treated, stored, transported, and disposed in accordance with applicable Minnesota Department of Health, Minnesota Pollution Control Agency, and Roseau County rules and regulations for solid waste, and for hazardous household and other hazardous wastes.

ARTICLE III. EXCEPTIONS, APPEALS, AND PENALTIES

SECTION 3.10 Exceptions, Appeals, and Penalties

Administration of this ordinance, including guidance for, challenges to, and penalties shall be according to the authorities provided in Minnesota Statute Chapter 145A, other applicable Minnesota law, and the Roseau County Solid Waste Management Ordinance.

SECTION 3.20 SEVERABILITY AND SAVINGS CLAUSE

If any section or portion of this ordinance shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not serve as an invalidation of, or affect the validity or enforceability of any other section or provision of this ordinance.

ARTICLE IV. EFFECTIVE DATE

This ordinance shall be in full force and effect upon adoption pursuant to Minnesota law.

ROSEAU AREA HOSPITAL DISTRICT BOARD APPOINTMENTS (AMENDED AGENDA ITEM)

Commissioner Johnston provided the Board with a letter from Roseau Area Hospital District Chair, Mike Hetteen requesting the Board re-appoint Steve Haugen and Carmen Przekwas to the district board. A motion was made by Commissioner Swanson, seconded by Commissioner Walker and carried by unanimous vote to adopt the following resolution:

2005-05-16

BE IT RESOLVED, that the Board does hereby re-appoint Steve Haugen and Carmen Przekwas to the Roseau Area Hospital District Board for six-year terms expiring May 1, 2012.

Ms. Harren was directed to send a correspondence to Mike Hetteen notifying him of these two appointments and the previous re-appointment of Dr. Ralph Herseth and Jon Johnson to six-year terms expiring May 1, 2011.

Upon motion carried, the meeting adjourned at 12:05 p.m. The Board will convene its next regular meeting at 8:30 a.m. on June 13, 2006.

Attest:

Date: _____

Teresa Harren
County Coordinator

Orris Rasmussen
Board Chairman