

**OFFICIAL PROCEEDINGS OF THE COUNTY BOARD
WASHINGTON COUNTY, MINNESOTA
AUGUST 22, 2006**

WASHINGTON COUNTY REGIONAL RAILROAD CONVENES

The Washington County Regional Railroad met in regular session at 9:00 a.m. in the Washington County Government Center, County Board Room. Present were Commissioners Peterson, Kriesel, Stafford, and Hegberg. Commissioner Pulkrabek absent. RRA Chair Peterson presided. Also present were James Schug, County Administrator; Molly O'Rourke, Deputy Administrator; Don Theisen, Director of Transportation and Physical Development; Sandy Cullen, Transportation Manager; Mike Rogers, RRA Planner; Dan Papin, Community Services Director; Kay McAloney, Human Resources Director; Kevin Corbid, Director of Assessment, Taxpayer Services and Elections; and Steve Nelson, Public Information Coordinator II. Official Proceedings of the Regional Railroad Authority are available in the Office of Administration.

The Board recited the Pledge of Allegiance.

WASHINGTON COUNTY BOARD OF COMMISSIONERS CONVENES

The Washington County Board of Commissioners met in regular session at 9:35 a.m. in the Washington County Government Center, County Board Room. Present were Commissioners Peterson, Kriesel, Stafford, and Hegberg. Commissioner Pulkrabek absent. Vice Chair Kriesel presided. Also present were James Schug, County Administrator; Molly O'Rourke, Deputy Administrator; Meredith Magers, Assistant County Attorney, Don Theisen, Director of Transportation and Physical Development; Sandy Cullen, Transportation Manager; Mike Rogers, RRA Planner; Corey Slagle, Engineer II; Kevin Corbid, Director of Assessment, Taxpayer Services and Elections; Lowell Johnson, Director of Public Health and Environment; Judy Hunter, Sr. Program Manager; Dan Papin, Community Services Director; Kay McAloney, Human Resources Director; Kevin Corbid, Director of Assessment, Taxpayer Services and Elections; Bogdan Filipescu, Assessment, Taxpayer Services and Elections; and Steve Nelson, Public Information Coordinator II.

COMMENTS FROM THE PUBLIC

The Board Chair asked for comments from the audience; none were heard.

CONSENT CALENDAR

Commissioner Peterson moved, seconded by Commissioner Hegberg to adopt the following Consent Calendar:

1. Approval to reappoint the following individuals to the Workforce Investment Board to two year terms ending June 30, 2008: Bert Harris, Small Business; Cherylee Sherry, Small Business; Patty Venburg, Small Business; and, James Finley, Job Services.

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2. Approval to reappoint Dennis Larson to the Comfort Lake-Forest Lake Watershed District Board of Managers to a three-year term expiring September 22, 2009.
3. Approval and execution by Board Chair and Administrator of recycling grant agreements with the Cities of Woodbury, Stillwater, and Mahtomedi for distribution of curbside recycling funds.
4. Approval of Change Order #1 to MG McGrath, Inc. contract for upgrade of metal shingles, composite wall panels, all associated flashing and trim for the North Service Center/Library in Forest Lake.
5. Bids were received for Master Plan Amendment to the Cottage Grove Ravine Regional Park as follows:

Brauer and Associates, Ltd.	\$38,000
SRF Consulting Group, Inc.	\$42,396
Sanders, Wacker, Bergly, Inc.	\$45,000

Adoption of **Resolution No. 2006-112** as follows:

Contract Award for Cottage Grove Ravine Regional
Park Master Plan Amendment to Brauer and Associates, Ltd.

WHEREAS, in order to complete a Master Plan Amendment for the Cottage Grove Ravine Regional Park, the county solicited proposals for this project; and

WHEREAS, proposals were opened on August 9, 2006, with Brauer & Associates, Ltd. being the selected firm by a review committee.

NOW, THEREFORE BE IT RESOLVED, that the proposal of Brauer & Associates, Ltd. be accepted and the county enter into a contract with Brauer & Associates, Ltd. under the terms and conditions set forth in the project specification documents; and

BE IT FURTHER RESOLVED that the contract between the county and Brauer & Associates, Ltd. be executed through the signatures of the Chair of the Washington County Board of Commissioners and the Washington County Administrator without further action of the County Board conditioned upon compliance with all project specification requirements and approval as to form by the Washington County Attorney's Office.

6. Adoption of **Resolution No. 2006-113** as follows:

Authorizing Execution of Minnesota Department of Transportation
Grant Agreement for Rush Line Corridor Federal Funds in the Amount of \$761,312

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WHEREAS, Washington County will enter into Agreement No. 89717 with the Minnesota Department of Transportation (Mn/DOT); and

WHEREAS, Washington County wishes to enhance mobility and increase transportation options for Northern Washington County residents through the construction of a transit center in Forest Lake; and

WHEREAS, Washington County has been awarded Rush Line Corridor Federal Funds in the amount of \$761,312 by the Rush Line Corridor Task Force; and

WHEREAS, Federal funds for the Rush Line Corridor must flow through the Minnesota Department of Transportation; and

WHEREAS, the Minnesota Department of Transportation requires a grant contract to be executed prior to the disbursement of federal funds.

NOW, THEREFORE BE IT RESOLVED, that Washington County approves entering into Agreement No. 89717 with the Minnesota Department of Transportation and hereby agrees to provide the local match to the federal funds.

BE IT FURTHER RESOLVED, that the Chair of the Washington County Board of Commissioners is hereby authorized to execute the aforementioned agreement.

7. Adoption of **Resolution No. 2006-114** as follows:

Authorizing Execution of Metropolitan Council Grant Agreement for Rush Line Corridor State Bonding Funds in the Amount of \$190,328

WHEREAS, Washington County will enter into Agreement No. SG-2006-71 with the Metropolitan Council; and

WHEREAS, Washington County wishes to enhance mobility and increase transportation options for Northern Washington County residents through the construction of a transit center in Forest Lake; and

WHEREAS, Washington County has been awarded Rush Line Corridor State Bonding Funds in the amount of \$190,328 by the Rush Line Corridor Task Force to match the \$761,312 in Rush Line Corridor federal funds; and

WHEREAS, State Bond funds for the Rush Line Corridor must flow through the Metropolitan Council; and

WHEREAS, the Metropolitan Council requires a grant contract to be executed prior to the disbursement of State Bond funds.

NOW, THEREFORE BE IT RESOLVED, that Washington County approves entering into Agreement No. SG-2006-71 with the Metropolitan Council.

BE IT FURTHER RESOLVED, that the Chair of the Washington County Board of Commissioners is hereby authorized to execute the aforementioned agreement.

The foregoing Consent Calendar was adopted unanimously; Commissioner Pulkrabek absent.

ASSESSMENT, TAXPAYER SERVICES AND ELECTIONS

Commissioner Peterson moved to adopt **Resolution No. 2006-115** as follows:

Subdivision of Parcel 17.028.21.44.0088, City of Woodbury

WHEREAS, parcel 17.028.21.44.0088 went into forfeiture in 2002; and

WHEREAS, parcel 17.028.21.44.0088 was classified as non-conservation on the 26th of April, 2005; and

WHEREAS, the Board of Commissioners of the County of Washington, State of Minnesota, wants to subdivide parcel 17.028.21.44.0088 in two separate parcels; and

WHEREAS, the Board of Commissioners of the County of Washington, State of Minnesota, desires to offer for sale the newly created parcels.

NOW, THEREFORE, BE IT RESOLVED, that the Washington County Board of Commissioners hereby directs the Department of Assessment, Taxpayer Services and Elections to subdivide parcel 17.028.21.44.0088 in two new parcels with the following property descriptions:

Parcel A: the southerly 40.00 feet of OUTLOT B, DONNAY'S TALL TREES 2ND ADDITION, according to the recorded plat thereof, Washington County, Minnesota.

Parcel B: OUTLOT B, DONNAY'S TALL TREES 2ND ADDITION, except the southerly 40.00 feet thereof.

BE IT FURTHER RESOLVED, that the Washington County Board of Commissioners hereby certifies that the newly created parcels have been reviewed and comply with the provisions of Minnesota Statutes 85.012, 92.461, 282.01, and 282.018, and other statutes that require withholding of tax forfeited land from sale or conveyance.

BE IT FURTHER RESOLVED, that the Washington County Board of Commissioners hereby requests approval from the Minnesota Department of Natural Resources and the City of Woodbury for the sale or conveyance of said lands.

Commissioner Stafford seconded the motion and it was adopted unanimously; Commissioner Pulkrabek absent.

TRANSPORTATION AND PHYSICAL DEVELOPMENT

SEH Contract for CSAH 18 Reconstruction Project in Lakeland & Lakeland Shores

Commissioner Kriesel moved to approve Amendment #2 to the Short, Elliott, Hendrickson, Inc. contract for additional design services in the amount of \$84,000 for the CSAH 18 reconstruction project in Lakeland and

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Lakeland Shores. Commissioner Peterson seconded the motion and it was adopted unanimously; Commissioner Pulkrabek absent.

Big Marine Park Reserve

Commissioner Peterson moved to authorize Parks staff to utilize fund balance from the Acquisition and Development fund in order to solicit proposals for the Design of Phase 1 Improvements at Big Marine Park Reserve. Commissioner Hegberg seconded the motion and it was adopted unanimously; Commissioner Pulkrabek absent.

Commissioner Peterson moved to adopt **Resolution No. 2006-116** as follows:

Declaring the Official Intent of Washington County to Reimburse
Certain Expenditures from the Proceeds of Tax-Exempt Bonds
to be Issued by the County

WHEREAS, the Internal Revenue Service has issued Treas. Reg. § 1.150-2 (the "Reimbursement Regulations") providing that proceeds of tax-exempt bonds used to reimburse prior expenditures will not be deemed spent unless certain requirements are met; and

WHEREAS, Washington County, a county and political subdivision of the State of Minnesota (the "County"), expects to incur certain expenditures that may be financed temporarily from sources other than tax-exempt bonds and other obligations, and reimbursed from the proceeds of a tax-exempt bonds or other obligations; and

WHEREAS, the County has determined to make this declaration of official intent (the "Declaration") to reimburse certain costs from proceeds of tax-exempt bonds or other obligations in accordance with the Reimbursement Regulations.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Washington County, Minnesota as follows:

1. The County has duly adopted a Capital Improvement Plan (the "CIP Plan") for the County in accordance with Minnesota Statutes, Section 373.40, as amended (the "Act"). The CIP Plan identifies various capital improvements projects (the "Project"), including, Phase 1 Improvements at Big Marine Park Reserve in the County that are proposed to be financed with the proceeds of general obligation indebtedness of the County issued under the provisions of the Act.
2. The County reasonably expects to reimburse, in a principal amount currently estimated not to exceed \$3,000,000, the expenditures made for certain costs of the Project from the proceeds of general obligation bonds of the county to be issued in 2007. All reimbursed expenditures will be capital expenditures, costs of issuance of the tax-exempt bonds or other obligations, or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Reimbursement Regulations.

3. This Declaration has been made not later than 60 days after payment of any original expenditure to be subject to a reimbursement allocation with respect to the proceeds of tax-exempt bonds or other obligations, except for the following expenditures: (a) costs of issuance of bonds or other obligations; (b) costs in an amount not in excess of \$100,000 or 5 percent of the proceeds of an issue of bonds or other obligations; or (c) “preliminary expenditures” up to an amount not in excess of 20 percent of the aggregate issue price of the issue or issues that finance or are reasonably expected by the County to finance the project for which the preliminary expenditures were incurred. The term “preliminary expenditures” includes architectural, engineering, surveying, bond issuance, and similar costs that are incurred prior to commencement of acquisition, construction or rehabilitation of a project, other than land acquisition, site preparation, and similar costs incident to commencement of construction.

4. This Declaration is an expression of the reasonable expectations of the County based on the facts and circumstances known to the County as of the date hereof. The anticipated original expenditures for the Project and the principal amount of the tax-exempt bonds or other obligations described in paragraph 2 are consistent with the County’s budgetary and financial circumstances. No sources other than proceeds of tax-exempt bonds or other obligations to be issued by the County are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside pursuant to the County’s budget or financial policies to pay such Project expenditures.

5. This Declaration is intended to constitute a declaration of official intent for purposes of the Reimbursement Regulations.

Commissioner Hegberg seconded the motion and it was adopted unanimously; Commissioner Pulkrabek absent.

PUBLIC HEALTH AND ENVIRONMENT

Commissioner Hegberg moved to adopt **Resolution No. 2006-117** as follows:

Authorize Execution of Agreement with Resource Recovery Technologies

WHEREAS, Ramsey and Washington Counties (“Counties”) are parties to a Service Agreement and Design and Construction Agreement (“D and C Agreement”) (together the “Agreements”) with NRG Energy, Inc. (“NRG”), which owns and operates the Ramsey/Washington County Resource Recovery Facility (“Facility”) in Newport, Minnesota; and

WHEREAS, the Agreements and the Facility were assigned by Northern States Power Company (“NSP”) to NRG, which was at the time a wholly-owned subsidiary of NSP, in an Assignment and Assumption of Service Agreement in 1993 (“1993 Agreement”), but NSP was not relieved of any of its liabilities or obligations under the Agreements in the 1993 Agreement; and

WHEREAS, NSP is now a wholly-owned subsidiary of Xcel Energy, Inc. (“Xcel”) and NRG is now an independent, publicly-traded company; and

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WHEREAS, Section 14.03 of the Service Agreement and Section 17.03 of the D and C Agreement provide that NRG shall not transfer or relinquish, either directly or indirectly, through the sale of assets, merger, transfer of stock or otherwise, the ownership of all or any portion of the Facility to any person or entity, without first obtaining the express written approval from the Counties and that if such approval is first secured, the person or entity to which such ownership or interest is transferred shall be bound by the Agreements and shall have no rights greater than NRG pursuant to the Agreements; and

WHEREAS, Section 14.04 of the Service Agreement and Section 17.04 of the D and C Agreement provide that NRG shall not assign any interest in the Agreements or transfer any interest in the same, whether by subcontract, assignment, or novation, without the prior written consent of the Counties, and such consent shall not be unreasonably withheld; and

WHEREAS, the Loan Agreement between the Counties and NSP (“Loan Agreement”) provides that NRG is bound by the provisions of Section 4.08 thereof; and

WHEREAS, the Counties have given formal notice to NRG that they do not intend to extend the terms of the Service Agreement, while also confirming their commitment to process waste through resource recovery; and

WHEREAS, by letter dated May 18, 2006, NRG notified the Counties that NRG is negotiating a Purchase Agreement with Resource Recovery Technologies, LLC (“RRT”), an affiliate of EBF Associates, LP, for the sale of the Newport facility (along with the Elk River Resource Recovery Facility and other related NRG solid waste processing assets) and requested that the Counties provide written consent to the transfer of ownership in the Facility and assignment of the Agreements; and

WHEREAS, on June 27, 2006, the Ramsey and Washington County Boards of Commissioners each provided conditional approval to the transfer of ownership of the Facility from NRG to RRT pursuant to the Agreements, to the assignment and assumption of the Agreements from NRG to RRT and pursuant to Section 17.04 of the D and C Agreement, and to the transfer of NRG’s rights and obligations under Section 4.08 of the Loan Agreement from NRG to RRT, provided that six specific conditions precedent are met; and

WHEREAS, on July 11, 2006, the Resource Recovery Project Board authorized staff to enter into discussions with RRT to develop a new agreement for processing for a period of up to five years after the expiration of the current Service Agreement, and also authorized staff to enter into discussions with waste haulers, if necessary, with regard to future waste deliveries, and reiterated that any such agreements are subject to approval by the Ramsey and Washington County Boards; and

WHEREAS, Xcel Energy, Inc. (Xcel) and Northern States Power Company (NSP) have requested that the Counties release them from liabilities and claims arising under the Agreement from their acts and omissions occurring on or after the date RRT purchases the Facility.

NOW, THEREFORE BE IT RESOLVED, the Washington County Board of Commissioners hereby approves the Release Agreement among Ramsey County, Washington County, Xcel and NSP and authorizes the Washington County Administrator or designee to execute said Release Agreement on

behalf of Washington County in a form to be approved by the County Attorney. The Release Agreement shall only relieve NSP and Xcel from claims and expenses arising under the Service Agreement, Design and Construction Agreement and Loan Agreement from their acts or omissions occurring after the sale of the Facility from NRG to RRT.

BE IT FURTHER RESOLVED, the Washington County Board of Commissioners hereby accepts the specific terms and conditions offered by Resource Recovery Technologies as set forth in Attachment 2 and directs staff to incorporate said terms and conditions into a written agreement to be presented for approval and execution by both County Boards; and,

BE IT FURTHER RESOLVED, the Washington County Board of Commissioners hereby delegates to the County Administrator the authority to execute, in a form to be approved by the County Attorney, documents in which NRG and RRT release the Counties from all potential claims arising from the facts and circumstances in connection with certain alleged events of default, described in the Notice of Default letter from NRG to the Counties dated June 28, 2005, which release was made a condition precedent to approval by the Counties of the transfer of assets from NRG to RRT in Resolution 2006-090; and,

BE IT FURTHER RESOLVED, the Washington County Board of Commissioners hereby approves and authorizes the execution of an amendment to the Service Agreement, that extends the deadline for County notification of intent to purchase the Facility pursuant to Section 11.02 of the amended Service Agreement and,

BE IT FURTHER RESOLVED, the Washington County Board of Commissioners hereby delegates to the County Administrator or his designee the authority to certify, in a form to be approved by the County Attorney, that the conditions precedent to consent to the transfer of assets and assignment of the Service Agreement set forth in Resolution No. 2006-090 have been satisfied and delegates to the County Administrator or his designee the authority to execute the consent document under the conditions.

Commissioner Stafford seconded the motion and it was adopted unanimously; Commissioner Pulkrabek absent.

GENERAL ADMINISTRATION

Jim Schug, County Administrator, reminded the Board and audience, that there would not be a County Board meeting next week because it is the fifth Tuesday.

COMMISSIONER REPORTS – COMMENTS – QUESTIONS

Commissioner Peterson gave copies of an item she received at the Minnesota Transportation Alliance meeting she attended last week entitled “Transportation Facts in Minnesota”. She feels it has a lot of good information and will give the Commissioners an opportunity to respond to questions they may receive from the public regarding the transportation amendment that will be on this falls ballot.

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BOARD CORRESPONDENCE

Board correspondence was received and placed on file.

ADJOURNMENT

There being no further business to come before the Board, Commissioner Stafford moved to adjourn, seconded by Commissioner Peterson and it was adopted unanimously; Commissioner Pulkrabek absent. The Board meeting adjourned at 10:15 a.m.

BOARD 2007 BUDGET WORKSHOP

The Board met in workshop session to hear 2007 budget requests from Community Services and Public Health and Environment. No business was transacted and the public was welcome to attend. Present for the workshop session were Commissioners Peterson, Kriesel, Hegberg, and Stafford. Also present were Jim Schug, Molly O'Rourke, Melinda Kirk, Dan Papin, Michelle Kemper, Patrick Singel, Richard Backman, Lowell Johnson, Sue Hedlund, Judy Hunter, Cindy Weckwerth, Jeff Travis, Pat Morreim, Steve Nelson, Yvonne Klinnert, Stillwater Courier, and Kevin Giles, Star Tribune.

Gary Kriesel, Vice Chair
County Board

Attest:

James R. Schug
County Administrator

