

SPECIAL SESSION OF THE MOWER COUNTY  
BOARD OF COMMISSIONERS

June 5, 2007

The Mower County Board of Commissioners in and for the County of Mower, Minnesota, met in Special Session June 5, 2007 at 1:00 p.m. at the Courthouse in Austin, Minnesota.

All members present, viz: Dick Lang, Chair  
Richard Cummings  
Raymond Tucker  
David Hillier  
Dave Tollefson  
Craig Oscarson, County Coordinator

Dr. Gene Muchow, former Mower County Health Officer, was presented a plaque in recognition of his 44 years of service for Mower County.

At this time, a Public Hearing was held concerning CUP #722 of Tung Van Tran to display and sell up to five vehicles from property in Section 13 of Lyle Township.

Daryl Franklin provided a summary of the CUP and informed the Board that the Planning Commission recommends approval of CUP #722.

The Petitioners were present. No one spoke for or against CUP #722.

**Date: June 5, 2007**

**Res. #46-07**

**RESOLUTION**

On motion of Commissioner Hillier, seconded by Commissioner Tucker, the following Resolution was passed and adopted by the Mower County Board of Commissioners at a meeting held June 5, 2007 at the Courthouse, Austin, Minnesota.

The Mower County Planning Commission having presented to the Mower County Board of Commissioners, CUP #722 of Tung Van Tran, Petitioner, and to be issued pursuant to the Mower County Zoning Regulations for:

To display and sell up to five vehicles from property in Section 13 of Lyle Township.

Location: W 242.8 ft. S 190 ft. SW ¼ NW ¼ , Section 13, Lyle Township,  
T101N R18W, Mower County, Minnesota

Notice having been duly given and a hearing held June 5, 2007, on said petition.

**NOW, THEREFORE, BE IT RESOLVED**, that the Mower County Board accepts

and adopts the findings of fact of the Mower County Planning Commission in the five required areas; and

**BE IT FURTHER RESOLVED**, that said petition is hereby approved, as recommended by the Mower County Planning Commission with conditions as follows:

1. No more than five vehicles may be displayed on the property.
2. No inoperable vehicles will be allowed on the site.
3. No vehicles will be allowed in the right-of-way of State Hwy. 218.
4. This permit is based upon representation given by the applicant during the hearing process and any misrepresentation presented in this process may be grounds for revoking the permit.

This permit is in accordance with Section 14-51(y) of the Mower County Zoning Ordinance.

Passed and approved this 5<sup>th</sup> day of June, 2007.

**THE MOWER COUNTY BOARD OF COMMISSIONERS**

By: \_\_\_\_\_  
**Chairperson**

By: \_\_\_\_\_  
**Clerk/Coordinator**

At this time, a Public Hearing was held concerning CUP #723 of Daniel L. Mallory to allow an additional dwelling in the quarter section of land on property in Section 27 in Frankford Township.

Daryl Franklin provided a summary of the CUP and informed the Board that the Planning Commission recommends approval of CUP #723.

No one spoke for or against CUP #723.

**Date: June 5, 2007**

**Res. #47-07**

**RESOLUTION**

On motion of Commissioner Tucker, seconded by Commissioner Tollefson, the following Resolution was passed and adopted by the Mower County Board of Commissioners at a meeting held June 5, 2007 at the Courthouse, Austin, Minnesota.

The Mower County Planning Commission having presented to the Mower County Board of Commissioners, CUP #723 of Daniel L. Mallory, Petitioner, and to be issued pursuant to the Mower County Zoning Regulations for:

To allow an additional dwelling in the quarter section of land on property in Section 27 in Frankford Township.

Location: W 500 ft. Mathison Add #1 , Section 27, Frankford Township, T103N R14W, Mower County, Minnesota

Notice having been duly given and a hearing held June 5, 2007, on said petition.

**NOW, THEREFORE, BE IT RESOLVED**, that the Mower County Board accepts and adopts the findings of fact of the Mower County Planning Commission in the five required areas; and

**BE IT FURTHER RESOLVED**, that said petition is hereby approved, as recommended by the Mower County Planning Commission with conditions as follows:

1. A Zoning Permit and ISTS Permit must be obtained prior to construction.
2. The CUP shall become void on 12/31/08 if no construction has begun or the use has not been established. However, the County Board may extend the CUP for an additional twelve (12) months by a motion if the conditions are the same as the approved CUP.
3. The new residence will be used for a family member of the petitioner only. The new residence shall not be used for rental property of the petitioner nor future owners of the property.
4. This permit is based upon representation given by the applicant during the hearing process and any misrepresentation presented in this process may be grounds for revoking the permit.

This permit is in accordance with Section 14-18.4 of the Mower County Zoning Ordinance.

Passed and approved this 5<sup>th</sup> day of June, 2007.

**THE MOWER COUNTY BOARD OF COMMISSIONERS**

By: \_\_\_\_\_  
Chairperson

By: \_\_\_\_\_  
Clerk/Coordinator

At this time, a Public Hearing was held concerning amending the Mower County Comprehensive Plan/Future Land Use Plan and rezoning property owned by High Prairie

Wind Farm II, LLC from "Agricultural" to "Industrial" to allow the construction of an O & M Building and 161 kV substation on the property.

Daryl Franklin provided a summary of the amendment and the rezoning petitions and informed the Board that the Planning Commission recommends approval.

The petitioner was present and spoke in favor on the amendment and the rezoning of the properties on his own behalf. No one spoke against the amendment or the rezoning of the properties.

**Date: June 5, 2007**

**Res. #48-07**

**RESOLUTION**

On motion of Commissioner Tucker, seconded by Commissioner Hillier, the following Resolution was passed and adopted by the Mower County Board of Commissioners at a meeting held June 5, 2007 at the Courthouse, Austin, Minnesota.

The Mower County Planning Commission having presented to the Mower County Board of Commissioners, an Amendment to Comprehensive Plan/Future Land Use Plan of High Prairie Wind Farm II, LLC, Petitioner, and to be issued pursuant to the Mower County Zoning Regulations for:

Amend the future land use plan and rezone property from "Agricultural" to "Industrial" applicable to Section 14-38 of the Mower County Zoning Ordinance to allow the construction of an O & M Building and 161 kV substation on the property

Location:

6.5 Acres

All that part of the SE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 34, Township 103 North, Range 15 West, Mower County, Minnesota, described as follows:

Commencing at the southeast corner of the SE $\frac{1}{4}$  NE $\frac{1}{4}$  of said Section 34; thence South 88°58'17" West a distance of 450.02 feet, on an assumed bearing on the south line of said NE $\frac{1}{4}$ , to the point of beginning; thence South 88°58'17" West a distance of 500.00 feet, on the south line of said NE $\frac{1}{4}$ ; thence North 00°50'39" West a distance of 485.60 feet; thence North 88°58'17" East a distance of 500.00 feet; thence South 00°50'39" East a distance of 485.60 feet, to the point of beginning; subject to highway easement on the south side thereof.

And

5 Acres

Commencing at a point on the East line of the Southeast Quarter of Section 10, Township 102 North of Range 15 West, 984 feet North of the Southeast Corner thereof, being the place of beginning, thence West parallel with the South line of said Southeast Quarter 578 feet, thence North parallel with the East line of said Southeast

Quarter 456 feet; thence East parallel with the South line of said Southeast Quarter 578 feet to the East line of said Southeast Quarter, thence South along the East line of said Southeast Quarter 456 feet to the place of beginning.

Notice having been duly given and a hearing held June 5, 2007, on said petition.

**NOW, THEREFORE, BE IT RESOLVED**, that the Mower County Board amend the future land use plan and rezone property from "Agricultural" to "Industrial".

This permit is in accordance with Section 14-38 of the Mower County Zoning Ordinance.

Passed and approved this 5<sup>th</sup> day of June, 2007.

**THE MOWER COUNTY BOARD OF COMMISSIONERS**

By: \_\_\_\_\_  
Chairperson

By: \_\_\_\_\_  
Clerk/Coordinator

**Date: June 5, 2007**

**Res. #49-07**

**RESOLUTION**

On motion of Commissioner Hillier, seconded by Commissioner Tollefson, the following Resolution was passed and adopted by the Mower County Board of Commissioners at a meeting held June 5, 2007 at the Courthouse, Austin, Minnesota.

The Mower County Planning Commission having presented to the Mower County Board of Commissioners, a request to rezone 6.5 acres of High Prairie Wind Farm II, LLC, Petitioner, and to be issued pursuant to the Mower County Zoning Regulations for:

To rezone 6.5 acres from agricultural to industrial to allow the construction of an operations and maintenance building

Location:

All that part of the SE<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub> of Section 34, Township 103 North, Range 15 West, Mower County, Minnesota, described as follows:  
Commencing at the southeast corner of the SE<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub> of said Section 34; thence South 88°58'17" West a distance of 450.02 feet, on an assumed bearing on the south line of said NE<sup>1</sup>/<sub>4</sub>, to the point of beginning; thence South 88°58'17" West a distance

of 500.00 feet, on the south line of said NE¼; thence North 00°50'39" West a distance of 485.60 feet; thence North 88°58'17" East a distance of 500.00 feet; thence South 00°50'39" East a distance of 485.60 feet, to the point of beginning; subject to highway easement on the south side thereof.

Notice having been duly given and a hearing held June 5, 2007, on said petition.

**NOW, THEREFORE, BE IT RESOLVED**, that the Mower County Board hereby approves said petition, as recommended by the Mower County Planning Commission with conditions as follows:

1. If the property is not developed within 24 months from the date of the change, the property shall revert back to "Agricultural".
2. The rezoning is exclusive for an Operations & Maintenance Building and any other permitted or conditional uses in the Industrial zone will not be allowed unless the Mower County Board of Commissioners approves a change.

This permit is in accordance with Section 14-38 of the Mower County Zoning Ordinance.

Passed and approved this 5<sup>th</sup> day of June, 2007.

**THE MOWER COUNTY BOARD OF COMMISSIONERS**

By: \_\_\_\_\_  
**Chairperson**

By: \_\_\_\_\_  
**Clerk/Coordinator**

**Date: June 5, 2007**

**Res. #50-07**

**RESOLUTION**

On motion of Commissioner Cummings, seconded by Commissioner Tucker, the following Resolution was passed and adopted by the Mower County Board of Commissioners at a meeting held June 5, 2007 at the Courthouse, Austin, Minnesota.

The Mower County Planning Commission having presented to the Mower County Board of Commissioners, a request to rezone 5 acres of High Prairie Wind Farm II, LLC, Petitioner, and to be issued pursuant to the Mower County Zoning Regulations for:

To rezone 5 acres from agricultural to industrial to allow the construction of a 161 kV substation on the property.

Location:

Commencing at a point on the East line of the Southeast Quarter of Section 10, Township 102 North of Range 15 West, 984 feet North of the Southeast Corner thereof, being the place of beginning, thence West parallel with the South line of said Southeast Quarter 578 feet, thence North parallel with the East line of said Southeast Quarter 456 feet; thence East parallel with the South line of said Southeast Quarter 578 feet to the East line of said Southeast Quarter, thence South along the East line of said Southeast Quarter 456 feet to the place of beginning.

Notice having been duly given and a hearing held June 5, 2007, on said petition.

**NOW, THEREFORE, BE IT RESOLVED**, that the Mower County Board hereby approves said petition, as recommended by the Mower County Planning Commission with conditions as follows:

1. If the property is not developed within 24 months from the date of the change, the property shall revert back to "Agricultural".
2. The rezoning is exclusive for a 161 kV substation and any other permitted or conditional uses in the Industrial zone will not be allowed unless the Mower County Board of Commissioners approves a change.

This permit is in accordance with Section 14-38 of the Mower County Zoning Ordinance.

Passed and approved this 5<sup>th</sup> day of June, 2007.

**THE MOWER COUNTY BOARD OF COMMISSIONERS**

By: \_\_\_\_\_  
Chairperson

By: \_\_\_\_\_  
Clerk/Coordinator

At this time, a Public Hearing was held concerning the findings of the EAW of Seven Springs III Rural Subdivision.

Daryl Franklin, Environmental Services Director, reviewed the findings in the Record of Decision, which indicated that an EIS was not necessary.

No one spoke for or against the findings of the EAW of Seven Springs III Rural Subdivision.

**Date: June 5, 2007**

**Res. #51-07**

**RESOLUTION ESTABLISHING FINDINGS OF FACT AND  
ISSUING A NEGATIVE DECLARATION  
FOR AN ENVIRONMENTAL IMPACT STATEMENT  
ON THE DEVELOPMENT KNOWN AS  
SEVEN SPRINGS III RURAL SUBDIVISION**

On motion of Commissioner Cummings, seconded by Commissioner Tucker, the following Resolution was passed and adopted by the Mower County Board of Commissioners at a meeting held June 5, 2007 at the Courthouse, Austin, Minnesota.

WHEREAS, Mower County is a political subdivision, organized and existing under the laws of the State of Minnesota; and

WHEREAS, THE Board of Commissioners of Mower County has adopted zoning and subdivision regulations, per Ordinance 02-02 dated September 9, 2002, including subsequent amendments, to promote the orderly, economic and safe development and utilization of land within the County; and

WHEREAS, Turtle Creek Estates Development, LLC, hereinafter known as the Developer, made a Conditional Use Permit application for approval of a residential subdivision creating 21 lots on land located at:

All that part of the N ½ of SE¼ Section 32-T103N-R18W, Mower County, Minnesota;

WHEREAS, THE Board of Commissioners decided on April 3, 2007, to require a discretionary Environmental Assessment Worksheet (EAW) to be prepared and submitted by the Developer; and

WHEREAS, the Mower County Board of Commissioners have reviewed the EAW and all public comments, and have made the following Findings of Fact:

1. The developer submitted an EAW to the County Board on April 3, 2007.
2. On April 4, 2007 the completed EAW was submitted to the Minnesota Environmental Quality Board (EQB) for publication in the EQB Monitor on June 6, 2005.
3. Copies of the EAW were distributed and made available to interested persons for comment.
4. Written public comments were received until May 23, 2007.
5. The Mower County Board of Commissioners held a public hearing to solicit comments from local parties of interest. The hearing notice was published in the County's Official Newspaper.
6. The Mower County Board of Commissioners reviewed and discussed the EAW and public comments at its June 5, 2007 meeting. In accordance with Minnesota Rules, Part 4410.1700, the County Board determined that the

proposed project did not have the potential for significant environmental effects and found that an EIS is not required, based upon the following Findings of Fact and upon the condition recommended by the Planning Commission.

- A. Type, extent and reversibility of environmental effects.
1. The 25 acres of land that will be taken out of agricultural production is small and not the best land for agricultural uses. This is out of a total of 406,668 acres of agricultural land that are available in Mower County. Therefore, this subdivision does not have the potential for significant environmental effects since the land hasn't been in production.
  2. When the wetland delineation is conducted, any identified wetlands will not be disturbed as part of this development.
  3. Storm water runoff in the area is eventually captured by Turtle Creek located approximately 240 feet southwest of the site. Turtle Creek eventually flows into the Cedar River, located approximately 3 miles downstream. As the MPCA notes, Turtle Creek is listed as an impaired water. The impairment is identified as beginning approximately 0.9 miles downstream from the proposed development. The impairment includes turbidity, total suspended solids (TSS), and fecal coliform. The proposed development would have no impact on the fecal coliform impairment already identified, as lots will have individual sewage treatment systems (ISTSs) constructed according to MPCA rules and regulations.

The large lot sizes provide a large permeable area for stormwater infiltration. As noted in the EAW, a stormwater retention pond will be constructed on-site to provide settling of the stormwater runoff prior to discharge. Provided the storm water control system for this project is constructed in accordance to the requirements for a Permanent Storm Water Management System (as required by the MPCA General Permit Authorization to Discharge Storm Water Associated with Construction Activity within the NPDES/State Disposal System (SDS) permit program), surface water runoff from the development should not adversely affect the water quality of receiving water(s). It is assumed that if the stormwater control system is constructed according to state law, sufficient settling of stormwater discharge will occur to at least maintain (if not improve) the water quality of Turtle Creek and the Cedar River. The proposed development does not appear to pose a risk to the turbidity and TSS impairments identified downstream in Turtle Creek, or to those impairments identified further downstream within the Cedar River.

- B. Cumulative potential effect of related or anticipated future projects.
1. The proposed development is located in an area designated as Urban Expansion. Land to the west, south, and east of the site is already developed as residential. The land to the north is currently used as agricultural. Additional residential development is anticipated in the area.

Provided that future residential developments in the area are developed in accordance to the laws of the State of Minnesota (including but not limited to wetlands, stormwater runoff, ISTS construction, well construction, and general construction permitting), cumulative impacts to the natural resources in the area from this and additional residential development are not anticipated.

- C. The extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority.
  - 1. The impacts to wetlands are subject to review and permit by the Mower County Soil and Water Conservation District under the 1991 Wetland Conservation Act of Minnesota, the U.S. Army Corps. Of Engineers Section 404 Permit, and Minnesota Dept. of Natural Resources.
  - 2. The impacts of runoff are also governed by the Minnesota Pollution Control Agency Storm Water & NPDES Permit.
  
- D. The extent to which environmental effects can be anticipated and controlled as a result of other environmental studies undertaken by public agencies or the project proposer, or of EIS's previously prepared on similar projects.
  - 1. Based upon the response from the Minnesota Department of Transportation, they had no comments.
  - 2. The Minnesota Department of Natural Resources response was received, the County Board's position is that they have addressed both of these concerns with the conditions that have been placed on their approval.
  - 3. The Minnesota Pollution Control Agency response was received, the County position that their concerns were addressed with the response contained in the record of decision.

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

- 1. The Environmental Assessment Worksheet as prepared for Turtle Creek Estates Development, LLC, for the Seven Springs III Rural Subdivision, responses to public comments, and Findings of Fact are hereby approved.
- 2. An Environmental Impact Statement will not be required for the project as defined the Environmental Assessment Worksheet submitted by Turtle Creek Estates Development, LLC.

Passed and approved this 5<sup>th</sup> day of June, 2007. Commissioner Hillier abstained.

THE MOWER COUNTY BOARD OF COMMISSIONERS

By: \_\_\_\_\_  
Chairperson

By: \_\_\_\_\_  
Clerk/Coordinator

Motion made by Commissioner Cummings, seconded by Commissioner Tucker to adopt the Record of Decision in regard to the Seven Springs III Rural Subdivision as on file in the office of the Mower County Auditor-Treasurer. Motion carried. Commissioner Hillier abstained.

Motion made by Commissioner Tucker, seconded by Commissioner Cummings to approve an extension until May 31, 2008 for CUP #637 of Donald and Dixie Bakken to construct an additional home in a wooded area of the property.

Motion made by Commissioner Hillier, seconded by Commissioner Cummings to authorize the Human Resource Director to fill a vacant full-time female jailer position according to union contract and personnel policies. Motion carried.

Motion made by Commissioner Hillier, seconded by Commissioner Cummings to authorize the Human Resource Director to fill a temporary, non-benefited Highway laborer position at \$10.00 per hour effective June 4, 2007 for the term of an employee's medical leave or 67 days, whichever comes first. Motion carried.

Motion made by Commissioner Hillier, seconded by Commissioner Cummings to approve the non-benefited temporary (summer) clerical position in the office of Extension commencing June 11, 2007 at a wage of \$10.39 per hour. Motion carried.

The Board recessed at 1:58 p.m. and reconvened at 2:13 p.m.

Motion made by Commissioner Hillier, seconded by Commissioner Tollefson to approve the minutes of May 22, 2007. Motion carried.

Motion made by Commissioner Cummings, seconded by Commissioner Tucker to approve the following miscellaneous bills for immediate payment:

Baudler Trust Account	\$ 198,000.00
Baudler Baudler Maus & Blahnik	305.00
Sterling State Bank	114.30

Motion carried.

Motion made by Commissioner Hillier, seconded by Commissioner Tollefson to authorize the Assessor to sign the annual Consolidated Extended Service Contract and a License Agreement with Vanguard Appraisals, Inc. for the County Assessor's appraisal system and authorize payment of the service fees in the amount of \$9,375.00. Motion carried.

Motion made by Commissioner Tucker, seconded by Commissioner Tollefson to amend the minutes of January 9, 2007 to change the date and time set for the Board of

Equalization to June 13, 2007 at 1:00 p.m. to correspond with the tax statement notices sent. Motion carried.

Ruth Neil, Nutrition Education Assistant in Extension, was introduced to the County Board along with the Youth Development summer assistant, Jessica Nessel.

The Board reviewed the request of the City of Austin for an advance on the City of Austin's apportionment in the amount of \$900,000 or 70% of the tax collection and an advance on the T.I.F. collections.

Motion made by Commissioner Tucker, seconded by Commissioner Cummings to continue to distribute tax and T.I.F. apportionments in accordance to the designated deadlines in the Minnesota Statutes. No advance apportionments will be distributed. Motion carried.

Motion made by Commissioner Cummings, seconded by Commissioner Tucker to approve the proposed Mitchell County jail boarding rates effective October 1, 2007 as follows:

\$44.00 per day, 12 bed guarantee

\$50.00 per day, 6 bed guarantee

Motion carried.

Motion made by Commissioner Tucker, seconded by Commissioner Hillier to authorize the Chair and Human Service Director to sign the Turtle Creek Industry contract for document shredding effective May 23, 2007 through July 31, 2007. Motion carried.

Motion by Commissioner Hillier, seconded by Commissioner Cummings to approve final payment to Mathiowetz Construction in the amount of \$160,096.55 for SAP 050-602-023 and SAP 050-602-024. Motion carried.

**Date: June 5, 2007**

**Res. #52-07**

### **RESOLUTION**

On motion of Commissioner Tucker, seconded by Commissioner Tollefson, the following Resolution was passed and adopted by the Mower County Board of Commissioners at a meeting held June 5, 2007 at the Courthouse, Austin, Minnesota.

WHEREAS, the County of Mower has applied to the Commissioner of Transportation for a grant from the Minnesota Transportation Fund for the construction/reconstruction of City Bridge No. 50586 over the Dobbins Creek; and

WHEREAS, the amount of the grant has been determined to be \$640,366.00 by reason of the lowest responsible bid.

NOW THEREFORE, BE IT RESOLVED: that the County of Mower does hereby affirm that any cost of the bridge in excess of the grant will be appropriated from the funds available to the County of Mower, and that any grant monies appropriated for the bridge but

not required, based on the final estimate, shall be returned to the Minnesota State Transportation Fund.

Passed and approved this 5<sup>th</sup> day of June, 2007.

**THE MOWER COUNTY BOARD OF COMMISSIONERS**

By: \_\_\_\_\_  
**Chairperson**

By: \_\_\_\_\_  
**Clerk/Coordinator**

Motion by Commissioner Cummings, seconded by Commissioner Tollefson to authorize closing of County Road 7 in the City of Dexter on June 16, 2007 for Sunflower Days and to notify the County Engineer of said closing and request his staff to provide barricades. Motion carried.

Motion made by Commissioner Tollefson, seconded by Commissioner Cummings to authorize payment in the amount of \$2000.00 to the City of Grand Meadow to share in the cost of a tile project on County Road 8 to divert water into Deer Creek. The County Road benefits from this project. Motion carried. Commissioner Tucker abstained.

Motion by Commissioner Cummings, seconded by Commissioner Tollefson to adjourn the meeting at 3:15 p.m. until June 12, 2007 at 8:30 a.m. Motion carried.

**THE MOWER COUNTY BOARD OF COMMISSIONERS**

BY: \_\_\_\_\_  
**Chairperson**

**Attest:**

By: \_\_\_\_\_  
**Clerk/Coordinator**

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