

SPECIAL SESSION OF THE MOWER COUNTY  
BOARD OF COMMISSIONERS

April 7, 2015

The Mower County Board of Commissioners in and for the County of Mower, Minnesota, met in Special Session April 7, 2015 at 1:00 p.m. at the Government Center in Austin, Minnesota.

All members present, viz: Mike Ankeny, Chair  
Tim Gabrielson  
Polly Glynn  
Jerry Reinartz  
Tony Bennett  
Craig Oscarson, County Coordinator

Motion made by Commissioner Glynn, seconded by Commissioner Reinartz to approve the agenda with the following additions: to approve increasing the staffing level in the County Attorney's office by one assistant county attorney and amend the County Attorney's budget for the position; add approving the AG BMP Loan application; and add the Application for Abatement of Ruth Peterson for parcel 16.025.0020. Motion carried.

Amy Lammey, Emergency Management Coordinator/Safety Director, informed the Board of the new distress system in the Board room.

The County Recorder's staff was recognized for their outstanding performance in enrolling persons into the Property Fraud Alert program.

Motion made by Commissioner Gabrielson, seconded by Commissioner Bennett to approve the minutes of March 24, 2015. Motion carried.

Motion made by Commissioner Glynn, seconded by Commissioner Gabrielson to approve the following Commissioner warrants for payment:

<u>Vendor Name</u>	<u>Amount</u>	<u>Vendor Name</u>	<u>Amount</u>
3D Specialties Inc	4,725.45	Kestner Electric, Inc.	8,490.37
4Imprint	2,670.47	Law Enforcement Technology Group Llc	2,308.46
Austin Newspapers Inc	2,886.23	Mayo Clinic -Rochester	4,650.00
Austin Utilities	3,361.92	Minn Dept Of Agriculture	57,634.00
Caldwell/Michael F.	3,900.00	Motorola Solutions Inc	9,903.35
Cliftonlarsenallen	2,200.00	Olmsted County Community Services	24,750.00
Crest Precast Inc	5,800.00	Parenting Resource Center DbA	18,005.00
Department Of Corrections	19,600.00	Regents Of The University Of Minnesota	16,882.50
Emergency Automotive Technologies, Inc	4,921.84	Severson Oil Co	28,918.36
Fox Electric Company,Inc	2,070.00	84 Payments less than 2000	34,731.91
		<b>FINAL TOTAL</b>	<b>258,409.86</b>

Motion carried.

Motion made by Commissioner Bennett, seconded by Commissioner Gabrielson to approve the Joint Powers Agreement for South East MN Violent Crime Enforcement Team

(SEMV CET) and authorize the Sheriff to sign the agreement on behalf of the County.  
Motion carried.

Motion by Commissioner Reinartz, seconded by Commissioner Gabrielson to approve the Application for Abatement of taxes of Salmer A. and Carol E. Bergeson due to a clerical error in which Ag Credit was not applied to parcel numbers 15.007.0110 and 15.007.0120 in Mower County for taxes payable for tax year 2014 as the Ag Credit was not applied correctly. Motion carried.

Motion made by Commissioner Gabrielson, seconded by Commissioner Reinartz to approve the 2015 Retainer Agreement with Rinke Noonan in the amount of \$200 per month for legal services related to drainage (judicial ditch) issues. Motion carried.

Motion made by Commissioner Glynn, seconded by Commissioner Bennett to approve the application for AG BMP funding and authorize the Environmental Services Supervisor to sign the application. Motion carried.

A Public Hearing was held in regard to CUP #816 of Tim Koch / Koch, Inc. for a mining operation of sand/gravel; concrete and/or bituminous storage/crushing site; and possible location for a future temporary concrete and/or asphalt batch plant in Section 15, Lansing Township.

Angie Knish, Environmental Services Director, reviewed the permit and Planning Commission recommendations.

The Petitioner was present and spoke on his own behalf. No other persons spoke for or against CUP #816.

**Date: April 7, 2015**

**Res. #28-15**

**RESOLUTION**

On motion of Commissioner Reinartz, seconded by Commissioner Glynn, the following Resolution was passed and adopted by the Mower County Board of Commissioners at a meeting held April 7, 2015 at the Government Center, Austin, Minnesota.

The Mower County Planning Commission having presented to the Mower County Board of Commissioners, CUP #816 of Tim Koch/Koch, Inc., Petitioner, and to be issued pursuant to the Mower County Zoning Regulations for:

A mining operation of sand/gravel; concrete and/or bituminous storage/crushing site; and possible location for a future temporary concrete and/or asphalt batch plant

Location: A 39.96 parcel, located in Section 15, Lansing Township (T103N-R18W), (Full Legal Description on file at Mower County Public Works), Mower County, Minnesota on a parcel identified per tax records as 08.015.0341

Notice having been duly given, a public hearing was held on March 31, 2015 before the Mower County Planning Commission at 7:00 p.m. at the Mower County Government Center in the Commissioner's board room, on said petition.

Notice having been duly given, a public hearing was held on April 7, 2015 before the Mower County Board of Commissioners, on said petition.

NOW, THEREFORE, BE IT RESOLVED, that the Mower County Board has reviewed, accepts and adopts the findings of fact of the Mower County Planning Commission in the five required areas, which is hereby adopted by reference and kept on file in the office of Environmental Services; and

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

1. Applicant shall follow all state, federal and local regulations regarding the proposed use which may include, but not be limited to, an industrial stormwater permit from the MPCA, a dewatering permit from the MN DNR, and township permit(s) as per Lansing Township' Zoning requirements.
2. The gravel pit shall be completed in phase according to Map submitted by applicant. No more than 6 cells shall be open at any given time. Each cell shall be properly closed and sloped upon completion and before the next cell is opened.
3. A \$5,750.00 Restoration Bond (\$2,000 for the first acre, plus \$750 for each additional acre or part of an acre based on a 39.96 acre parcel with only six cells maximum open at any given time) must be posted with the County Auditor valid through the life and operation of the pit.
4. Comply with Article IV Excavation of Earth Products of the Mower County Ordinance.
5. A "No trespassing sign shall be posted at the entrance; a gate shall be placed at the entrance.
6. Extraction of gravel shall remain at least thirty (30) feet from all adjoining property lines and thirty (30) feet from the road right-of-way. The 30 foot setback between properties may be decreased when done so in writing and the signed and notarized document is recorded with the Mower County Recorder's Office. Extraction of gravel shall remain at least 100 feet from neighboring wells.
7. Prior to opening as a gravel and sand pit, petition must submit a detailed site plan that accurately shows limits of gravel and sand operation. The gravel and sand pit operation shall be limited to this plan. When the petitioner goes to a different phase, written notification should be given to the Mower County Environmental Service Department and to Lansing Township.
8. Stockpiling of aggregate material shall be at least 80-feet from residential property lines and 30 feet from other property lines. These stock pile setbacks may be decreased when done so in writing, signed and notarized, and the document is recorded with the Mower County Recorder's Office.

9. Hours of Operation shall be limited to: Monday – Saturday from 7:00 a.m. to 7:00 p.m., Sunday from 9:00 a.m. to 3:00 p.m. Exception shall be made to these time restrictions for emergency purposes. The owner/operator shall be responsible for informing the county of the emergency that precipitates the need outside of normal business hours (e.g. sand needed for flood mitigation). Nothing in this condition prohibits the owner/permittee to set their own business hours within or less than the specified hours listed above.
10. Owner/Operator/Permittee shall be subject to MN 169.88 regarding any road damages.
11. Owner/Operator/Permittee may be required to provide dust control (not to apply used oil, as it is an illegal use) during high traffic volumes or upon nuisance levels.
12. Secure required MPCA NPDES Permit, and if applicable a DNR de-watering permit and provide a copy to Mower County Environmental Services Department to be kept on file. These permits shall be submitted to the department prior to operation.
13. Owner/Operator/Permittee shall obtain a DNR water appropriations permit, if applicable, for any dewatering of the pit. Any dewatering of the pit shall not affect the area water table or wells in the vicinity.
14. A Wetland review of the property shall be performed by the Mower County Soil and Water Conservation District. The outcome of that review shall be placed on file with the Mower County Planning and Zoning Office.
15. Petitioner/Owner/Applicant shall abide by all road and bridge weight restrictions; and
16. Owner/Operator/Permittee intends to leave the excavated pit as open water, at the end of the useful life of the pit. Side slopes of the pit shall be at a slope of 3:1 or more (e.g. 4:1).
17. There shall be no blasting allowed as part of this mining operation.
18. There shall be no refueling or storage tanks allowed in the lower level of the extraction area.
19. Applicant shall protect the water within or leaving the pit from any pollution or contamination.
20. Any mud, dirt or debris transported to public roads shall be cleared, scraped or removed immediately so as not create a public health or safety risk to the traveling public.
21. The Owner/Applicant shall keep the site in a neat, orderly and aesthetically pleasing condition. The site shall not be used as a junk or scrap yard. Weeds and other unsightly vegetation shall be cut or trimmed to preserve a reasonably neat appearance and to prevent seeding on adjoining property.
22. All equipment used for mining operations shall be constructed, maintained, and operated in such a manner as to minimize, as far as practical, noises and vibrations, which are injurious or substantially annoying to persons living in the vicinity.
23. An erosion control plan shall be submitted to the planning and zoning office for review and approval prior to resuming the mining operation.
24. Owner/Applicant shall submit a screening plan that shall be reviewed by Mower County staff and approved by the Mower County Board. The purpose of this plan is to provide an aesthetic barrier from the mining area of cell 7 to the adjacent residential properties to minimize, noise, dust, vibration and visual impacts. The preliminary discussions of this plan included: berm and/or trees, temporary fencing, and mining

- allowed to the setback line as allowed by ordinance, all while not causing snow drifting or safety concerns to those using the Township road.
25. The Owner/Operator/Permittee shall obtain a 911 address from the Mower County Highway Department to be placed at the access driveway of this mining operation.
  26. A conditional use permit shall become void if the use is discontinued for a period of one (1) year, per Mower County Zoning Ordinance, Section 14-36.
  27. Petitioner/Owner shall be required to cure any violations under procedures of the Mower County Zoning Ordinance as it exists or may be amended. Mower County shall have all rights to abate any violations by such remedies as may be available to it under any applicable Statutes.
  28. 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.

**Temporary Storage and Crushing of asphalt and bituminous material:**

1. Applicant shall follow all state and federal regulations regarding the proposed use which may include, but not be limited to, inclusion of this use into the industrial stormwater permit, solid waste storage standards of the MPCA and township permit(s).
2. Applicant/owner shall maintain a low water mist during crushing operation or provide another acceptable method to the County Board to address dust control during crushing.
3. Any runoff that would be present from watering or misting of the product shall be contained and properly disposed by applicant.
4. When crushing begins and ends; applicant shall notify the Planning and Zoning Office either by written correspondence, telephone call or by email so the department can log the occurrence and its expected length of crushing operation.
5. The Owner/Applicant shall work cooperatively with Mower County to mitigate any issues brought to the attention of the County that are found to be legitimate and valid that may create a nuisance to adjoining landowners from this proposed use.
6. Owner/Applicant shall not store recyclable concrete or bituminous material within the water table of the mining area.
7. Owner/ Applicant shall not dispose of concrete or bituminous material within the pit area. Concrete and bituminous materials for the purposes of this application are for recyclable material and cannot be used as landfill or fill on the property.
8. All concrete or bituminous material must be crushed within a 3-year period as required by MN Rules of the MPCA.
9. When the useful life of the mining operation has been exhausted and or CUP for mining no longer exists; the temporary storage and crushing of concrete and bituminous material at this site shall also cease.

**Additional conditions related to temporary concrete or asphalt batch plants**

1. The temporary concrete or asphalt batch plant must comply with the section of the mining ordinance which addresses this use. Refer to Section 14-140.1

2. When the useful life of the mining operation has been exhausted and or CUP for mining no longer exists; the temporary concrete and bituminous batch plant operations at this site shall also cease.

This permit is in accordance with 14-49 (Agricultural District) and 14-28 (Conditional Use Permits) of the Mower County Zoning Ordinance (effective date 01/01/2003).

Passed and approved this 7<sup>th</sup> day of April, 2015.

**THE MOWER COUNTY BOARD OF COMMISSIONERS**

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

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

A Public Hearing was held in regard to CUP #817 of Michael Munson / CHS, Inc. for a dry fertilizer plant which will include; small office, shed(s), mixing station, truck parking area on the S. Dougan property in Section 33, Frankford Township.

Angie Knish, Environmental Services Director, reviewed the permit and Planning Commission recommendations.

The Petitioner was present and spoke on the company's behalf. No other person spoke for or against CUP #817.

**Date: April 7, 2015**

**Res. #29-15**

**RESOLUTION**

On motion of Commissioner Gabrielson, seconded by Commissioner Glynn, the following Resolution was passed and adopted by the Mower County Board of Commissioners at a meeting held April 7, 2015 at the Government Center, Austin, Minnesota.

The Mower County Planning Commission having presented to the Mower County Board of Commissioners, CUP #817 of Michael Munson / CHS, Inc., Petitioner, and to be issued pursuant to the Mower County Zoning Regulations for:

A dry fertilizer plant which will include; small office, shed(s), mixing station, truck parking area on the S. Dougan property

Location: A 20-acre parcel, located in Section 33, Frankford Township (T103N-R14W), and legally described as: A 20-acre portion of Section 33

Township 103 Range 014 SE1/4, S1/2 S1/2 NE1/4, & S1/2 SE1/4 NW1/4, Mower County, Minnesota on a parcel identified per tax records as 06.027.0035; and

Notice having been duly given, a public hearing was held on March 31, 2015 before the Mower County Planning Commission at 7:00 p.m. at the Mower County Government Center in the Commissioner's board room, on said petition.

Notice having been duly given, a public hearing was held on April 7, 2015 before the Mower County Board of Commissioners, on said petition.

NOW, THEREFORE, BE IT RESOLVED, that the Mower County Board has reviewed, accepts and adopts the findings of fact of the Mower County Planning Commission in the five required areas, which is hereby adopted by reference and kept on file in the office of Environmental Services; and

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

1. Applicant shall follow all state, federal and local regulations regarding the proposed use, which may include, but not be limited to; a spill containment system, an NPDES Storm water Permit; permits or licensures from the Minnesota Department of Agriculture; permits or licensures from the MPCA; Mower County Zoning and Septic System Permits.
2. The applicant shall construct buildings in accordance with handicap accessibility codes as required by law and those amenities shall be appropriately marked.
3. A septic system shall be designed and installed to support the proposed use in accordance with MN Rules 7080 and the Mower County Subsurface Sewage Treatment System Ordinance. The applicant shall discuss their current and possible future needs for the design of the septic system upfront with a licensed contractor so the system can be appropriately designed to the end-use capacity. A secondary site shall also be located on the property for placement of a future septic system, when the first one fails. This site shall be mapped and placed on record with the septic permit. This secondary site shall be protected from development and compaction which would render it useless.
4. The applicant shall demonstrate prior to opening that appropriate and acceptable measures shall be established for sewer, water and proper waste disposal.
5. The Owner/Applicant shall keep the site in a neat, orderly and aesthetically pleasing condition. The site shall not be used as a junk or scrap yard.
6. The Owner/Applicant shall properly contain all waste. If any waste material is subject to blowing the applicant shall contain any blowing or loose garbage/debris onsite by any means necessary which may include perimeter fencing.
7. The Owner/ Applicant shall provide adequate area onsite to park, back, or turn-around so as to not create a nuisance or hazard to the traveling public. Vehicles cannot be parked or backed onto the premises from the road or its right-of-way.
8. Transport vehicles, providing in-coming product shall not be stored on the proposed site for more than 24-hours.

9. The Owner/Applicant shall be required to provide dust control at their cost (not to utilize used oil, which is illegal) so as not to create a nuisance to neighboring property from the additional traffic.
10. The Owner/Applicant shall abide by all road and bridge weight restrictions or postings that apply to roads used as an ingress/egress to the property.
11. The Owner/Applicant shall be liable for any road damages as a result of this operation as stated under MN Statute 169.88.
12. A new turn lane and a new bypass lane shall be designed and constructed by the applicant, at the applicant's cost, to modify the roadway geometry at the new driveway/site access point. The design shall conform to MN/DOT standards. Plans and specifications for the construction shall be prepared and signed by an Engineer Registered in the State of Minnesota. The signed plans shall be submitted to the County for their review, and shall be modified as necessary subject to the County's review, prior to the construction.
13. 911 Addressing and/or additional driveway access from County Roads must be obtained from the Mower County Highway Department and may include fees.
14. An emergency response plan shall be submitted to the local fire department(s), law enforcing agencies, and the Mower County Emergency Management and the Planning and Zoning Office for review and inclusion of department files for the proposed property. Information shall include spill prevention and clean up, taking into account topography, tiles lines, and runoff.
15. All lighting shall be directed downward to minimize glare to adjacent properties and public roadway. Lighting plans shall be included in the final site plan for review by the zoning administrator prior to signing zoning permits.
16. Precautionary measures consisting of a locked entrance(s) shall be required to prevent unlawful access to the chemicals stored.
17. Signage must comply with the Mower County Ordinance and must be located out of road right-of-ways. The sign(s) shall be kept in a neat and tidy condition at all times and kept free of any noxious weeds.
18. Parking and loading requirements of the Mower County Zoning Ordinance shall be met or exceeded. Refer to Ordinance Sections 14-14 thru 14-15.
19. Expansion or addition to the facility shall require an amendment to the conditional use permit.
20. A conditional use permit shall become void two (2) years from the date of approval by the County Board if no construction has begun or the use has not been established.
21. This Conditional Use Permit shall lapse, and shall be no longer valid upon one-year of non-use.
22. The Owner/Applicant shall work cooperatively with Mower County to mitigate any issues brought to the attention of the County that are found to be legitimate and valid that may create a nuisance to adjoining landowners from the proposed use.
23. 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 14-49 (Agricultural District) and 14-28 (Conditional Use Permits) of the Mower County Zoning Ordinance (effective date 01/01/2003).

Passed and approved this 7<sup>th</sup> day of April, 2015.

**THE MOWER COUNTY BOARD OF COMMISSIONERS**

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

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

Commissioner Glynn, on behalf of the Personnel Committee, informed the Board that the Committee met with the County Attorney regarding the increase in the Judges caseload that will be starting July 1, 2015. The increase in trials is due to the case load in the County. The County Attorney explained how the current staff level will not allow for enough people to make the necessary court appearances. Her request is to hire an Assistant County Attorney with an effective date of July 1, 2015. The County Attorney also proposed using the attorney contingency fund to pay for half of the costs associated with hiring a new attorney for the second half of 2015.

Motion made by Commissioner Glynn, seconded by Commissioner Gabrielson to increase the Approved Staffing Level in the County Attorney's office by one (1) Assistant County Attorney and amend the County Attorney's 2015 budget with the following provisions: a) Effective hire date of July 1, 2015; b) 50% of the 2015 cost for salary and benefits covered by County Attorney's contingency fund; and c) Increase Attorney's budget by approximately \$22,000.00 to cover the remaining costs for salary and benefits. Motion carried.

The Board recessed at 1:47 p.m. and reconvened at 1:54 p.m.

Nilesh Patel made an appeal to the Board to reconsider its March 24, 2015 decision to deny his application for abatement of penalty and interest payable in 2014 on parcel 34.875.0021. The Board did not take action on Mr. Patel's appeal.

Arlen Schamber provided the Board with an update concerning the Turtle Creek Watershed District.

Motion by Commissioner Gabrielson, seconded by Commissioner Reinartz to deny the Application for Abatement of taxes related to the Homestead Classification (not applied) requested by Ruth Peterson in regard to parcel number 16.025.0020 in Mower County for taxes payable in 2014. The basis for denial is based on Minnesota Statute §375.192 and is consistent with current policy and practice. Motion carried.

Motion made by Commissioner Gabrielson, seconded by Commissioner Bennett to adjourn the meeting at 2:37 p.m. Motion carried. The next meeting is scheduled for April 14, 2015 at 8:30 a.m.

**THE MOWER COUNTY BOARD OF COMMISSIONERS**

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

**Attest:**

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

**INDEX**

**2**

2015 budget amendment  
county attorney  
asst. co. attorney, 78

**A**

adjourn, 79  
AG BMP application, 71  
agenda as amended, 70

**H**

hire Asst. Co. Attorney  
increase 2015 staffing level, 78

**J**

Joint Powers Agreement for South East MN Violent  
Crime Enforcement Team, 70

**M**

minutes 3-24-15, 70

**P**

Patel appeal abatement decision, 78  
Public Hearing  
CUP #816 Koch mining op, 71  
CUP #817 Munson/CHS fertilizer plant, 75

**R**

Res. #28-15  
CUP #816 Koch mining op, 71  
Res. #29-15  
CUP #817 Munson/CHS fertilizer plant, 75  
Rinke Noonan Retainer Agr, 71

**T**

tax abatement – DENIED  
Peterson/Oswald 16.025.0020, 78  
tax abatement approved  
Bergeson 15.007.0110 and 15.007.0120, 71

**W**

warrants  
Commissioner, 70