

SPECIAL SESSION OF THE MOWER COUNTY
BOARD OF COMMISSIONERS

September 5, 2017

The Mower County Board of Commissioners in and for the County of Mower, Minnesota, met in Special Session September 5, 2017 at 1:00 p.m. at the Government Center in Austin, Minnesota.

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

Motion made by Commissioner Reinartz, seconded by Commissioner Glynn to approve the agenda. Motion carried.

Joy Kanne, County Assessor, introduced the new Property Appraiser Trainee, Fran Bekaert.

Motion made by Commissioner Ankeny, seconded by Commissioner Bennett to approve the minutes of August 22, 2017. Motion carried.

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

<u>Vendor Name</u>	<u>Amount</u>	<u>Vendor Name</u>	<u>Amount</u>
Anoka County Human Services	16,337.00	Meigs Paving Asphalts & Emulsions	72,176.64
Austin Utilities	2,422.81	Metro Sales Inc	3,437.52
Baudoin Oil Company	11,576.25	Midwest Clinical Psychologists	3,000.00
Commissioner Of Transportation	9,166.09	Mower County Historical Soc	16,506.86
Derby Industries	4,581.20	Olson Grading Inc	5,035.10
Donnelly Law Firm/Daniel	5,928.97	Rochester Sand And Gravel, Inc	5,414.61
Friends of the Shooting Star Trail	2,716.00	Ronco Engineering Sales, Inc.	3,459.36
Hansen Hauling & Excavating Inc	3,933.98	Ulland Brothers Inc.	2,500.00
Harty Mechanical Inc	3,908.50	Welcome Center Inc	3,368.75
Jones Haugh & Smith Inc	14,075.68	66 Payments less than 2000	25,713.82
		Final Total:	215,259.14

Motion carried.

A Public Hearing was held in regard to revising Division 5 Board of Adjustment Sections 14-22 through 14-25 and Section 14-27 of the Zoning Ordinance

Angie Lipelt, Environmental Services Supervisor, reviewed the proposed modifications to the Zoning Ordinance noting that the Planning Commission has approved these modifications and recommended approval to the County Board. Craig Oscarson suggested a revision for the recording of the survey which suggestion was accepted.

The Chair asked for public input. No one spoke for or against amending Sections 14-22 through 14-25 and Section 14-27 of the Zoning Ordinance.

Date: September 5, 2017

Ord. #02-17

ORDINANCE
Zoning Ordinance Amendment

On motion of Commissioner Glynn, seconded by Commissioner Bennett, the following Ordinance was unanimously passed and adopted by the Mower County Board of Commissioners at a meeting held September 5, 2017 at the Government Center, Austin, Minnesota.

WHEREAS, a Notice of Intention to consider amending Division 5 Board of Adjustment Sections 14-22 through 14-25 and Section 14-27, Zoning Ordinance was published in the *Austin Daily Herald* on July 10, 2017; and

WHEREAS, the Mower County Planning Commissioner held a public hearing on said amendment on July 25, 2017 at 7:00 p.m.; and

WHEREAS, the County Board held a public hearing on said amendment on September 5, 2017; and

WHEREAS, at each public hearing any concerned citizen was given an opportunity to speak on the matter; and

WHEREAS, the Mower County Planning Commission recommended by a majority to amend the Mower County Zoning Ordinance, Division 5. Board of Adjustment as presented to the County Board;

BE IT ORDAINED that effective upon publication Sections 14-22 through 14-25 and Section 14-27, Zoning Ordinance are amended as follows:

SECTION 14-22. CREATION AND MEMBERSHIP

- (a) A Board of Adjustment is hereby established and vested with such authority as is hereinafter provided and as by Minnesota Statutes 394.21 through 394.37
- (b) ~~The members of the~~ Initial creation of the Board of Adjustment shall be by ~~appointed~~ appointment of its members by the County Board for ~~initial~~ terms of three (3), two (2) and one (1) years and thereafter for terms of three (3) years each. Each member may be eligible, at the discretion of the County Board, for re-appointment, but for not more than three (3) consecutive three (3) year terms.
- (c) ~~The Board of Adjustment shall consist of five (5) members.~~ At least one (1) member of such Board of Adjustment shall be from the unincorporated area of the county and ~~at least~~ one (1) member shall also be a member of the County Planning Commission. No elected official of the County, no employee of the County Board shall serve as a member of the Board of Adjustment. The members of the Board of Adjustment shall be eligible to receive a per diem and mileage expenses as determined by the County Board.
- (d) The Board of Adjustment shall elect a Chair and a Vice-Chair from among its members. It shall adopt rules for the transaction of its business and shall keep a public record of its proceedings, findings and determinations. The Zoning Administrator shall act as secretary ~~of~~ for the Board.
- (e) The meetings of the Board of Adjustment shall be held at the call of its Chair and at such other times as the Board, in its rules of procedures may specify.

SECTION 14-23. POWERS

- (a) The Board of Adjustment shall have the authority to order the issuance of variances, hear and decide appeals from and review any order, requirement, decision or determination made by any administrative official charged with enforcing any ordinance adopted pursuant to the provision of Minnesota Statute Sections 394.21 through 394.37, order the issuance of permits for buildings in areas designated for future use on an official map and perform such other duties as required by the official controls. Such appeal may be taken by any person aggrieved or by any officer, department, board or bureau of a town, municipality, county or state. In exercising its powers under this subdivision, the Board of Adjustment shall take into consideration the town board's recommendation when the Board of Adjustment's decision directly affects land within the town.
- (b) The Board of Adjustment shall have the exclusive power to order the issuance of variances from the requirements of any official control, including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official control and when variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the official control. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner or previous landowner(s), and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in Section 216C.06, subdivision 14, when in harmony with the official controls. No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located. The Board of Adjustment may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

SECTION 14-24. APPLICATION

Appeal

An appeal from any order, requirement, decision or determination of an administrative official shall be filed with the Board of Adjustment through the Office of the Zoning Administrator together with the required fee. Any Notice of Appeal shall specify the grounds thereof. The Zoning Administrator shall refer the appeal and grounds thereof to the Board of Adjustment.

Variance

An application for a variance shall be filed with the Zoning Administrator, together with the required fee. The Zoning Administrator shall refer the application to the Board of Adjustment.

SPECIFIC REQUIREMENTS FOR SETBACK VARIANCES:

Setback Variances: Variance applications relating to ordinance setbacks shall be accompanied by a survey completed by a licensed surveyor. The survey shall depict the subject element in relation to the parcel boundary and any other relevant features which may include, but not be limited to, road right-of-way, easements, floodplain, well and/or septic system components, and when applicable feedlots. An application shall not be accepted by the department until a survey accompanies the submitted application to assure the legal notices can be properly prepared for the variance request.

Site visit requirements: Parcel boundary, required setback distances, proposed structure and other relevant features shall be clearly marked onsite for review by the Board of Adjustment during the site visit; these features shall be easily and readily identified as well as the proposed location of the building or structure which relates to the variance request.

As built survey required for a granted variance: Within 60-days of completion, or at such time a setback can be easily determined (whichever comes first), an as-built survey, by a licensed surveyor, shall be submitted to show the variance, as granted was met or exceeded. This document shall be presented to the Board of Adjustment for review and shall be recorded along with the variance.

All costs for survey shall be bore by the applicant.

SECTION 14-25. NOTIFICATION AND PUBLIC HEARINGS

- (a) In accordance with Minnesota State Statute 394.26, the Board of Adjustment shall hold at least one (1) public hearing on any application for a variance or appeal. Notice of the public hearing shall be published in the official newspaper, designated by the County Board, at least ten (10) days prior to the hearing. Written notice of such

COMMISSIONERS' RECORD MOWER COUNTY, MINNESOTA

public hearing shall be mailed to all property owners of record within five hundred (500) feet of the affected property, the affected Town Board, and any municipality within two (2) miles of the affected property.

- (b) The petitioner or his representative shall appear before the Board of Adjustment in order to answer questions concerning the proposed variance or appeal.
- (c) The Board of Adjustment must take action on the application or appeal in accordance with MN Statute 15.99. If it grants the variance, the Board of Adjustment may impose conditions it considers necessary to protect the public health, safety, and welfare, and such conditions may include a time limit for the use to exist or operate.
- (d) All decisions by the Board of Adjustment in granting variances or appeals shall be final except that any aggrieved person or persons, or any department, board of commission of the jurisdiction or of the state shall have the right to appeal within thirty (30) days after receipt of notice of the decision to the district court in the county in which the land is located on questions of law and fact.
- (e) No application for a variance which has been denied wholly or in part shall be resubmitted for a period of one (1) year from the date of said order of denial, except on the grounds of new evidence or proof of change on conditions found to be valid.
- (f) A violation of any condition set forth in granting a variance shall be in violation of this Ordinance and automatically terminates the variance.

SECTION 14-27. RECORDING

- (a) A certified copy of any order issued by the Board of Adjustment acting upon a request for a variance shall be filed with the County Recorder of record. The order issued by the Board of Adjustment shall include the legal description of the property involved. The Zoning Administrator shall be required to meet the requirements of this Subdivision. The applicant and/or landowner requesting the variance is responsible for the cost of the Recording fee. Variance denials shall also be recorded.
- (b) The Zoning Administrator shall provide to the applicant a copy of the order issued by the Board of Adjustment stating that it has been filed with the County Recorder's Office.

Passed and approved this 5th day of September, 2017.

THE MOWER COUNTY BOARD OF COMMISSIONERS

By: _____
Chairperson

By: _____
Clerk/Coordinator

Amanda Kiefer made a request to the Board to waive the after-the-fact penalty fee for a zoning permit fee for a shed built in July 2016. The Kiefers were unaware of the need for the permit believing that the construction company secured all necessary permits.

Motion made by Commissioner Ankeny, seconded by Commissioner Glynn waive the after-the-fact fees and only require Jason and Amanda Kiefer to pay the Ag/Accessory Structure Zoning Permit fee of \$75.00 for the shed the Kiefers built in 2016. Motion carried.

The Board further considered the request of Ed Miller and Kim Gwilt to repurchase tax forfeited parcel 34.689.0080 which was tabled from the August 22, 2017 meeting. A discussion followed.

A Public Hearing was held in regard to a Housing Tax Abatement request of Bigelow & Lennon, applicant, (Nature Ridge Properties of Austin Co., landowner) to construct a single-family home Lot 12, Block 2, Nature Ridge, Austin, Minnesota (PIN 34.465.0123).

Craig Oscarson reviewed the application and the recommendation is to approve the application.

The Applicant was present and spoke on his own behalf. No one else spoke for or against the Bigelow & Lennon housing tax abatement application.

Date: September 5, 2017

Res. #64-17

**RESOLUTION APPROVING TAX ABATEMENT
FOR CERTAIN PROPERTY PURSUANT TO MINN. STAT. 469.1813**

On motion of Commissioner Ankeny, seconded by Commissioner Glynn, the following Resolution was passed and adopted by the Mower County Board of Commissioners at a meeting held September 5, 2017 at the Government Center, Austin, Minnesota.

WHEREAS, Minnesota Statute 469.1813 gives authority to the County of Mower to grant an abatement of property taxes imposed by the County if certain criteria are met; and

WHEREAS, in addition to the statutory requirements, Mower County has adopted the Tax Abatement Policy for new construction of Single and Multi-family homes which includes criteria which must be met before an abatement of taxes will be granted; and

WHEREAS, Nature Ridge Properties of Austin Co. is the owner of certain property within Mower County, legally described as follows:

Lot 12, Block 2, Nature Ridge in the City of Austin, Mower County, Minnesota (PIN 34.465.0123)

WHEREAS, by Purchase Agreement dated August 14, 2017 Bigelow & Lennon Construction has agreed to purchase the above-described parcel; and

WHEREAS, Bigelow & Lennon Construction has made application to Mower County for the abatement of taxes as to the above-described parcel; and

WHEREAS, Notice having been duly given, a public hearing was held on September 5, 2017 before the Mower County Board of Commissioners, on said application.

WHEREAS, Bigelow & Lennon Construction has met the statutory requirements outlined under Minnesota Statute 469.1813 Subdivision 1(1) and Subdivision 2(i) as well as Mower County's criteria for tax abatement;

**NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF
MOWER COUNTY, MINNESOTA:**

1. Mower County does, hereby grant an abatement of Mower County's share of real estate taxes upon the above-described parcel for the construction of a single family home.
2. The tax abatement will be for no more than five years commencing with the receipt of the Certificate of Occupancy, or not more than one year following approval of the taxing authority's resolution, whichever is first, on the first year of taxes payable for the assessed value(s) related to the capital improvements outlined in Paragraph 1.
3. The County shall provide the awarded abatement payment following payment of due real estate taxes annually. One single payment shall be made to the owner of record at the time of the payment, by December 30th of that calendar year.
4. The tax abatement shall be for up to the full amount of the real estate taxes collected from added tax base of the newly constructed housing/home annually. Land values and the current base value are not eligible and will not be abated.

Passed and approved this 5th day of September, 2017.

THE MOWER COUNTY BOARD OF COMMISSIONERS

By: _____
Chairperson

By: _____
Clerk/Coordinator

The Board returned to its discussion concerning the request for repurchase of tax forfeited property by Edward Miller and Kim Gwilt.

Motion made by Commissioner Ankeny, seconded by Commissioner Glynn to table the Ed Miller / Kim Gwilt request to repurchase tax forfeited parcel 34.689.0080 to September 12, 2017. Motion carried.

Daniel Larson, Mn Rural Counties, provided to the Board information concerning the organization and the benefits of membership. No action was taken by the Board.

The Board considered the request of Ramon & Rosa Paez to repurchase tax forfeited parcel 28.001.0520. Mr. Paez and his son Carlos were present.

Date: September 5, 2017

Res. #65-17

RESOLUTION

On motion of Commissioner Glynn, seconded by Commissioner Ankeny, the following Resolution was passed and adopted by the Mower County Board of Commissioners at a meeting held September 5, 2017 at the Government Center, Austin, Minnesota.

WHEREAS, the Mower County Board of Commissioners has received an application for repurchase of tax forfeited property located at 118 Clinton Street, Mapleview, MN 55912 and legally described as Lots 16, 17 and 18, Block 2, Mapleview Addition to the Town of Lansing now Village of Mapleview, Mower County, Minnesota (PIN 28.001.0520); and

WHEREAS, the Mower County Board has determined and classified the parcel as non-conservation land as provided for in Minnesota's Statutes 282.01; and

WHEREAS, the Mower County Board has determined the repurchase of the parcel by the former owners Ramon and Rosa M. Paez will promote the use of the land that will best serve the public.

NOW, THEREFORE, BE IT RESOLVED That the Mower County Board of Commissioners approve the repurchase of the tax forfeited property parcel #28.001.0520 by the former owners Ramon and Rosa M. Paez at the repurchase price of \$5,705.71 with the repurchase to be completed no later than 45 days from September 5, 2017 (*by October 20, 2017*).

Passed and approved this 5th day of September, 2017.

THE MOWER COUNTY BOARD OF COMMISSIONERS

By: _____
Chairperson

By: _____
Clerk/Coordinator

Date: September 5, 2017

Res. #66-17

RESOLUTION

On motion of Commissioner Glynn, seconded by Commissioner Bennett, the following Resolution was passed and adopted by the Mower County Board of commissioners at a meeting held September 5, 2017, at the Government Center, Austin, Minnesota.

WHEREAS, in order to preserve tax forfeited property and to insure against claims or injuries to the people that maintain, repair or view the premises, there is a need for the county to seize the abandoned personal property and dispose of it as authorized in Minnesota Statute §504B.271;

WHEREAS, the County Board was informed after inspection of the premises by the Auditor-Treasurer that there exists personal property, debris and garbage. Upon the expiration of 28 days, the personal property is considered abandoned and the Auditor-Treasurer will dispose of or sell it upon notification of the owner. The following premises contain abandoned personal property, debris and garbage:

Date of Forfeiture Certificate	Parcel Number	Legal Description
June 5, 2017	02.052.0040	The South 60 feet of Outlot 2 in Plat of Outlots, located in the North Half of the Southeast Quarter of Section 14, Township 102 North, Range 18 West, except the East 30 feet thereof which have hereby been reserved for road purposes.
September 8, 2015	28.001.0560	Lots 27 and 28, Block 2, Village (now City) of Mapleview, formerly Mapleview Addition in the Township of Lansing, Mower County, Minnesota.
July 19, 2017	34.340.0130	Lot 13, Block 1, Kaufman's Second Addition to the City of Austin, Mower County, Minnesota.
May 26, 2017	34.495.0780	Lot 14, in Block 6, in the Norman Miller Addition to the City of Austin, Mower County, Minnesota.

NOW THEREFORE BE IT RESOLVED, that the Auditor-Treasurer is directed to dispose of the abandoned personal property, debris and garbage in accordance with Minnesota Statutes §504B.271, and to put up for public sale any items that are salvageable, that he may determine to offset the costs of caring for, removal and storage of such property.

Passed and approved this 5th day of September, 2017.

THE MOWER COUNTY BOARD OF COMMISSIONERS

By: _____
Chairperson

By: _____
Clerk/Coordinator

The Board recessed at 2:45 p.m. and reconvened at 3:03 p.m.

The Board reviewed the Auditor-Treasurer's List of Tax-Forfeited Lands #2017-1 dated September 5, 2017 and set a basic sale price on the tax forfeited parcels. The list is on file in the office of the Auditor-Treasurer.

Date: September 5, 2017

Res. #67-17

RESOLUTION

On motion of Commissioner Ankeny, seconded by Commissioner Reinartz, the following Resolution was passed and adopted by the Mower County Board of Commissioners at a meeting held September 5, 2017 at the Government Center, Austin, Minnesota.

WHEREAS, on August 8, 2017 the Mower County Board of Commissioners certified that all parcels of land indicated on the Mower County Auditor-Treasurer's Certified List of Tax-Forfeited Lands #2017-1 dated August 8, 2017, on file in the Auditor-Treasurer's office, are non-conservation land; and

WHEREAS, all parcels have been released by the cities and townships in which they are located for public sale;

NOW, THEREFORE, BE IT RESOLVED that the basic sale price of each parcel included in the Auditor-Treasurer's Certified List of Tax-Forfeited Lands #2017-1 dated September 5, 2017, which is on file in the office of the Mower County Auditor-Treasurer, is hereby approved, and authorization for a public sale of this land is now granted pursuant to M.S. 282.01; and

BE IT FURTHER RESOLVED that said public sale will be held on September 29, 2017, at 10:00 a.m. by the Mower County Auditor-Treasurer in the Vault/Ballroom Conference Room (Room 169) of the Mower County Government Center at Austin, Minnesota, and parcels shall be sold to the highest bidder but for not less than the basic sale price – plus any special assessments authorized between date of forfeiture and the actual sale of the property – and that payment for all sales shall be consistent with the Payment Terms in the County Tax-Forfeited Land Policy on file in the office of the Auditor-Treasurer.

Passed and approved this 5th day of September, 2017.

THE MOWER COUNTY BOARD OF COMMISSIONERS

By: _____
Chairperson

By: _____
Clerk/Coordinator

Motion made by Commissioner Ankeny, seconded by Commissioner Bennett to adjourn the meeting at 4:00 p.m. Motion carried. The next meeting is scheduled for September 12, 2017 at 8:30 a.m.

THE MOWER COUNTY BOARD OF COMMISSIONERS

BY: _____
Chairperson

Attest:
By: _____
Clerk/Coordinator

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