

THE MINNEHAHA COUNTY COMMISSION CONVENEED AT 9:00 A.M., October 11, 2005, pursuant to adjournment on October 4, 2005. Commissioners present were: Twedt, Pekas, Hajek, Kolbe, and Zweep. Also present were Sandy Kinder, Deputy Auditor, and Gordy Swanson, Chief Civil Deputy State's Attorney.

Chairman Twedt called the meeting to order.

Commissioner Pekas left the meeting.

MINUTES

MOTION by Hajek, seconded by Zweep to approve the Minutes for October 4, 2005. 4 ayes.

Commissioner Pekas returned to the meeting.

VOUCHERS TO BE PAID

MOTION by Zweep, seconded by Kolbe to approve the following bills for payment. 5 ayes.

A & B Business Equip	Var. Depts	776.86	A+ Auto Techs Inc	Juv Det Cn	536.10
Absolute Productions	Musm Entpr	825.00	Air Technology	Metro-911	45.00
Alliance Communicati	Metro-911	823.25	Appera / Dudley Lau	Hiway Cons	25.16
Architectural Roofin	Pettigrew	782.00	Arena Motel	Human Svcs	350.98
Argus Leader	Var. Depts	772.60	Around the Clock/Dra	Juv Det Cn	100.45
Ashbury Apts, Ltd Pa	Human Svcs	450.00	AT & T	Metro-911	6.54
Atherton, David	Metro-911	96.32	Athey, Kristine M	Pub. D.	102.30
Avera McKennan Hospi	Correction	3,759.69	Avera Medical Record	Pub. D.	41.58
Avera University Psy	Pub. D.	8,492.23	B & E Apts/Holland,	Human Svcs	385.00
Bailey, Rose E.	Human Svcs	350.00	Bargain Barn Tire Ce	Dir. Eq.	10.00
Barnett-Lewis Funera	Human Svcs	1,782.00	Beck, Pat/Low Eight,	Human Svcs	21.00
Boyer Trucks Sioux F	Hiway Cons	59.18	Braley, Miranda	St Atty	156.56
Brower, Richard	Human Svcs	525.00	Brown & Saenger	Var. Depts	149.92
Builders Supply Comp	Var. Depts	231.79	Campbell Supply Co.,	Metro-911	49.99
Cbcinnovis, Inc.	Correction	57.05	CBM Food Service	Var. Depts	12,803.56
Century Business Pro	Metro-911	75.00	Charlotte Place/Beck	Human Svcs	350.00
Chemco, Inc.	Facilities	3,039.21	Chiesman Foundation	Human Svcs	79.00
Cleveland Heights Ap	Human Svcs	525.00	Cliff Avenue Auto Pa	Hiway Cons	9.60
Colton Fire Dept	Emer Mgmt	500.00	Concrete Materials	Hiway Cons	47.85
Contreras, Freddie	Human Svcs	300.00	Culligan Water Condi	Var. Depts	142.35
Dacotah Bank	Pub. D.	262.00	Dakota Dental/Timoth	Correction	14,989.00
Dakota Fluid Power,	Hiway Cons	6.84	Dakota Splash	Hiway Admi	33.95
Daubys Sports Center	Juv Det Cn	19.80	Dave's Automotive /	Comm.	73.00
Dell Rapids Ford, In	Sheriff	417.71	Dell Rapids Lumber C	Hiway Cons	164.66
Dells Area Health Ce	St Atty	174.00	Dialnet/Ahrens Telec	Var. Depts	249.39
Director of Equaliza	Dir. Eq.	29.39	Dullerud, Wayne R	Human Svcs	200.00
E.S.R.I., Inc.	Info Svcs	1,378.07	Edmunds Brake & Alig	Sheriff	128.33
Estergard, Kathryn L	Info Svcs	275.00	Evans, Preston	Mental Ill	149.76
Evercom Systems, Inc	Correction	7,000.00	Farm & Home Publishe	Emer Mgmt	37.50
First Premier Bank	Sheriff	58.26	Fountain Ridge Inves	Human Svcs	525.00
Fremont Industries,	Facilities	1,612.37	Frontier	Metro-911	181.34
Glazier, David Alan	Human Svcs	350.00	Goebel Printing, Inc	Pub. Adv.	41.88
Golden Creek Investo	Human Svcs	300.00	Golden West	Var. Depts	109.65
Graham Tire - South	Sheriff	283.80	Graham Tire Co. - Do	Sheriff	219.80
Graybar Electric Com	Facilities	76.77	Great Plains Int'l T	Hiway Cons	38.35
Gromer, Jeff	Sheriff	238.00	Guzman, Sandra V.	Var. Depts	205.83
Hander, Inc.	Human Svcs	170.39	Harold's Photo Cente	Pettigrew	12.29
Harris, Jon	Sheriff	108.00	Heartland Paper Comp	Emer Mgmt	33.92
Hills Telephone Comp	Metro-911	208.38	Hillyard, Inc.	Facilities	346.47
Hoekman, James	Sheriff	224.95	Howie's Car Service	Hiway Cons	82.45
Hurtgen, Timothy T.	Human Svcs	800.00	Hy-Vee Food Store	Museum	21.01
Hy-Vee Pharmacy	Human Svcs	429.96	ICI Paints	Var. Depts	41.01

Insight Public Secto	Metro-911	481.57	Interstate Office Pr	Var. Depts	1,158.90
Janitor's Closet, Lt	Human Svcs	41.78	Jefferson Fire & Saf	Emer Mgmt	3,661.00
Kallemeyn, Richard	Dir. Eq.	169.00	Kennedy, Renee S.	Court Sys.	143.00
Kone, Inc.	Var. Depts	1,602.00	Krier & Blain, Inc.	Juv Det Cn	243.07
Language Line Servic	Metro-911	407.60	Lawrence, Monica L	St Atty	18.00
LCM Pathologists, P.	Coroner	11,050.82	Lewis Drug Stores	Var. Depts	62,288.50
Linweld, Inc.	Hiway Cons	51.55	Lithia Automotive, I	Sheriff	201.56
Lyle Signs, Inc.	Hiway Cons	7,035.40	Malloy Electric Bear	Hiway Cons	10.08
Marsh, Amy	Emer Mgmt	200.00	Mathison Company	Var. Depts	71.50
McCrossan Boys Ranch	Museum	50.00	McFarland, Kenneth	Comm.	13.65
Med-Eng Systems, Inc	Sheriff	19,246.00	Menards - East	County Par	92.24
Menards - West	Hiway Admi	292.79	Meteorlogix, Llc	Metro-911	657.00
Michael's Purple Pet	Facilities	80.00	Michaelson, Shirley	Human Svcs	450.00
Midamerican Energy C	Var. Depts	2,491.70	Midcontinent Communi	Var. Depts	151.04
Midwest Alarm Compan	Hiway Admi	200.00	Midwest Oil Company	Hiway Cons	831.11
Minish, Hilary	Museum	150.00	Minnehaha Cnty Priso	Correction	11.94
Motorola, Inc.	Metro-911	234.00	Murray Construction	Var. Depts	1,284.00
NAE4-HA Conference	Cnty Exten	520.00	Nat'l Academy of Emd	Metro-911	270.00
Nites Inn / Smith Ho	Human Svcs	43.00	Norment Security Gro	Facilities	69.18
Northern Safety Tech	Hiway Cons	2,322.60	Northern Truck Equip	Hiway Cons	14,908.70
Nyberg's Ace Hardwar	Pettigrew	7.99	O'Dea, Steve C	Human Svcs	275.00
Officemax	Info Svcs	101.55	Otter Tail Energy Se	Facilities	9,602.12
Peterson, Tom	Hiway Cons	127.18	Pheasantland Industr	Cnty Exten	500.00
Phillips 66 Company	Correction	257.65	Pomp's Tire Service,	Hiway Cons	18.45
Pontiac Cadillac of	Var. Depts	134.60	Prairie Wind Apts/In	Human Svcs	350.00
Priority Dispatch	Metro-911	390.00	Provo, Tom	Human Svcs	400.00
Qualified Presort Se	Var. Depts	6,268.97	Quest Engineering, I	Hiway Cons	112.49
Rape & Domestic Abus	Social Ser	2,500.00	Record Keepers, Inc.	Var. Depts	272.78
Red House Creations	Musm Store	120.00	Renner Fire Dept	Emer Mgmt	500.00
RJ Rental Properties	Human Svcs	595.00	Robson True Value	Emer Mgmt	7.99
Roemen's Auto Supply	Hiway Cons	64.22	Rohn Airport Adverti	Museum	447.00
Ronning Commercial,	Human Svcs	700.00	Rosenbauer/Central S	Emer Mgmt	285,040.00
Rushmore Photo & Gif	Musm Store	99.00	Russ' Pest Control,	Emer Mgmt	42.00
Rypkema, Diane	Dir. Eq.	169.00	Sam's Club	Museum	30.00
SD Dept of Human Ser	Pub. D.	22.40	SD Network, LLC	Metro-911	7,618.99
SD Planners Associat	Plan & Zon	110.00	SD Secretary of Stat	Culture	45.00
SD State Treasurer	Sales Tax	506.52	Seagull Software Sys	Info Svcs	7,500.00
Security Labs, Ltd	Info Svcs	100.00	Sheehan Mack Sales &	Hiway Cons	13,469.00
Siemonsma, Mike	Hiway Cons	600.00	Sioux Empire Fair As	Recreation	6,981.17
Sioux Falls City Fin	Metro-911	64.68	Sioux Falls Ford, In	Sheriff	4,030.79
Sioux Falls Rubber S	Var. Depts	39.00	Sioux Falls Two Way	Var. Depts	12,264.60
Sioux Falls Utilitie	Var. Depts	395.54	Sioux Valley Energy	Var. Depts	157.71
Springbrook Estates	Human Svcs	350.00	Stan Houston Equipme	Emer Mgmt	3,186.95
Streicher's	Sheriff	162.65	Sturdevant's Auto Pa	Hiway Cons	101.91
Sunshine Foods	Human Svcs	54.49	SV Hospital	Correction	921.93
SV Hospital USD Medi	St Atty	12,600.00	Tammen Oil	Sheriff	39.88
Taylor, Robert H	FEMA Fund	400.00	Tee's Plus	Sheriff	150.00
The Eye Doctors, P.C	Correction	1,431.00	The Winkels Group, I	Build Fund	375.00
Thorin, Deyanira T.	Var. Depts	393.32	Toering, Jason	Info Svcs	216.00
Tower Apartments	Human Svcs	290.00	TR Designs & Indoor	Museum	305.00
Triangle Properties,	Var. Depts	950.00	Union Telephone Comp	Metro-911	643.82
United Parcel Servic	Var. Depts	84.51	US Postal Service	Cnty Exten	95.45
US Postmaster	Emer Mgmt	228.00	Valley Rental Servic	Human Svcs	900.00
Vantek Communication	Metro-911	1,528.00	Verizon Wireless, Be	Emer Mgmt	30.38
Viking Office Produc	Pub. D.	41.94	Vision Care Associat	Human Svcs	272.94
Voeltz, Scott	Sheriff	213.00	Voice Print Internat	Metro-911	7,910.00
W.E. Upjohn Institut	Human Svcs	37.00	Wall Lake Sanitary D	Hiway Admi	35.00
Weeda, Alvina	Info Svcs	106.00	Weelborg Bros., Inc.	Hiway Cons	1,200.00
Whitney, Dennis	Dir. Eq.	169.00	Wilkison, Dorothy	Dir. Eq.	169.00
Xcel Energy, Inc.	Var. Depts	2,297.67	Zabel Steel Co.	Hiway Cons	35.05
Zep Manufacturing Co	Hiway Admi	66.37			

REPORTS

The following reports were received and placed on file in the County Auditor's Office: Minnehaha County Human Services Report and Regional Juvenile Detention Center Monthly Statistical Report for September 2005.

PERSONNEL

MOTION by Hajek, seconded by Pekas to approve the following personnel changes. 5 ayes.

1. To promote Deb Critser to full time Tax and License Specialist (4/1) for the Treasurer's Office at \$9.858 per hour effective 10-11-05.
2. To accept the resignation of Denise Whaler as Tax and License Specialist for the Treasurer's Office effective 10-8-05.
3. To promote James Ness to Juvenile Correctional Officer II (11/4) for the Juvenile Detention Center at \$17.410 per hour effective 10-15-05.
4. To promote Paul Niedringhaus to Deputy Sheriff Captain (21/8) for the Sheriff's Office at \$2316.00 biweekly effective 10-8-05.
5. To promote James Hoekman to Deputy Sheriff Captain (21/5) for the Sheriff's Office at \$2182.40 biweekly effective 10-8-05.
6. To accept the resignation of the following individuals as Laborers for the Highway Department effective as follows: Chris Oppold , 6-17-05; Craig Atkins, 9-10-05; & Adam Hegge, 10-6-05.

Step increases due:

1. Eric Kuntz – Custodian I – Facilities – 3/3 to 3/4, 10/14/05, \$9.942/hr
2. Hope Matchan– Chief Criminal Deputy State's Attorney – State's Attorney – 23/10 to 23/11, 9-21-05, \$2629.28/biweekly
3. Lori Brown – Legal Office Assistant II – State's Attorney – 7/8 to 7/9, 9-19-05, \$15.099/hr

The Commission also considered two additional personnel requests to fill vacancies in Facilities and at the JDC. Commissioner Twedt commented on the purpose of the Delayed Hiring Plan and noted that if it is not being followed it should not be in place. Nora Buckman, Human Resources Director, stated that many department heads are already waiting to request to fill vacancies. Commissioner Pekas asked whether the second part of the plan to return the savings to the General Fund was being followed. Ms. Buckman explained that the funds are in the Personnel budget and would be reallocated at the end of the year. Lloyd Olson requested to fill the Assistant Director of Facilities position which was vacated on April 24, 2005. MOTION by Zweep, seconded by Pekas to authorize the request. 5 ayes.

Todd Cheever, JDC Director, requested to fill a vacancy for a Juvenile Correctional Officer I, vacated on October 3, 2005. Commissioner Twedt noted that JDC had voluntarily cut a position during budget hearings. Commissioner Hajek noted that corrections positions should be considered essential. MOTION by Hajek, seconded by Kolbe to authorize the request. 5 ayes.

AGREEMENT

Nora Buckman, Human Resources Director, introduced a new employee retirement health saving plan and requested authorization for the County to participate. The plan would be a tax-free account for qualified health care expenses. Gordy Swanson, Chief Civil Deputy State's Attorney, commented on

improvements to the plan since initial consideration. MOTION by Kolbe, seconded by Zweep to adopt the Minnehaha County Retirement Health Savings Plan. 5 ayes.

ABATEMENTS

The following abatements were recommended by Dennis Whitney, Deputy Director of Equalization:

MOTION by Hajek, seconded by Pekas to approve the following abatement: Brian Lambertz, ID 39544, Property Taxes, 2002 - \$327.24, 2003 - \$315.18, & 2004 - \$310.16. 5 ayes.

MOTION by Zweep, seconded by Pekas to approve the following abatement: Modern Housing Inc., ID 66105, 2003 Property Taxes - \$731.05. 5 ayes.

MOTION by Hajek, seconded by Zweep to approve the following property tax abatements: Silver Glen Mobile Home Court, ID 72377, 1999 - \$553.00, 2000 - \$645.06, 2001 - \$616.34, 2002 - \$361.74, 2003 - \$355.10, & 2004 - \$304.02; Don Boyd for Monument and Marion Manor Mobile Home Court, Decal 924, 2002 - \$55.81, 2003 - \$57.91, 2004 - \$40.42, & 2005 - \$46.82, ID 72194, 2002 - \$189.41, 2003 - \$166.26, & 2004 - \$76.48, and ID 73827, 2003 - \$202.94 & 2004 - \$175.22; and Northside Mobile Home Court, ID 74125, 2002 - \$211.30, 2003 - \$176.25, & 2004 - \$152.41 and Decal 172, 2003 - \$80.80, 2004 - \$35.32, & 2005 - \$33.92. 5 ayes.

MOTION by Zweep, seconded by Kolbe to approve the following abatement: Cenex Petroleum Inc., ID 54477, 2004 Property Taxes - \$87.99. 5 ayes.

LIENS

Pursuant to deferral on October 4th, the Commission considered a request to compromise DPNO 26139 in the amount of \$20,000 in full with no payment. Commissioner Pekas reported that the petitioner was in the process of securing a home improvement loan when a title company noted the lien against the property. The lienee transferred interest in the property to the petitioner prior to his death in 1999. The lien was for medical services totaling \$46,264.27, and was reduced to \$20,000 during previous annual lien action. The petitioner indicated that he had obtained a home improvement loan for the property in October 1999, and the lien was not noted by the title company at that time. Upon further review, the title company contends that the search done in 1999 was for a mortgage policy, not an owner's policy. The petitioner was present to answer questions and stated that he was willing to compromise for a partial payment in order to proceed with his loan. MOTION by Pekas, seconded by Kolbe to approve Resolution MC05-54. 5 ayes.

RESOLUTION MC05-54

WHEREAS, a County Aid Lien in the amount of \$20,000 purports to exist in favor of Minnehaha County and against DPNO 26139 as Lienee, and

WHEREAS, an application has been filed with the County Auditor stating such facts as provided for by Law,

NOW, THEREFORE, BE IT RESOLVED that after due consideration of the circumstances the Board of County Commissioners finds it advisable and proper to authorize the Chairman of the County Board and the County Auditor to execute the following:

A compromise and release of the lien in full upon payment of \$10,000.00.

If payment is not made within one year from approval, this agreement is null and void.

Dated at Sioux Falls, South Dakota, this 11th day of October, 2005.

APPROVED BY THE COMMISSION:
Carol Twedt, Chairman

ATTEST:
Sandy Kinder, Deputy Auditor

Commissioner Pekas also briefed the Commission on a request to compromise DPNO 7357 upon payment of \$554.72 (50% of the current balance). The petitioners were in the process of purchasing a home when the lien was noted during the title search. The lien was for attorney services and public assistance. They have paid \$130 toward the lien to date. MOTION by Pekas, seconded by Zweep to approve Resolution MC05-55. 5 ayes.

RESOLUTION MC05-55

WHEREAS, a County Aid Lien in the amount of \$1,109.43 purports to exist in favor of Minnehaha County and against DPNO 7357 as Lienee, and

WHEREAS, said lienee has filed an application with the County Auditor stating such facts as provided for by Law,

NOW, THEREFORE, BE IT RESOLVED that after due consideration of the circumstances the Board of County Commissioners finds it advisable and proper to authorize the Chairman of the County Board and the County Auditor to execute the following:

A compromise and release of the lien in full upon payment of \$554.72.

If payment is not made within one year from approval, this agreement is null and void.

Dated at Sioux Falls, South Dakota, this 11th day of October, 2005.

APPROVED BY THE COMMISSION:
Carol Twedt, Chairman

ATTEST:
Sandy Kinder, Deputy Auditor

PURCHASE

MOTION by Zweep, seconded by Pekas to authorize the Highway Department to purchase a new hydraulic excavator off of a bid awarded by Pennington County to Sheehan Mack Sales & Equipment in the amount of \$129,258.00. 5 ayes.

SUPPLEMENT

MOTION by Zweep, seconded by Kolbe to supplement \$55,472.12 from the General Fund to the Sheriff's Department budget and \$22,320.06 to the Jail budget representing reimbursement from a variety of State and Federal Grants. 5 ayes.

ADDENDUM

David Atherton, Metro Communications Director, presented an addendum to the contract with New World Systems for the CML 9-1-1 telephone system transition. He reported that programming changes may be necessary to tie the phone system and CAD programs together. The addendum estimates the service time at 10 hours at a cost of \$130 per hour. MOTION by Pekas, seconded by Kolbe to authorize the Chairman to sign the Additional Services Agreement. 5 ayes.

CHANGE ORDER

Larry Crane, AIA Associate Principal, TSP, presented a change order to the Professional Services Agreement with TSP for the County Human Service/City Health Department project. The change order is for additional services related to furniture, fixtures, and equipment and changes to the general project scope. MOTION by Pekas, seconded by Zweep to authorize the Chairman to sign Change Order 1 to the Professional Services Agreement with TSP in the amount of \$166,411.00. 5 ayes. The new contract amount including this change order will be \$637,965.00.

HEARINGS

Pat Herman, Planner, was present for the scheduled hearing to consider a request to vacate a portion of Greenstone Avenue located south of Highway 42 in Rowena. Ms. Herman explained that Greenstone Avenue was originally platted in 1888. The west half of the avenue was vacated in 1903. Greenstone Avenue was never constructed and all abutting properties have access from other platted right-of-ways. Split Rock Township Board did not oppose the vacation. Planning Staff recommended approval. Anna Nelson, on behalf of the petitioners, was present to answer questions. MOTION by Hajek, seconded by Zweep to approve Resolution MC05-56. 5 ayes.

**RESOLUTION MC05-56
RESOLUTION TO VACATE PUBLIC RIGHT-OF-WAY**

WHEREAS, a public hearing was held on October 11, 2005, pursuant to the provisions of SDCL 31-3-7 to consider a petition to vacate a platted public right-of-way; and

WHEREAS, said hearing was for the purpose of determining whether the public interest will be better served by such proposed vacation.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, by the Minnehaha County Board of Commissioners that the following described public right-of-way, recorded in Book 1 Page 48 of Plats, is hereby declared vacated:

The east half of Greenstone Avenue lying adjacent to Lots 7-9 Block 14 and Lots 1-7 Block 19 Rowena Original in Section 26-T101N-R48W of the 5th PM, Minnehaha County, South Dakota.

BE IT FURTHER RESOLVED, that this resolution be placed on file with the Minnehaha County Auditor and recorded with the Minnehaha County Register of Deeds.

Dated this 11th day of October, 2005.

BOARD OF COUNTY COMMISSIONERS
Carol Twedt, Chairman

ATTEST:

Sandy Kinder, Deputy Auditor

Ms. Herman was also present for the scheduled hearing to consider a request to vacate Jackson Avenue in Corson. The street was platted as a 66 foot right-of-way and serves as access for three residences. The road ends at the petitioner's driveway. The petitioner has maintained the remaining platted ROW as lawn. Land to the south of the site is zoned for industrial development and has access from Highway 11. Planning Staff recommended approval. The applicants, Gayle and Gloria Habeck were present to answer questions. MOTION by Zweep, seconded by Hajek to approve Resolution MC05-57. 5 ayes.

RESOLUTION MC05-57
RESOLUTION TO VACATE PUBLIC RIGHT-OF-WAY

WHEREAS, a public hearing was held on October 11, 2005, pursuant to the provisions of SDCL 31-3-7 to consider a petition to vacate a platted public right-of-way; and

WHEREAS, said hearing was for the purpose of determining whether the public interest will be better served by such proposed vacation.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, by the Minnehaha County Board of Commissioners that the following described public right-of-way, recorded in Book 28 Page 127 of Plats, is hereby declared vacated:

Jackson Avenue lying between Lot 3 Block 3 and Lot 4 Block 4 Sampson's Subdivision of Fauskes Addition in Section 27-T102N-R48W of the 5th PM, Minnehaha County, South Dakota.

BE IT FURTHER RESOLVED, that this resolution be placed on file with the Minnehaha County Auditor and recorded with the Minnehaha County Register of Deeds.

Dated this 11th day of October, 2005.

BOARD OF COUNTY COMMISSIONERS
Carol Twedt, Chairman

ATTEST:
Sandy Kinder, Deputy Auditor

Commissioner Hajek recused herself due to a conflict of interest on the following item.

APPEAL

Scott Anderson, Planning Director, was present for an appeal of the Planning Commission decision to approve a Conditional Use Permit (CUP) for East River Electric to construct a utility substation on property legally described as Lot U1 of Tract 1 of Oak Ridge Tracts S1/2 SE1/4 and Lot U2 of Tract 2 of Lacey Tracts SW1/4 in Section 5-T101N-R48W. The property is located at 8502 East Maple Street and is zoned General Agriculture District. Utility substations are allowed in this zoning district with a CUP. The applicant proposes to operate a 115 kV substation at the site. Mr. Anderson briefed the Commission on the details of the Planning Commission meeting and explained that after several deferrals, the permit was issued with eight conditions. Jim Edwards, Assistant General Manager of Operations for East River Electric Cooperative, explained that the location was a critical factor in selecting this site. He discussed how the substation would distribute power and why it was needed. The proposed site is in an area adjacent to existing substations and will help with load transfers. It also is in an existing transmission line corridor and would eliminate the need to construct additional

transmission lines in the area. Mr. Edwards addressed issues brought by the opponents at a previous Planning and Zoning meeting. Additional land was purchased to move the substation back from the roadway. Sound levels emitted by the substation would be minimal and trees will be planted around the site as a condition of the permit. Trees and grasses will also help buffer the sound level. The need for a communication tower was also addressed. The initial plan called for a 50' tower, which they are working to reduce to 35 feet. David Huntimer, opponent, stated that the initial proposal included a 500' setback. Mr. Huntimer noted that he would not support the facility, but could live with it if it were moved back to the 500'. He also noted that the trees that would be planted around the site would take 20 years to mature. Larry Gorsuch, opponent, showed a slide of the posted notice which was attached to a fence post at the site and commented on the low visibility of the sign. He also discussed the position of the substation as the wider angle would face his residential development. He felt that the applicant had not made fair or reasonable changes to their proposal and should have notified those living nearby of their plans. He indicated that property values suffered when located less than 500' from such facilities. The opponents asked that the applicant move the substation back an additional 100', utilize the current land slope to minimize visual impact, only allow for one 85' X 140' substation, and not allow the telecommunication tower. Mr. Edwards explained that by moving the substation back to the currently proposed location, they turned the angle to allow for more front setback. Moving the substation back further would not be suitable for construction of a substation due to the grade of the land. East River has no plans to expand the proposed substation, but future growth may warrant it. Mr. Huntimer stated that more land could be purchased from the seller to move the location of the substation. The person selling the land to East River is the beneficiary of the substation as the residents of Indian Hills Housing Development are not subdividing, the seller is proposing the future development of the area and should be willing to sell more land to accommodate this. Commissioner Kolbe asked about future development of Maple Street. Mr. Anderson explained that road improvements were proposed previously, but due to opposition and topography the road was not improved further. There are no future plans to expand Maple, but it is in the Brandon platting jurisdiction. Commissioner Zweep commended East River for planning ahead for future needs. Commissioner Pekas commented on potential future development of the area to the west of the opponents. If Six Mile Road is developed into the new Eastside Corridor, commercial development will follow. MOTION by Zweep, seconded by Kolbe to uphold the Planning Commission decision to approve CUP 05-52. 4 ayes.

Commissioner Hajek returned to the meeting.

OLD BUSINESS

Commission Kolbe commented on the NAACP Freedom Forum he attended.

MOTION by Zweep, seconded by Pekas to adjourn into Executive Session. 5 ayes. Following Executive Session the Commission adjourned until 5:00 p.m. on October 17, 2005.

APPROVED BY THE COMMISSION:

Carol Twedt, Chairman

ATTEST:

Sandy Kinder, Deputy Auditor