

# OFFICIAL PROCEEDINGS

Dunn County Board of Supervisors

JULY 25, 2012 SESSION

*Proceedings are unofficial until approved.*

The County Board of Supervisors of Dunn County met in regular session at the Government Center in the City of Menomonie on Wednesday, July 25, 2012 at 7:00 p.m. The board was called to order by Chairperson Steven Rasmussen. The board recited the pledge of allegiance to the flag.

The clerk called the roll. All members were present except Supervisor Anderson. There is one vacancy. Supervisor Anderson arrived at 7:30 p.m.

Supervisor Bartlett moved to approve the minutes of the June 20, 2012 session, second by Supervisor Maves. Carried.

## PETITION 2012-7-A

The County Clerk received a petition from a majority of the Dunn County Board of Supervisors to change the date of the July County Board session to July 25, 2012 at 7:00p.m. rather than the scheduled date of July 18, 2012.

## PETITION 2012-7-A

Date: June 8, 2012

We, the undersigned members of the County Board of Supervisors for the County of Dunn, do hereby petition you to call a regular meeting of the Dunn County Board of Supervisors to be held at the Dunn County Government Center, Room 124, on Wednesday, July 25, 2012 at 7:00 p.m. instead of the original date of July 18, 2012, to conduct any regular business that may come before the Board.

Steven Rasmussen

Joe Plouff

Mary Solberg

James Tripp

C.N.Cleary

Calvin Christianson

Jerome Prochnow

Dale Harschlip

Kelly McCullough

Don Kuether

Charles Maves

Robert Walter

Gary Bjork

Thomas Quinn

David Schaefer

Gary Stene

Sheila Stori

David Bartlett

Richard Creaser

## PUBLIC COMMENTS

Eight members of the public spoke to the board concerning extending the moratorium related to the non-metallic mining ordinance. One member of the public spoke to the board encouraging a non-binding referendum pertaining to taxpayer funding of vocational schools. One member of the public spoke to the board about supporting an amendment to the constitution of the United States to provide that corporations are not persons.

## APPOINTMENTS

The chairman made the following appointments requiring board approval:

**County Board District 19:** (To fill unexpired term of Mary Phillips) Don Francis, 1215 3<sup>rd</sup> Street E., #186, Menomonie. Term expires April 2014.

**Zoning Board of Adjustment:** Reappoint Dorothy Enger, E8499-810<sup>th</sup> Avenue, Colfax, WI and Diane Morehouse, E2149 350<sup>th</sup> Avenue, Menomonie. Terms expires July 2015.

Supervisor Bartlett moved to approve the chairman's appointments, second by Supervisor Stori. Carried. The County Clerk administered the oath of office to Supervisor Francis.

The chairman made the following additional appointments:

**Community Resources and Tourism Committee:** (To fill unexpired term of Mary Phillips) Don Francis. Term expires April 2014.

**CDBG County Representative:** Jim Tripp. Term expires April 2014

**Tainter Menomin Lake Improvement Association Board Representative:** Kitz Cleary. Term expires April 2014.

### **REPORT OF COUNTY MANAGER**

The County Manager gave a report on the following:

- a. Purchase Orders over \$40,000. There were four purchase orders over \$40,000 totaling \$404,324.75.
- b. County Facebook/Social Media/Web presence overview.
- c. Budget Planning & Development process review – **postponed**.

### **REPORT NO. 2012-7-B**

Supervisor Quinn requested to have Cheryl Huenink give the annual report of the Human Services department. Supervisor Quinn moved to accept the report and place it on file, second by Supervisor Solberg. Carried.

### **REPORT NO. 2012-7-C**

Supervisor Plouff requested to have George Hayducsko give the annual report of the Environmental Services department. Supervisor Plouff moved to accept the report and place it on file, second by Supervisor Walter. Carried.

### **REPORT NO. 2012-7-D**

Supervisor Solberg requested to have the head librarians from the four Dunn County Libraries- Ginny Julson, Lisa Ludwig, Ted Stark and Cathy LrFevre, give the annual report of the Dunn County Library Planning Committee. Supervisor Solberg moved to accept the report and place it on file, second by Supervisor Cleary. Carried.

### **REPORTS OF COMMITTEES**

Supervisor Noreen, Chair of Committee on Administration, requested to have Brock Geyen from CliftonLarsonAllen, LLP give a report on the 2011 Audit and Financial Statements. Supervisor Noreen moved to accept the report and place it on file, second by Supervisor Anderson. Carried.

### **ORDINANCE NO. 46**

Supervisor Plouff moved for enactment of Ordinance No. 46 extending the moratorium related to non-metallic mining, second by Supervisor Walter. Carried on voice vote.

### **ORDINANCE NO. 46**

**(Amended)**

### **AN ORDINANCE TO IMPOSE A MORATORIUM ON THE EXPANSION AND CREATION OF NEW NONMETALLIC MINING OPERATIONS WITHIN THE UNINCORPORATED AREAS OF DUNN COUNTY PENDING STUDY OF POSSIBLE LEGISLATIVE ACTION**

The County Board of Supervisors of the County of Dunn does hereby ordain as follows:

**SECTION 1. Purpose.** The purpose of this moratorium is to allow the county adequate time to study the possible impacts that nonmetallic mining operations may have on the health, safety and welfare of the residents of Dunn County including air quality and water quality concerns and potential impact to the infrastructure of the county, to allow

unzoned townships within the county the opportunity to consider enacting zoning or other regulatory ordinances, to determine the advisability of amending its Comprehensive Plan and to review and consider amending or adopting other police power or zoning ordinances so as to effectively regulate nonmetallic mining operations.

**SECTION 2. Definitions.**

- (1) “Nonmetallic minerals” means a product, commodity or material consisting principally of naturally occurring, organic, inorganic, nonmetallic, non-renewable material. Nonmetallic minerals include but are not limited to stone, rock, sand, gravel, asbestos, beryl, diamond, clay, coal, feldspar, peat and talc.
- (2) “Nonmetallic mining” means any of the following:
  - a. Extraction from the earth of mineral aggregates or nonmetallic minerals for off-site use or sale, including drilling and blasting as well as associated activities such as excavation, grading and dredging of such minerals.
  - b. Manufacturing or processing operation that may involve the use of equipment for the crushing, screening, separation, or blending of the mineral aggregates or nonmetallic minerals obtained by extraction from the mining site or with minerals transferred from off-site.
  - c. Manufacturing processes aimed at producing nonmetallic products for sale or use by the operator.
  - d. Stockpiling of nonmetallic products for sale or use off-site and stockpiling of waste materials.
  - e. Transport of extracted nonmetallic materials, finished products or waste materials to or from the extraction, manufacturing or processing site located in the unincorporated areas of Dunn County.
  - f. Disposal of waste materials as defined in this ordinance.
  - g. Reclamation of extraction sites.
- (3) “Waste material” means the non-marketable by-product that results directly from or is displaced by extraction or that is a by-product of a manufacturing process that is scheduled for disposal at the extraction site of a nonmetallic mine site or processing operation or some other site as part of a reclamation plan.
- (4) A “mine site” or “site” means land from which mineral aggregates or nonmetallic minerals will be extracted for sale or use by the land owner or any agent of the land owner, including all land on which is or will be located any structures, equipment, storage facilities washing or screening facilities, private roads or haulage ways associated with nonmetallic mining operations; and all contiguous lands to the nonmetallic operation under common ownership or control of the owner or his/her agent.

**SECTION 3. Moratorium Imposed.** That pursuant to Wis. Stats. §§59.03, 59.69, 59.70 and 92.11, the county board of supervisors hereby prohibits the expansion of any nonmetallic mining operation beyond its physical dimensions as identified in the reclamation plan on file as of the date of adoption of the ordinance and further prohibits the processing of applications for new nonmetallic mine reclamation permits or new special exception permits for nonmetallic mining, the issuance of new nonmetallic mine reclamation permits or new special exception permits for nonmetallic mining and creation of any new nonmetallic mining operation during the pendency of the moratorium within unincorporated areas of the county.

**SECTION 4. Duration of Moratorium.** The moratorium imposed by this ordinance shall be in effect until ~~July 30, 2012~~ October 31, 2012. During this period, the Environmental Services Department, the Dunn County Highway Department and the Dunn County Health Department shall study and analyze the impact of nonmetallic mining and shall make final recommendations to their respective governing committees and the county board of supervisors within 120 days of the effective date of this ordinance.

**SECTION 5. Severability.** If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

**SECTION 6. Effective Date:** This ordinance shall take effect ~~on the day after its date of~~ upon passage and publication as provided by law. This ordinance shall not be codified.

**SECTION 7. Legislative Findings.** The County Board of Supervisors hereby makes the following findings:

1. The board recognizes that there is an increased interest locally that may lead to requests to mine, process and transport silica sand (aka frac sand) in Dunn County.
2. The board recognizes that there is an increased demand nationally for silica sand that is used in the hydraulic fracturing process as a means to extract natural gas and oil and that there is abundant silica sand in Dunn County.
3. The board recognizes that the mining, processing and transporting of silica sand may have an impact on air and water quality which may affect the health and safety of county residents and could impact roads and infrastructure within the county.
4. The board recognizes that, due to the increased demand for silica sand and the potential for large scale nonmetallic mining operations, it is critical that all necessary regulations and safeguards be in place before such nonmetallic mining operations expand or commence.
5. The board recognizes that the Dunn County Zoning Ordinance and other regulatory ordinances may not adequately address the health, safety and welfare of Dunn County residents and the enhanced strain on the County infrastructure as a result of frac sand mining/nonmetallic operations.

**SECTION 8. Exception.** An applicant who has submitted an application for a mining reclamation permit and/or special exception permit for Non-Metallic Mining on or before the effective date of the moratorium that is determined to be in complete conformity with all zoning requirements in effect, as of the date of the application, shall not be affected by the terms of the moratorium other than the prohibition against expansion of its Non-Metallic Mining operations as set forth in Section 3.

DATED this 25<sup>th</sup> day of July, 2012, at Menomonie, Wisconsin.

ENACTED: July 25, 2012

PUBLISHED: July 29, 2012

OFFERED BY THE PLANNING, RESOURCES  
AND DEVELOPMENT COMMITTEE:  
Joe Plouff, Chairman

ATTEST: Marilyn Hoyt, County Clerk

**ORDINANCE NO. 47**

Supervisor Bartlett moved for enactment of Ordinance No. 47, adopting the zoning map of the Town of New Haven, second by Supervisor Bjork. Carried on voice vote.

**ORDINANCE NO. 47**

The Planning, Resources and Development Committee received a request to amend the Dunn County Comprehensive Zoning Ordinance to include the zoning map of the Town of New Haven. A Class II Notice was published in the *Dunn County News* on July 1 and July 8, 2012, establishing a public hearing on July 17, 2012. The Committee recommends that the request for amendment be approved.

The Dunn County Board of Supervisors does hereby ordain as follows:

The Dunn County Comprehensive Zoning Ordinance is hereby amended to include the zoning map of the Town of New Haven, on file at the Dunn County Zoning Administrator's Office. Said zoning map shall be deemed the official zoning map of the town of New Haven, pursuant to Section 1.4.01 of the Dunn County Comprehensive Zoning Ordinance.

This ordinance shall take effect upon passage and publication as provided in Chapter 59.14 of the Wisconsin Statutes.

DATED this 25th day of July, 2012, at Menomonie, Wisconsin.

ENACTED ON: July 25, 2012  
PUBLISHED ON: August 5, 2012

OFFERED BY THE EXECUTIVE COMMITTEE:  
Steven Rasmussen, Chairman

ATTEST: Marilyn Hoyt, County Clerk

**RESOLUTION NO. 48**

Supervisor Bartlett moved for adoption of Resolution No. 48, approving of 2012 budget adjustments, second by Supervisor McCullough. Carried on roll call vote with all members voting "aye" except Supervisor Tripp who was not at the table for the vote.

**RESOLUTION NO. 48**

NOW, THEREFORE, BE IT RESOLVED, the Board of Supervisors recognizes that it is both necessary and fiscally prudent to amend its adopted budget during the course of a fiscal year; and

BE IT FUTHER RESOLVED, the Executive Committee has considered the justification for the proposed adjustment and recommends that the Board adopts the adjustment as being in the best interest of the County;

BE IT FURTHER RESOLVED that effective with the publication of the notices required by law, the budget of the County of Dunn, for the year beginning January 1, 2012, is amended by the following amounts to the line item account numbers shown:

**BUDGET ADJUSTMENT REQUEST**

<u>Account Name</u>	<u>Account #</u>	<u>Expenditure</u>	<u>Revenue</u>
<b>Department: Environmental Services</b>			
<b>Division: Land Conservation</b>			
Fish & Game Projects	100-68-56100-0000-506	\$ 3,000	
State Aid - Fish & Game Program	100-68-43694-0000-540		\$ 1,425
LCD-Miscellaneous Revenue	100-68-48900-0000-540		\$ 1,575
<b>Department: Environmental Services</b>			
<b>Division: Solid Waste</b>			
Solid Waste Admin Contractual Services	254-68-56800-2900-038	\$ 24,497	
Solid Waste Transfer Station	254-68-46444-0000-620		\$ 24,497
<b>Department: Public Health</b>			
Public Health Expenditure	100-52-54110-3470-038	\$ 9,400	
Public Health Revenue	100-52-46510-0000-000		\$ 9,400
<b>Department: Sheriff's Office</b>			
<b>Division: Jail</b>			
Inmate Program Director Materials	100-36-52700-3482-030	\$ 2,000	
Jail Program Revenue	100-36-46215-0036-000		\$ 2,000
<b>Department: UW - Extension</b>			
Program Revenue	100-44-46640-0000-000		\$ 5,042
Registrations	100-44-55600-3250-012	\$ 300	
Educational supplies	100-44-55600-3480-038	\$ 2,340	
Conferences	100-44-55600-3370-012	\$ 806	
PAT	100-44-55616-0000-000	\$ 540	
Operating supplies	100-44-55600-3470-038	\$ 1,056	
<b>Department: Veteran Services Office</b>			
Donations	100-40-46256-0000-000	\$ 2,848	
Medical Equipment Repair	100-40-54700-3473-038		\$ 2,848
		<b>TOTALS</b>	<b>\$ 46,787</b>
			<b>\$ 46,787</b>

BE IT FURTHER RESOLVED the Board authorizes the Department of Administration to enter and maintain the information contained herein in a manner based upon generally accepted accounting standards and that effective with the publication of the proceedings of this meeting the following changes are, hereby, adopted.

Dated this 25th day of July, 2012 at Menomonie, Wisconsin

<p><b>Budget Impact:</b> Adoption of this resolution increases the 2012 adopted budget for expenses by \$46,787 and revenues by \$46,787.</p>
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ADOPTED ON: July 25, 2012

OFFERED BY THE EXECUTIVE COMMITTEE:  
Steven Rasmussen, Chairman

ATTEST: Marilyn Hoyt, County Clerk

**Background Information:**

The Executive Committee has considered the justifications for the proposed 2012 budget adjustments and recommends that the Board adopt the adjustments as being in the best interest of the County.

The following information was provided by departments requesting action in support of this resolution.

**Environmental Services**

**Land Conservation Division**

This budget adjustment request is the result of an increase in the 2012 Department of Natural Resources' (DNR) County Conservation Aids Grant in the amount of \$3,000 that will be used to repair the public access to the Red Cedar River at the Cedar Falls Boat Landing. As part of the requirements of the grant there is a stipulation that there will be 50% match in funds. The 50% match will be obtained through donations from local conservation clubs.

**Environmental Services**

**Solid Waste Division**

This budget adjustment request is due to Environmental Services of Wisconsin. Their 2011 Host Fee was greater than anticipated. The original projected revenue was \$26,250. The actual revenue was \$50,746.50. A percentage of the revenue is paid to the Town of Menomonie. Because the revenue was increased, the expenditure to the Town of Menomonie was increased by \$8,120.

**Office of the Sheriff**

**Jail Division**

The Wal-Mart Foundation donated \$2,000 to be used towards the Dunn County Jail Garden.

**Public Health**

This budget adjustment is requested in the amount of \$9,400 as a result of the State Aid awarded with our contracts was slightly higher than expected during the 2012 Budget preparation.

**UW-Extension**

UWEX coordinates programs with other departments/agencies in the county. Most of the expenditures are reimbursed through the registration fees. This adjustment reflects the revenue received and the coordinating program costs.

**Veteran Services Office**

This budget adjustment request is to recognize the closing of an outside checking account and depositing the funds in the county checking account.

**ORDINANCE NO. 49**

Supervisor Bartlett moved for enactment of Ordinance No. 49 amending the Rules of the Board, second by Supervisor Prochnow. Carried on voice vote.

**ORDINANCE NO. 49**

**TO CREATE SECTION 2.145 OF THE DUNN COUNTY CODE OF ORDINANCES**

The County Board of Supervisors of the County of Dunn does hereby ordain as follows:

**Section 1.** Section 2.145 of the Dunn County Code of Ordinances is created to read as follows:

All ordinances introduced to the Board, except amendatory zoning ordinances which change zoning districts, shall have a first reading and be held over to the next ensuing meeting for a second reading and motion for adoption unless a suspension of this rule is granted. Ordinances shall be read by title only, if County Board members have numbered copies thereof.

**Section 2.** This ordinance shall be effective upon publication as provided by law. (This section shall not be codified)

DATED this 25<sup>th</sup> day of July, 2012, at Menomonie, Wisconsin.

ENACTED ON: July 25, 2012

PUBLISHED ON: August 5, 2012

OFFERED BY EXECUTIVE COMMITTEE:  
Steven Rasmussen, Chairman

ATTEST: Marilyn Hoyt, County Clerk

### **RESOLUTION NO. 50**

Supervisor Prochnow moved for adoption of Resolution No. 50, supporting an amendment to the constitution of the United States to provide that Corporations are not Persons, second by Supervisor McCullough. Supervisor Plouff moved to hear from Mr. Rick Jurmain, second by Supervisor Stori. Carried on voice vote. Supervisor Christianson moved to amend the resolution by adding the following paragraph "Be it further resolved that the resolution be forwarded to all U.S. Congressmen and Senators from the State of Wisconsin, as well as the State Legislators", second by Supervisor Stori. Motion to adopt Resolution No. 50, as amended, carried on voice vote.

### **RESOLUTION NO. 50**

#### **SUPPORTING AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES TO PROVIDE THAT CORPORATIONS ARE NOT PERSONS**

WHEREAS, government of, by and for the people has long been a cherished American value, and a fundamental and inalienable right of the people to self-govern and thereby secure rights to life, liberty and the pursuit of happiness; and

WHEREAS, free and fair elections are essential to democracy and effective self-governance; and

WHEREAS, *Citizen's United v. Federal Election Commission*, 130 S.Ct. 876 (2010), rolled back legal limits on corporate spending in the electoral process and allowed unlimited corporate spending to influence elections, candidate selection, and policy decisions, thereby threatening fair elections by and for the People; and

WHEREAS, the Court's decision in *Citizen's Unlimited* hampers the ability of federal, state and local governments to enact reasonable campaign finance reforms and regulations regarding corporate political activity; and

WHEREAS, in his dissent, Justice John Paul Stevens recognized that “[u]nlike natural persons, corporations have ‘limited liability’ for their owners and managers, ‘perpetual life,’ separation of ownership and control, ‘and favorable treatment of the accumulation and distribution of assets’ ... corporations have no consciences, no beliefs, no feelings, no thoughts, no desires. Corporations help structure and facilitate the activities of human beings, to be sure, and their ‘personhood’ often serves as a useful legal fiction. But they are not themselves members of ‘We the People’ by whom and for whom our Constitution was established,” 130 S.Ct. 876, 972; and

WHEREAS, corporations are not and have never been human beings; and

WHEREAS, corporations should not be personified and granted constitutional rights guaranteed to individual human beings such that the expenditure of corporate money to influence the electoral process is a form of constitutionally protected speech above reasonable regulation,

NOW THEREFORE, BE IT RESOLVED, that the Dunn County Board of Supervisors supports amending the United States Constitution to provide that corporations are not entitled to the entirety of protections or “rights” of human beings, specifically so that the expenditure of corporate money to influence the electoral process is no longer a form of constitutionally protected speech, and calls on Congress to begin the process of amending the Constitution.

BE IT FURTHER RESOLVED, that the resolution be forwarded to all U.S. Congressmen and Senators from the State of Wisconsin, as well as the State Legislators.

<b>Budget Impact:</b> None
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ADOPTED ON: July 25, 2012

OFFERED BY THE EXECUTIVE COMMITTEE:  
Steven Rasmussen, Chairman

ATTEST: Marilyn Hoyt, County Clerk

### **RESOLUTION NO. 51**

Supervisor Prochnow moved for adoption of Resolution No.51, designating a Dunn County Transit Garage Site, second by Supervisor McCullough. Carried on voice vote.

### **RESOLUTION NO. 51 DUNN COUNTY TRANSIT GARAGE SITE DESIGNATION**

WHEREAS, Dunn County established, maintains and operates a comprehensive unified transportation system according to Wisconsin Statute 59.58 (2);

WHEREAS Dunn County requires a transit garage to clean, inspect, store and dispatch buses;

WHEREAS, Dunn County owns land suitable for a transit garage and has applied for Section 53.11 capital assistance funds for site evaluation, engineering and architectural design;

NOW, THEREFORE, BE IT RESOLVED, that the Dunn County Board of Supervisors designates a parcel of county owned land located in the Southeast ¼ of the Southeast ¼ of Section 19, Township 28 North, Range 12 West of the 4<sup>th</sup> Principal Meridian, located in and forming a part of the City of Menomonie, Dunn County, Wisconsin, more particularly described as follows:

Commencing at the Southeast Corner of said Section 19;  
thence, northerly along the east line of the Southeast ¼ of said Section 19, approximately 663 feet to the centerline of a blacktop driveway running in an east/west direction and the POINT OF BEGINNING;  
thence, westerly along the centerline of said blacktop driveway, approximately 278 feet;  
thence, northerly parallel with the east line of the Southeast ¼ of said Section 19, approximately 312 feet to a point on the south line of Lot 2 of Certified Survey Map Number 1217;  
thence, easterly along the south line of Lot 2 of Certified Survey Map Number 1217, approximately 278 feet to the southeast corner of said Lot 2;  
thence, southerly along the east line of the Southeast ¼ of said Section 19, approximately 315 feet to the point of beginning.

Containing approximately 2 acres. Subject to any and all easements, reservations, restrictions, and conveyances of record.

as a future location for a Dunn County Transit Garage.

Dated this 25<sup>th</sup> day of July, 2012, at Menomonie, Wisconsin

<b>Budget Impact: None</b>
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ADOPTED ON: July 25, 2012

OFFERED BY THE HIGHWAY COMMITTEE:  
Jerome Prochnow, Chairman

ATTEST: Marilyn Hoyt, County Clerk

**Background information:**

The transit department provides services in the county utilizing 7 buses. Capital expense is presently funded at 80% utilizing state and federal transit funds contingent upon a maintenance plan that includes proper bus storage. For example, the recent transfer of federal assets from Janesville to the county was contingent upon a garage facility.

The department's leased facility sold. As a temporary measure the department leases office space at the County Health Care Center for the call center and parks buses at the county highway yard.

Leased office space impacts transit performance measures increasing operating expense \$2.59 per service hour and \$.31 per one way trip. These are two of six performance measures evaluated by WISDOT, reported to the Wisconsin Legislature and utilized in the 85.20 grant award process.

During 2011 the department conducted a preliminary feasibility study that included a new facility and the former county highway garage at the fairgrounds. A site near the existing highway department facility was recommended because of infrastructure that includes fuel and maintenance capabilities.

Preliminary facility needs:

856 square foot call center (Class 100-500 up to 40' bus)

4,736 square feet bus storage (2 Class 500 40'; 5 class 300-400 29')

1,1880 square feet wash bay (Class 100-500 up to 40' bus)

1,367 square feet misc storage/mechanical

856 square feet office

12,853

2 acres – for parking, drainage, access

The department's 2012 budget includes funds for facility planning utilizing an 80% WISDOT cost share. The scope of that project includes site evaluation for Federal Transit Administration (FTA) compliance, engineering and architecture.

Supervisor Wiese moved to adjourn to September 19, 2012 at 7:00 p.m., second by Supervisor Bjork. Carried.

MARILYN HOYT  
DUNN COUNTY CLERK