

## WASECA COUNTY BOARD OF COMMISSIONERS-AUGUST 3, 2010

The Waseca County Board of Commissioners met in regular session on Tuesday, August 3, 2010, in the Commissioners Room, 300 N. State Street, Waseca, Minnesota. Members present were Jim Peterson, Mike Hintz, Rick Morris, Richard Androli, Dan Kuhns.

Others present were Todd Bodem, County Administrator; Joyce Oliver, Auditor-Treasurer; Lee Williams, Solid Waste Administrator; Richard & Marie Borglum; Tom & Monica Davison; Nancy Prehn; LeeRoy & Marlene Cain; Mark Leiferman, Planning & Zoning Administrator; Paul Dressler, County Attorney; Jerry Lehman, Assessor; Marla Watje, Soil and Water Conservation District; Gladys Carlson; Ron Purcell

Jim Peterson, Chairperson, called the meeting to order at 9:30 a.m. The Pledge of Allegiance was recited.

Chair Peterson called for public comment. There was none.

Androli moved and Hintz seconded the motion to approve the agenda as presented. Motion carried unanimously.

Hintz moved and Morris seconded the motion to approve the consent agenda as presented. Motion carried unanimously.

- a. Approve minutes of 7-20-10.
- b. Approve Auditor, Commissioner, Human Services and expense bills as presented
- c. Approve County Ditch #29 repair.
- d. Approve solid waste hauler license application for Waste Management, Herold Rolloffs, Thompson Sanitation, Veit Container Corp and LJP Enterprises.
- e. Approve one (1) year electronic waste disposal contract with Universal Recycling Technology (URT).

Todd Bodem, Administrator, requested date to be set for preliminary budget work session. August 31, 2010, at 1:30 p.m. will be scheduled for the work session with September 7, 2010, reserved in case a second session is needed.

Joyce Oliver, Auditor-Treasurer, presented a request from the MN Dept. of Transportation to set a date for a public hearing on a petition for the right to make minor alterations or changes in CD #48 due to construction and maintenance of Trunk Highway #30. Hintz moved and Morris seconded the motion to set Tuesday, August 17, 2010, at 10:00 a.m. for the public hearing. Motion carried unanimously.

Mike Hintz explained that there has been confusion as to the previously approved retirement incentive and employees have asked for clarification. The incentive program from a year ago had two options with parts A & B to each option. The incentive program approved currently only addresses Option 1, Part A. Discussion ensued. Morris moved and Hintz seconded the motion to amend the program to include Part B but to reduce the months by one-half. Motion failed by the following roll call: Morris-no; Hintz-no; Androli-no; Kuhns-no; Peterson-no.

Androli moved and Hintz seconded the motion to rescind the Early Retirement Incentive Program approved on 7/6/10. Motion carried unanimously.

Morris moved and Hintz seconded the motion to offer an Early Retirement Incentive which would consist of Option 1, Part A to continue individual health coverage for 8 months; Part B to offer continued coverage for a length of time equal to one month for every two years of service or the choice of Option 2 which consists of a cash payment to equal the same coverage as offered in Option 1. The offer is available until October 1, 2010 with a retirement date of no later than February 1, 2011. Motion carried unanimously.

Mark Leiferman, Planning and Zoning Administrator, opened discussion on a conditional use permit issued to Tony Borglum for a gun shop in section 19, Blooming Grove Township. Marie Borglum addressed the board and agreed to the revocation of the permit.

Hintz moved and Morris seconded the motion to adopt the resolution to revoke the conditional use permit for a gun shop as follows. Motion carried unanimously.

#### WASECA COUNTY RESOLUTION NO. 2010- 8-3

### REVOKING A CONDITIONAL USE PERMIT

#### FOR A GUN SHOP IN SECTION 19, TOWNSHIP 108 NORTH, RANGE 22 WEST

WHEREAS, Tony Allan Borglum applied for a Conditional Use Permit for the purpose of operating 1) a firearm and related sales facility, 2) a firearm and related repair service, 3) a light firearm manufacturing and 4) to place a business sign on a parcel of ground described in Exhibit "A" and located in Section 19 of Blooming Grove Township in December of 2007; and

WHEREAS, on January 3, 2008 the Waseca County Planning Commission held a public hearing, considered approval criteria and made the recommendation to approve the Conditional Use Permit with conditions to the Waseca County Board; and

WHEREAS, on January 22, 2008, the Waseca County Board approved the Conditional Use Permit for the uses described above and with the Conditions described in Exhibit "B" attached hereto; and

WHEREAS, the Conditional Use Permit was filed for record with the Waseca County Recorder on January 31, 2008 as Document No. 273982; and

WHEREAS, the Federal Government requires individuals utilizing facilities for gun sales and manufacture to hold a Federal Firearms License; and

WHEREAS, several of the conditions placed upon the property related to:

- 1) Obtaining and maintaining the Federal Firearms License and the fact that the owner of the property must hold the license,
- 2) Security measures required to be in place and maintained,
- 3) Insurance protection required to be in place and maintained, and
- 4) Facility requirements for individuals with disabilities; and

WHEREAS, Tony Allan Borglum has:

- 1) Transferred the Federal Firearms License to another location,
- 2) Removed the security system,
- 3) Failed to provide the required insurance certificates,
- 4) Transferred title to the property to Marie Borglum, and
- 5) Has not constructed the required handicap restroom facilities; and

WHEREAS, on July 1, 2010 the Waseca County Planning Commission reviewed the Conditional Use Permit for compliance with requirements of the permit and recommended that the permit be revoked and cancelled; and

WHEREAS, Minnesota Statute and the Conditional Use permit allow for the revocation and cancellation of a permit by the Waseca County Board for non-compliance with the conditions specified within the permit.

1. NOW, THEREFORE, be it resolved by the County Board for Waseca County that the Conditional Use Permit for the gun shop and other uses allowed on the parcel described in Exhibit "A" and filed for record in the office of the Waseca County Recorder on January 31, 2008 as Document No. 273982 is hereby revoked and cancelled based upon violations and documentation attached hereto as Exhibit "C".

**EXHIBIT "A"**  
Legal Description

That part of the SE1/4 of the SE1/4 of Section 19, Township 108 North, Range 22 West, Waseca County, Minnesota, described as: Beginning at a point on the NE corner of the SE1/4 of the SE1/4 of Section 19, thence South along the East line of the SE1/4 of Section 19 a distance of 295.16 feet; thence West on a line parallel to the South Quarter Section line a distance of 295.16 feet; thence North on a line parallel to the East Section line a distance of 295.16 feet; thence East along the SE1/4 Section line a distance of 295.16 feet to the point of beginning.

**EXHIBIT "B"**  
Conditional Use Permit Conditions

- 1) "Related sales" and "related repair" shall include, but is not limited to the following: gun cases, ammunition, scopes, sites, mounts, chokes, hunting clothing or other firearm accessories.
- 2) "Light manufacturing of firearms" shall include, but shall not be limited to use of a lathe, grinder, hammer, or die. Manufacturing also includes

anything that modifies or changes the length of a barrel or etc. pertaining to a firearm.

- 3) Applicant/Owner and operator are on notice: The surrounding area is zoned "A" Agricultural and will be such into the indefinite future. Owner/applicant/patrons may be subject to dust, noise, vibration, extended hours of operation, odors, such as manure, and other issues that are normally associated with agriculture or animal agriculture. These uses shall not constitute a nuisance when associated with normal and typical farming practices.
- 4) All County, State, and Federal laws, regulations, and ordinances shall be complied with and all necessary permits and licenses shall be secured prior to operation of the proposed business.
- 5) As defined by MN Rule, the applicant is allowed to operate as a small firearms dealer and must adhere to the security measures as defined by Minnesota Rules. Any future expansion to a Large Firearms dealer shall require an amended conditional use request and shall proceed as a new application.
- 6) The applicant shall notify the Planning Commission and County Board if he applies for any exemption under MN Rules 7504.0600, incorporated herein by reference.
- 7) The site shall not be used as a junk yard or scrap yard. All refuse shall be properly disposed of. The site shall be kept tidy and not unsightly.
- 8) The application shall be considered only upon the demonstration of the applicant that the necessary emergency services can provide appropriate services for such proposed use.
- 9) The applicant shall be required to provide a topped parking area at his expense. The top shall consist of aggregate, pavement, concrete or other adequate surface as approved by the Waseca County Highway Engineer to allow for off-street parking in adverse weather conditions. A field parking area would not suffice for wet weather conditions. No parking shall be allowed upon the access road of the facility and no parking shall be allowed in the State Highway road right-of-way. It shall be the responsibility of the applicant to monitor such parking area to comply with these conditions.
- 10) Hours of operation: Winter Hours (December 1 – March 31) Monday thru Saturday 10a.m. – 7 p.m. Sunday – closed. Summer Hours (April 1 – November 30) Monday – Saturday 8 a.m. – 7 p.m., Sunday 12 p.m. – 7 p.m. No commercial sale activity on Thanksgiving Day or Christmas Day. Nothing in this paragraph prohibits the applicant/owner operating lesser hours within the above time frames. Nothing in this paragraph prohibits the applicant/owner from being open "by appointment" outside the defined hours of operation.
- 11) The applicant shall file a Certificate of Liability Insurance annually with the Waseca County Board of Commissioners.
- 12) All lighting shall be deflected downwards to not create a nuisance to the traveling public or adjoining landowners.

- 13) Statutory Handicap Accessibility Code shall be met or exceeded for parking and public facilities and appropriately marked.
- 14) The applicant shall demonstrate prior to opening that appropriate and acceptable measures shall be established for water, sewage, and proper waste disposal.
- 15) This Conditional Use Permit shall be reviewed on an annual basis and shall be subject to cancellation, revocation or modification at the discretion of the Waseca County Board of Commissioner's for any violation of the above listed conditions or any additions or modifications deemed necessary.
- 16) Failure to comply with any of these conditions shall be grounds for suspension or revocation of this Conditional Use Permit.
- 17) The applicant shall obtain a FFL license. Should the applicant not be able to obtain the FFL license, or should the FFL license be revoked by the Bureau of Alcohol, Tobacco, Firearms or Explosives this CUP shall be immediately revoked and repealed.
- 18) This CUP request shall be valid and shall not be considered void for lapse of use until 90-days have expired after the time in which the applicant has received his FFL Licensure.
- 19) The FFL license must be held by the individual and/or majority owner of a corporation or other legal entity who must also hold title interest in the property. The reason for this condition is to provide accountability to the surrounding neighborhood by not having an absentee landlord situation. This way if there are any problems which may arise the owner of the property is available to correct the issues as they become apparent.
- 20) Employee payroll hours are limited to 100 hours per week for employees. Employee does not include immediate family members or applicant/owner.
- 21) This Conditional Use Permit is being issued for FFL 01 and FFL 07, as requested by applicant. Any other FFL licensures shall require an amended conditional use permit request and shall proceed as a new application.
- 22) The business sign(s) associated with this CUP shall not be lighted.
- 23) Any business related live-round firearm discharge must be performed at a permitted gun range and shall not occur on this parcel or property. Applicant shall post a sign at the business advising customers that firearms may not be discharged at the property. Nothing in this paragraph shall prohibit the land owner the use or enjoyment of his own personal firearms from being discharged on this property. This paragraph applies exclusively to business-related discharge of firearms.
- 24) Relating to discontinuance of a security system: Should a security system be discontinued for any reason, the service system provider and the owner/applicant shall notify the county immediately in writing of discontinuance. (Should the service provider not be willing to abide by this condition, they shall provide a written letter to the county reflecting such. A service provider's unwillingness to provide such documentation will not nullify the CUP permit as granted)

## EXHIBIT "C"

The Conditional Use Permit for the Gun Shop that was filed for record with the Waseca County Recorder on January 31, 2008 and filed for record as Document No. 273982. is hereby revoked and cancelled for the reasons specified below:

1. The Federal Fire Arms License (FFL) has been transferred and is no longer effective on the property, the security measures are not in place and there was a modification of the FFL that could require a new Conditional Use Permit. The following requirements within the Conditional Use Permit are not being adhered to and/or, the applicants should have applied for an amendment to the Conditional Use Permit:

- a. Condition No. 5 States that:

*As defined by MN Rule, the applicant is allowed to operate as a small firearms dealer and must adhere to the security measures as defined by Minnesota Rules. Any future expansion to a Large Firearms dealer shall require an amended conditional use request and shall proceed as a new application.*

- b. Condition No. 21 states that:

*This Conditional Use Permit is being issued for FFL 01 and FFL 07, as requested by applicant. Any other FFL licensures shall require an amended conditional use permit request and shall proceed as a new application.*

The applicant and the current property owner no longer has an FFL for this property, security measures have been removed and no new application has been received to modify the requirements of the FFL.

2. The Planning Commission and County Board were not notified of the transfer of the FFL and the fact that the security measures protecting the property were modified.

- a. Condition No. 6 states that:

*The applicant shall notify the Planning Commission and County Board if he applies for any exemption under MN Rules 7504.0600, incorporated herein by reference.*

No formal notification of the transfer of the FFL was received by the Planning Commission or the County Board.

3. No documentation of liability insurance has been provided to the Waseca County Board of Commissioners in 2010.

- a. Condition No. 11 states that:

*The applicant shall file a Certificate of Liability Insurance annually with the Waseca County Board of Commissioners.*

4. Statutory handicap accessibility standards have not been met for the restroom.

- a. Condition No. 13 states that:  
*Statutory Handicap Accessibility Code shall be met or exceeded for parking and public facilities and appropriately marked.*
5. Upon review, the Waseca County Board may cancel, revoke or modify the Conditional Use Permit for any violation, modification or additions to the Conditional Use Permit.
  - a. Condition No. 15 states that:  
*This Conditional Use Permit shall be reviewed on an annual basis and shall be subject to cancellation, revocation or modification at the discretion of the Waseca County Board of Commissioner's for any violation of the above listed conditions or any additions or modifications deemed necessary.*

The conditions of the permit have been violated which allows the County Board to cancel, revoke or modify the Conditional Use Permit.

6. The failure to comply with the requirements is grounds for suspension or revocation of the Conditional Use Permit
  - a. Condition No. 16 states that:  
*Failure to comply with any of these conditions shall be grounds for suspension or revocation of this Conditional Use Permit.*
7. The FFL has been transferred to another location.
  - a. Condition No. 17 states that:  
*The applicant shall obtain a FFL license. Should the applicant not be able to obtain the FFL license, or should the FFL license be revoked by the Bureau of Alcohol, Tobacco, Firearms or Explosives this CUP shall be immediately revoked and repealed.*

The FFL has, in effect, been revoked as it applies to this property.

8. There has been a lapse in use of the Conditional Use Permit exceeding ninety (90) days. This is due to the transfer of the FFL.
  - a. Condition No. 18 states that:  
*This CUP request shall be valid and shall not be considered void for lapse of use until 90-days have expired after the time in which the applicant has received his FFL Licensure.*

The Conditional Use Permit is considered void for lapse of use.

9. Title to the property has been transferred from the holder of FFL to another party. Without an FFL, firearms cannot be sold from this site.
  - a. Condition No. 19 states that:  
*The FFL license must be held by the individual and/or majority owner of a corporation or other legal entity who must also hold title interest in the property. The reason for this condition is to provide*

*accountability to the surrounding neighborhood by not having an absentee landlord situation. This way if there are any problems which may arise the owner of the property is available to correct the issues as they become apparent.*

Title was transferred in May 2010 from Tony Allan Borglum to Marie Borglum.

10. The security system was removed from the property.
  - a. Condition No. 24 states that:  
*Relating to discontinuance of a security system: Should a security system be discontinued for any reason, the service system provider and the owner/applicant shall notify the County immediately in writing of discontinuance. (Should the service provider not be willing to abide by this condition, they shall provide a written letter to the county reflecting such. A service provider's unwillingness to provide such documentation will not nullify the CUP permit as granted.)*

Public Hearing was opened at 10:00 a.m. with all members present to discuss Borglum Conditional Use Permit. Marie Borglum has requested that the Board of Commissioners interpret the permit on her properties regarding whether or not the original permits allowed outside storage.

Mark Leiferman presented the background for the request and recommended that if the Waseca County Board desires to provide a non-binding resolution that either supports or rejects the notion that outside storage was implied with the passage of a Conditional Use Permit, the Board may do so. Any such resolution should indicate:

1. That it is not for recording at the Waseca County Recorder,
2. That it does not modify the written language contained within any formally and lawfully adopted Conditional Use Permit, and
3. That the resolution reflects the opinion of the County Board regarding this topic.

Richard and Marie Borglum addressed the board and provided documentation.

Chair Peterson asked for other public comment, being none the public hearing was closed at 10:11 a.m.

Androli moved and Morris seconded the motion to adopt the following resolution supporting the idea that previously granted conditional use permits permitted outside storage. Motion carried unanimously and the resolution was adopted.

**NON-BINDING RESOLUTION OF THE WASECA COUNTY  
BOARD OF COMMISSIONERS**

**SUPPORTING**

**THE IDEA THAT PREVIOUSLY GRANTED CONDITIONAL USE PERMITS  
PERMITTED OUTSIDE STORAGE**

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WHEREAS, Marie Borglum was granted a Conditional Use Permit for the purpose of 1) Constructing a shop for land improvement business and storage of equipment and materials and 2) the construction and excavation for a wildlife pond on a tract of land in Section 19 of Blooming Grove Township by the Waseca County Board of Commissioners on June 23, 1987 that was and filed for record with the Waseca County Recorder on June 24, 1987 as Document Number 174169; and

WHEREAS, Marie Borglum was granted a Conditional Use Permit for the operation and sales of a sand rock crushing business by the Waseca County Board of Commissioners on November 7, 1995 and was filed for record at the Waseca County Recorder on November 8, 1995 as Document Number 207849; and

WHEREAS, Marie Borglum has requested that the Waseca County Board voice their opinion as to whether or not the above-referenced Conditional Use Permits included the right to store materials and equipment outside of a structure.

NOW, THEREFORE, be it resolved by the County Board for Waseca County that:

- 1) The Waseca County Board supports the idea that the Conditional Use Permits referenced above were granted with an implied consent allowing storage of material and equipment outside of a building structure; and
- 2) The Waseca County Board understands that the passage of this Resolution does not amend the language of either of the two Conditional Use Permits referenced above; and
- 3) The Waseca County Board understands that the only way to formally modify the written language contained within a Conditional Use Permit is to proceed with a formal amendment of the permit as provided by Waseca County Code and Minnesota Statute; and
- 4) That this resolution is only the opinion of the Waseca County Board and is not for recording with the Waseca County Recorder.
  
- 5) It is the County Board's opinion that conditional use permits granted during the time period between 1987 and 1995 included the right to outside storage unless the permit specifically prohibited or in some way restricted the use outside of a structure.

Hintz moved and Morris seconded the motion for Waseca County members Alvin Grams and Richard Androli to serve on the South Central Minnesota Multi County HRA Board, with terms to expire October 31, 2010. Motion carried unanimously.

Todd Bodem presented the Administrator's Report.

Hintz moved and Androli seconded the motion to adjourn. Motion carried unanimously. The meeting was adjourned at 11:14 a.m.

S/\_\_\_\_\_  
Jim Peterson, Chairman  
Waseca County Board of Commissioners

ATTEST:

S/\_\_\_\_\_  
Joyce Oliver  
Waseca County Auditor/Treasurer

The following bills were audited and allowed:

ADVANCED CORRECTIONAL HEALTHCA	1,561.25
AG POWER ENTERPRISES INC	161.73
AUTO VALUE WASECA INC	710.28
FRANKLIN BALAK JR	200.24
BOB BARKER COMPANY INC	30.93
BEAR GRAPHICS INC	540.69
BLUE EARTH CO HIGHWAY DEPT	2,069.85
BLUE EARTH CO SHERIFFS OFFICE	1,170.00
BOCKS SERVICE INC	10.00
BOSS SUPPLY INC	16.46
CHARLIES HARDWARE	156.47
CHRISTENSEN TIRE SERVICE	44.75
CIT INC	3,371.29
KATHLEEN CONNOR	13.00
CPS TECHNOLOGY SOLUTIONS INC	209.00
CULLIGAN	24.40
DAVE'S GROCERY	9.42
DEML FORD INC	196.91
DIAMOND MOWERS INC	154.69
DUNN-FOSTER LAW OFFICE LLC	1,573.65
ELECTION SYSTEMS & SOFTWARE IN	1,122.19
EWERTS HARDWARE	12.08
EXPRESSWAY JANESVILLE INC	183.71
FARIBAULT CO HWY DEPT	1,398.74
FIRST NATIONAL BANK OMAHA	197.12

FLEX COMM SECURITY	49.16
FRANK MADDEN & ASSOCIATES	2,989.38
GAMBLES OUR OWN HARDWARE	30.99
GRAINGER	76.60
ALVIN GRAMS	76.00
GS DIRECT INC	203.49
H & A ADMINISTRATORS	616.00
MARK HARGUTH	163.74
HILLYARD INC	124.34
JANE HOFMEISTER	52.50
HYVEE FOOD STORES	5,232.25
1-35 AUTO RECYCLING	60.00
IFACS	285.51
RHONDA JACOBSON	9.00
JOHNSTONE SUPPLY INC	299.53
KSW ROOFING & HEATING INC	287.50
LARKSTUR ENG MANKATO	92.13
LESUEUR CO TREASURER	87,283.73
LITTLE FALLS MACHINE INC	1,050.20
LUBRICATION TECHNOLOGIES INC	84.48
M-R SIGN COMPANY INC	394.87
MIDWEST CHILDREN'S RESOURCE CE	6.32
CRAIG MILLER	94.00
MINNESOTA UI FUND	1,126.86
MN COUNTIES COMPUTER COOP	207.84
MN CRIME PREVENTION ASSOCIATIO	210.00
MN DEPT OF HUMAN SERVICES	193.02
MN DEPT OF TRANSPORTATION	460.36
RICHARD MORRIS JR	25.00
NAPA AUTO & TRUCK PARTS OF WAS	58.98
NEWMAN TRAFFIC SIGNS INC	6,659.54
NORTHLAND CHEMICAL CORP	281.12
TIM O'CONNOR	6.75
PETTIPIECE & ASSOCIATES LLC	136.50
PLUNKETT'S	91.92
RENT N SAVE PORTABLE SERVICES	136.80
RIVER BEND BUSINESS PRODUCTS	107.82
RIVERSIDE PSYCHOLOGICAL SVCS L	680.00
SELECTACCOUNT	201.30
SHARE CORPORATION	265.53
SMITHS MILL IMPLEMENT INC	135.74
SOUTHSIDE MARINE INC	707.59
SPORTSMAN STOP	30.68
STATE OF MN BUREAU OF CRIM APP	120.00
STEELE CO DETENTION CENTER	80.00
TCC DISTRIBUTORS INC	88.36

THRIFTY WHITE STORES INC	1,442.09
TIRE ASSOCIATES	34.42
TRADES OFFICE PRODUCTS	1,516.62
TRAFFIC MARKING SERVICE INC	23,488.49
US BANK-ST PAUL	425.00
WALMART PYMT PROCESSING ATLANT	123.64
WASECA AREA SENIOR CITIZENS IN	35.00
WASECA GLASS INC	65.78
WEST GROUP PAYMENT CTR	320.62
WESTMAN FREIGHTLINER INC	334.54
WHITEWATER WIRELESS INC	440.53
WOODVILLE TOWNSHIP	267.60
ZIEGLER INC	480.90