

OFFICIAL PROCEEDINGS
PENNINGTON COUNTY BOARD OF COMMISSIONERS
TUESDAY, JULY 28th, 2020 5:00 P.M.

Pursuant to adjournment, the Pennington County Board of Commissioners met in the Pennington County Justice Center Board Room in Thief River Falls, MN, on Tuesday July 28th, 2020 at 5:00 p.m. Members Present: Darryl, Tveitbakk, Don Jensen, Bruce Lawrence and Neil Peterson. Present via Zoom: Cody Hempel. Members absent: None.

Also present - Julie Sjostrand, Mike Flaagan and Jennifer Herzberg. Present via Zoom: Grant Nelson, April Scheinoha, Kayla Jore, and Erik Beitel.

The meeting was called to order by Chairman Tveitbakk and the Pledge of Allegiance was recited.

Julie Sjostrand, Human Services Director, presented the consent agenda from the July 21st, 2020 Human Services Committee meeting. On a motion by Commissioner Jensen, and seconded by Commissioner Lawrence, the following recommendations of the Pennington County Human Service Committee for July 21st, 2020 are hereby adopted. Upon roll call vote: Lawrence – Aye, Jensen – Aye, Tveitbakk – Aye, Peterson – Aye and Hempel – Aye. Motion carried.

SECTION A

- I. To approve the June 16, 2020 Human Service Committee Meeting minutes.
- II. To approve the agency's personnel action as presented.
- III. To approve the Child Safety and Permanency and Self-Support Index Performance Report.

SECTION B

- I. To approve payment of the Agency's bills.

Erik Beitel, Emergency Management Director then gave a COVID-19 update. Mr. Beitel talked about the mask mandate that went into effect on Saturday July 25th, 2020 and said they expect to see the effects of that in two to three weeks. There were 81 reported complaints over weekend of those not wearing masks in businesses.

Kayla Jore, Inter-County Nursing Service Director, updated on the 2 new cases reported July 28th, 2020. She said our cases are increasing and Inter-County Nursing is busy with case investigation and contact tracing.

Kayla Jore then presented the Joint Affiliate Data Sharing Agreement between the Quin County Community Health Board and the Counties of Kittson, Marshall, Pennington, Red Lake, and Roseau.

JOINT AFFILIATE DATA SHARING AGREEMENT

This Joint Affiliate Data Sharing Agreement (“Agreement”) is made this 28th day of July, 2020 by and between the Quin County Community Health Board, a multi-county community health board pursuant to Chapter 145A or the Minnesota Local Public Health Act (“CHB”), and the County of Kittson, the County of Marshall, the County of Pennington, the County of Red Lake, and the County of Roseau (“Counties”), all municipal corporations within the State of Minnesota.

WHEREAS, the CHB and the Counties (“Parties”) are working together for the purpose of promoting community health and wellness, and to develop and implement policies, structures, and procedures to more effectively prevent illness and promote efficiency and economy in the delivery of public health services.

WHEREAS, the Counties are members of a Joint Powers Agreement, entered between the County of Kittson, the County of Marshall, the County of Pennington, the County of Red Lake, and the County of Roseau in order to establish the CHB. The Joint Powers Agreement includes requirements for how health and personal data must be handled. Nonetheless, the Parties believe it is prudent to enter this Agreement to make clear that the Parties are complying with their legal obligations to protect participant data.

WHEREAS, the Parties agree that health and personal data may be shared between the Parties. The Parties desire to enter this Agreement so as to define the obligations and protections that must be in place for each to share protected health information with each other.

WHEREAS, the Parties must comply with the Health Insurance Portability and Accountability Act (“HIPAA”) and the Minnesota Government Data Practices (“MGDPA”) when sharing information between Parties.

NOW, THEREFORE, in consideration of these promises and of the mutual covenants and agreements contained herein, the Parties hereto hereby agree as follows:

1. The Parties Responsibilities.

1.1 *Obligations and Activities.* The Parties shall take all necessary and appropriate actions to ensure the privacy and security of the data (“Data”) provided between the Parties as well as any not public data derived from the Data provided. At a minimum, the Parties actions must include the following:

1.1.1 The Parties shall not share the Data with any person who is not employed by either party.

1.1.2 The Parties shall not share the Data with any of their agents, employees, or subcontractors who do not need to know in order to perform their job duties.

- 1.1.3 The Parties shall ensure their agents, employees, or subcontractors are trained in and comply with all applicable laws pertaining to the Data, including but not limited to HIPAA and the MGDPA.
- 1.1.4 The Parties shall ensure that any subcontractors or other joint affiliates who create, receive, maintain, or transmit the Data on behalf of the Parties shall agree to the same restrictions, conditions, and requirements that apply to the Parties.
- 1.1.5 The Parties shall limit their use and dissemination of the Data to what is necessary for the administration and management of programs specifically authorized or mandated by law.
- 1.1.6 The Parties shall not use any of the Data for any purpose other than performing the Parties duties or for any purpose specifically authorized by law or federal requirements.
- 1.1.7 The Parties shall ensure that they meet all state and federal network and security policies that govern the Data.
- 1.1.8 The Parties shall maintain adequate physical security for all facilities and equipment to protect against unauthorized personnel gaining access to Data. Moreover, the Parties shall deploy security technology that will maintain a sufficient level of scrutiny at all times.
- 1.1.9 The Parties shall ensure they comply with all state and federal policies, procedures, and laws related to proper data practices, information policy, and use of the not public Data.
- 1.1.10 Any output documents, whether paper or electronic, must be transported, handled, and stored only by authorized employees, agents, or subcontractors of the Parties.
- 1.1.11 The Parties shall ensure their employees, agents, and subcontractors authorized to use the Data understand and follow policies and procedures for the appropriate and authorized use of the systems used to maintain the Data and for the protection of the Data.
- 1.1.12 The Parties shall be responsible for approving persons who have access to the systems used to maintain the Data and the use of the Data. The Parties are responsible for restricting any person's access that does not have a need to know.
- 1.1.13 The computer system and network used to store and access the Data must provide adequate security to prohibit unauthorized access to the Data. No unauthorized devices can be permitted to access, modify, use, or destroy any of the Data.

1.2 *Notification of Privacy and Security Incidents.* The Parties shall follow industry best practices to detect and immediately, or in any event no more than 24 hours after detection, notify the other Parties of any known or potential Privacy or Security Incident regarding Data provided by the Parties under this Agreement. For purposes of this Agreement, "Security Incident" means the attempted or

successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system. “Privacy Incident” means violation of the MGDPA and/or other applicable data privacy or protection laws, statutes, rules, regulations, or standards including, but not limited to, improper and/or unauthorized use or disclosure of not public data and incidents in which the confidentiality of the Data has been compromised in any way. The Parties shall take all necessary steps to ensure that they comply with the aforementioned notification requirements.

- 1.3 *Permitted Uses and Disclosure.* The Parties shall use the Data collected and stored exclusively for: the evaluation of community health and wellness, the creation of legislatively mandated reports, federal reporting requirements, and for other purposes required or permitted by law. The Parties may disclose the Data for the proper management and administration of the Parties or to carry out the legal responsibilities of the Parties, provided the disclosures are required by law, or the Parties obtain reasonable assurances from the person to whom the Data is disclosed that the Data will remain confidential and used for the purposes of which it was disclosed.
2. Amendment. This Agreement may be amended upon the written consent of the Parties to this Agreement. The Parties agree that they shall not unreasonably withhold consent to a proposed amendment to this Agreement in cases where the amendment is for the purpose of updating the agreement in light of changes to HIPAA, the MGDPA, and/or other applicable laws.
3. Term and Termination. The Term of this Agreement shall be effective as of the date of this Agreement is fully executed and shall terminate upon: (1) the termination of the Joint Powers Agreement or (2) the date this Agreement terminates for cause, whichever is sooner.
 - 3.1 *Termination for Cause.* Either party may terminate this Agreement for cause if either party fails to observe their obligations under this Agreement and fails to cure a failure within a reasonable time fixed by the non-violating party.
 - 3.2 *The Parties Obligations Upon Termination.* Upon termination of this Agreement for any reason, the Parties shall do the following with the Data:
 - 3.2.1 Retain only the Data that is necessary for the Parties to continue their proper management and administration or to carry out its legal responsibilities.
 - 3.2.2 Return to the Parties any remaining Data that the Parties maintain.

- 3.2.3 Continue to observe the above described data security and notification obligations.
4. Survival. The obligations of the Parties shall survive the termination of this Agreement. The Parties obligations shall only cease if any and all Data is no longer in the possession or accessible to the Parties.
 5. Interpretation. Any ambiguity in this Agreement shall be interpreted to permit compliance with HIPAA, the MGDPA, and all other applicable laws.
 6. Severability. In the event any provision or part of this Agreement is found to be invalid or unenforceable, only that particular provision or part so found, and not the entire Agreement, will be inoperative.

Commissioner Peterson motioned, seconded by Commissioner Jensen to approve the Joint Affiliate Data Sharing Agreement. Upon roll call vote: Lawrence – Aye, Jensen- Aye, Tveitbakk – Aye, Peterson – Aye and Hempel – Aye. Motion unanimously carried.

Mike Flaagan, Pennington County Highway Engineer presented a maintenance agreement between Green View, Inc. and Pennington County for work at the Pennington County Joint Use Facility in Thief River Falls.

Commissioner Jensen motioned to approve the contract with Green View, Inc, seconded by Commissioner Peterson. Upon roll call vote: Lawrence – Aye, Jensen- Aye, Tveitbakk – Aye, Peterson – Aye and Hempel – Aye. Motion unanimously carried.

Mike Flaagan Pennington County Highway Engineer presented an agreement for Highway Engineer services between Pennington County and Roseau County beginning August 2020.

**AGREEMENT FOR HIGHWAY ENGINEER SERVICES
BETWEEN PENNINGTON COUNTY AND ROSEAU COUNTY
AUGUST 2020**

This Agreement made as of the 4th day of August, 2020,(the "Effective Date"), between the County of Pennington, a duly organized County within the State of Minnesota, and the County of Roseau, a duly organized County within the State of Minnesota, for the purpose of providing engineering services to Roseau County while there remains a vacancy in the County Highway Engineer position.

WHEREAS, the County Board of each County must appoint and employ a County Highway Engineer for every duty and responsibility imposed by law; and

WHEREAS, Roseau County's Highway Engineer position is currently vacant; and

WHEREAS, a County may contract for engineering services with another County upon such terms as mutually agreed upon pursuant to MN Statutes§ 163.07, subd. 9; and

WHEREAS, a County Board is authorized to employ and engage the services of a registered professional engineer to act as a consultant in connection with the construction of roads and bridges on County State-Aid highways upon request of the County highway engineer; and

WHEREAS, Roseau County bears the responsibility for construction and maintenance of their State-Aid system; and

WHEREAS, Pennington County employs a highway engineer meeting the statutory qualifications of a County highway engineer in the state of Minnesota; and

WHEREAS, the Pennington County Board of Commissioners is willing to contract for interim engineering services with Roseau County for the benefit of the State and County; and

WHEREAS, the Roseau County Board of Commissioners is actively seeking a new County highway engineer.

NOW, THEREFORE, be it agreed upon:

1. The Pennington County Board of Commissioners shall provide to the Roseau County Board of Commissioners the services as defined herein of its County Highway Engineer, Michael Flaagan, (the "ENGINEER"). Pennington County agrees that the services provided to Roseau County will be delivered by a licensed engineer registered as a highway engineer with the State of Minnesota. Pennington County further agrees that the services will not be provided by a substituted professional without Roseau County's express written consent.
2. The ENGINEER shall act as a consultant to Roseau County in connection with the construction of roads and bridges on County State-Aid highways, and shall upon request of the County Board, complete other duties and responsibilities imposed by law upon the County Highway Engineer, as limited by this Agreement.
3. The PENNINGTON County Highway Department's Office will bill ROSEAU County at the rate of \$12,000.00 per month for work providing services pursuant to this Agreement. \$5,000.00 of this amount will be paid to Pennington County for the loss of service during this Agreement, and 75% of the remaining \$7,000.00 will be paid directly to the ENGINEER while 25% will be paid directly to the Assistant Engineer in charge of Construction for PENNINGTON County. The PENNINGTON County Highway Department will submit a monthly invoice to the ROSEAU County Highway Department. ROSEAU County agrees to pay each invoice within 30 days of receipt.

4. The PENNINGTON County Highway Department Office will bill ROSEAU County mileage for engineering services at the Federal mileage rate {\$0.575/mile} pursuant to the PENNINGTON County Travel Policy. The ENGINEER will limit the amount of miles traveled with the Pennington County vehicle as most practical.
5. The ENGINEER remains the appointed County Highway Engineer of PENNINGTON County. This Agreement does not appoint PENNINGTON County's highway engineer as ROSEAU County's highway engineer. The Engineer is a PENNINGTON County Employee and shall at all times herein be considered a PENNINGTON County Employee. The Engineer will not be considered a ROSEAU County employee. The ENGINEER shall be subject to the personnel and other policies of PENNINGTON County.
6. The ENGINEER shall facilitate bridge program administration services through this Agreement to support ROSEAU County's bridge inspection Team Leader. If a damage or critical deficiency bridge inspection becomes necessary while this Agreement remains in effect, the ROSEAU County Board of Commissioners hereby authorizes immediate services of qualified consultant engineering personnel to carry out the responsibilities for said bridge rating(s) and report(s).
7. The ENGINEER shall have discretion and authority to set the time spent in each County to fairly and equitably distribute his time according to good engineering practices.
8. The ENGINEER will represent only PENNINGTON County on all associated organizations and committees.
9. On the ENGINEER's behalf, the ROSEAU County Highway Department will review applications and issue or deny oversize/overweight permits for roads under ROSEAU County's jurisdiction.
10. Either party shall have the unilateral right to terminate this agreement upon 10 business day's written notice to the other County, acting through its County Board.
11. Each party shall be liable for its own acts to the extent provided by law and hereby agrees to indemnify, hold harmless and defend the other, its officers and employees against any and all liability, loss, costs, damages, expenses, claims or actions, including attorney's fees which the other's officers and employees may hereafter sustain, incur or be required to pay, arising out of or by reason of any

act or omission of the party, its agents, servants or employees, in the execution, performance or failure to adequately perform its obligations pursuant to this Agreement. In order to ensure that each party will be able to provide indemnification as required by the above provision, each party will maintain general liability and automobile liability with coverage limits not less than those prescribed under MN Statute §466.04; and Workers' Compensation insurance coverage or self-insurance in accordance with the Minnesota statutory requirements. Said policies shall be kept in effect during the entire term of this Agreement. PENNINGTON County will not bond for highway engineer services in ROSEAU County.

12. This Agreement does not include routine attendance at ROSEAU County Board meetings.
13. CONTRACT TERM: The term of this Agreement shall commence on the Effective Date and continue in full force and effect until August 31, 2020, or the contract will be terminated as provided herein, whichever occurs first. This Agreement may be amended on a month-by-month basis as needed at such date when the ROSEAU County Board of Commissioners appoints and employs a new registered County Highway Engineer. The ROSEAU County Board of Commissioners agrees to actively pursue a qualified Engineer during the entirety of this Agreement.
14. ASSIGNMENT: Neither ROSEAU County nor PENNINGTON County may assign, delegate, or otherwise transfer this Agreement or any of its rights or obligations hereunder without the prior written consent of the other, which consent shall not be unreasonably withheld.
15. NON-WAIVER AND CUMULATION OF REMEDIES: The failure by either party at any time to enforce the provisions of this Agreement, or any right or remedy available hereunder, or at law, or in equity, or to exercise an option herein provided, shall not constitute a waiver of such provision, right, remedy or option, or in any way affect the validity of this Agreement. The waiver of any default by either party shall not be deemed a continuing waiver but shall apply solely to the instances to which such waiver is directed. The remedies provided under this Agreement shall be cumulative and not alternative, and the election of any one remedy for breach shall not preclude the pursuit of other remedies.
16. DATA PRIVACY: ROSEAU County agrees to abide by the applicable provisions of the Minnesota Data Practices Act, Minnesota Statutes, Chapter 13, HIPAA

requirements, and all other applicable State or Federal rules, regulations or orders pertaining to privacy or confidentiality.

17. RECORDS RETENTION AND AVAILABILITY/AUDIT: PENNINGTON County and ROSEAU County shall keep pertinent business records pursuant to this Agreement. Such records shall be maintained for at least 6 years from the date services or payment were last provided, or longer if any audit in progress requires a longer retention period. All accounting records shall be kept in accordance with generally accepted accounting practices. Both parties shall have the right to audit and review all such documents and records at any time during regular business hours or upon reasonable notice. These records are subject to examination, duplication, transcription and audit by either County, and/or the Legislative or State Auditor of the State of Minnesota pursuant to MN Statute §16C.OS, Subd. 5. The records may also be subject to review by the Comptroller General of the United States, or a duly authorized representative, if Federal funds are utilized for any work during the term of this Agreement.
18. ENTIRE AGREEMENT: This Agreement embraces the entire Agreement between the parties. No oral agreement or representation concerning this Agreement shall be binding.
19. SEVERABILITY: Every provision of this Agreement shall be construed, to the extent possible, so as to be valid and enforceable. If any provision of this Agreement so constructed is held by a Court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, such provision shall be deemed severed from this Agreement, and all other provisions shall remain in full force and effect.
20. AMENDMENTS: This Agreement may be altered, extended, changed, or amended in writing by mutual agreement of the parties when dated and attached hereto without altering the other terms of this Agreement.

Motioned by Commissioner Jensen, seconded by Commissioner Peterson, to approve the agreement for Highway Engineer services between Pennington County and Roseau County for a period of two months. Upon roll call vote: Lawrence – Aye, Jensen – Aye, Tveitbakk – Aye, Peterson – Aye and Hempel – Aye. Motion carried.

County Engineer Flaagan then gave updates on the various projects in Pennington County: The Hwy 32 roundabout, the bridge over Red Lake River, and the Challenger roundabout.

Pennington County Sheriff Ray Kuznia recommended Gracie Hannon be transferred from part-time to full-time Correction Officer beginning August 24th, 2020 with a 6-month probation

period and wages to be determined by union contract. Commissioner Lawrence motioned, seconded by Commissioner Jensen to approve Gracie Hannon for Full-Time Correction Officer. Upon roll call vote: Lawrence – Aye, Jensen – Aye, Tveitbakk – Aye, Peterson – Aye and Hempel – Aye. Motion carried.

Sheriff Kuznia submitted Julie Martinson’s resignation letter from the position of Correction Officer. Motioned by Commissioner Lawrence, seconded by Commissioner Jensen to approve the resignation of Julie Martinson. Upon roll call vote: Lawrence – Aye, Jensen – Aye, Tveitbakk – Aye, Peterson – Aye and Hempel – Aye. Motion carried.

Sheriff Kuznia presented a quote to purchase training cartridges for the tasers that will be used for taser training. Motioned by Commissioner Lawrence, seconded by Commissioner Peterson to approve the purchase of training cartridges for the tasers. Upon roll call vote: Lawrence – Aye, Jensen – Aye, Tveitbakk – Aye, Peterson – Aye and Hempel – Aye. Motion carried.

Erik Beitel, Emergency Management Director, discussed items for the Cares Act meeting that is planned for July 29th where discussions will be had on identifying uses for the funds and how to distribute them.

Commissioner Jensen discussed the applicants for the position of Pennington County Coordinator. He stated that 7 candidates were interviewed and narrowed to the top 3 candidates. Commissioner Jensen recommended Kevin Erickson, Deputy Auditor-Treasurer/HR Director, for the position of County Coordinator.

Moved by Commissioner Jensen, seconded by Commissioner Peterson to hire Kevin Erickson for the position of Pennington County Coordinator, contingent on a background check, beginning August 10th, 2020 at a starting salary of \$91,910. Upon roll call vote: Lawrence – Aye, Jensen – Aye, Tveitbakk – Aye, Peterson – Aye and Hempel – Aye. Motion carried.

Commissioner Jensen discussed the position of Deputy Auditor-Treasurer that is open in the Auditor-Treasurer’s office and the need to fill it as soon as possible. Changes to the job description are anticipated and will be discussed at the Personnel Committee.

Moved by Commissioner Jensen, seconded by Commissioner Lawrence to advertise for the position of Deputy Auditor-Treasurer. Upon roll call vote: Lawrence – Aye, Jensen – Aye, Tveitbakk – Aye, Peterson – Aye and Hempel – Aye. Motion carried.

Moved by Commissioner Lawrence, seconded by Commissioner Peterson, to approve the payment of the Human Services warrants in the amount of \$41,459.81 and the following Commissioner warrants. Upon roll call vote: Lawrence – Aye, Jensen – Aye, Tveitbakk – Aye, Peterson – Aye and Hempel – Aye. Motion carried.

WARRANTS

| | |
|---------------|--------------|
| Revenue | \$152,871.85 |
| Road & Bridge | \$ 93,004.51 |
| Ditch Fund | \$ 28,082.64 |

Per Diems and meal reimbursements in the amount of \$36.77 were also approved.

Moved by Commissioner Peterson, seconded by Commissioner Lawrence to approve the minutes of the July 14th, 2020 County Board meeting. Upon roll call vote: Lawrence – Aye, Jensen – Aye, Tveitbakk – Aye, Peterson – Aye and Hempel – Aye. Motion carried.

Moved by Commissioner Jensen, seconded by Commissioner Lawrence to adjourn the Board meeting to Tuesday August 11th, 2020 at 10:00 a.m. Upon roll call vote: Lawrence – Aye, Jensen – Aye, Tveitbakk – Aye, Peterson – Aye and Hempel – Aye. Motion carried.

ATTEST:

Jennifer Herzberg, Auditor-Treasurer
Pennington County

Darryl Tveitbakk, Chairman
Board of Commissioners