

**Board of Equalization Meeting
June 17, 2013
5:00 p.m.
County Board Room**

**Committee of the Whole Meeting
June 18, 2013
2:30 p.m.
Oak Lake Conference Room**



Carver County Board of Commissioners
June 18, 2013
Regular Session
County Board Room
Carver County Government Center
Human Services Building
Chaska, Minnesota

	PAGE
4:00 p.m.	
1. a) CONVENE	
b) Pledge of allegiance	
c) Public comments (limited to five minutes)	
d) New Employee Introductions	1-3
2. Agenda review and adoption	
3. Approve minutes of June 11, 2013 Regular Session	4-5
4. Community Announcements	
4:10 p.m.	
5. CONSENT AGENDA	
<i>Connections: Develop strong public partnerships and connect people to services and information</i>	
5.1 School Resource Officer Waconia School District	6
5.2 School Resource Officer-Southwest Metro Educational Cooperative.....	7
5.3 Resolution of Support for Community Based Outpatient Clinic in Carver County	8-9
<i>Communities: Create and maintain safe, healthy and livable communities</i>	
5.4 Right-of-way acquisition settlement agreements for SAP 010-643-012 - CSAH 43 bridge replacement.....	10-11
5.5 Approve deletion of Care Center Program Coordinator and creation of Program Assistant.....	12
<i>Culture: Provide organizational culture fostering accountability to achieve goals and sustain public trust/confidence in County government</i>	
5.6 Approve changes in FTE's for Home & Community Based Care staff.....	13
<i>Finances: Improve the County's financial health and economic profile</i>	
5.7 Review Social Services/Commissioners Warrants	NO ATT

- 4:10 p.m. **6. COMMUNITIES: Create and maintain safe, healthy and livable communities**
- 6.1 **Public hearing** – Ordinance #76-2013 amending Carver County Code Chapter 55: Cleanup of Clandestine Drug Lab Sites 14-26
 - 6.2 Create 6.0 FTE Social Worker II for MN Choices Assessments..... 27
 - 6.3 Approve creation of 2.0 FTE eligibility specialists for medical assistance expansion..... 28
- 5:00 p.m. **7. GROWTH: Manage the challenges and opportunities resulting from growth and development**
- 7.1 Joint powers agreement with the City of Watertown for Project SAP 010-610-047, CSAH 10 road and bridge construction 29
- 5:30 p.m. **ADJOURN REGULAR SESSION**
- 5:30 p.m. **BOARD REPORTS**
- 1. Chair
 - 2. Board Members
 - 3. Administrator
 - 4. Adjourn

David Hemze
County Administrator

6:00 p.m. Lake Minnewashta Regional Park/TH 41 Trail Ribbon Cutting
Lake Minnewashta Regional Park, Picnic Shelter #5

UPCOMING MEETINGS

June 25, 2013	9:00 a.m. Board Meeting
July 2, 2013	No Board Meeting
July 9, 2013	9:00 a.m. Work Session
July 16, 2013	Joint Work Session with Scott County Board
July 16, 2013	4:00 p.m. Board meeting

Carver County Board of Commissioners Request for Board Action



Agenda Item:

New Employee Introduction

Primary Originating Division/Dept: Administration (County)	Meeting Date: 6/18/2013
Contact: Dave Hemze Title: County Administrator	Item Type: New Employee Intro
Amount of Time Requested: 5 minutes	Attachments: <input type="radio"/> Yes <input checked="" type="radio"/> No
Presenter: Dave Hemze Title: County Administrator	

Strategic Initiative:
 Culture: Provide organizational culture fostering accountability to achieve goals & sustain public trust/confidence in County government

BACKGROUND/JUSTIFICATION:

Kerie Anderka Lebgue, has been hired as Carver County's new Employee Relations Division Director.

Ms. Anderka was the former Human Resource Manager at Rice County. Prior to working at Rice County, Ms. Anderka worked for USP Structural Connectors as a Human Resource Administrator and Human Resources Analyst. She earned a Bachelor of Arts in Philosophy and Spanish from Bethel University.

ACTION REQUESTED:

Information only.

FISCAL IMPACT: Included in current budget If "Other", specify:	FUNDING County Dollars = Total
FTE IMPACT: None	\$0.00

Related Financial/FTE Comments:

Office use only:

RBA 2012- 1905

Carver County Board of Commissioners Request for Board Action



Agenda Item:

New Employee Introduction - Public Works

Primary Originating Division/Dept:

Meeting

Date:

Contact: Title:

Item Type:

Amount of Time Requested: minutes

Attachments: Yes No

Presenter: Title:

Strategic Initiative:

Culture: Provide organizational culture fostering accountability to achieve goals & sustain public trust/confidence in County government

BACKGROUND/JUSTIFICATION:

Darin Mielke has been hired as the Assistant Public Works Director.

Mr Mielke is the former Sibley County Engineer/Public Works Director. He served in that capacity for 8 years and previous to that he was an Engineer at SRF Consulting Group in Plymouth.

ACTION REQUESTED:

N/A - information only

FISCAL IMPACT:

If "Other", specify:

FUNDING

County Dollars =

FTE IMPACT:

Total

Related Financial/FTE Comments:

Office use only:

RBA 2012- 1919

Carver County Board of Commissioners Request for Board Action



Agenda Item:

New Employee Introduction - Administrative Intern

Primary Originating Division/Dept: <input type="text" value="Administrative Services"/>	Meeting Date: <input type="text" value="6/18/2013"/>
Contact: <input type="text" value="Nick Koktavý"/> Title: <input type="text" value="Project & Communications M..."/>	Item Type: <input type="text" value="New Employee Intro"/>
Amount of Time Requested: <input type="text" value="5"/> minutes Presenter: <input type="text" value="Nick Koktavý"/> Title: <input type="text" value="Project and Communications ..."/>	Attachments: <input type="radio"/> Yes <input checked="" type="radio"/> No

Strategic Initiative:

BACKGROUND/JUSTIFICATION:

Wes Johnson started on June 4 as the Administrative Intern. He is assisting with a number of projects including social media, communications, data analysis and special projects.

Currently, Wes is a student at the University of Minnesota Humphrey School of Public Affairs pursuing a Master of Urban and Regional Planning degree. His academic area of concentration is housing and community development. Wes earned Bachelor of Arts degrees in Economics and Public Policy Analysis from the University of North Carolina at Chapel Hill. Wes has professional experience in both the public and private sectors. He has spent three years in the healthcare information technology industry and served as a Community Development Coordinator for the City of Creswell, Oregon through a professional internship.

ACTION REQUESTED:

Informational only

FISCAL IMPACT: <input type="text" value="None"/> If "Other", specify: <input type="text"/>	FUNDING County Dollars = <input type="text"/> <input type="text"/>
FTE IMPACT: <input type="text" value="None"/>	Total <input type="text" value="\$0.00"/>

Related Financial/FTE Comments:

Office use only:

RBA 2012- 1926

A Regular Session of the Carver County Board of Commissioners was held in the County Government Center, Chaska, on June 11, 2013. Chair Tim Lynch convened the session at 9:00 a.m.

Members present: Tim Lynch, Chair, James Ische, Vice Chair, Gayle Degler and Tom Workman.

Members absent: Randy Maluchnik.

Degler moved, Workman seconded, to approve the agenda. Motion carried unanimously.

Ische moved, Degler seconded, to approve the minutes of the June 4, 2013, Regular Session. Motion carried unanimously.

Community announcements were made by the Board.

Degler moved, Workman seconded, to approve the following consent agenda items:

Reviewed Community Social Services' actions/Commissioners' warrants in the amount of \$201,994.75.

Motion carried unanimously.

David Frischmon, Finance Director, explained the Community Development Agency was requesting a one million line of credit for the Carver Park and Ride project and introduced Kathy Aho, representing the CDA.

Aho stated the Carver Park and Ride was a joint project between the City of Carver, Carver County and the CDA. She stated, related to the project, CDA would be working on the sale of the balance of the property for single and multifamily development. She highlighted the preliminary concept plan for the Park and Ride project and housing development.

She stated the site was purchased by the CDA in 2010 for housing projects and has evolved to a transit site in the current proposal. She indicated the benefits of CDA participating included accelerating the sale of the land for private development of the site, adds single family homes, returns property to the tax rolls and provides for future multifamily development.

Aho reviewed Phase I and II project costs and indicated three million of these costs will be covered by the CMAQ grant, 1.2 million from County sources, one million from the CDA with the balance of \$300,000 coming from the City. She noted the CDA's project costs, sources of CDA funding and the funding gap. Aho pointed out the fixed time line for the grant and the land transfer needing to take place by the end of the month. She indicated, because of this timeline, they needed to have an insurance policy in the form of a line of credit and she was asking that the County authorize the line of credit as needed for the project. She indicated they were expecting a purchase agreement shortly but they cannot count on it.

Aho indicated the loan would be for a term of twelve months, with interest, prepayable at any time and if needed, repaid from CDA special benefits tax levy.

Frischmon clarified the loan agreement had been drafted by the County's bond attorney and reviewed by the County Attorney and Risk Management.

Ische offered the following Resolution, seconded by Degler:

Resolution #35-13
Authorizing Loan to Carver County Community
Development Agency of up to \$1,000,000 and
Approving Loan Agreement

On vote taken, all voted aye.

Workman moved, Degler seconded, to adjourn the Regular Session at 9:20 a.m. Motion carried unanimously.

David Hemze
County Administrator

(These proceedings contain summaries of resolutions/claims reviewed. The full text of the resolutions and claims reviewed are available for public inspection in the office of the county administrator.)

Carver County Board of Commissioners Request for Board Action



Agenda Item:

School Resource Officer Waconia School District

Primary Originating Division/Dept: Sheriff

Contact: Paul Tschida Title: Commander

Amount of Time Requested: minutes

Presenter: Title:

Meeting
Date: 6/18/2013
Item Type:
Consent

Attachments: Yes No

Strategic Initiative:

Connections: Develop strong public partnerships and connect people to services and information

BACKGROUND/JUSTIFICATION:

The Waconia School District has contracted with the Carver County Sheriff's Office for a school resource officer (SRO) for many years. The SRO provides valuable services to the school students and community as a whole. Approval of this contract will allow this service to continue.

ACTION REQUESTED:

Approve SRO services contract with the Waconia School District

FISCAL IMPACT: Included in current budget
If "Other", specify:

FTE IMPACT: None

FUNDING

County Dollars =	\$0.00
Waconia School District	\$95,283.00
Total	\$95,283.00

Related Financial/FTE Comments:

If the contract is not approved, the CCSO will need to reduce one FTE as the contract provides full funding for one FTE.

Office use only:

RBA 2012- 1907

Carver County Board of Commissioners Request for Board Action



Agenda Item:

School Resource Officer-Southwest Metro Educational Cooperative

Primary Originating Division/Dept: Sheriff

Meeting Date:
6/18/2013

Contact: Paul Tschida Title: Commander

Item Type:
Consent

Amount of Time Requested: [] minutes

Attachments: Yes No

Presenter: [] Title: []

Strategic Initiative:

Connections: Develop strong public partnerships and connect people to services and information

BACKGROUND/JUSTIFICATION:

The Southwest Educational Cooperative was formally know as the Carver Scott Educational Cooperative. They have been contracting for SRO services from the CCSO for a number of years. The SRO is able to provide valuable resources to the community through the Coop. Approval of this contract allows that service to continue.

ACTION REQUESTED:

Approve the SRO contract with the SWEC.

FISCAL IMPACT: Included in current budget

If "Other", specify:

[]

FUNDING

County Dollars =	\$0.00
Southwest Metro Coop	\$95,283.00
Total	\$95,283.00

FTE IMPACT: None

Related Financial/FTE Comments:

If this contract is not approved the CCSO will need to reduce staffing one FTE as this contract provides full funding for 1 FTE.

Office use only:

RBA 2012- 1911

Carver County Board of Commissioners Request for Board Action



Agenda Item:

Resolution of Support for Community Based Outpatient Clinic in Carver County

Primary Originating Division/Dept:

Meeting Date:

Contact: Title:

Item Type:

Amount of Time Requested: minutes
 Presenter: Title:

Attachments: Yes No

Strategic Initiative:
 Connections: Develop strong public partnerships and connect people to services and information

BACKGROUND/JUSTIFICATION:

The proposed resolution in Support of a Community Based Outpatient Clinic (CBOC) in Carver County has been requested by Commissioner Maluchnik.

ACTION REQUESTED:

Motion to adopt the Resolution in Support of a Community Based Outpatient Clinic in Carver County.

FISCAL IMPACT:
 If "Other", specify:

FUNDING	
County Dollars =	<input type="text"/>
	<input type="text"/>
Total	<input type="text" value="\$0.00"/>

FTE IMPACT:

Related Financial/FTE Comments:

Office use only:

RBA 2012- 1938



BOARD OF COUNTY COMMISSIONERS CARVER COUNTY, MINNESOTA

Date: _____

Resolution No.: _____

Motion by Commissioner: _____ Seconded by Commissioner: _____

RESOLUTION OF SUPPORT FOR THE CONSTRUCTION AND OPERATION OF A COMMUNITY-BASED OUTPATIENT CLINIC IN CARVER COUNTY

Whereas the Veterans' Administration has advertised a solicitation for Community-Based Outpatient Clinics (CBOC's) providing Primary Care for all patients, in a private hospital, office or clinic environment to veterans primarily residing on the Southern Border and Southwest Metro of Minnesota; and

Whereas Carver County has unparalleled service and support from its local Veterans Service Office in which the VSO assists veterans and their dependents in submitting claims to the State and Federal Veterans Administration for service-connected disabilities, application for healthcare benefits, subsistence, educational benefits, and many other services; and

Whereas Carver County has nearly 5,000 veterans who call Carver County home and;

Whereas Carver County has a vast, efficient and safe roadway network including state and interstate highways 7, 5, 212 and 41 which allows its residents easy access to all points in the metro area and;

Whereas Carver County has healthcare providers who are interested in partnering with the VA to operate the Southwest CBOC; and

Now therefore be it resolved that the Carver County Board of Commissioners enthusiastically supports locating the proposed Southwest CBOC in Carver County.

YES

ABSENT

NO

STATE OF MINNESOTA COUNTY OF CARVER

I, Dave Hemze, duly appointed and qualified County Administrator of the County of Carver, State of Minnesota, do hereby certify that I have compared the foregoing copy of this resolution with the original minutes of the proceedings of the Board of County Commissioners, Carver County, Minnesota, at its session held on the 18th day of June, 2013, now on file in the Administration office, and have found the same to be a true and correct copy thereof.

Dated this 18th day of June, 2013.

County Administrator

Carver County Board of Commissioners Request for Board Action



Agenda Item:

Right-of-Way Acquisition Settlement Agreements for SAP 010-643-012 - CSAH 43 Bridge Replacement

Primary Originating Division/Dept:

Meeting
Date:

Contact: Title:

Item Type:

Amount of Time Requested: minutes

Attachments: Yes No

Presenter: Title:

Strategic Initiative:

BACKGROUND/JUSTIFICATION:

The 2013 construction program includes replacement of the bridge over Carver Creek on CSAH 43. Additional right of way is needed to complete this project. The right-of-way is being purchased from 3 property owners surrounding the bridge and includes permanent road easements, permanent drainage easements and temporary construction easements relating to the rebuilding of the bridge.

ACTION REQUESTED:

Adopt a resolution to accept the right of way acquisition settlement amounts approved by the property owners impacted by the project for the replacement of the CSAH 43 bridge over Carver Creek.

FISCAL IMPACT:
If "Other", specify:

FUNDING	
County Dollars =	
CSAH (Gas Tax)	\$12,100.00
Total	\$12,100.00

FTE IMPACT:

Related Financial/FTE Comments:

Office use only:

RBA 2012- 1921

**BOARD OF COUNTY COMMISSIONERS
CARVER COUNTY, MINNESOTA**

Date: June 18, 2013

Resolution No: _____

Motion by Commissioner: _____

Seconded by Commissioner: _____

Right of Way Acquisition – CSAH 43 – Project SAP 010-643-012

WHEREAS, the County desires to reconstruct the bridge over Carver Creek, on County Road 43, and

Whereas, reconstruction of the bridge is necessary to provide roadway improvements for the safety of the traveling public, and

Whereas, the County needs to acquire property interests over certain lands to provide for said bridge reconstruction, and

Whereas, settlements have been negotiated with the property owners impacted by the project.

BE IT RESOLVED, that the Carver County Board of Commissioners accept the settlements negotiated with the property owners for the CSAH 43 Carver Creek bridge reconstruction (SAP-010-643-012).

YES	ABSENT	NO
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

STATE OF MINNESOTA
COUNTY OF CARVER

I, Dave Hemze, duly appointed and qualified County Administrator of the County of Carver, State of Minnesota, do hereby certify that I have compared the foregoing copy of this resolution with the original minutes of the proceedings of the Board of County Commissioners, Carver County, Minnesota, at its session held on the 18th day of June, 2013, now on file in the Administration office, and have found the same to be a true and correct copy thereof.

Dated this 18th day of June, 2013.

Dave Hemze

County Administrator

Carver County Board of Commissioners Request for Board Action



Agenda Item:

Approve Deletion of Care Center Program Coordinator and Creation of Program Assistant

Primary Originating Division/Dept:

Meeting Date:

Contact: Title:

Item Type:

Amount of Time Requested: minutes

Attachments: Yes No

Presenter: Title:

Strategic Initiative:

Communities:

BACKGROUND/JUSTIFICATION:

The Encore Program Coordinator has tendered her resignation. The Encore Program shares a 0.8 FTE Social Worker II (20 hours or 0.5 FTE) with the Home Community Based Care Department (12 hours or 0.3 FTE). The Social Worker II, who has provided social work services to the program for years has preferred to be totally assigned to Encore and now with the resignation is willing to assume the duties of program coordination. With this shift of duties the Division can delete the Program Coordinator position. To maintain the staffing levels required by licensing the Division is requesting an additional 1.0 FTE Program Assistant.

ACTION REQUESTED:

- Approve deleting a 1.0 FTE Care Center Program Coordinator.
- Approve creating a 1.0 FTE Program Assistant.

FISCAL IMPACT:
If "Other", specify:

FUNDING	
County Dollars =	<input type="text" value="\$0.00"/>
Total	<input type="text" value="\$0.00"/>

FTE IMPACT:

Related Financial/FTE Comments:

The Program Coordinator is a Pay Grade 12, the Social Worker is a Pay Grade 13 and the Program Assistant is a Pay Grade 6. By deleting a 1.0 FTE Program Coordinator and transferring the additional .3 (12) hours for the Social Worker II from Home & Community Based Care, the staffing level moves from 3.5 FTE to 2.8 FTE and the Program realizes a savings of \$53,000. The cost for an additional 1.0 FTE Program Assistant budgeted at 25% of the range is \$54,000. Essentially, an additional Program Assistant hired within the first 25% of the range will not have a fiscal impact on the program and the county. Encore strives to provide services without having to rely on County Tax Levy for the direct operations.

The new staffing level at Encore will be 3.8 FTE (3.0 FTE Program Assistant and .8 FTE SW II) compared to the previous level of 3.5 FTE (2.0 FTE Program Assistant, 0.5 FTE SW II and 1.0 FTE Program Coordinator). This represents an increase of .3 FTE for Encore but no increase to the overall FTE's for the Division. However, the Home & Community Based Care Department did lose 0.3 FTE (12 hours) with the .8 FTE Social Worker II being fully assigned to Encore.

Office use only:

RBA 2012- 1924

Carver County Board of Commissioners Request for Board Action



Agenda Item:

Approve Changes in FTE's for Home & Community Based Care Staff

Primary Originating Division/Dept:

Meeting Date:

Contact: Title:

Item Type:

Amount of Time Requested: minutes

Attachments: Yes No

Presenter: Title:

Strategic Initiative:

BACKGROUND/JUSTIFICATION:

A number of Staff in the Home & Community Based Care Department have requested changes in their hours.

The following staffs are requesting a reduction in their FTE (hours):

- Mary Bahr, SW II - Reduce from 0.7 FTE to 0.6 FTE (28 to 24 hours)
- Melissa Mack, SW II - Reduce from 0.9 FTE to 0.6 FTE (36 to 24 hours)
- Erica Doyen, SW II - Reduce from 1.0 FTE to 0.5 FTE (40 to 20 hours)

The following staff has requested an increase in their FTE (hours):

- Julie Bentz, SW II - Increase from 0.9 FTE to 1.0 FTE (36 to 40 hours)

The Home & Community Based Care Department will lose 12 hours of staff time with Linda Plessner, SW II being fully assigned to Encore.

The Division is requesting that the remaining 0.8 FTE (32 hours) from the staffing reductions be combined with an additional new 0.2 FTE (8 hours) to create a 1.0 FTE Social Worker II.

ACTION REQUESTED:

Approve reductions in Social Worker II FTE's for Mary Bahr (0.7 to 0.6 effective 6/23/2013), Melissa Mack (0.9 to 0.6 effective 9/1/2013) and Erica Doyen (1.0 to 0.5 effective 8/9/2013).

Approve a 0.1 FTE increase 0.9 to 1.0 for Julie Bentz, SW II effective 6/23/2013.

Approve a 1.0 FTE from the remaining 0.8 FTE from the reductions above and create an additional 0.2 FTE effective upon passage.

FISCAL IMPACT:

If "Other", specify:

FUNDING
 County Dollars =

FTE IMPACT:

Total

Related Financial/FTE Comments:

The Division budgets new positions at 25% of the hiring range and with family health insurance. With that budgeting methodology the funds available for the 1.0 FTE Social Worker II are short by \$8,235. The Division currently has a Social Worker II that is on a phased retirement from 1.0 FTE to 0.2 FTE which will end in June. The annual salary cost for this 0.2 FTE is \$23,935. The Division will be able to fund the new 0.2 FTE within the current budget.

The FTE's increase by 0.2 FTE Social Worker II (Pav Grade 13).

Carver County Board of Commissioners Request for Board Action



Agenda Item:

Public Hearing – Ordinance #76-2013 Amending Carver County Code Chapter 55: Cleanup of Clandestine Drug Lab Sites

Primary Originating Division/Dept: <input type="text" value="Public Health & Environment - Public Health"/>	Meeting Date: <input type="text" value="6/18/2013"/>
Contact: <input type="text" value="Marcee Shaughnessy"/> Title: <input type="text"/>	Item Type: <input type="text" value="Regular Session"/>
Amount of Time Requested: <input type="text" value="5"/> minutes	Attachments: <input checked="" type="radio"/> Yes <input type="radio"/> No
Presenter: <input type="text" value="Marcee Shaughnessy"/> Title: <input type="text" value="Public Health Department Man..."/>	
Strategic Initiative: <input type="text" value="Communities: Create and maintain safe, healthy, and livable communities"/>	

BACKGROUND/JUSTIFICATION:

Carver County Public Health has updated Chapter 55 of the County Code to include language pertaining to public health nuisances, in accordance with Minnesota Statutes Chapter 145A. A public hearing is required to amend Chapter 55 of the County Code. A legal notice was published in the official County newspaper, the Chaska Herald, on June 6, 2013. The notice included notification of the public hearing to be held at the County Board meeting on June 18, 2013 and an invitation for public input in consideration of this amendment.

The proposed amendment to Chapter 55 - Cleanup of Clandestine Drug Lab Sites, under ordinance #76-2013 includes:

- Changing the title of Chapter 55 to "Public Health Nuisances", with clandestine drug lab sites defined as a type of public health nuisance;
- Adding Definitions, Prohibitions, Administration, Investigation and Response, Cost and Reimbursements, Modification and Appeals, Enforcement, Fees and Severability, pertaining to public health nuisances.

ACTION REQUESTED:

Motion to open the public hearing to consider the proposed amendment to Chapter 55 of the County Code. Motion to close the public hearing. Motion to accept the Resolution and adopt Ordinance 76-2013.

FISCAL IMPACT: <input type="text" value="None"/> If "Other", specify: <input type="text"/>	FUNDING County Dollars = <input type="text"/> <input type="text"/> Total <input type="text" value="\$0.00"/>
FTE IMPACT: <input type="text" value="None"/>	

Related Financial/FTE Comments:

Office use only:

RBA 2012-1934

BOARD OF COUNTY COMMISSIONERS CARVER COUNTY, MINNESOTA

Date: _____ Resolution No: _____
 Motion by Commissioner: _____ Seconded by Commissioner: _____

A RESOLUTION ADOPTING ORDINANCE 76-2013,

AMEND CHAPTER 55, CLEANUP OF CLANDESTINE DRUG LAB SITES TO EXPAND THE DEFINITION OF PUBLIC HEALTH NUISANCE AND MANAGEMENT OF PUBLIC HEALTH NUISANCES; AMENDMENTS INCLUDE ADDING NECESSARY DEFINITIONS, PROHIBITIONS, ADMINISTRATION, INVESTIGATION AND RESPONSE, COST AND REIMBURSEMENTS, MODIFICATIONS AND APPEALS, ENFORCEMENT, FEES AND SEVERABILITY, PERTAINING TO PUBLIC HEALTH NUISANCES.

WHEREAS, the Carver County Board has assumed the responsibilities of the Board of Health per Minnesota Statutes Chapter 145A, and the Carver County Board shall enforce laws, regulations, and ordinances pertaining to the powers and duties of a board of health within its jurisdictional area; and

WHEREAS, the current Chapter 55 does not specify language defining public health nuisances, language pertaining to the investigation and cleanup of public health nuisances or rights to an appeal process; and

WHEREAS, Carver County has recently updated procedures to address public health nuisances in Carver County and the amendments would support safe and healthy conditions for citizens of Carver County as well as provide its citizens with adequate safeguards and appellate rights; and

WHEREAS, the amendments, additions and deletions would provide for the declarations, abatement, right to appeal, and reimbursement for the cleanup of public health nuisances in Carver County; and

WHEREAS, other input and feedback were duly considered at a public hearing held by the Carver County Board at its regular meeting of June 18, 2013 and the County Board finds as follows:

1. The amendments, additions and deletions are in conformance with Minnesota Statute Chapter 145A (Local Public Health Boards).
2. The amendments are not in conflict with any other official controls.
3. The amendments will not be detrimental to the health, safety or general welfare of Carver County citizens.

THEREFORE, BE IT RESOLVED, The Carver County Board of Commissioners hereby adopts Ordinance 76-2013, amending Chapter 55 of the Carver County Code.

YES	ABSENT	NO

STATE OF MINNESOTA
 COUNTY OF CARVER

I, David Hemze, duly appointed and qualified County Administrator of the County of Carver, State of Minnesota, do hereby certify that I have compared the foregoing copy of this resolution with the original minutes of the proceedings of the Board of County Commissioners, Carver County, Minnesota, at its session held on the 18th day of June, 2013, now on file in the Administration office, and have found the same to be a true and correct copy thereof.

Dated this 18th day of June, 2013. _____
 County Administrator

DRAFT
CLEANUP OF CLANDESTINE DRUG LAB SITES PUBLIC HEALTH NUISANCES

Section 1 Purpose and Authority

1.1. The purpose of this Chapter is to establish standards and authority to protect the public health, safety and general welfare of the people of Carver County pursuant to powers granted under Minnesota Statutes Chapters 145A, 375, and 152, and other applicable state law, as they may be amended from time to time.

1.2. This Chapter establishes minimum standards for the health, safety and protection of parties who may be exposed to public health nuisances by:

- (A) Establishing responsibility for involved parties to assure that people are not unnecessarily exposed to the dangers of public health nuisances;
- (B) Preventing injury and illness to occupants of the property and the public, especially children and vulnerable adults.
- (C) Requiring that proper steps are taken to remove public health nuisances; and
- (D) Requiring that appropriate tests be done to demonstrate that affected structures and media (air, water, soil) are sufficiently cleaned for human contact if/when appropriate.

1.3. The provisions of this Chapter shall be interpreted and applied as the minimum requirements necessary to protect public health, safety and welfare.

Section 2 Jurisdiction

2.1. This Chapter applies throughout all of Carver County but does not preempt ordinances related to clandestine drug labs adopted by a statutory or home rule charter city or a town.

2.2. This Chapter applies throughout all of Carver County but does not preempt ordinances related to housing or public nuisance adopted by a statutory or home rule charter city or a town.

2.3. This Chapter shall be applicable in all incorporated and unincorporated municipalities (city or township) within the boundaries of Carver County under the jurisdiction of the Carver County Board of Health.

Section 3 Definitions

3.1. For the purpose of this Chapter, the following terms or words shall be interpreted as follows:

- (A) **Abatement.** The proper removal and/or containment of substances or materials hazardous to humans and/or the environment. Abatement is part of remediation.
- (B) **Board of Health** The Carver County Board of Commissioners and its designated employees, agents, or contractors, as the Carver County Board may designate. Additionally, it shall have the meaning given to it by Minnesota Statutes section 145A.02, subd. 2.
- (C) **Chemical Investigation Site.** A drug lab site (such as a clandestine drug lab) that is under notice and order for cleanup and/or remediation as a public health nuisance, as authorized by Minnesota Statutes Chapter 145A, and this Chapter.
- (D) **Child.** Any person less than 18 years of age.

- (E) **Cleanup.** The proper removal and/or containment of substances or materials hazardous to humans and/or the environment. Cleanup is a part of remediation.
- (F) **Clandestine Drug Lab.** Any structure or conveyance or outdoor location occupied or affected by the conditions or chemicals typically associated with the manufacturing of methamphetamine or other unlawful manufacture of a controlled substance.
- (G) **Controlled Substance.** A controlled substance or immediate precursor as defined in Minnesota Statutes section 152.01, subd. 4 as amended in the future. The term shall not include distilled spirits, wine, malt beverages, intoxicating liquors, or tobacco.
- (H) **County Protection Unit.** The department and/or section of a department assigned the responsibilities for child protection and/or adult protection.
- (I) **Medical Consultant.** A physician licensed to practice medicine in Minnesota who is working under a written agreement with, employed by, or under contract with the Board of Health.
- (J) **Occupant.** A natural or legal person who occupies real property, whether with or without any right, title or interest in the property or who is in possession or charge of such property, in the event the owner resides or is located elsewhere.
- (K) **Owner.** Any person, firm, partnership or corporation who owns, in whole or in part, real property, structure, and/or fixtures or is the purchaser of the property under a contract for deed or personal property such as a motor vehicle, trailer, boat or other appliance.
- (L) **Personal Property.** All property other than real estate or structures.
- (M) **Professional Remediation Firm.** A firm that has provided written assurance to the Board of Health that they have appropriate equipment, procedures, and personnel to accomplish remediation and that they are an experienced HAZMAT contractor.
- (N) **Property.** Publicly or privately owned real property including buildings and other structures, motor vehicles as defined in section 609.487, subdivision 2a, public waters, and public rights-of-way.
- (O) **Property Agent.** A legal or natural person authorized by an owner to act in transacting business matters or in managing real estate.
- (P) **Public Health Nuisance.** Shall have the meaning given to it by Minnesota Statutes section 145A.02, subd. 17 and shall include, but not be limited to, any condition which poses an immediate and direct hazard to human health if left unremedied due to the existence of the condition itself or due to the immediate threat of transmission of disease through insects, animals, or other means of transmission or infections. A clandestine drug lab is a public health nuisance.
- (Q) **Recorder.** The Carver County Property Records and Taxpayer Services Division.
- (R) **Remediation.** Methods employed in dealing with public health nuisances and include, but are not limited to, assessment, evaluation, testing, venting, detergent scrubbing, enclosure, encapsulation, demolition, and/or removal of materials.
- (S) **Structure.** A dwelling, building, motor vehicle, trailer, boat, or any other area or location, either fixed or temporary.
- (T) **Vulnerable Adult.** Shall have the meaning given to it by Minnesota Statutes section 626.5572, subd. 21.

Section 4 Prohibitions

4.1. The creation or maintenance of a public health nuisance is prohibited.

4.2. The following are hereby expressly declared to be public health nuisances, without limitation by reason of such enumeration:

- (A) Failure to keep waste, refuse, or garbage in an enclosed building or properly contained in a closed insect and rodent proof container designed or reasonably adapted for such purpose, except

- for the immediate time preceding pick-up by a licensed solid waste hauler;
- (B) Accumulation of carcasses of animals, birds, or fish by failing to bury or otherwise dispose of a carcass in a sanitary manner within twenty-four (24) hours after death. This provision shall not apply if the animals, birds or fish are intended for human consumption;
 - (C) Accumulation of decayed animal or vegetable matter, animal or human feces, trash, rubbish, garbage, rotting lumber, packing material, scrap metal, tires or any other substances in which flies, mosquitoes, other disease carrying insects, rodents or other vermin can harbor; this definition does not include compost bins or compost sites which are being managed in accordance with acceptable standards;
 - (D) Any structure or property which has become dangerous for further occupancy because of sanitary defects which may include, but are not limited to: accumulation of human or animal feces, evidence of garbage and rotting food, infestation by rodents or insects, environmental conditions that affect children and vulnerable adults, and lack of approved potable water supply or sewage disposal;
 - (E) Infestations of flies, fleas, cockroaches, lice, ticks, rats, mice, fly larvae, and hookworm larvae;
 - (F) Unnatural breeding grounds which support mosquito larvae and mosquitoes carrying West Nile Virus, LaCrosse encephalitis, or any other disease causing microorganisms;
 - (G) Accumulations of animal feces or solid waste remaining in any place so as to become injurious and dangerous to the health and safety of any individual or to the public in general;
 - (H) Causing or allowing improper sewage disposal facilities to be operated, or causing or allowing the effluent from any cesspool, septic tank, drain field or sewage disposal system to discharge upon the surface of the ground or into any body of water;
 - (I) Maintaining a hole or opening caused by an improperly abandoned cistern, septic system, unused or non-maintained private swimming pool, foundation, mine shaft or tunnel, including an improperly abandoned, sealed, barricaded or backfilled excavation;
 - (J) A clandestine drug lab and/or clandestine drug lab site.

Section 5 Administration

5.1. This Chapter shall be administered by the Carver County Department of Public Health, hereinafter referred to as the “Board of Health”.

5.2. It shall be the duty of the Board of Health to determine whether or not a public health nuisance exists.

5.3. In accordance with Minnesota Statutes section 145A.04, subd. 7, the Board of Health has right of entry for inspection of property where a public health nuisance is reasonably suspected or known.

- (A) The owner, occupant or property agent shall, upon the request of the Board of Health and after proper identification, permit access to all parts of the site or structure as often as necessary, and at any reasonable time for the purposes of inspection, remediation and abatement, and shall exhibit and allow copying of any and all records necessary to ascertain compliance with this Chapter.
- (B) No person shall in any way interfere with or hinder the Board of Health in the performance of duties, or refuse the Board of Health access to gather information necessary to ascertain compliance with this Chapter.

5.4. Except where otherwise specified, this Chapter is subject to all provisions of the Carver County Code of Ordinances Chapter 10, Chapter 51, Chapter 50, Chapter 52, Chapter 54 and any other applicable County ordinances, as they may be amended from time to time.

5.5. Waste generated through cleanup or remediation of a site that is considered a public health nuisance shall

be treated, stored, transported, and disposed in accordance with applicable Minnesota Department of Health, Minnesota Pollution Control Agency, and Carver County guidelines, rules and regulations for remediation of a clandestine drug lab, for solid waste, and for hazardous household/other hazardous wastes.

Section 6 Response to Public Health Nuisance which is not a Clandestine Lab Site

6.1. If the Board of Health determines that a public health nuisance exists, it shall promptly issue a notice and order requiring the owner, occupant, or property agent to abate the public health nuisance as provided in Minnesota Statutes section 145A.04, subd. 8, and this Chapter.

6.2. The owner and occupant shall be ordered to abate such public health nuisance within ten (10) calendar days of receipt of the notice unless a shorter time is required due to the Board of Health's further determination that the immediate abatement is necessary to preserve the public health and safety. In such case, the time for abatement shall be specified in the order and the reasons for a shortened abatement period shall be specified.

6.3. The Board of Health may leave a posted warning sign at the public health nuisance site. It shall be unlawful for any person to remove this sign.

6.4. The notice and order for abatement must be served on the owner, occupant, or property agent, if applicable, in one of the following ways:

(A) by registered or certified mail; or

(B) by an officer authorized to serve a warrant; or

(C) by a person aged 18 years or older who is not reasonably believed to be a party to any action arising from the notice.

If the owner of the property is unknown or absent and has no known representative upon whom notice can be served, the Board of Health shall post a written or printed notice on the property or structure stating that, unless the threat to the public health is abated or removed within a period of ten (10) days, the Board of Health will have the threat abated or removed at the expense of the owner under Minnesota Statute section 145A.08, this Chapter, or other applicable state or local law.

6.5. The Board of Health shall notify and order the owner and occupant to have the public health nuisance removed or abated as provided in Minnesota Statutes section 145A.04 and this Chapter. The Board of Health shall include the following as part of the notice and order:

(A) Property location by street address, property identification number, or other property description.

(B) Information identifying the nature of the public health nuisance at the property.

(C) A summary of the owner's and occupant's responsibilities under this Chapter.

(D) Specific orders for abatement or remediation of the public health nuisance.

(E) A date for completion of the abatement not to exceed ten (10) days following the receipt of the notice unless a shorter time is required due to the Board of Health's further determination that the immediate abatement is necessary to protect public's health and safety. In such cases, the reason for a shortened abatement period shall be specified.

(F) Information regarding a right of appeal as provided in section 9 of this Chapter and that, unless the threat to public health is abated or removed in accordance with the terms of the notice, the Board of Health will have the public health nuisance abated or removed at the expense of the owner under the provisions of Minnesota Statutes 145A.08, this Chapter, or other applicable state or local law.

6.6. Pursuant to Minnesota Statutes section 145A.04, subd. 8, if the owner, occupant, or property agent fails or neglects to comply with the requirements of the notice and order provided under section 6.1 of this

Chapter, then the Board of Health may abate the public health nuisance. The Board of Health may recover the costs of abatement as provided in section 8 of this Chapter.

6.7. Following the service of a notice of abatement, the Board of Health may send written notice describing the condition of the property and the action required to the following parties:

- (A) Child Protection Division in situations of potential child maltreatment or endangerment,
- (B) Adult Protection Division in situations of potential vulnerable adult maltreatment or endangerment,
- (C) Neighbors in close proximity likely to be affected by the conditions found at the site,
- (D) The local city or township,
- (E) Local law enforcement,
- (F) Other state and local authorities that may have public or environmental protection responsibilities, and/or
- (G) Lien and/or mortgage holders.

6.8. If after the expiration of the time provided in the notice and order, the Board of Health is unable to obtain reasonable assurance from the owner, occupant, or property agent that the public health nuisance is being abated or remediated, the Board of Health may provide a copy of the public health nuisance notice and order to the County Recorder who shall file that information with the property record.

6.9. Where it is determined that a child neglect, child endangerment or vulnerable adult situation may exist as a result of the public health nuisance, the Board of Health shall notify the County Protection Unit for response to the potential child neglect, child endangerment or vulnerable adult situation.

6.10. The notice provided by the Board of Health as referenced in section 6.9 of this Chapter, shall include sufficient information to inform the County Protection Unit of the following:

- (A) property location by street address and other identifiable location;
- (B) owner's and occupant's identities including the identities of any children, or vulnerable adult found or known to be associated with the site;
- (C) conditions found which make this home or residence a public health nuisance; and
- (D) any other conditions which may be associated with the site which could present harmful conditions as determined by Minnesota law.

6.11. The Board of Health may modify conditions of the notice and order, including timelines.

Section 7 Response to a Clandestine Lab Site

§ 55.22LAW ENFORCEMENT NOTICE TO AFFECTED PUBLIC, PUBLIC HEALTH, AND CHILD PROTECTION AUTHORITIES. 7.1 Law Enforcement Notice to Affected Public, Public Health, and Child Protection Authorities

(A) Law enforcement authorities, who identify and confirm a clandestine drug lab site or clandestine drug lab operation, shall notify the ~~Public Health Authority~~ Board of Health and the county department responsible for child protection within one (1) working day of identifying and confirming the lab site, as permitted by Minnesota Statutes section 13.82. The obligation to promptly notify may be delayed to accomplish appropriate law enforcement objectives, but any decision to delay notification must be in compliance with Minnesota law including, but not limited to, Minnesota Statutes section 626.556. The notice shall include sufficient information to inform the recipients of the following:

1. Property or structure location by street address and other identifiable location;

2. Property or structure owner's and occupant's identities – especially the identities of any children and women of child-bearing age found or known to be associated with the site;
3. Chemicals found, indications of chemical residues and any related odors and vapors;
4. Equipment in a dwelling or structure that is typically associated with the manufacture of a controlled substance; and
5. Conditions typically associated with a clandestine drug lab site or operation including, but not limited to, weapons, illicit drugs, filth, fire, or electrical shock and other harmful conditions as determined by Minnesota law.

(B) Upon identification of the clandestine drug lab site operation, law enforcement agencies may treat, store, transport or dispose of all hazardous waste found at the site in a manner consistent with rules and regulations adopted by the Minnesota Department of Health, the Minnesota Pollution Control, the County, and all other state, federal, and local agencies with jurisdiction over the site or operation.

(C) When a law enforcement agency completes its work under division (B) and is prepared to leave such sites, the agency shall affix a warning sign to a conspicuous part of the site. The warning sign shall be ~~that~~ prepared in advance for such situations by the ~~Public Health Authority~~ Board of Health. The warning sign shall be of a size and contain information sufficient to alert visitors or returning occupants that the site is a chemical investigation site or public health nuisance, may be dangerous to enter, and must not be entered except by authorization of the ~~Public Health Authority~~ Board of Health and/or Law Enforcement agency identified on the sign.

(D) Any person, other than a representative of the ~~Public Health Authority~~ Board of Health, who willfully removes the warning sign specified in division (C), is guilty of a misdemeanor pursuant to Minnesota Statutes, section 145A.04, subd. 10.

§ 55.23 7.2. Notice of Chemical Investigation Site Public Health Nuisance to Owner and Occupant.
NOTICE OF CHEMICAL INVESTIGATION SITE PUBLIC HEALTH NUISANCE TO OWNER AND OCCUPANT.

(A) After the ~~Public Health Authority~~ Board of Health receives notice from a law enforcement agency that the agency has identified a clandestine drug lab site and posted the appropriate chemical investigation site public health nuisance warning sign, the ~~Public Health Authority~~ Board of Health shall serve the known lawful occupants and owners of the site pursuant to Minnesota Statutes, section 145A.04 subd. 8(b) with notice of their responsibilities relative to the chemical investigation site public health nuisance. The notice and order must be served on the owner, occupant, or property agent, if applicable, in one of the following ways:

1. by registered or certified mail; or
2. by an officer authorized to serve a warrant; or
3. by a person aged 18 years or older who is not reasonably believed to be a party to any action arising from the notice.

(B) If the owner of the property or structure is unknown or absent and has no known representative upon whom notice can be served, the Board of Health shall post a written or printed notice on the property or structure stating that, unless the threat to the public health is abated or removed within a period of ten (10) days, the Board of Health will have the threat abated or removed at the expense of the Owner under Minnesota Statutes, section 145A.08, this Chapter, or other applicable state or local law.

(C) The ~~Public Health Authority~~ Board of Health shall notify and order the property owner of record and known occupant or agent to have the public health nuisance removed or abated within ten (10) days as provided in Minnesota Statutes, section 145A.04 and this Chapter. The public health notice and order shall include the following:

1. A replica of the chemical investigation site public health nuisance declaration that is posted at the site's entrance(s).
2. Information about the potentially hazardous condition of the chemical investigation site.
3. A summary of the property owner's and occupant's responsibilities under this Chapter.
4. Information on locating professional services necessary to remove and abate the chemical investigation site public health nuisance status as provided in this Chapter and Minnesota Statutes, section 145A.04.

(D) Subject to any restrictions imposed by Minnesota Statutes Chapter 13, the ~~Public Health Authority~~ Board of Health shall endeavor to provide information in writing about the chemical investigation site public health nuisance declaration and potential hazard(s) to the following additional concerned parties:

1. Neighbors within close proximity that can be reasonably affected by the conditions found;
2. ~~Local municipal clerk;~~ The local city or township;
3. Local law enforcement;
4. Other state and local authorities, such as the Minnesota Pollution Control Agency and Minnesota Department of Health, that may have public health or environmental protection responsibilities at the site;
5. County Administrator; and
6. Lien and/or mortgage holders.

~~§ 55.24 NOTICE FILED WITH PROPERTY RECORD AND/OR MOTOR VEHICLE RECORD.~~
~~7.3 Notice Filed With Property Record and/or Motor Vehicle Record.~~

(A) When thirty (30) days have passed since the owner received the order of abatement specified in § 55.23 (B), 7.2(B) and ~~Carver County Public Health Board~~ the Board of Health has not obtained any reasonable assurance or plan from the property owner, occupant or property agent that the structure is being properly vacated, cleaned, remediated, and tested, ~~Carver County Public Health Board~~ the Board of Health shall provide a copy of the chemical investigation site public health nuisance notice and order to the County Recorder and to the lien and mortgage holders of the affected structure and/or properties. The County Recorder is authorized to file that information with the property record to notify other persons with interest in the property about the property's chemical investigation site public health nuisance status.

(B) When the affected property is a motor vehicle, boat, or trailer, ~~Carver County Public Health Board~~ the Board of Health shall notify the appropriate state and local agencies that maintain motor vehicle, boat, or trailer records, and the holders of liens or security interests against the vehicle or trailer.

~~§ 55.25 PROPERTY OWNER'S AND OCCUPANT'S RESPONSIBILITY TO ACT.~~ 7.4 Property Owner's and Occupant's Responsibility to Act.

(A) Property owner(s) and occupant(s) provided with a public health notice, which also includes the posted warning sign informing them about the chemical investigation site public health nuisance, shall promptly act to vacate occupants from those parts of a structure that are a chemical investigation site public health nuisance. This includes dwellings, buildings, motor vehicles, trailers, boats, appliances or any other affected area or location.

(B) Within ten (10) business days of receiving the public health notice and order to clean up the chemical investigation site public health nuisance, the property owner(s) and/or occupants(s) shall take the following actions:

1. Notify ~~Public Health Authority~~ the Board of Health that the affected parts of the dwellings, buildings, and/or motor vehicles have been and will remain vacated and secured until the ~~Public Health Authority~~ Board of Health provides notice that the chemical investigation site public health nuisance no longer exists.
2. Contract with one or more acceptable environmental hazard testing and cleaning firms. Acceptable firms are those that have provided assurance of appropriate equipment, procedures, and personnel, as determined by the ~~Public Health Authority~~ Board of Health to accomplish the following:
 - a. A detailed on-site assessment of the extent of contamination at the site and the contamination of the personal property therein;
 - b. Soil testing of the site and testing of all property and soil in proximity to the site that the environmental hazard testing and cleaning firm determines may have been affected by the conditions found at the site;
 - c. A complete cleanup of the site (including but not limited to the cleanup or removal of contaminated plumbing, ventilation systems, fixtures and contaminated soil) or a demolition of the site and a complete cleanup of the demolished site;
 - d. A complete cleanup, or disposal at an approved dumpsite, of all personal property in the site;
 - e. A complete cleanup of all property and soil in proximity to the site that is found to have been affected by the conditions found at the site, and
 - f. Remediation testing and follow-up testing to determine that all health risks are sufficiently reduced, according to Minnesota Department of Health guidelines, to allow safe human occupancy, and use of the site and use of the personal property therein.
3. Provide the ~~Public Health Authority~~ Board of Health with the identity of the testing and cleaning firm the owner, occupant or property agent has contracted with for remediation of the structure(s) as described above.
4. Provide the ~~Public Health Authority~~ Board of Health with the contractor's plan and schedule for remediation that will abate the chemical investigation site public health nuisance declaration.
5. The property owner, occupant or property agent may request an extension of time to consider options for arranging cleanup or removal of the affected parts of the structure. The owner, occupant or property agent must show good cause for any such extension. Any such extension shall be dependent on the owner's assurance that the affected parts of the structure will not be occupied pending appropriate cleanup or demolition.

(C) The Board of Health and County Recorder shall comply with all requirements imposed by Minnesota Statutes section 152.0275, subd. 2. The Board of Health shall maintain a list, available to the public, of properties to which notices and orders have been issued pursuant to section 7.2. Prior to signing a lease or rental agreement, the owner, occupant, or property agent, must disclose in writing to the renter if, to the owner or property agent's knowledge, methamphetamine production has occurred on the property.

Section 8 Costs and Reimbursements

~~§ 55.26 PROPERTY OWNER'S RESPONSIBILITY FOR COSTS AND OPPORTUNITY FOR RECOVERY.~~ 8.1 Property Owner's Responsibility For Costs and Opportunity for Recovery.

- (A) Consistent with Minnesota Statutes section 145A, the property owner shall be responsible for:
1. Private contractor's fees, cleanup, remediation, and testing of public health nuisance conditions; and
 2. County fees and costs of administering notices and enforcing, vacating, cleanup, remediation, and testing of affected parts of the property.

(B) Nothing in this Chapter is intended to limit the property owners, agents, occupants, or the county's right to recover costs or damages from persons contributing to the public health nuisance, such as the operators of the clandestine drug lab and/or other lawful sources.

(C) The County's administrative and enforcement services, referenced in division (A), include but are not limited to the following:

1. Posting warning notices or signs at the site;
2. Notification of affected parties;
3. Securing the site, providing limited access to the site, and prosecution of unauthorized persons found at the site;
4. Expenses related to the recovery of costs, including the assessment process;
5. Laboratory fees;
6. Cleanup services;
7. Administrative fees; and
8. Other associated costs.

§ 55.27 SPECIAL ASSESSMENT TO RECOVER PUBLIC COSTS **8.2 Special Assessment to Recover Public Costs**

(A) The County is authorized under Minnesota Statutes section 145A.04, subd. 8(c) to proceed within ten (10) business days of service of a notice for abatement or removal of the public health nuisance to initiate the assessment and cleanup when a) the property owner is not located, or b) the ~~Public Health Authority~~ Board of Health determines that the owner refuses to, or cannot pay the costs, or arrange timely assessment and cleanup that is acceptable to the designated ~~Public Health Authority~~ Board of Health.

(B) The ~~County Administrator~~, Board of Health shall be fully authorized to act, consistent with Minnesota law, on behalf of the county to direct funds to assure prompt remediation of ~~chemical investigation sites~~ public health nuisance conditions.

(C) When the estimated cost of testing, cleanup, and remediation exceeds 75% of the County Assessor's market value of the structure and land, the ~~County Administrator~~ Board of Health is authorized to notify the property owner of the County's intent to remove and dispose of the affected real property instead of proceeding with cleaning and remediation. For motor vehicles, the County will use the Kelly Blue Book value or equivalent in determining market value.

(D) The property owner shall be responsible for all costs, including those of the County, incurred to abate the public health nuisance, including contractor's fees and public costs for services that were performed in association with a ~~clandestine drug lab site or chemical dump site~~ public health nuisance site cleanup. The County's costs may also include, but shall not be limited to, those set forth in ~~§ 55.26-8.1(C)~~. Fees and costs specified above that are not paid for in any other way may be collected through a special assessment on the property as allowed by Minnesota Statutes section 145A.08, or by any other applicable federal, state, and county laws, ordinances, and/or applicable County board resolution.

(E) The cost of testing, cleanup, and remediation shall be certified by the ~~director of Carver County~~ Public Health Board of Health ~~Board of Health~~. Notice of cost, and demand for payment, shall be forwarded to the property owner by certified mail at the property owner's last known address as shown on property tax

records. If payment is in full is not made within thirty (30) days of mailing of notice, the ~~Carver County Public Health Board of Health Board of Health~~ may request that all costs be assessed against the property.

(F) Payment on the special assessment shall be collected at the time real estate taxes are due.

(G) The County may also seek recovery of costs through other methods allowed by federal or state law.

Section 9 Modifications and Appeals

9.1 The Board of Health may modify conditions of the declaration and order removal of the declaration of a public health nuisance.

9.2 Such modification or removal shall be only after the Board of Health has determined the level of public health nuisance is sufficiently reduced through remediation to warrant modification or removal of the declaration. The Board of Health may rely on information from competent sources, including those supplied by the owner, occupant, property agent, and/or others such as state and local health, safety, and pollution control authorities to reach such decisions.

9.3 When the declaration is modified, rescinded or removed, the Board of Health shall forward that information to the County Recorder for addition to the property record if the Recorder has been notified as described in Sections 6.8 and 7.3 of this Chapter.

9.4 When a public health nuisance is declared, an owner and/or an occupant of the affected property may appeal the declaration, including an order for abatement or remediation from the Board of Health, by filing a written request with the Board of Health for an administrative hearing within ten (10) calendar days of the date of service, exclusive of the day of service. In the event of an unknown or absent property owner, the appeal must be requested within ten (10) calendar days from the day of posting of the notice under section 6.4.

9.5 If any owner, occupant, or property agent makes a written request to the Board of Health for an administrative hearing, such hearing shall be held before an Administrative Law Judge.

9.6 The hearing shall be held no later than twenty (20) calendar days after the request for a hearing was received by the Board of Health. For good cause shown, the hearing officer may continue the date of the hearing for up to another twenty (20) calendar days.

9.7 The Board of Health shall mail a notice of the time and place of the hearing at least seven (7) calendar days prior to the hearing.

9.8 All parties shall have full opportunity to respond to and present evidence and witnesses.

9.9 The appellant shall have the burden of proving its position by clear and convincing evidence.

9.10 Hearings shall be informal and the parties shall have the opportunity to present testimony and question any witnesses, but strict rules of evidence shall not apply. The independent hearing officer shall make an audio recording of the hearing and receive testimony and exhibits, and the full record of the hearing shall be maintained. The independent hearing officer shall receive and give weight to evidence, including hearsay evidence, which possesses probative value commonly accepted by reasonable and prudent people in the conduct of their serious affairs. Irrelevant, immaterial and repetitious evidence shall be excluded. In the case of an Administrative Law Judge, the hearing will be conducted in accordance with the hearing procedures of the Office of Administrative Hearings. Failure to attend the hearing as scheduled shall be deemed an

admission of the facts set forth in the notice and order for abatement.

9.11 The decision of the Administrative Law Judge shall be issued within ten (10) calendar days following the administrative hearing. Unless otherwise provided by law, the decision of the Administrative Law Judge shall constitute the final decision of the Board of Health.

9.12 Further Appellate Rights. Any party aggrieved by a final decision is entitled to judicial review of the decision. A petition for a writ of certiorari by the party must be filed with the Court of Appeals not more than thirty (30) calendar days after the party receives the final decision from the Administrative Law Judge.

9.13 Cost Share for Appeal. Fees and expenses for the Administrative Law Judge as part of the administrative hearing shall be borne equally by the Board of Health and the owner, occupant, or property agent. In the event that the hearing results in a decision in the appellant's favor, the Board of Health will be responsible for the full expense.

Section 10 Enforcement

10.1. Any person who violates any provision of this Chapter shall be guilty of a misdemeanor and upon conviction shall be punished as provided by law. A separate offense shall be deemed committed upon each day which a violation occurs or continues.

10.2. In the event of a violation or a threat of violation of this Chapter, the County Attorney may take appropriate action to enforce this Chapter including application for injunctive relief, action to compel performance, or any other appropriate action in court to prevent, restrain, correct or abate such violation or threatened violation.

Section 11 Fees

11.1 Fees for the Board of Health complaint investigation, verification, administration, and enforcement of violations of this Chapter shall be those established by resolution, as amended from time to time, by the Carver County Board of Commissioners.

Section 12 Severability

12.1 If any section or portion of this Chapter shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not serve as an invalidation of, or affect the validity or enforceability of, any other section or provision of this Chapter.

Carver County Board of Commissioners Request for Board Action



Agenda Item:

Create 6.0 FTE Social Worker II for MNChoices Assessments

Primary Originating Division/Dept: <input type="text" value="Community Social Services"/>	Meeting Date: <input type="text" value="6/18/2013"/>
Contact: <input type="text" value="Gary Bork"/> Title: <input type="text"/>	Item Type: <input type="text" value="Regular Session"/>
Amount of Time Requested: <input type="text" value="10"/> minutes Presenter: <input type="text" value="Gary Bork"/> Title: <input type="text" value="Community Social Services Dir..."/>	Attachments: <input type="radio"/> Yes <input checked="" type="radio"/> No
Strategic Initiative: <input type="text" value="Communities: Create and maintain safe, healthy, and livable communities"/>	

BACKGROUND/JUSTIFICATION:

The Department of Human Services (DHS) developed a separate assessment for each of its Medical Assistance (MA) Waiver Programs. The MA Waiver Programs are Developmental Disabilities/Related Conditions (DD/RC), Community Alternatives for Disabled Individuals (CADI); Elderly Waiver (EW), Community Alternative Care (CAC) and Traumatic Brain Injury (TBI). The Federal Government through the Center for Medicare and Medicaid Health Services has instructed the State to develop a universal assessment for individuals seeking a waived service and currently receiving waived services. DHS has developed a universal waived services assessment called MNChoices. MNChoices is a web based information system that can be accomplished in the client's residence using a laptop computer. MNChoices has been piloted by a number of counties and phased in implementation is scheduled for November 1, 2013 beginning with the pilot counties. The implementation schedule is due to be published on August 1. Once the new assessments are underway, DHS will schedule counties, with pilot counties first, to conduct MNChoices reassessments on all existing cases. The pilot counties are consistent in their assessment that a worker can complete 12 new MNChoices assessments per month. Reassessments should not be as time consuming.

DHS has indicated that MNChoices assessments are the direct responsibility of counties and must be accomplished by county staff. Staff are required to go through mandatory training and pass a certification exam. DHS developed the reimbursement system using the Social Services Time Study (SSTS) and their models indicate that counties should be fully reimbursed for conducting the MNChoices assessments.

Brian Esch, Home Community Based Care Manager is projecting that an additional 6.0 FTE's, Social Worker II, will be needed to do initial assessments on individuals seeking the waived services and complete the annual reassessments on the clients. The Division realizes that this is a large number and is committed to hiring the staff as the workload requires. At this time it appears that most of the assessors will come from existing staff and new hires will assume the case loads of these staff. DHS strongly encourages counties to maintain a separation between assessments and case managers.

ACTION REQUESTED:

Approve creating 6.0 FTE Social Worker II's to perform MNChoices assessments for persons seeking or currently receiving MA waived services.

FISCAL IMPACT: <input type="text" value="None"/> If "Other", specify: <input type="text"/>	FUNDING County Dollars = <input type="text"/>				
FTE IMPACT: <input type="text" value="Increase budgeted staff"/>	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%;">SSTS (Federal/State)</td> <td style="width: 30%; text-align: right;">\$449,604.00</td> </tr> <tr> <td>Total</td> <td style="text-align: right;">\$449,604.00</td> </tr> </table>	SSTS (Federal/State)	\$449,604.00	Total	\$449,604.00
SSTS (Federal/State)	\$449,604.00				
Total	\$449,604.00				

Related Financial/FTE Comments:

The SSTS Time Study is a federally required time study to determine reimbursement in a number of areas. The SSTS is used for Targeted Case Management (TCM) reimbursement but the significant difference between TCM and MNChoices is that in TCM the county only receives the federal share and for MNChoices the county will receive the federal share and the state will pick up the non-federal share. This combined with having separate assessors should provide the higher reimbursement.

Carver County Board of Commissioners Request for Board Action



Agenda Item:

Approve Creation of 2.0 FTE Eligibility Specialists for Medical Assistance Expansion

Primary Originating Division/Dept: <input type="text" value="Community Social Services"/>	Meeting Date: <input type="text" value="6/18/2013"/>
Contact: <input type="text" value="Gary Bork"/> Title: <input type="text" value="CSS Director"/>	Item Type: <input type="text" value="Regular Session"/>
Amount of Time Requested: <input type="text" value="5"/> minutes	Attachments: <input type="radio"/> Yes <input checked="" type="radio"/> No
Presenter: <input type="text" value="Gary Bork"/> Title: <input type="text" value="Community Social Services Dir..."/>	
Strategic Initiative: <input type="text" value="Communities: Create and maintain safe, healthy, and livable communities"/>	

BACKGROUND/JUSTIFICATION:

On April 16, 2013 a presentation was made to the Carver County Board Committee of the Whole on the state health insurance exchange (MNsure), the Affordable Care Act (ACA) and the impact on Carver County.

The ACA will expand the number of persons that will be eligible for Medical Assistance (MA) due to the increase in the eligibility standard to 133% of poverty. The Minnesota Department of Human Services (DHS) is estimating that expansion to be 1031 persons for Carver County. The current number of residents on MA is 5557. The expansion will come from new persons who will now be eligible for MA and transfers from the MNCare. The Community Social Services Division has calculated that 2.0 FTE Eligibility Specialists will be needed to process and manage these additional cases.

Enrollment through MNsure will begin October 1, 2013. The MNsure information system should be operational by meeting the federal minimum standards by that time. However, system development will continue for some time as the new eligibility system will replace the current MAXIS system. Given the increase in persons and the fact that the information systems will not be fully operational, staff will be necessary to process eligibility that will be more automated in the future.

The state has received enhanced FFP from 50% to 75% for MA eligibility determination.

ACTION REQUESTED:

To approve creation of 2.0 FTE Eligibility Specialists to determine eligibility for MA as a result of the expansion in coverage under the ACA.

FISCAL IMPACT: <input type="text" value="None"/>	FUNDING
<i>If "Other", specify:</i> <input type="text"/>	County Dollars = <input type="text" value="\$0.00"/>
FTE IMPACT: <input type="text" value="Increase budgeted staff"/>	75% FFP <input type="text" value="\$94,100.00"/>
	Additional 25% FFP <input type="text" value="\$31,366.00"/>
	Total <input type="text" value="\$125,466.00"/>

Related Financial/FTE Comments:
 The enhanced 75% FFP will extend to current Eligibility Specialists that determine MA eligibility. The Division is estimating that will generate an additional \$121,000 in Federal Financial Participation (FFP). The 25% non-federal share will be covered by the additional FFP generated on the current staff.

An Eligibility Specialist is in Pay Grade 10.

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Carver County Board of Commissioners Request for Board Action



Agenda Item:

Joint Powers Agreement with the City of Watertown for Project SAP 010-610-047, CSAH 10 Road and Bridge Construction

Primary Originating Division/Dept:

Contact: Title:

Amount of Time Requested: minutes

Presenter: Title:

Meeting
Date:

Item Type:

Attachments: Yes No

Strategic Initiative:

Growth: Manage the challenges and opportunities resulting from growth and development

BACKGROUND/JUSTIFICATION:

The County and the City have been involved in discussions and studies relating to the design and reconstruction of a portion of CSAH 10 including bridge replacement over the Crow River in downtown Watertown.

Several options have been studied to replace the existing bridge and improve the intersection of Lewis Ave and CR 10. At their May 28, 2013 Council meeting, the City selected an option to construct a roundabout at Lewis Ave and CR 10 and a new 3-lane bridge over the Crow River. The project is expected to be constructed in the summer of 2014 pending the completion of the following:

- Permit approval from the Corps of Engineers to remove the existing structurally deficient bridge. The Corps is administering the federal 106 process for this project as the bridge is eligible for the National Register of Historic Places. The permit is the final stages of review by the State Historic Preservation Office (SHPO).
- Right of Way Acquisition. Several parcels of land will be required to construct the selected alternative including a total buyout of the building being leased as a NAPA store.
- Final construction plans.
- Bridge bond application and approval from MnDOT.

A joint powers agreement has been prepared to define cost share and other project responsibilities. The cost share for the project is in accordance with the County Cost Share Policy adopted on March 19, 2013.

A summary of the project alternatives and cost share items will be presented to the County Board at the meeting.

ACTION REQUESTED:

Motion to approve a joint powers agreement with the City of Watertown for project SAP 010-610-047, CSAH 10 road and bridge construction, subject to review and approval by the County Attorney and Risk Management.

FISCAL IMPACT:

If "Other", specify:

FTE IMPACT:

FUNDING	
County Dollars =	\$0.00
CSAH (Gas Tax)	\$870,000.00
County CPA	\$500,000.00
County 2012 Y.E.S.	\$1,000,000.00
State Bridge Bonds	\$630,000.00
City of Watertown LRIP	\$350,000.00
City of Watertown Local	\$650,000.00
Total	\$4,000,000.00

Related Financial/FTE Comments:

Costs are approximate at this time. More accurate information will be available after detailed design plans are completed.