

**MINUTES OF THE
OTTER TAIL COUNTY BOARD OF COMMISSIONERS
Otter Tail County Courthouse
Commissioners' Room, Floor 1-B
Tuesday, April 15, 2003
9:30 a.m.**

Call to Order

The Otter Tail County Board of Commissioners convened Tuesday, April 15, 2003, at 9:30 a.m. at the Otter Tail County Courthouse with Commissioners Malcolm Lee, Chair; Syd Nelson, Vice-Chair; Dennis Mosher, Roger Froemming, and Bob Block present.

Approval of Agenda

Motion by Froemming, second by Nelson, and unanimously carried to approve the County Board agenda of April 15, 2003, with the following additions:

10:50 a.m. – Solid Waste Director - Request to Fill Position on Temporary Basis

Physical Plant Manager – Changed Agenda Items to 1:00 p.m.

11:45 a.m. – Capital Improvement Committee

Approval of Minutes

Motion by Mosher, second by Block, and unanimously carried to approve the County Board minutes of April 8, 2003, as mailed.

Detention Facility Inspection Report

Detention Facility Administrator, Richard Akerman, provided an excellent Minnesota Department of Corrections inspection report. He stated that the results of this inspection are due to the diligence of all detention staff members.

Eligibility List for Detention Officers

Motion by Mosher, second by Block, and unanimously carried to authorize the Sheriff's Department to establish an eligibility list for Detention Officers.

Bid Opening – S.A.P. 56-652-12

After previously advertising for bids, Highway Engineer, Rick West, opened the following bids at 1:00 p.m. on April 9, 2003, for reconstruction of CSAH No. 52:

Central Specialties, Inc. Alexandria, MN	\$1,052,177.01
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Bauerly Companies Sauk Rapids, MN	\$1,115,098.57
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Mark Sand & Gravel Acquisition Co. Fergus Falls, MN	\$1,152,605.48
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Tri-City Paving, Inc. Little Falls, MN	\$1,345,747.84
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Motion by Froemming, second by Nelson, and unanimously carried to award S.A.P. 56-652-12, Reconstruction of CSAH No. 52, to the low bidder, Central Specialties, in the amount of \$1,052,177.01.

Bid Opening – S.A.P. 56-653-07 & Etc.

After previously advertising for bids, Highway Engineer, Rick West, opened the following bids at 1:00 p.m. on April 9, 2003, for Overlay Projects:

	<u>Bid Amount</u>	<u>Corrected Bid</u>
Mark Sand & Gravel Acquisition Co. Fergus Falls, MN	\$1,252,500.05	
Central Specialties, Inc. Alexandria, MN	\$1,265,615.59	
Bauerly Companies Sauk Rapids, MN	\$1,412,368.87	\$1,413,868.87
Tri-City Paving, Inc. Little Falls, MN	\$1,591,562.85	

Motion by Nelson, second by Froemming, and unanimously carried to award S.A.P. 56-653-07 & Etc., Overlay Projects, to the low bidder, Mark Sand & Gravel Acquisition Co., in the amount of \$1,252,500.05.

Right of Way Platting Project Awards

The following quotations have been received by the Highway Engineer for several right of way plat projects:

Project	Bidder	Bid Amount
S.P. 56-665-06 CSAH No. 65 Reconstruction from 215 th St. to CSAH No. 67	Lake Region Surveying Pelican Rapids, MN	\$ 8,870.00
	Anderson Land Surveying, Inc. Fergus Falls, MN	\$12,580.00
	Widseth Smith Nolting Alexandria, MN	\$12,954.00
	Interstate Engineering Fergus Falls, MN	\$19,800.00
S.A.P. 56-667-30 CSAH No. 67 Reconstruction From CSAH No. 84 to CSAH No. 58	Lake Region Surveying Pelican Rapids, MN	\$ 9,870.00
	Anderson Land Surveying, Inc. Fergus Falls, MN	\$12,520.00
	Widseth Smith Nolting Alexandria, MN	\$15,394.00
	Interstate Engineering Fergus Falls, MN	\$18,200.00
S.A.P. 56-686-01 CSAH No. 86 Reconstruction From CSAH No. 15 to TH 210	Lake Region Surveying Pelican Rapids, MN	\$ 5,745.00
	Anderson Land Surveying, Inc. Fergus Falls, MN	\$ 8,900.00
	Interstate Engineering Fergus Falls, MN	\$10,200.00
	Widseth Smith Nolting Alexandria, MN	\$10,777.00

Motion by Lee, second by Mosher, and unanimously carried to award the following right of way plat projects to the low bidder, Lake Region Surveying, as follows:

S.P. 56-665-06 (CSAH No. 65)	\$8,870.00
S.A.P. 56-667-30 (CSAH No. 67)	\$9,870.00
S.A.P. 56-686-01 (CSAH No. 86)	\$5,745.00

Approval of Eminent Domain Procedures

Mr. West reported that there are seven property owners on a parcel of land that the Highway Department needs to acquire for right of way property for the Pelican Rapids Bridge Project. All property owners have signed paperwork for the acquisition except Cooper E. Stewart. Mr. West requested authority to proceed with eminent domain procedures only if necessary. Motion by Lee, second by Mosher, and unanimously carried to authorize the Highway Engineer to proceed with eminent domain procedures, if necessary, to acquire right of way property for the Pelican Rapids Bridge Project (S.P. 56-696-02, Bridge No. 4610).

Approval to Pay Bills

Motion by Mosher, second by Block, and unanimously carried to approve payment of County Board bills per Attachment A of these minutes.

Opposition to House File No. 1090 Otter Tail County Resolution No. 2003 - 23

Commissioner Nelson offered the following and moved its adoption:

WHEREAS, there is pending legislation before the Minnesota legislature contained in House File No. 1090, which proposes to take away all authority of the counties for noxious weeds and gives full authority to the Minnesota Department of Agriculture; and

WHEREAS, under the proposed legislation, the Department of Agriculture will be allowed to charge the counties for services whether or not they are needed or requested by the counties; and

WHEREAS, the proposed legislation was drafted by the Department of Agriculture without consultation with the counties, the Minnesota Association of Counties, the Minnesota Association of County Agricultural Inspectors; and

WHEREAS, the proposed legislation appears to take authority away from counties, but require counties to pay, thus resulting in a cost shift; and

WHEREAS, there may be some provisions of the proposed legislation which are appropriate. There are serious flaws with the current bill.

NOW, THEREFORE, BE IT RESOLVED that the Otter Tail County Commissioners request that the proposed legislation not be passed in its current form, but that the Minnesota Department of Agriculture be directed to work with the Association of Minnesota Counties, the Minnesota Association of County Ag Inspectors and the counties so that they may have input in changes that could or should be made to the proposed legislation.

Commissioner Froemming seconded the motion, and upon being put to vote, was unanimously carried.

Adopted this 15th day of April, 2003.

Dated: _____ OTTER TAIL COUNTY BOARD OF COMMISSIONERS

By: _____
Malcolm K. Lee, Human Services Chair

Attest: _____
Larry Krohn, Clerk

County Ditch #21

Ditch Inspector, Randy Wasvick, reported that he has received approval from the Department of Natural Resources to lower John Lake approximately two feet. Commissioners agreed that it would be appropriate to request the GIS Department to obtain elevations to proceed with clean out on the ditch.

County Ditch #53

Motion by Nelson, second by Mosher, and unanimously carried to approve the Order Re-Determining Benefits for Ditch #53 as submitted by the County Attorney (Attachment B of the official minutes).

License Applications

Motion by Nelson, second by Froemming, and unanimously carried to approve the following applications for license:

Hidden Acres Vergas MN 56587	Renewal of Consumption and Display Permit
Rocky's Resort Dent, MN 56528	Renewal of Consumption and Display Permit
Woody's Blue Horizon Perham, MN 56573	Renewal of Consumption and Display Permit

Payment Approval

Motion by Mosher, second by Block, and unanimously carried to approve payment for services provided under the provision of Minnesota Statute 609.35 as follows:

Lake Region Healthcare	\$900.00
Else Malbraaten	\$250.00

Temporary Position Hiring

Motion by Lee, second by Mosher, and unanimously carried to authorize the Solid Waste Director to hire a temporary employee to assist during a six-week leave of absence.

Planning Commission Recommendations

Preliminary Plat – "Yellow Lab Beach"/Bruce & Marsha Qvammen:

Land & Resource Director, Bill Kalar, stated that "Yellow Lab Beach" is a proposed subdivision on Lake Franklin. The Planning Commission recommended approval of the subdivision with conditions. Motion by Lee, second by Block, to approve the Preliminary Plat of "Yellow Lab Beach" with conditions as recommended by the Planning Commission.

Attorney, Robert Bigwood, representing the owners of the peninsula, provided copies of the plat. He stated that the 50–60 acre peninsula on Franklin Lake is not shown. He stated that there have been conversations approximately a year ago about acquiring potential access to the dedicated road; however, this proposed plat does not comply with Section V.1.g. of the County's plat requirements of not providing a hardship to other properties. The proposed plat does not provide access to the neighboring property and the owners of that property are willing to meet with the Qvammens to pay for appropriate access. He requested that this plat not be approved until this issue can be resolved because it does not meet the requirements as proposed.

Attorney, Brant Beeson, representing the applicant, provided information from a Supreme Court ruling, referred to as the "Daniels Case", that, in his opinion, changes the definition of landlocked land. His position, based on this case, is that the neighboring property is not landlocked because it can be accessed by water. County Attorney, David Hauser, responded that he has reviewed that case, and in his opinion, it is different than what is being considered today. The County has the authority to zone and plat land. In the County's Ordinance, there is language about not landlocking property and in creating roads that go through. Mr. Hauser stated that the County Board would not be prohibited to provide access based on the "Daniels Case".

Mr. Bigwood stated that the County's Ordinance has firm language and provides that road arrangements shall not be such as to create a hardship to neighbors and provide road access to a public road.

Following discussion, Brant Beeson, on behalf of the applicant, agreed to waive the 60 day rule. The motion and second to approve the plat were withdrawn. Motion by Lee, second by Mosher, and unanimously carried to refer the Preliminary Plat known as "Yellow Lab Beach" back to the Planning Commission for further research regarding the road access to the landlocked property with the applicant's approval to waive the 60 day rule. This property is described as Pt of GL 7 & 8 (6.58 Ac) in Section 27 and Pt of GL 2 & 3 (28.26 Ac) in Section 34 of Dunn Township; Franklin Lake (56-759).

Conditional Use Permit - Dora and Candor Township:

Motion by Lee, second by Nelson, and unanimously carried to approve a Conditional Use Permit to reconstruct 460th St. from Co. Rd. #4, 2½ miles west to the dead end with conditions as recommended by the Planning Commission. The property is described as 460th St. from Co. Hwy #4, west 2½ miles of road, Section 4, 5 & 6 of Dora Township and Sections 32, 33 & 34 of Candor Township; Unnamed Lake (56-524), Loon Lake (56-523) and West Spirit Lake (56-502).

Preliminary Plat & Conditional Use Permit – "Jamielind Shores"/Jamielind, Inc:

Motion by Nelson, second by Froemming, and unanimously carried to approve the Preliminary Plat known as "Jamielind Shores" consisting of 10 lots for single family residential use and to approve a Conditional Use Permit to construct a road to service the plat with conditions as recommended by the Planning Commission. The property is described as W ½ of Lot 4 & Lots 5 & 6 (87.31 Ac), Section 29 & Lot 6 ex sub lot 1 (52.18 Ac), Section 30 of Edna Township; Big McDonald Lake (56-386).

Conditional Use Permit – “Cross Point Resort”/Daniel & Jane Wood:

Motion by Lee, second by Mosher, and unanimously carried to approve a Conditional Use Permit to increase campsite licensure from 18 to 28 sites with conditions as recommended by the Planning Commission. This property is described as GL 1 ex tr, ex platted, Section 5 of Maplewood Township; Lake Lida (56-747).

Conditional Use Permit – Dean & Mary Nelson:

Motion by Lee, second by Block, and unanimously carried to approve a Conditional Use Permit to expand a commercial operation as presented. The property is described as SE¼ SW¼, NW¼ SE¼ & NE¼ SW¼ ex tracts (96.47 Ac), Section 10 of Erhards Grove; Horseshoe Lake (56-895).

Preliminary Plat & Conditional Use Permit–“Spanswick Second Addition”/Richard Spanswick:

Lengthy discussion took place regarding the potential of two unmarked gravesites on this property. Motion by Froemming, second by Nelson and unanimously carried to approve the Preliminary Plat known as “Spanswick Second Addition” consisting of 8 lots for single family residential use and to approve a Conditional Use Permit to construct a road to service the plat with the condition that a notation must be included on the final plat that there are unmarked gravesites in the Northwest corner of this plat in the bluff area. In the event that the gravesites are positively identified, the notation should include a more specific location. The property is described as Pt of GL’s 2 & 3, Section 4 of Girard Township; Hanson Lake (56-197).

Ag Inspector’s Annual Report

Motion by Nelson, second by Froemming, and unanimously carried to authorize the Chair’s signature on the CY2002 County Agriculture Inspector’s Annual Report and Summary.

Seasonal Employees for Land & Resource Department

Motion by Mosher, second by Block, and unanimously carried to fill three seasonal positions in the Land & Resource Department.

Recess & Reconvene

At 12:11 p.m., Chair Lee declared the meeting of the Otter Tail County Board of Commissioners recessed for lunch break. The meeting was reconvened at 1:21 p.m.

Quit Claim Deed

Motion by Froemming, second by Mosher, and unanimously carried to authorize the Chair’s signature to execute a Quit Claim Deed between the County of Otter Tail and Lynda R. Meyer.

Facility Planning Group

Physical Plant Manager, Rick Sytsma, requested participation by a County Board member on the Facility Planning Group in planning the next phase of the Courthouse remodeling. Chairman Lee appointed Commissioner Block to serve on this committee.

Landscape Package

Mr. Sytsma reported that the last major package for requesting bids relative to the Government Services Center is the Landscape Package. Lengthy discussion followed regarding the Landscape Request for Proposal. Motion by Nelson, second by Froemming,

and unanimously carried to authorize the Physical Plant Manager to advertise for bids for landscaping at the Government Services Center requesting a type of turf grass for the seeding requirements.

Fiber Optic Package

Mr. Sytsma reported that a vendor requested that the County consider leasing fiber for communications to the Government Services Center rather than installing fiber based on a previous request for proposal. Mr. Sytsma stated that an engineer handled this particular bid package, considered all options, and gave the County a recommendation. Installation of the fiber has been bid out and awarded. Motion by Block, second by Froemming, and carried with Mosher opposed, to proceed with the placement of fiber as previously awarded and to authorize the Chair's signature to execute an agreement (Section 00500) between Otter Tail County and Moorhead Electric, Inc.

Purchase/Lease of Two Vehicles

Motion by Nelson, second by Mosher, and unanimously carried to purchase one vehicle and lease one vehicle from the state contract through Nelson Dodge GMC as requested by the Assessor. The municipal lease plan is a three-year lease with a buy out option.

Closed to the Public

At 1:57 p.m., Chairman Lee declared the meeting of the Otter Tail County Board of Commissioners closed to the public for the purpose of evaluating the performance of County Coordinator, Larry Krohn, pursuant to M.S. Chapter 13D.05 Subd. 3. All five seated commissioners were present for the evaluation. A summary of performance conclusions will be provided at the next regular County Board meeting.

Adjournment

At 2:15 p.m., upon conclusion of the performance evaluation, Chairman Lee declared the meeting of the Otter Tail County Board of Commissioners adjourned until Tuesday, April 22, 2003.

Dated: _____ OTTER TAIL COUNTY BOARD OF COMMISSIONERS

By: _____
Malcolm K. Lee, County Board Chair

Attest: _____
Larry Krohn, Clerk