

**MINUTES OF THE
OTTER TAIL COUNTY BOARD OF COMMISSIONERS
Government Services Center, 500 Fir Ave W.
Tuesday, December 2, 2003
9:30 a.m.**

Call to Order

The Otter Tail County Board of Commissioners convened Tuesday, December 2, 2003, at 9:32 a.m. at the Otter Tail County Government Services Center 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 Block, and unanimously carried to approve the County Board agenda of December 2, 2003, with the following additions:

- 11:40 a.m. – Personnel Committee Meeting
- 1:30 p.m. – Perham Resource Recovery Facility Discussion
- Closed Session Changed to 2:00 p.m.

Approval of Minutes

Motion by Mosher, second by Nelson, and unanimously carried to approve the County Board minutes of November 25, 2003, as presented.

Approval to Pay Bills

Motion by Nelson, second by Froemming, and unanimously carried to approve payment of County Board bills per Attachment A of the official minutes.

Approval of Final Payment

Motion by Block, second by Nelson, and unanimously carried to authorize final payment to Ulteig Engineers, in the amount of \$3,119.10, for services relative to the fiberoptics installed to the GSC Building.

Facility Master Plan Discussion

Physical Plant Manager, Rick Sytsma, and David Shultz of Shultz Torgerson Architects, presented several long term facility master plan options for the Courthouse Complex. Short term and long term solutions were discussed.

Recess & Reconvene

At 11:02 a.m., Chairman Lee declared the meeting of the Otter Tail County Board of Commissioners recessed for a short break. The meeting was reconvened at 11:10 a.m.

Request for Forgiveness of Penalty

Motion by Nelson, second by Mosher, and unanimously carried to deny a request for forgiveness of tax penalty, in the amount of \$24.96, from Neil Lefeld for parcel #37-000-15-0080-001 because the late payment was not a result of a County error.

Tobacco Licenses

Motion by Mosher, second by Block, and unanimously carried to approve the following applications for license:

Collins Landing
31334 Stage Coach Dr
Dent, MN 56528
Tobacco

Corner Store
28027 County Highway 145
Battle Lake, MN 56515
Tobacco

Lakeland General Store, Inc.
22438 Old 59 Road
Pelican Rapids, MN 56572
Tobacco

Payment Approvals

Motion by Nelson, second by Froemming, and unanimously carried to approve the following payments:

Craig Mitchel	Ditch No. 4	Beaver Removal	\$70.00
Ness Backhoe	Ditch No. 21	Beaver Dam Removal	\$180.00

Final Plat

Motion by Mosher, second by Block, and unanimously carried to approve the Final Plat of Robert P. and Phyllis L. Ellingson known as "Ellingson's Addition" located in Section 3 of Clitherall Township, West Battle Lake (56-239).

Request for Extension to File Final Plat

Motion by Nelson, second by Mosher, and unanimously carried to authorize an extension, until June 1, 2004, to file the Final plat of "McConachie Addition" located in Section 27 of Hobart Township, Long Lake (56-388).

Human Services/County Board Schedule Clarification

Motion by Nelson, second by Froemming, and unanimously carried to clarify the following Human Services and County Board meeting schedule for December:

December 16 – 9:30 a.m. – Human Services followed by County Board Meeting
December 23 – 9:30 a.m. – County Board Meeting
December 30 – 9:30 a.m. – Human Services followed by County Board Meeting
with a short agenda ending by Noon

New York Mills Phone System

Motion by Froemming, second by Nelson, and unanimously carried to approve a new voice mail system in the New York Mills offices at an approximate cost of \$3,000.

Recess & Reconvene

At 11:36 a.m., Chairman Lee declared the meeting of the Otter Tail County Board of Commissioners recessed for a committee meeting and lunch break. The meeting was reconvened at 1:02 p.m.

Tax Court Settlement

Motion by Lee, second by Mosher, and unanimously carried to approve Tax Court Judgment, C0-02-2094, for Jennie-O-Foods, Inc. and authorize the Chairman's signature to execute the document.

Request to Fill Position

Motion by Mosher, second by Lee, and carried with Nelson and Froemming opposed, to authorize the Assistant Highway Engineer to offer an Engineering Tech III position at a Step 4 because of qualifications.

Perham Resource Recovery Facility

Solid Waste Director, Mike Hanan, presented a bill from the City of Perham for the Perham Resource Recovery Facility that represents the County's portion of the deficit for the facility for 2003. Motion by Froemming, second by Nelson, and carried with Mosher and Lee opposed, to authorize payment to the City of Perham, in the amount of \$123,200.00 for the 2003 Resource Recovery Facility deficit.

STEAM SALES AGREEMENT BONGARDS Otter Tail County Resolution No. 2003 - 71

Commissioner Froemming offered the following and moved its adoption:

WHEREAS, Otter Tail County entered into a Waste Delivery Agreement with the City of Perham dated March 23, 2001; and

WHEREAS, The City of Perham entered into a Facility Operating Agreement with Barlow Projects, Inc. dated March 23, 2001; and

WHEREAS, The "Annual Facility Budget" as presented in Appendix B of the March 23, 2001, Waste Delivery Agreements was premised on a \$49 tipping fee and electric energy sales to Otter Tail Power; and

WHEREAS, The participating counties began the delivery of waste, as per the Waste Delivery Agreements, in late December 2001; and

WHEREAS, On April 8, 2002, the City of Perham entered into a Steam Sales Agreement with Tuffy's. At the April 24, 2002, Coordinating Committee Meeting, the Steam Sales Agreement was presented as a tentative agreement and was presented as having a financial benefit to the project of approximately \$42,000 per year. This revenue was proposed to be divided according to the "Energy Revenue Bonus" as per section 5.06 of the contract; and

WHEREAS, On June 5, 2002, the Perham Resource Recovery Facility experienced a turbine over-spin causing considerable damage to the turbine and rendering the turbine inoperable for nearly seven months; and

WHEREAS, Between July and October of 2002, considerable discussion took place regarding the cause of the over-spin, the effect of the over-spin on facility operations and budget, and how the facility could most prudently get back to operations which included electric energy sales; and

WHEREAS, In October 2002, it became necessary to discuss an additional bond issue to fund turbine repair, additional costs of construction, cost overruns, and refractory repair; and

WHEREAS, In addition to an increase in bonded debt, it was also necessary to increase the tipping fee from \$49.00 per ton to \$56.00 per ton; and

WHEREAS, Beginning in 2003, the Perham Resource Recovery Facility began operations under a "Modified Facility Budget", presented by the City of Perham and Barlow Projects, which included an increase in bonded debt, an increase in tipping fees and modifications in operating revenue and expenditures; and

WHEREAS, by the end of the first quarter of 2003, it was obvious that facility throughput was lower than the contract required and facility revenues from tipping fees and energy sales were both considerably below those identified in the "Modified Facility Budget; and

WHEREAS, The participating counties made a decision to hire HDR Engineering to do a detailed evaluation of the project including facility acceptance, financial stability, energy contracts, operations, performance, and budgeting; and

WHEREAS, The initial results from the HDR evaluation have identified some disturbing trends. The original facility budget underestimated facility operating costs, under funded capital equipment replacement costs and over estimated facility revenue from electric energy sales. The study identifies a facility tipping fee that should have been substantially higher from the beginning; and

WHEREAS, The HDR report indicates that the facility meets acceptance as per the contract but it does question the facility's ability to meet guaranteed annual processing tonnage as per the contract; and

WHEREAS, The participating counties are now being asked to approve a contract to sell steam to Bongards which includes an overall change in facility philosophy from a waste processing facility that combusts waste and generates electricity to a steam generation facility that combusts waste and natural gas to produce steam; and

WHEREAS, Otter Tail County acknowledges that based on the operating history of the Perham Resource Recovery Facility and based on the facilities ability to generate electric energy that the Perham Resource Recovery Facility cannot operate at an economically competitive rate without changing from primarily selling electric energy to primarily selling steam energy;

BE IT NOW, THEREFORE, RESOLVED, That Otter Tail County affirms the sale of steam energy as a primary energy revenue source using the existing waste boiler and the existing auxiliary boiler and selling processed steam in the form of electric energy only during peak demand times.

BE IT FURTHER RESOLVED, That the current proposal for steam sales is one of only a number of proposals over the past two years that have been intended to resolve the budgeting problems associated with the facilities operations.

BE IT ALSO FURTHER RESOLVED, That Otter Tail County has expressed concerns regarding the existing facility management team including the contractual relationships between the participating counties, the City of Perham, and Barlow Projects Inc. and Otter Tail County wishes to renegotiate and redefine these contractual relationships.

BE IT ALSO FURTHER RESOLVED, That Otter Tail County is concerned about the current proposed steam contract that has, as terms of the agreement, a proposal to supply more steam from the waste heat recovery boiler or at the waste heat recovery boiler rate than the waste hear recovery boiler is capable of generating.

BE IT ALSO FURTHER RESOLVED, That the current proposed steam sales agreement offers no guaranteed long term contractual obligation to continue the purchase of steam as well as not penalties for not purchasing the annual guaranteed volume of steam.

BE IT ALSO FURTHER RESOLVED, That the existing Tuffy's Steam Sales Agreement and the proposed Bongard's Steam Sales Agreement offer a greater potential revenue source than the Electric Energy Sales Agreement with Otter Tail Power but neither steam sales agreement offers the long term stability of electric energy sales that the City of Perham and Barlow Projects used to promote the long term viability of the resource recovery facility retrofit.

BE IT FINALLY RESOLVED, That this project has gone far off track from where it began. In an effort to begin to move in a more positive direction Otter Tail County is proposing; 1) to exercise the counties' right to terminate the City of Perham's Operating Agreement with Barlow Projects or to at least renegotiate to ensure that Barlow Projects assumes the risk associated with facility throughput, energy production, and operations within budgetary constraints, and 2) Renegotiate the agreements between the City of Perham and the participating counties to more closely resemble a Joint Powers Agreement equalizing risk and benefits, and 3) To approve the Bongard's Steam Sales Agreement using the existing waste boiler or a combination of the existing waste boiler and the existing auxiliary boiler.

Commissioner Block seconded the motion, and upon being put to vote, was carried with a vote of 3 to 2 with Mosher and Lee opposed.

Adopted at Fergus Falls, Minnesota, this 2nd day of December, 2003.

Dated: _____ OTTER TAIL COUNTY BOARD OF COMMISSIONERS

By: _____
Malcolm K. Lee, County Board Chair

Attest: _____
Larry Krohn, Clerk

Emergency Appointment

Motion by Froemming, second by Lee, and unanimously carried to authorize a temporary, emergency appointment for a vacant Financial Officer position.

Sick Leave/Severance Policy

Motion by Block, second by Mosher, and unanimously carried to authorize a 25% payout of accumulated sick leave for Otter Tail County employees who are on layoff status and have worked for Otter Tail County less than 10 years.

**Closed Session
Adjournment**

At 2:24 p.m., Chairman Lee declared the meeting of the Otter Tail County Board of Commissioners closed to the public for purposes of discussing labor negotiation strategies relative to the County's three Sheriff Department Collective Bargaining Units. At 2:40 p.m., upon conclusion of the closed session, Chair Lee declared the meeting of the Otter Tail County Board of Commissioners adjourned until Tuesday, December 16, 2003.

Dated: _____ OTTER TAIL COUNTY BOARD OF COMMISSIONERS

By: _____
Malcolm K. Lee, County Board Chair

Attest: _____
Larry Krohn, Clerk