

**MINUTES OF THE
OTTER TAIL COUNTY BOARD OF COMMISSIONERS**
Government Services Center, 500 Fir Ave. W.
Commissioners' Room
Tuesday, May 4, 2004
9:30 a.m.

Call to Order

The Otter Tail County Board of Commissioners convened Tuesday, May 4, 2004, at 9:30 a.m. at the Otter Tail County Government Services Center with Commissioners Syd Nelson, Chair; Bob Block, Vice-Chair; Roger Froemming, Dennis Mosher, and Malcolm Lee present.

Approval of Agenda

Motion by Froemming, second by Mosher, and unanimously carried to approve the County Board agenda of May 4, 2004, with the following changes:

11:15 a.m. – Wayne Stein

11:30 a.m. – Postponed Performance Evaluation

Approval of Minutes

Motion by Block, second by Lee, and unanimously carried to approve the County Board minutes of April 27, 2004, as mailed.

Approval to Pay Bills

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

Housing & Redevelopment Authority Update

Rehab Specialist, Dennis Christenson, provided a review and update of the HRA Housing Programs. He reviewed projects completed and potential applications to be submitted this fall under the Small Cities Development Program. He reported that Otter Tail County has been approved for a \$56,550 grant from the Department of Employment and Economic Development to do "Lead Based Paint Hazard Reduction" on homes occupied by families with a child under 6 with an elevated blood lead level.

Lead Hazard Control Grant Local Government Resolution
Otter Tail County Resolution No. 2004 - 24

Commissioner Block offered the following and moved its adoption:

BE IT RESOLVED, THAT Otter Tail County acts as the legal sponsor for the Lead Hazard Control Grant and the County Board Chairman and County Board Coordinator are hereby authorized to apply to the Minnesota Department of Employment and Economic Development (DEED) for this project on behalf of Otter Tail County.

BE IT RESOLVED, THAT Otter Tail County has the legal authority to apply for financial assistance, and the institutional, managerial, and financial capability to ensure adequate implementation, construction, operation, and/or maintenance of the proposed project.

BE IT FURTHER RESOLVED, THAT Otter Tail County HAS NOT VIOLATED ANY Federal, State, or local laws pertaining to fraud, bribery, kickbacks, collusion, conflict of interest or other unlawful or corrupt practice.

BE IT FURTHER RESOLVED, THAT Otter Tail County may enter into an agreement with the State of Minnesota for the above referenced project(s), and that Otter Tail County certifies that it will comply with all applicable laws and regulations as stated in all contract agreements.

NOW, THEREFORE, BE IT RESOLVED, THAT the County Board Chairman and the County Board Coordinator or their successors are hereby authorized to execute such agreements, and amendments thereto, as are necessary to implement the project.

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

Adopted and signed this 4th day of May, 2004.

Dated: _____ OTTER TAIL COUNTY BOARD OF COMMISSIONERS

By: _____
Sydney Nelson, County Board Chair

Attest: _____
Larry Krohn, Clerk

Bid Award – Pelican Rapids Transfer Station

After previously advertising for bids, Solid Waste Director, Mike Hanan, presented the following bids for the proposed Pelican Rapids Transfer Station.

Egge Construction Pelican Rapids, MN	\$264,364.00
Comstock Construction Wahpeton, NC	\$282,782.00
All Building Corp Fergus Falls, MN	\$292,800.00

Motion by Lee, second by Froemming, and unanimously carried to award the Pelican Rapids Transfer Station project to the low bidder, Egge Construction of Pelican Rapids, in the amount of \$264,364.00.

Closed to the Public

At 10:00 a.m., Chairman Nelson declared the meeting of the Otter Tail County Board of Commissioners closed to the public to discuss possible litigation with Barlow Projects, the consultant and operator of the Perham Resource Recovery Facility as authorized by attorney-client privilege, Chapter 13D.05 Subd. 3b. Present were Commissioners Nelson, Block, Mosher, Froemming, and Lee, the County Attorney, County Coordinator, Solid Waste Director, and Board Secretary.

Reconvene

At 10:26 a.m., upon completion of the closed session, Chairman Nelson declared the meeting of the Otter Tail County Board of Commissioners open to the public and resumed with the agenda items.

Highway Bid Award – Bridge Replacement Project

After previously advertising for bids, Highway Engineer, Rick West, opened the following bids for S.A.P. 56-599-55, Bridge No. 56J12, at 1:00 p.m., on April 21, 2004:

Riley Bros. Construction, Inc. Morris, MN	\$260,237.00
Gladden Construction, Inc. Laporte, MN	\$328,253.06
Landwehr Construction, Inc. St. Cloud, MN	\$540,605.76

Motion by Lee, second by Froemming, and unanimously carried to award S.A.P. 56-599-55 (grading, surfacing, bridge removal and culvert construction, Bridge No. 56J12) to the low bidder, Riley Bros. Construction, Inc. of Morris, MN, at the bid price of \$260,237.00.

Highway Bid Award – County Wide Seal Coat Project

After previously advertising for bids, the Highway Engineer opened the following bids for S.A.P. 56-601-43 & Etc, at 1:00 p.m. on April 21, 2004:

Morris Sealcoat & Trucking, Inc. Morris, MN	\$946,806.88
Asphalt Surface Technologies Corporation St. Cloud, MN	\$1,068,910.65
Moorseal, Inc. Marshall, MN	\$1,133,455.64
Pearson Bros., Inc. Loretto, MN	\$1,191,144.65

Motion by Mosher, second by Lee, and unanimously carried to award S.A.P. 56-601-43 & Etc., County Wide Seal Coat Project to the low bidder, Morris Sealcoat & Trucking, Inc. of Morris, MN, at the bid price of \$946,806.88.

Highway Bid Award – 2004 County Wide Traffic Marking

After previously advertising for bids, the Highway Engineer opened the following bids for C.P. 04:TM, 2004 County Wide Traffic Marking, at 1:00 p.m. on April 21, 2004:

AAA Striping Service Co. Rogers, MN	\$108,501.40
Traffic Marking Services, Inc. Buffalo, MN	\$115,989.50

Tri-State Striping, Inc. Fargo, ND	\$124,072.94
Swanston Equipment Companies Fargo, ND	\$147,938.20

Motion by Lee, second by Froemming, and unanimously carried to award C.P. 04:TM, 2004 County Wide Traffic Marking to the low bidder, AAA Striping Service Co., of Rogers, MN, at the bid price of \$108,501.40.

Approval of Final Payments for Highway Projects

Motion by Mosher, second by Lee, and unanimously carried to approve Final Payment to Mark Sand & Gravel Acquisition Co., of Fergus Falls, in the amount of \$68,712.94 per Estimate No. 8 for completion of S.A.P. 56-653-07 & etc.

Motion by Lee, second by Mosher, and unanimously carried to approve Final Payment to Central Lakes Specialties, Inc. of Alexandria, MN, in the amount of \$20,488.90, per Estimate No. 8 for completion of S.A.P. 56-090-04.

Recess & Reconvene

At 10:51 a.m., Chairman Nelson declared the meeting of the Otter Tail County Board of Commissioners recessed for a short break. The meeting was reconvened at 11:00 a.m.

Otter Country Trail Association (OCTA)
Otter Tail County Resolution No. 2004 – 25

Commissioner Mosher offered the following and moved its adoption:

WHEREAS, Otter Tail County has sponsored Grant-In-Aid Systems in the past; and

WHEREAS, acceptance of the Grant-In-Aid Systems proposed extensions are subject to the review and approval of the County Attorney.

THEREFORE, BE IT RESOLVED that Otter Tail County shall continue to sponsor Grant-In-Aid Trail Systems as they exist for Otter Country Trail Association and proposed extensions of Grant-In-Aid Trails with the aforementioned condition.

Commissioner Mosher seconded the resolution and, upon being put to vote, was unanimously adopted.

Adopted this 4th day of May, 2004.

Dated: _____ OTTER TAIL COUNTY BOARD OF COMMISSIONERS

By: _____
Sydney Nelson, County Board Chair

Attest: _____
Larry Krohn, Clerk

Approval of Temporary Position

Bill Kalar, Land & Resource Director, requested approval of a temporary summer position to be funded by a Fish & Wildlife grant. Motion by Block, second by Mosher, and unanimously carried to approve a temporary position in the Land & Resource Department, funded by a Fish & Wildlife grant, for biological weed control from May 25, 2004 through August 13, 2004.

Discussion – Specific Plats

Recorder, Wendy Metcalf, discussed with the Board, issues that could result from recording a plat that contains both torrens property and abstract property. Several solutions were discussed including amending the Subdivision Controls Ordinance. Interim zoning by resolution that is effective for only one year may be a short term solution. Ms. Metcalf will research the process further.

Agreements Approved

Motion by Lee, second by Mosher, and unanimously carried to authorize the County Auditor's signature to execute the County Combined Voter Registration-Driver's License Application Data Access and Intended Use Statement.

Motion by Froemming, second by Lee, and unanimously carried to authorize the following:

1. the County Auditor's signature to execute the One-Time Rental of Equipment, Sale of Services and License of Software Agreement with Election Systems and Software, Inc.
2. change the total quantity from 25 to 26 (Effington Township will pay the rental fee for the 26th unit).
3. payment of \$15,762.50 to Election Systems and Software, Inc. from the Election Capital Outlay Budget.
4. add to the agreement that rental dollars could be applied to the purchase of the equipment if purchased by 01/01/2005.

Meeting with the City of Fergus Falls

At 11:30 a.m., The County Board went to the City of Fergus Falls Council Chambers for lunch and discussion. The informal session began at noon regarding the County's role in solid waste activities and responsibilities. Solid Waste Director, Mike Hanan, and Recycling Manager, Rick Denzel, the County Attorney, and County Coordinator attended the session along with the County Board members. The session ended at 1:15 p.m. and the Board members returned to the Government Services Center with the Otter Tail County Board meeting recessed until 2:00 p.m.

Consideration of Ditch No. 38 Redetermination of Benefits

Chairman Nelson reconvened the meeting of the Otter Tail County Board of Commissioners at 2:00 p.m. for consideration of the Ditch No. 38 Redetermination of Benefits. There were approximately 10 members of the public present along with the Ditch Inspector, Ditch Viewers, Land & Resource Director, County Auditor, County Attorney, and County Coordinator.

County Attorney, David Hauser, reviewed the purpose for the meeting. As the Drainage Authority, the County Board has made the determination that the original benefits determined in 1908 no longer reflect current values or the accurate drainage area of the ditch. Therefore, a redetermination of benefits was directed. Viewers were appointed to look at the area and

make a determination. Viewers presented their report and a Public Hearing was held in New York Mills on April 20, 2004. The County Board is now to determine whether or not to adopt the benefits as determined by the Ditch Viewers. The Viewers were asked to look at a few sites where it may be appropriate to make some minor adjustments. Mr. Hauser stated that there may be questions about what repairs could or should be done. However, the purpose of this meeting is whether or not to adopt the redetermination of benefits as presented by the Ditch Viewers or as modified.

Ditch Inspector, Randy Wasvick, stated that the Viewers looked at 6 parcels, 5 different property owners. Minor changes were made on most parcels with the exception of one parcel which was more than minor changes. That parcel had a life estate easement given to NRCS on a lot of wetlands. Much of the land that originally was determined as tillable had quite of bit of peat on the land that didn't show up on the maps. The Viewers added 30 acres to the wetlands with no benefit and 29.92 acres were taken off of tillable land and added to pasture land. Mr. Wasvick reported that the changes have been included in the Ditch Viewers report; however, the modified report has not been mailed to landowners.

At 2:05 p.m., Chair Nelson opened the meeting to the public.

Calvin Mukala expressed concern that the water on his property does not flow into the ditch. Mr. Wasvick stated that the Ditch Viewers made a minor change on one of his parcels but no other changes as it was determined that the water can move under the bridge and into the Ditch. Mr. Mukala asked what he could do if he did not agree with the Ditch Viewers report regarding the flow of water on his property. The County Attorney stated that he would have the right to appeal the decision to District Court. Mrs. Mukala expressed concern that the culvert is too high and the water can't drain under CH 135.

Mr. Mukala presented a petition against the proposed project consisting of cleaning and repairing County Drainage System Number 38 containing 72 signatures.

Gary Buckmeier expressed concern regarding overflow downstream. He also asked about whether or not culverts will be changed. Mr. Wasvick stated that the culverts underneath two township roads may be lowered. The culverts under County or main highways will not be changed. There was lengthy discussion regarding wetlands, who has jurisdiction over wetlands, Happy Jack Lake and DNR jurisdiction over lakes and public waters.

Calvin Mukala asked when the County Board will determine whether this project will be done or not done.

Mr. Hauser stated that, as the Drainage Authority, it is the County Board's responsibility to determine what repairs need to be done and the County Board has an independent responsibility to monitor ditches and keep them in repair. The County Board can take into consideration the petition and landowners comments. The County Board has listened and there are people who want this clean out done and people who do not want it done. He referred landowners to Minnesota Statute 103E and explained why the law is set up for an independent Drainage Authority to make these decisions because all of the people on the drainage system will not agree.

Gary Toepper stated that there are inconsistencies with the Ditch System and he felt the Redetermination should be re-evaluated

Concern was expressed that New York Mills has caused so much extra water going into the Ditch System.

Concerns were expressed that if wetlands are drained, the farmers may lose some of their farm payments. Mr. Wasvick stated that he is working with wetland people and will not be draining type III wetlands. A hardship down river in the case of heavy rainfall was expressed.

Commissioner Lee and Mosher expressed confidence in the Ditch Viewers Redetermination of Benefits. Motion by Block, second by Froemming, and unanimously carried to accept the Ditch Viewers Report as amended.

Adjournment

At 2:55 p.m., Chairman Nelson declared the meeting of the Otter Tail County Board of Commissioners adjourned until Tuesday, May 11, 2004.

Dated: _____ OTTER TAIL COUNTY BOARD OF COMMISSIONERS

By: _____
Sydney Nelson, County Board Chair

Attest: _____
Larry Krohn, Clerk

CB/kd