

**MINUTES OF THE
OTTER TAIL COUNTY BOARD OF COMMISSIONERS**
Government Services Center, 500 Fir Ave. W.
Commissioners' Room
Tuesday, June 1, 2004
9:30 a.m.

Call to Order

The Otter Tail County Board of Commissioners convened Tuesday, June 1, 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 Lee, and unanimously carried to approve the County Board agenda of June 1, 2004, with the following changes:

9:40 a.m. - Property Owner, Mel Frank, Canceled

10:50 a.m. – Court Services Director, Chuck Kitzman, Grant Approval

Approval of Minutes

Motion by Mosher, second by Block, and unanimously carried to approve the County Board minutes of May 25, 2004, with corrections as presented.

Approval to Pay Bills

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

Public Meeting – Allen Boyum Farm

At 9:33 a.m, Chairman Nelson opened a Public Meeting for the pending issuance of a Minnesota Pollution Control Agency Construction Permit for expansion of the Allen Boyum Farm located in Section 35 of Clitherall Township in Otter Tail County. No one from the public was present. No action required.

Discussion – Shoreland Issue

Commissioner, Dennis Mosher, shared an issue that Property Owner, Mel Frank, is dealing with in regards to loading his motor home and the Shoreland Management Ordinance provision that does not allow two dwellings on a site.

Discussion Regarding the Moratorium on the Creation of Cluster Developments

Attorney, Kris Svingen, appeared at the County Board meeting representing Homeland Investments. He stated that Homeland Investments is in the midst of a process set forth by the County's Shoreland Management Ordinance seeking approval for a Conditional Use Permit for a cluster development for the Preserve at Echo Bay on the Pelican Lake chain. Mr. Svingen stated that he is seeking consideration to clarify the effect of the May 25th resolution on the moratorium on cluster developments for his clients, as well as other clients in a similar situation. He stated that his clients have invested their life savings in this project and wanted the project to be judged on its merits. There is substantial case law that deals with the issue of moratoriums on zoning; however, there is no case law in this particular situation where the project is in the EAW process. Mr. Svingen expressed the importance of proper clarification of the effect of the moratorium relative to on-going developments and that

the clarification be consistent with case law precedence. He asked for an opportunity to meet with the County Attorney on this issue and requested a two-week period for this input before a decision is made.

Commissioner Lee clarified that Echo Bay is on Fish Lake (255 acre lake) which is a separately numbered lake classified by the DNR. The proposed development is not on Pelican Lake.

Lengthy discussion took place regarding the application process of Echo Bay and where they are in the application process.

Applicant, Jim Morken, talked about investment in this land and project and stated that a moratorium would be a financial hardship. From a stewardship prospective, he felt the cluster development was the best way to develop this land.

Tami Norgard of the Vogel Law Firm from Fargo, stated that she has been working with property owners. She expressed her opinion that the moratorium should apply to this development and identified several reasons why the County should apply revised zoning regulations to the proposed Echo Bay development. Ms. Norgard spoke to the importance of the County's responsibility to assure that this is a safe, responsible development that does not harm the environment rather than consider the financial situation of the developers. She stressed that the one year moratorium may not affect the time that the development is actually started because of EAW requirements, comment periods, and potential law suits.

County Attorney, David Hauser, stated that he is willing to take input and that it makes sense to make a determination on action the Board has taken. There is a basis for the opinions on each side of the issue. Chairman Nelson requested that the County Attorney proceed with research on the issue and return with advice to the County Board.

Recess & Reconvene

At 10:08 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 10:15 a.m.

Contract for Perham Resource Recovery Facility Litigation

Motion by Froemming, second by Mosher, and carried with Nelson opposed, to authorize the Chairman's signature to execute a Contract between Otter Tail, Wadena, and Todd Counties and the Pemberton, Sorlie, Rufer & Kershner Law Firm for legal work in the case of Barlow Projects, File No. 2004-4104, regarding the Perham Resource Recovery Facility. The Contingent Fee Retainer provides for \$50,000 to be split on a prorated portion between the three counties.

Payment Approval

Motion by Mosher, second by Block, and unanimously carried to approve payment for \$16,695.00, payable to Review Enterprises, Inc., for the First and Second Publication of the 2003 Delinquent Tax List.

Game and Fish License Agent Contract

Motion by Lee, second by Block, and unanimously carried to authorize the County Auditor's signature on the Game and Fish License Agent Contract between the State of Minnesota, Department of Natural Resources and Otter Tail County for the period of July 1, 2004, through February 28, 2009.

Bid Opening Approval

Highway Engineer, Rick West, reported that the plans for the temporary foundation repairs for the Mill at the Phelps Mill Park are complete and he requested authorization to proceed with bid opening for the project. Motion by Froemming, second by Block, and unanimously carried to authorize the Highway Engineer to proceed with the Bid Opening for Temporary Foundation Repairs at Phelps Mill.

Johnson etal vs. Otter Tail County Stipulation

Motion by Mosher, second by Froemming, and unanimously carried to approve the Johnson etal vs. Otter Tail County Stipulation, Court File #C8-03-71, as presented by the County Attorney.

Approval of Final Payment

Motion by Lee, second by Block, and unanimously carried to approve Final Payment, payable to Comstock Construction of Fergus Falls, in the amount of \$33,825.12, for completion of Project No. F22082.

Remote Electronic Alcohol Monitoring

Motion by Lee, second by Froemming, and unanimously carried to authorize the appropriate County officials' signatures to execute Amendment No. 2 to Grant No. 4738 between the State of Minnesota DOC and the County of Otter Tail, which provides additional funds of \$2,700.00 for the REAM Program for FY 2004. The REAM grant funds originally provided by the State for FY2004 were exhausted on March 5, 2004.

Recess & Reconvene

At 10:45 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.

Work Release Services

Motion by Lee, second by Block, and unanimously carried to authorize the appropriate County officials' signatures to execute Amendment No. 2 to the Joint Powers Agreement between the County of Otter Tail Detention Facility and State of Minnesota DOC for additional funding of \$14,500.00 for work release services for FY2004.

Recess for Budget Committee Meetings

At 11:05 a.m., Chairman Nelson declared the meeting of the Otter Tail County Board of Commissioners recessed for Budget Committee meetings.

Reconvene**New York Mills Veterans Service Office**

At 11:38 a.m., Chairman Nelson reconvened the County Board meeting for discussion regarding staffing at the New York Mills Veterans Service Office. VSO, Jourdan Sullivan, briefed the Board on the volunteer position in the New York Mills office. This position

provided for clerical work and a presence in the office when the VSO travels to other parts of the County to service veterans. The volunteer has been active for the past five years; however, is now unable to continue with the volunteer activities. Mr. Sullivan expressed a need for a permanent, part time employee; however, because the funds are not budgeted, discussion took place about the possibility of hiring a temporary employee to assist in getting the office caught up. Lengthy discussion continued. Motion by Lee, second by Mosher, and unanimously carried to authorize the Veterans Service Officer to transfer, up to \$4000,00, from the VSO Capital Improvement Fund to the VSO Operating Fund and approve hiring a temporary, part-time employee from a temporary service or to research other employment service programs.

License Application

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

BPOP Elks Lodge #1093
20970 Elks Pint RD
PO Box 502
Fergus Falls, MN

Temporary On-Sale License
Date of Event – 06/06/2004

Recess & Reconvene

At 12:10 p.m., Chairman Nelson declared the meeting of the Otter Tail County Board of Commissioners recessed for lunch break. The meeting was reconvened at 1:01 p.m. for scheduled agenda items.

Technology Training

GIS Coordinator, Sherry Leabo, briefed the County Board on the different types of specialized software used throughout the County. She reported that web based software is the new product that is a way to deliver services that is here to stay. She expressed a strong need; however, that as new products evolve, that Otter Tail County works together among the many departments so the software can be accessed and used to its fullest capabilities. GIS Coordinator, Brian Armstrong spoke about their primary focus, parceling, and the value it could provide in the planning stages of development regulation.

Ditch No. 43

Ditch Inspector, Randy Wasvick, reported that he received a letter and map from Terry Lejcher from the DNR for Ditch No. 43. This Ditch is in Dane Prairie Township and the township is trying to lower Rosvold Lake so they can save a township road (270th Avenue). Through the elevations as shown on the map presented by the Ditch Inspector, when Rosvold Lake is lowered, water will flow through Balstad Lake and into a wetland. They are tiling from the wetland west over to Tjostelson Lake. If they do this at the elevation of Balstad Lake, water will end up at Madsen Lake and could flow overland. Terry Lejcher suggested that Ditch 43 apply for a permit from the DNR to allow the tile to be installed 0.5 feet below the Balstad Lake OHWL. Discussion continued. Motion by Mosher, second by Froemming, and unanimously carried to authorize the Ditch Inspector to apply for a permit from the DNR for Ditch System No. 43 for the purpose as described above, at a cost of \$75.00, to be paid from the Ditch No. 43 Fund.

Adjournment

At 1:33 p.m., Chairman Nelson declared the meeting of the Otter Tail County Board of Commissioners adjourned until Tuesday, June 8, 2004.

Dated: _____ OTTER TAIL COUNTY BOARD OF COMMISSIONERS

By: _____
Sydney Nelson, County Board Chair

Attest: _____
Larry Krohn, Clerk

CB/kd