

**MINUTES OF THE
OTTER TAIL COUNTY BOARD OF COMMISSIONERS
Government Services Center, 500 Fir Ave. W.
Commissioners' Room
Special Meeting, Thursday, April 14, 2005
4:00 p.m.**

Present:

County Staff:

Chairman, Bob Block	Commissioner, Roger Froemming
Commissioner, Malcolm Lee	Commissioner, Dennis Mosher
Commissioner, Sydney Nelson	County Coordinator, Larry Krohn
Board Secretary, Kathy Domholt	

Shoreland Rules Revision Committee Members:

Gene Albers	Brad Mergens	Marsha Bowman
Gene Miller	Rod Boyer	James Morken
Bruce Brenden	Dan Passolt	Terry Colton
Milt Paulson	Gary Cruff	Michael Pendency
Michael Cummings	Stu Peterson	Donald Davenport
Robert Deutschman	Gale Pfeiffer	Tom Ebacher
Bruce Qvammen	G. Paul Ruehmann	Donald Fondrick
Bob Russell	Allen Haugrud	Debra Ann Sazama
David Hauser	Steve Schierer	Glen Shaw
Jerry Horgen	Dan Skinner	Bill Kalar
Jeff Stabnow	Justine Kingham	Paul Tongen
Terry Lejcher		

Introduction: County Board Chairman and Chairman of the Shoreland Rules Revision Committee, Bob Block, provided background on the process of obtaining public input regarding the Shoreland Management Ordinance. There were four public information meetings held throughout the County and consequently, the Shoreland Rules Revision Committee was organized from volunteers and several meetings were held through the past year. One issue that was expressed was concern of how other Commissioners were learning the issues and points of view of the Shoreland Rules Revision Committee. With that goal in mind, the County Board will listen to the Committee's viewpoints by way of following an outline, which addresses the main issues. Chair Block read the Special Meeting Notice for the record.

Outline: Land & Resource Director, Bill Kalar, briefed the committee on handouts and reviewed a proposed timeline for amendment of the current Shoreland Management Ordinance. The existing moratorium on cluster developments ends the end of May, 2005. Should the Board decide that the SMO will be changed, the timeline is provided to accomplish amendment to the Ordinance.

Mr. Kalar introduced discussion on No. 1 of the outline (Attachment A):

Should Otter Tail County Revise its Shoreland Management Ordinance?

Stu Peterson, President of Star Lake Property Owners Association as well as Star Lake Association Subgroup and Owner of land on Star Lake:

- allow for special protection districts of sensitive areas on GD (RD) lakes at the level of NE lakes
- Star Lake Association adopted a resolution at a recent meeting in support of special protection districts (Attachment B)

Michael Pandy, Owner of Four Seasons Resort on Rush Lake and Vice-President of Otter Tail Country Tourism Association:

- resorts need to stay in existence – current rules provide no options
- rules need to be re-written for commercial developments in order to maintain, update and expand current tourism operations

Justine Kingham, Architect and lives on Pelican Lake:

- continuing lot & block developments will change the rural environment appearance where you have a cluster of buildings with open space around
- don't want density to change
- if 1.B. and 1.C are enforced, you will solve 1.C. (refer Attachment A)

Tom Ebacher:

- SMO needs to be revised to allow more freedom to allow visitors that may stay overnight in a tent or a camper and allow storage of campers or RV's
- exclude small buildings and dog houses from the permit requirements
- expand Appeal Process to 30 days

Bob Russell:

Provided handout entitled Comments on "Sensitive Areas", dated April 14, 2005 (Attachment C):

- Ordinance needs some change
- no consensus on increasing lot sizes
- set forth objective criteria/standards and empower professional staff; require staff recommendations to be set forth in writing and shared with landowner prior to hearing on any application
- two major problems that affect lake quality include 1) public accesses; and 2) existing substandard lots (see Attachment C)

Don Fondrick, Representing "Other" group on Committee:

- crowding, density, urbanization – needs to be addressed
- increase lot sizes across the board
- reduce multipliers on tiers for cluster developments
- identify sensitive areas to help prevent development on those areas

Mike Cummings:

- a University of Minnesota study has found that there is absolutely no trend in water clarity based upon the density on the water
- University of Minnesota concluded that the people living on the lakes just don't want anyone else living on the lake
- the public needs to be considered

Bob Deutschman, President of the Dead Lake Association:

- the current SMO that went into effect many years ago, did not plan for the extra crowding and urbanization on these lakes
- Ordinance needs to be changed to preserve water quality for future generations

Glen Shaw, Star Lake Association Board:

- Star Lake Association supported a resolution at their annual meeting that the Ordinance needs revision and study

Terry Colton, Resort Owner and Realtor:

- agrees that density provides no trend in relation to water quality (as stated by Mr. Cummings)
- rules need to be tweaked; but cannot be done effectively in four months
- tiling is a problem as far as what is going into the lakes
- resorts need to be identified separately, so they can continue to operate
- meetings have not produced a solution or hardcore facts
- this group needs to continue to meet and study the issues

Dan Passolt, Homeland Developers:

- rules are good as written now; but could use some tweaking for clusters
- current rules give Planning Commissioner and County Board flexibility to make suggestions and changes appropriate for each particular development
- separate rules for resorts vs. proposed clusters – each need their own tweaking

Jim Morken, Homeland Developers:

- in sensitive areas, you need to separate water surface regulations from land regulations
- land is land and water is water and they are separate issues

Gene Miller, Miller Engineering:

- 1.A. of outline needs to be addressed, not 1.B. and 1.C. (refer to Attachment A)
- existing properties are affecting water quality
- septic system setbacks need to be increased from the OHWL (greater distance from the water than current)
- protect the water; don't drive away the people

Mr. Kalar introduced discussion on No. 2 of the outline:

2. Otter Tail County should continue to allow some form of Cluster/Planned Unit Development (PUD).

Justine Kingham:

- PUD's and/or clusters encourage open space that preserves the appearance of rural environment
- PUD concept requires detailed review, which allows for control and protection of the water from individual impacts
- do not allow commercial uses outside of PUD – keep it the way it is now with CUP application

Bob Russell:

- cluster developments are the best place for use in sensitive areas and should be changed from not allowed to CUP
- need to address the informal Common Interest Communities
- need to address if a cabin can be rented out during the winter - Ordinance needs to address what is commercial and what isn't

Gary Ruehmann, Committee Member and Lake Property Owner:

- agree with Justine Kingham - PUD's need to be well-designed and have good oversight
- need staffing group that is capable to provide oversight for good plans
- Environmental Quality Board is in process of establishing new regulations that would set specific guidelines for lakeshore development which would be more stringent and have different setting mechanisms for EIS
- Moratorium should be continued while the revisions process is taking place

Gene Miller:

- PUD concept protects the lake because sewer and water systems are designed so they do protect the lake
- current lot & block development doesn't provide the same type of quality
- PUD needs to be benefited by the tier system, because PUD protects the lake better than lot & block development
- PUD can have homeowners association which protects the lake
- suggest that the County staff be strengthened

Mike Cummings:

- tourism is second largest industry in Minnesota and OTCo. has the second largest number of resorts in this industry
- disagree that the cluster development is an improvement for the resort business
- consider the economics of these regulations and what it can do to the County itself

Jim Morken:

- Otter Tail County is currently very conservative compared to the State regulations on cluster rules

Mr. Kalar introduced discussion on No. 3 of the outline:

3. Sensitive Area Indicators (8 items identified as sensitive indicators)

Bob Russell:

- Refer to handout (Attachment C)
- change "Sensitive Area" to "Preservation Area"
- committee sub-group tried to identify reasonable consequences of an area being classified as a sensitive area (listed on handout)
- Sensitive Area Designation Process
- sensitive areas should be developed as PUD

Terry Colton:

- new development should meet either a 30/30 (30% of frontage 30 ft. back must be left undisturbed forever) or 50/50
- whatever is decided, everyone lives with

Justine Kingham:

- protect the environment and sensitive areas
- if sensitive, no one should be developing
- if one area is threatened, look at it and that is what the application process is for
- as sensitive areas increase, it should be more difficult to develop
- agree that sensitive areas should apply to everyone

Dan Passolt:

- sandy beach is a sensitive area and should be on the list

Gene Miller:

- A, B, C, F, & H are already addressed by PUD process - the only thing left is water, not land
- people are polluting
- rules are already in place – don't make more rules
- save the taxpayers money and use it on roads, etc.

Stu Peterson:

- Star Lake Association Board went on record to support the 8 criteria identified in No. 3 of the outline
- consider 8 factors as equal and bring forward a formula to administer sensitive areas

Terry Lejcher, DNR:

- the Committee has not fully explored sensitive area indicators, but with added research on the issue, Primary Sensitive Indicators could be used
- developer would come to development with a Resource Map before area is developed and would identify PSI that should be avoided
- Add a PSI to list - soils that are suitable for on-site sewage disposal
- consider secondary sensitive indicators and those would be negotiable
- Resource Map process may help to address some issues before development dollars are spent

Jim Morken:

- larger developments address sensitive area issues under current rules (EAW)
- smaller developments may need to be required to address sensitive areas

Mike Cummings:

- boat density is not from people living on the lakes - it is from those enjoying boating on the weekend and enjoying family activity - the public owns the lakes in Minnesota

Glen Shaw:

- development is going to take place and people are going to use the lakes, but development has to be sensible
- sensitive area criteria will provide good sense in developing and is good first step

Bruce Qvammen:

- if project has 4 or 5 sensitive indicators, it should be required to be a PUD
- consider a 9th sensitive issue – decreased land property estate sales as opposed to one year ago is economically very sensitive
- talking about people's lives, not just a piece of property

Mr. Kalar introduced discussion on No. 4 of the outline:

4. Presentation Requirements

Milt Paulson:

- streamline and improve the CUP process
- professional staff should review a project prior to going to the Planning Commission so "red flags" could be raised prior to investing money in surveys, etc.

Gene Miller:

- recommend committee like Douglas County with professional staff and do not recommend the process used by Becker County

Bob Russell:

- Attorneys should be able to attend Planning Commission meetings (legal proceeding) without raising "red flags"

- Planning Commission needs to have appropriate education and understand the EAW process better - need to have professional staff backing up the Planning Commission

Jim Morken:

- agree 100% with empowering staff and having qualified personnel
- County can afford additional staff because the lake property will bring in dollars

Don Fondrick:

- information coming from the GIS Staff is important to identify sensitive areas - there could be a better system
- Land & Resource needs more staff and better training

Mr. Kalar introduced discussion on No. 5 of the outline:

5. Density

Glen Shaw, Committee of Property Owners Rights:

- the issue of a second dwelling or not being able to park an RV or Camper on a parcel is a problem

Tom Ebacher:

- overnight visitor in a tent or RV should be allowed
- County should allow permits for larger groups - can restrict permits if there are problems and have control with the larger groups

Justine Kingham

- Point 5.3.a. density issue when increasing number of units by duplex or triplex
- agree that people should be able to have a guest
- need to make an allowance for lot coverage so more side space is left open
- look at the University of Illinois, MN, WI, & Ohio websites – they have advice on land use – all of the information says this should be density neutral

Gary Cruff:

- do not allow visitors – tents or RV; on holidays extra campers are already happening, – don't expand

Mike Pandy:

- need to increase density for commercial operations
- keep current resorts and tourism here
- to develop tourism in the future, different density for commercial investments is required; cannot have same requirements as 4,000 sq. ft. house development

Stu Peterson

- public meetings showed frustration with not being able to have a visitor with a camper or tent – in favor of doing this by permitting

Gene Miller:

- 5.3.d. – Road Frontage Requirements – do not waste a lot of land by making road frontage requirements too wide

Dan Passolt:

- 5.3. not everyone wants to maintain a large lake lot

Gary Reuhmann:

- reason for large lots on NE lakes is that you don't maintain it, leave it natural to assist better quality of the lake, absorb storm water runoff, and provide wildlife habitat

Don Fondrick

- increased density and degradation of the lake and lake water requires more study

Jim Morken:

- 5.3.a. duplex, triplex, quad should be allowed if the square footage requirement is met
- rules should be established to get a benefit if you put in a duplex because it will create more green space around the lake and rules shouldn't penalize the miniature form of clustering

Terry Colton

- lot size is increased per situation by extrapolating wetlands, bluffs, etc.
- if lot size is increased, the result may be more land that gets mowed

Glen Shaw:

- Star Lake Association is in favor of increasing lot sizes for both single family dwellings and the multipliers

Mr. Kalar introduced discussion on No. 6 of the outline:

6. Surface Water Run Off

Lori Jayne Grahn, Member of the Public:

- provided handouts (Attachment D)
- opposes a current situation whereby a neighbor is building too close to a wetland
- requested a 300' setback requirement from a wetland in Otter Tail County

Bruce Brenden, Committee Member & Water Plan Committee Member:

- spoke in opposition of a 300' setback requirement as this would create quite a lot of land that wouldn't be able to be farmed

Gale Pfeiffer:

- familiar with retired person who wants to build and enjoy the wildlife - house is well-above the water level and approximately 50' setback from wetland

Lori Jayne Grahn:

- clarified that the 300' wetland setback recommendation is for wetlands that are more than 80' deep and more than an acre in size

Don Fondrick:

- 6.A. recommend changing to 12-15% impervious surface requirement
- need larger lots as people begin to move in full time in the County - they will need more accessory buildings

Tom Ebacher:

- need better definition of impervious surface in the SMO
- need guidance for what kind of surfaces can be put in for driveways that are not considered impervious so they can allow runoff to flow into the soil instead of run off

Gene Miller:

- keep current multipliers for PUD
- if make multipliers more stringent, developers will do lot & block development
- keep current 25% impervious surface requirement
- if change impervious surface to 15%, then should require existing lots to meet the new impervious surface requirement as well if they wish to change anything on the lot

Terry Lejcher:

- would support 15% impervious surface and larger lot size
- Governor's initiative working in the Brainerd area may be going to 12% impervious surface and bigger lots

Recess & Reconvene:

At 6:03 p.m., Chairman Block declared the Special Meeting of the Otter Tail County Board of Commissioners recessed for supper break. The Chairman reconvened the meeting at 6:42 p.m.

Glen Shaw:

- 6. B. Vegetative Buffer Strips – 50' buffer strips preferred by the Star Lake Association – 25' minimum

Jim Morken:

- buffer strips in a PUD should allow a trail/walking path within buffer strip area
- allow lot lines in a legal description in a cluster and may enhance values to own the ground underneath you, subject to other restrictions

Glen Shaw:

- Vegetative Buffer Strip issue – recommend for new and present development

Gene Miller

- recommend buffer strip be the shore impact zone with a minimum of 50'

Justine Kingham

- opposed paths through buffer zones because the handicap accessible requirements, (grade or slope 12% maximum and larger width) would not lend to a natural environment
- buffer zone should be natural environment, undeveloped, untouched

Michael Pandy

- resort conversions – lot lines for this purpose need to be taken into consideration that these old resorts are going to be different – may need joint ownership for the septic system, etc.

Mr. Kalar introduced discussion on No. 7 of the outline:

7. Surface Water Use

Bob Russell:

- give flexibility in system so you can have common docks for subdivided property and not limit to having common docks only on cluster developments
- need to get away from the concept that every lot in a subdivision has to have a dock
- look at the situation and limit the number of docks and allow people to double up or triple up

Terry Lejcher:

- recommend location of docks on lot line so docks are side by side and reduce the impact on aquatic vegetation

Jim Morken:

- de-valuing land because of the water is a concern - these are separate issues
- no-wake zones are appropriate in certain areas

Tom Ebacher:

- surface water use should be dealt with if the lake water is deteriorating, but should not be a political issue where some people don't like certain boat traffic

Terry Colton:

- 50/50 issue (50% of lot frontage/50 ft. back) for perpetuity, takes care of 50% of the lot for dock issues and would create that zone development free - doubling surface right away and protecting that strip of frontage

Terry Colton:

- law should not be all-inclusive on dock issue - should only apply if there is a vegetative area on the lake that would be affected if dock placed on that lot

Don Fondrick:

- consider lake classification when regulating docks

- water is not just water and land is not just land - land and water meld together and it is far more complex than separating the two

Mr. Kalar introduced discussion on No. 8 of the outline:

8. Road Requirements

Gene Miller:

- suggest requirements to build roads to proper design speed across the County

Gary Cruff:

- the township should set up the rules for road requirements

Jim Morken:

- should consider the purpose of the road – Echo Bay Project proposes private roads for calm traffic, privacy, and safety

Jeff Stabnow, Engineer:

- need formal way for the townships to accept participation to get roads upgraded when development coming in

Bob Russell:

- need efficient mechanism so roads being used coincide with the roads being constructed
- private roads in subdivisions should be allowed if done correctly in both clusters and traditional development

Mr. Kalar introduced discussion on No. 9 of the outline:

9. Variances

Gene Miller

- be lenient on variances for a favor – like buffer strip

Gary Cruff:

- a variance should not be allowed on a new lot

Dan Passolt:

- PUD process should address all issues and not include variance process

Bob Russell:

- Planning Commission is too subjective and must change

Terry Lejcher:

- standards must be met – must have hardship to obtain a variance (economics do not constitute a hardship)
- not legal to subdivide a lot that requires a variance for its intended use

Additional Comments from Members of the Public & Committee Members:

- lakes are our greatest asset
- need better, more stringent rules
- variance language should not be applied to cluster developments – all elements should be considered within the PUD
- cannot divide the land and water; one affects the other
- agree with preliminary mapping system
- need professional staff working with developers
- concerned by blanket increase in lot & block development with the hopes of indirectly affecting cluster development
- clean set of rules for developers
- concern with lack of regulation for developments outside the 1,000'
- managing runoff during construction is important
- request for Planning Commission to meet with owners on-site at a prescribed time
- extend regulations to shallow water basins between 25-50 acres in size

Chairman Block asked the group if Otter Tail County should revise its Shoreland Management Ordinance. By show of hands, the majority agreed that the County's Shoreland Management Ordinance should be revised.

Adjournment:

The meeting was adjourned at 7:40 p.m.

Dated: _____

OTTER TAIL COUNTY BOARD OF COMMISSIONERS

By: _____

Robert Block, County Board Chair

Attest: _____

Larry Krohn, Clerk