

**MINUTES OF THE
OTTER TAIL COUNTY BOARD OF COMMISSIONERS**
Government Services Center, Commissioners' Room
500 Fir Avenue W., Fergus Falls, MN
Tuesday, December 5, 2006
9:30 a.m.

Call to Order

The Otter Tail County Board of Commissioners convened Tuesday, December 5, 2006, at 9:30 a.m., at the Otter Tail County Government Services Center with Commissioners Roger Froemming, Chair; Dennis Mosher, Vice-Chair; Syd Nelson, Bob Block, and Everett Erickson present.

Approval of Agenda

Motion by Mosher, second by Block, and unanimously carried to approve the County Board agenda of December 5, 2006, as mailed.

Approval of Minutes

Motion by Nelson, second by Block, and unanimously carried to approve the County Board minutes of November 28, 2006, as mailed.

Approval to Pay Bills

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

Meal Reimbursement Discussion

Solid Waste Director, Mike Hanan, provided copies of two receipts that his employees submitted for meal reimbursement. Discussion took place regarding meal receipts that are provided to employees from restaurants vs. information needed by the Auditors in order to reimburse the expense. Motion by Block, second by Erickson, to authorize payment of these meal expenses as submitted until a specific policy can be implemented to communicate to employees the exact information needed in order to receive reimbursement. Motion carried 3-2 with Froemming and Mosher opposed.

Fergus Falls Transfer Station Update

Mr. Hanan briefed the County Board on a recent meeting with the MPCA Citizen's Board regarding the proposed Fergus Falls Transfer Station. The Citizen's Board heard testimony from each side of the issue and the end result was a negative declaration for an Environmental Impact Statement (EIS). Mr. Hanan stated that the County will proceed with the next step, which is to request a Special Use Permit from the Township.

Petition for Impoundment – Ditch No. 38

County Auditor, Wayne Stein, provided copies of a Petition for Impoundment in Ditch No. 38 pursuant to Minnesota Statutes 103E.227. County Attorney, David Hauser, stated that the petition is in order including a bond and an engineer's report. Motion by Nelson, second by Block, and unanimously carried to request that the County Highway Engineer review the engineer's report submitted with the petition. A Public Hearing will be established within 30 days after receiving the County Highway Engineer's report.

License Approval

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

Big Chief Inc. Fergus Falls, MN	Tobacco
Dalton Municipal Liquor Store Dalton, MN	Tobacco
Olson Tire and Oil Inc. Ottertail, MN	Tobacco
Super H, Inc. Elizabeth, MN	Tobacco
Tom's Amoco Henning, MN	Tobacco
Wagon Wheel Richville, MN	Tobacco

Certificate of Correction to Plat

Motion by Mosher, second by Froemming, and unanimously carried to approve, as prepared by David A. Anderson, Professional Land Surveyor, the attached Land Surveyor's Certificate of Correction to Plat of Bluegill Bay Estates (attached as Attachment B).

Budget Review for 2007 – Outside Agencies

Mr. Stein presented the County Board recommended budgets for Outside Agencies for CY2007 as previously discussed. Discussion followed regarding the new proposal from the Soil and Water Conservation Districts and the Ag Advisory Committee budget. Motion by Nelson, second by Mosher, to approve the recommended budgets for Outside Agencies as presented with the addition of \$20,000.00 for the ESWCD New Proposal contingent upon matching funds by the SWCD's. Motion carried 4 – 1 with Block opposed.

Oath of Office

Everett P. Erickson, Commissioner of the Second District in Otter Tail County, took the Oath of Office administered by Judge Mark F. Hanson.

Highway Project Update

Highway Engineer, Rick West, updated the Board on Highway Construction and Design Projects completed or in progress from the 2006 construction season.

LEEDS Certification

Physical Plant Manager, Rick Sytsma, encouraged the Board to proceed with the Leadership in Environmental Engineering and Design process for the proposed Ottertail City Operations Center as air quality and energy savings become increasingly important. Architect, David Shultz, explained the aspects that LEED or Green Design brings to construction projects. He explained the certification process and the involvement of outside contractors to ensure all systems work together in a building project. Motion by Block, second by Nelson, and unanimously carried to approve pursuing the LEEDS Certification for the Ottertail City

Operations Center as the County becomes a leader in Green Building practices in terms of the environment and energy efficiencies and to authorize the Chairman to sign an amendment to the Architectural Design Contract of David Shultz and Associates for the Operations Center at an approximate cost of \$29,000.00.

Approval of Final Plat

Motion by Erickson, second by Nelson, and unanimously carried to approve the Final Plat entitled "Second Addition To Preston's Lakeview Beach", GL 3, Part of Lot 23 of Preston's Lakeview Beach and Adjacent Vacated Road and Part of Lot 1 of Nelson's Oakwood Park Beach, Section 23, Township 134N, Range 43W, Elizabeth Township; Jewett Lake (56-877).

Final Plat Extensions

Motion by Erickson, second by Mosher, and unanimously carried to authorize an extension to January 31, 2007, for filing the Final Plat entitled "Lorene Shores" in Section 11 of Elizabeth Township, Long Lake (56-784).

Motion by Froemming, second by Mosher, and unanimously carried to authorize an extension to February 1, 2007, for filing the Final Plat entitled "The Pier" in Sections 21 & 28 of Otter Tail Township; Otter Tail Lake (56-242).

Conditional Use Permit Request – Blue Heron Bay

At 11:10 a.m., Land & Resource Director, Bill Kalar, provided an information packet relative to Blue Heron Bay Development, including the Application for Conditional Use Permit dated 11/20/2002. Since that time, there have been a variety of actions and additional information including Court actions and environmental reviews. In addition to the original application, Mr. Kalar provided the Planning Commission's original two motions, the County Board's action of April 22, 2003, and a copy of Page 28 of the existing SMO which is a checklist that should be used when making decisions regarding Conditional Use Permits. Also, the packet includes a comparison of the proposed requests, revised request received on 11/28/06 for 121 dwelling units and 116 boat slips, a Summary Table of Impacts/Mitigation showing areas of concerns that have been identified and mitigation strategies, a list of governmental approvals and permits required, a letter from Bob Russell, Attorney for Blue Heron Bay, and Land & Resource Management Office comments. Mr. Kalar referred to Item #16 of the Land & Resource Office document and stated that today, the County Board may come to a decision in regards to the CUP request. There will be some time needed to put together a written record of the decision; therefore County Officials would request until December 19, 2006, to prepare the final findings and conclusions.

County Attorney, David Hauser, stated that a formal record is appropriate and the Board members should consider the application and other available information, Environmental Assessment Worksheet and comments, Environmental Impact Statement (EIS) and comments, Otter Tail County Resolution No. 2006 – 14 relating to the County's Ordinance which was approved by the DNR and the fact that, the County, basically, has zoned, the Adequacy Determination of the EIS, the original negative EIS declaration and the scoping decision and the recommendation of the Planning Commission. This was considered by the Planning Commission pursuant to the SMO; however, no final decision could be made until the environmental review process was completed, which was not completed until the adequacy determination on the EIS after the Courts directed that an EIS be completed. This matter was not sent back to the Planning Commission because the membership has changed

since 2002 and the Planning Commission members have not had a chance to review all of the information of the environmental review process. Mr. Hauser stated that the County has met the requirements of the ordinance and now, are meeting the requirements of the environmental review process, and a final determination will be made by the County Board and needs to be made within 60 days of the determination that the EIS was adequate. December 31, 2006, is the end of 60 days as the findings of the Adequacy decision was made on October 31, 2006. Mr. Hauser noted that this meeting is scheduled as a Public Hearing to take information on the CUP request so the proposer and the public have an opportunity, in light of the additional information known because of the EIS, whether or not a CUP should be issued and if so, what conditions should apply. Mr. Kalar has recommended conditions he believes are appropriate, conditions have been submitted from the proposer, and the public may have recommendations for conditions they would like included. The County Board could also consider the table from the EIS concerning mitigations that might be appropriate. Mr. Hauser advised the Board to consider all of the information relative to the revised request of the proposer and any amendments to the request.

Chairman Froemming opened the floor to the developer. Jim Erickson, Owner of Blue Heron Bay Land Co. LLC, explained, as follows, the amended CUP proposal and asked for an opportunity to respond to questions from the public. The Planning Commission recommended approval of a 125 unit development and the County Board approved a 138 unit development. The amendment changes the number of units requested to 121 dwelling units spread in outlots and custom home sites divided into 3 phases: Phase 1 – the top of the large peninsula; Phase 2 – the southern part of the peninsula; and Phase 3 – the eastern side of the large peninsula.

Phase 3 – In 2003, the approved plan showed 31 units on the eastern side, 9 single sites and 11 buildings. This has been reduced to 27 units by removing 2 buildings. The only change in Phase 3 is reduction from 31 to 27 units. Blue Heron Bay Land Co. has entered into an option with the Trust for Public Land to acquire the parcel to convey to the DNR for inclusion in their current Wildlife Management area. Mr. Erickson stated that this is supported as an appropriate mitigation strategy. If the sale does not happen, the proposal is 27 units on the east side exactly as proposed before except for reduction of 4 units.

Phase 2 – same proposal except the site of the old barn and silo, which was to be the lodge area. The proposal is to move the lodge into the Phase 1 property; therefore the only change in Phase 2 is to insert housing units on that site and take the lodge off. On south piece of ground, reduced the number of units – footprint is the same but with fewer units.

Phase 1 – largest change from the proposal in 2003. The lodge is incorporated on a site that previously contained 6 or 7 housing units. The road is a little different with the marina the same. There are 58 units proposed in phase 1, 36 units proposed in phase 2 for a total number of 94 units. If the 3rd phase is sold, the maximum number of units would be 94 compared to 138 requested originally. Reduction is a mitigation factor.

Mr. Erickson explained that the 94 units are contained on a total of 79 pad sites; 2 units of duplex would be 1 pad site. Only 79 sites are proposed to be built on in Phase 1 and Phase 2. The maximum number of units would be 94 but could be less. The double diamonds shown on the map are 7 units that bring a new option to the market place. These designated 7 units permit an individual to build a home and guest house or 2 smaller homes

or duplex; however, there will be a requirement for single ownership. For example, Mr. Erickson showed Lots 1 & 2 where he plans to build a home and guesthouse which would account for 2 units. The wastewater system will be a cluster system.

Cluster dock systems are proposed and there are changes to these dock facilities. The docks are proposed as follows:

Phase 1: 40 slips proposed on a dock facility by Outlot B

12 slips proposed on the island close to the proposed lodge

6 slips proposed limited to small motors

Phase 2: 40 slips proposed on a site below where the lodge was originally located

12 slips on the tip of the peninsula

Phase 3: 6 slips limited to small motors

Mr. Erickson stated that the current SMO permits 119 slips and the request is asking for 116. The locations of the dock facilities are subject to discussion; however, the developers feel that they have been placed in the best areas. The request would be for 110 slips if the land in Phase 3 is sold to the Trust for Public Lands.

The time frame for beginning Phase 1 construction is this spring starting with the lodge and Mr. Erickson's home, with the rest depending on success in selling lots in the market place. Phase 1 and the road to the lodge would be worked on first waiting on Phase 2 initially.

Steve Langley, of the Dead Lake Town Board, stated that the Township has an agreement with Mr. Erickson that Blue Heron Bay Land Company would pay for improvements on ½ mile of road from 370th into the Blue Heron Bay property and there will be continued discussions regarding roads with the Township.

The land added to the project was the peninsula (isthmus) and a separate island. The island is owned by Connor Schmidt. Blue Heron Bay Land Co. is purchasing the island on a Contract for Deed. The island has been removed from the project but the isthmus is included. Mr. Erickson stated that Blue Heron Bay Land Co. will soon own the island as a warranty deed.

Blue Heron Bay Land Co. Attorney, Bob Russell, requested copies of the DLA mitigation recommendations and Land & Resource Department's mitigation recommendations presented today for their review over the noon hour. At 11:58 a.m., Chairman Froemming declared the Otter Tail County Board of Commissioners' meeting recessed for lunch break.

At 1:00 p.m., Chairman Froemming reconvened the Board of Commissioners' meeting and the Blue Heron Bay CUP Request Public Hearing.

Terry Sullivan, of Richville, MN, representing the DLA, introduced three Board members speaking on behalf of the DLA as follows:

DLA Board member, Don Fondrick, of Richville, MN, presented a handout entitled "Dead Lake Association's Recommendation For Development Of Blue Heron Bay Property" dated December 5, 2006 and discussed the following issues:

- Density has always been an issue with this development. Reduction in the number of units would go along with the EIS.

- He recommended 70 residential units in a cluster development with no time shares and no more than two clusters of docks with boat slips not to exceed one per unit or 50 single family units in lot and block design.
- Districting/Zoning for Development
- No commercial uses
- Mitigation Strategies
- The East portion of the property which is about 50 – 60 acres in Phase 3 should never be developed because it is extremely sensitive property.

Mr. Fondrick suggested that the County Board not make a decision today and continue the Public Hearing on December 12, 2006 after the DLA, developer, and County officials have had time to discuss differing viewpoints.

DLA Member, Doug Martin, Mpls, MN, read for the record, a letter dated December 5, 2006, regarding the Blue Heron Bay Development Conditional Use Permit signed by DLA President, Terryll L. Sullivan.

DLA Member, Spencer Schram, Mpls, MN, spoke in regards to the need for districting in order to grant a CUP for a cluster development in Otter Tail County. With the Final EIS along with mitigation strategies, there is substantial agreement regarding Blue Heron Bay and, obviously substantial disagreement on the density issue; however, this issue, too, has closed substantially. Mr. Schram stated that it is the DLA's position that districting is a legal requirement for Otter Tail County to issue a CUP for a cluster development on a lake. It is not the DLA's position that the County Board needs to zone Otter Tail County or zone all the lakes in the County. The DLA believes that the legal requirement is that in order to grant bonus density, you need to district a particular lake. State law uniquely provides for County Boards to manage controversy like the Blue Heron Bay development by creating a zoning map within the five allowed uses around the lakeshore. Mr. Schram discussed the timelines for this project and the time that would be required to create a District Plan for Dead Lake. The DLA has not relinquished its legal rights; however, as part of the anticipated conversations in the next several days, the parties in this situation may come together with a plan on how to proceed for mapping/zoning the shoreline areas of Dead Lake that may identify and permit additional Conditional Use Permits for cluster developments in the future on other parts of the lake, with the time to provide for the research and understand what the caring capacity of the lake is and what the bonus density may be in the event that the whole lakeshore isn't developed in a lot and block plan. Mr. Schram stated that the lake association is willing to give consideration for this process and maintain the County's timeline. He requested that 2-3 representatives of the County, 2-3 members of the DLA, the developer and his designees talk about how to proceed to resolve this districting matter at this time, while providing for a longer term process to more fully develop the districting plan for Dead Lake. The letter dated November 20, 2006, sent to the County Board from Rinke Noonan Law Firm was discussed.

Mr. Hauser referred to the districting issue and Otter Tail County Resolution No. 2006 – 14. At the time of the resolution, there was a feeling from the Board that, in fact, Otter Tail County was zoned in one zone and the County had received approval from the DNR to do it that way and the question remains as to where would cluster developments be prohibited. Density bonuses in Otter Tail County are less than what would be authorized under the statewide standards not just because dense commercial developments are not allowed, but also, the County's standard density bonuses are less than what is authorized. Otter Tail County has

addressed this legislatively and if the Supreme Court had all of that information when they made their decision, they would have likely said that the County's Ordinance is valid. Because of this position, the County did not direct Mr. Kalar to move forward with districting.

Ernest West of Richville Township spoke regarding the CUP request process.
Cheryl Harris spoke regarding density relative to the acreage in each phase of the project.

As requested by the developer and the DLA and to allow for further discussion between the interested parties, Chairman Froemming continued the Public Hearing for the CUP request for Blue Heron Bay at 1:15 p.m. on Tuesday, December 12, 2006.

Recess & Reconvene

At 2:08 p.m., Chairman Froemming declared the meeting of the Otter Tail County Board of Commissioners recessed for a short break. The meeting was reconvened at 2:15 p.m.

Employee of the Month Program

Motion by Block, second by Erickson, and unanimously carried to authorize a transfer of funds, in the amount of \$862.41, from the Commissioners Contingency Fund to the Employees' Committee for the Employee of the Month program.

Amendment to Contract

Motion by Froemming, second by Mosher, and unanimously carried to authorize the Chairman's signature to execute a 2006 Amendment to the MCIT Drug and Alcohol Testing Program Participation Agreement, which authorizes an increase for lab testing from \$36.50 to \$39.00 for random drug testing for positions requiring a commercial drivers license.

Adjournment

At 2:30 p.m., Chairman Froemming declared the meeting of the Otter Tail County Board of Commissioners adjourned until Tuesday, December 12, 2006.

Dated: _____ OTTER TAIL COUNTY BOARD OF COMMISSIONERS

By: _____
Roger Froemming , Board of Commissioners Chair

Attest: _____
Larry Krohn, Clerk

12/05/2006
 12:04:46

OTTER TAIL COUNTY AUDITOR IFD66
 PANELSON RECEIPTS AND DISBURSEMENTS SYSTEM COUNTY 56
 WARRANTS FOR PUBLICATION PAGE 1

WARRANTS APPROVED ON 12/05/2006 FOR PAYMENT 12/05/2006

VENDOR NAME	AMOUNT
A-1 TROPHY	11.61
AVIANDS LLC	3,180.23
APPLIED CONCEPTS INC	37.28
AUTO VALUE FERGUS FALLS	298.13
GAYLON BAKKEN	211.45
BEN FRANKLIN	24.39
BLIZZARD BLADE	407.25
RIAN BOSSE	123.75
BROCK WHITE COMPANY LLC	571.19
CALL ONE INC	59.60
CARR'S LAKE COUNTRY SUPERMARKE	44.10
CHECKERS	7.55
CITIZENS ADVOCATE	707.55
CO OP SERVICES INC	42.96
COOPERS TECHNOLOGY GROUP	961.45
COUNTRY GLASS INC	30.50
D & S EXCAVATING OF VINING LLC	832.50
DIVERSION AUTO	1,007.71
JAMES EASTMAN	30.00
ECONO SALES AND SERVICE	452.76
CHUCK EHRENBERG	154.97
ELECTION SYSTEMS & SOFTWARE IN	15,075.55
F-M FLOORING INC	308.43
FARGO GLASS AND PAINT CO	499.03
FERGUS ELECTRIC	229.49
FERGUS FALLS POLICE DEPT	4,191.51
FERGUS INTERNATIONAL INC	130.89
FERGUS TIRE CENTER	534.71
FERRELLGAS	197.69
GALL'S INC	26.61
GODFATHERS EXTERMINATING INC	122.48
GOODIN COMPANY	28.14
GR GRAPHICS INC ST LOUIS	419.01
PATRICK GRIFFIN	26.66
HEDAHL'S HEADQUARTERS	5.84
HENRY'S FOODS INC	1,205.93
INNOVATIVE OFFICE SOLUTIONS	482.70
INTERSTATE INC	17.11
J EGGUM METALS & RECYCLING	6,405.00
JJ'S COMPANY EXCAVATING LLC	720.00
K-MART	10.64
KELLY SERVICES INC	1,405.71
KNUTSON ELECTRIC REBUILDING	110.85
KOALA DIVISION	128.30
L & L SERVICE	46.08
LAB SAFETY SUPPLY INC	81.46
LAKE REGION DENTAL CENTER	259.00
LARRY OTT INC TRUCK SERVICE	1,390.00
LAWSON PRODUCTS INC	340.79

12/05/2006 OTTER TAIL COUNTY AUDITOR IFD66
12:04:46 PANELSON RECEIPTS AND DISBURSEMENTS SYSTEM COUNTY 56
WARRANTS FOR PUBLICATION PAGE 2

WARRANTS APPROVED ON 12/05/2006 FOR PAYMENT 12/05/2006

VENDOR NAME	AMOUNT
ROGER LEWIS	142.45
MARK SAND & GRAVEL CO	420.24
MATTHEW BENDER & COMPANY INC	682.90
MIDWEST PRINTING CO	367.43
MN ASSOC OF CO OFFICERS	240.00
MN ASSOC OF TOWNSHIPS	15.00
MN MOTOR COMPANY	91.90
MN SHERIFFS ASSOCIATION	275.00
MN STATE BAR ASSOCIATION	354.50
MONITOR TIRE DISPOSAL INC	3,160.80
NATIONAL BUSINESS SYSTEMS INC	15,000.00
NELSON FORD LINCOLN MERCURY IN	578.84
SIDNEY NELSON	134.95
NEW YORK MILLS HERALD	176.00
NORTHERN SAFETY TECHNOLOGY INC	846.36
NORTHLAND BUSINESS SYSTEMS INC	2,380.55
NORTHWEST LASERS INC	470.61
OFFICE DEPOT	123.44
ONE CALL LOCATORS LTD	159.54
OTIS ELEVATOR CO	96.25
OTTER TAIL CO EMPLOYEES COMMIT	248.00
OTTER TAIL CO TREASURER	16.00
OTTER TAIL TELCOM	431.98
OTTERTAIL TRUCKING INC	9,975.60
OVERHEAD DOOR COMPANY	3,119.00
PAMIDA INC 008	8.08
PELICAN RAPIDS PRESS	130.00
PEPSIAMERICAS	206.10
PERHAM ENTERPRISE BULLETIN	276.21
PERHAM SAND & GRAVEL	360.00
PITNEY BOWES	1,008.00
QUARTERMASTER	133.95
RINGDAHL AMBULANCE SERVICE	370.00
RON JENSEN ELECTRIC	5,250.00
ROYAL TIRE INC	109.35
CHERI SCHULTZ	43.87
WAYNE SHOL	1,188.54
SIMPLEXGRINNELL LP	1,527.21
SOUTHTOWN C-STORE	27.11
THE STATE CHEMICAL MFG CO	243.38
STEINS INC	2,196.13
STREICHERS	88.03
TEAM LABORATORY CHEMICAL CORP	132.65
THYSSEN KRUPP ELEVATOR CORPORA	1,307.29
TRIMIN SYSTEMS INC	2,431.20
UNIFORMS UNLIMITED	86.80
VICTOR LUNDEEN COMPANY	8.74
VIKING COCA-COLA	152.25
VOSS LIGHTING	312.90

12/05/2006 OTTER TAIL COUNTY AUDITOR IFD66
12:04:46 PANELSON RECEIPTS AND DISBURSEMENTS SYSTEM COUNTY 56
WARRANTS FOR PUBLICATION PAGE 3

WARRANTS APPROVED ON 12/05/2006 FOR PAYMENT 12/05/2006

VENDOR NAME	AMOUNT
WEST PAYMENT CENTER	2,081.95
WESTRIDGE DENTAL CENTER	84.00
YAHOO	20.39

**** FINAL TOTAL..... \$102,888.01 ****

LAND SURVEYOR'S CERTIFICATE OF CORRECTION TO PLAT

Name of Plat: BLUEGILL BAY ESTATES

Pursuant to the provision of Chapter 505 175, Laws of Minnesota, 1957, David A. Anderson, the undersigned, a Professional Land Surveyor in and for the State of Minnesota, declares as follows

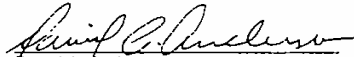
1 That the plat of BLUEGILL BAY ESTATES, dated February 13, 2004 and filed on March 29, 2004 in the office of the County Recorder, Otter Tail County, Minnesota, in Book G of Plats, Page 848, was prepared by David A. Anderson, Professional Land Surveyor Minnesota License No. 13620

2 That said plat contains the following errors to wit

In the Curve Table, the curves designated as C2 and C21, the delta angle listed is 04 degrees 33 minutes 44 seconds and under the plat dedication description, the third paragraph, the eleventh line down, the call of "angle of 04 degrees 33 minutes 44 seconds, for an arc distance of 156.63"

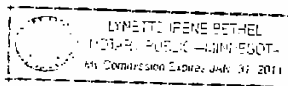
3 That said plat is hereby corrected as follows, to wit

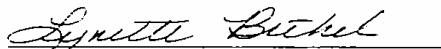
The delta angle for the curves designated as C2 and C21 is 04 degrees 33 minutes 45 seconds and the correct call in the plat dedication description is "angle of 04 degrees 33 minutes 45 seconds, for an arc distance of 156.63"


David A. Anderson
Professional Land Surveyor
Minnesota License No. 13620

STATE OF MINNESOTA
COUNTY OF OTTER TAIL

The foregoing instrument was acknowledged before me this 29th day of November, 2006, by David A. Anderson




Notary Public, Otter Tail County, Minnesota
My Commission Expires Jan. 31, 2011

This above Certificate of Correction to the plat of BLUEGILL BAY ESTATES has been approved by the Board of Commissioners of Otter Tail County, Minnesota, at a regular meeting held on the _____ day of _____, 200__

Chairman of the County Board

Attest