

**MINUTES OF THE
OTTER TAIL COUNTY BOARD OF COMMISSIONERS**

Otter Tail County Courthouse
Commissioners' Room, Floor 1-B
Tuesday, September 4, 2001
9:30 a.m.

Call to Order

The Otter Tail County Board of Commissioners convened Tuesday, September 4, 2001, at 9:30 a.m. at the Otter Tail County Courthouse with Dennis Mosher, Vice-Chair; Syd Nelson, Malcolm Lee, and Bob Block present. Chairman Roger Froemming was absent until 9:50 a.m.

Approval of Agenda

Motion by Nelson, second by Lee, to approve the County Board agenda of September 4, 2001, with the following additions:

- Add Land & Resource Director, Bill Kalar
- Request for Approval of Registered Land Survey
- Discussion - Letter from Ralph Humstad

Motion carried unanimously.

Approval of Minutes

Motion by Block, second by Lee, and unanimously carried to approve the County Board minutes of August 28, 2001, as mailed.

Correction to August 21, 2001, County Board Minutes

Motion by Lee, second by Nelson, to correct the August 21, 2001, County Board minutes under the heading Conditional Use Permit - "Pocahontas Resort"/Collene C. Barnick as follows: In the first paragraph, third sentence, remove the language "12' x 56' units" and replace with the word "campsites". Motion carried unanimously.

Approval of Lake Region HealthCare Corp. Financial Documents

Lake Region HealthCare Corporation officials requested approval of financial documents to allow Lake Region Hospital to move forward with the issuance and sale of a \$6,000,000 Health Care facilities revenue note to facilitate a remodeling project. County Attorney, David Hauser, stated that he reviewed the documents and found language whereby there will be no liability to the County; however, there were some missing pages in other areas. Financial Advisor, Tom Mayfield, stated that full clean copies would be provided to Mr. Hauser for his review. Motion by Nelson, second by Block, and unanimously carried to authorize the Chair's signature to execute all financial documents relative to the \$6,000,000 revenue note for the LRHC remodeling project contingent upon the approval of the County Attorney.

Commissioner Block introduced the following resolution and moved its adoption contingent upon approval of the County Attorney of the financial documents for the issuance of the revenue note for the Lake Region HealthCare Corporation project:

OTTER TAIL COUNTY RESOLUTION NO. 2001 - 46

**RESOLUTION APPROVING THE ISSUANCE AND SALE OF A \$6,000,000
HEALTH CARE FACILITIES REVENUE NOTE, SERIES 2001 (LAKE REGION**

**HEALTHCARE CORPORATION PROJECT) AND AUTHORIZING THE
EXECUTION OF DOCUMENTS RELATING THERETO**

BE IT RESOLVED, by the Board of Commissioners (the "Board") of Otter Tail County, Minnesota (the "Issuer"), as follows:

Section 1. Recitals. It is hereby found, determined, and declared as follows:

- a. Under Minnesota Statutes, Sections 469.152 through 469.165, as amended (the "Act"), the Issuer is authorized and empowered to issue revenue obligations to finance or refinance all or any part of the costs of a project consisting of the refinancing of debt incurred with respect to, or acquisition and betterment of, health care facilities or facilities of organizations described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code") and to refund bonds previously issued under the Act.
- b. As required by the Section 469.154, Subdivision 4 of the Act and Section 147(f) of the Code, an initial resolution was adopted on June 19, 2001, scheduling a public hearing on the proposed issuance of revenue obligations, in one or more series, in an amount not to exceed \$6,000,000 to undertake and finance a project described in Exhibit A hereto (the "Project") all with respect to Lake Region Healthcare Corporation, a Minnesota nonprofit corporation and organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Borrower"), the corporate offices of which are located at 712 South Cascade Street in Fergus Falls, Minnesota.
- c. As required by the Section 469.154, Subdivision 4 of the Act and Section 147(f) of the Code, the Issuer has on July 17, 2001 held a public hearing on the issuance of revenue obligations and the proposal to undertake and finance the Project, at which all those appearing who desired to speak were heard and written comments were accepted.
- d. The Project is located in the City of Fergus Falls, Minnesota (the "City"). The City has approved the Joint Powers Agreement between the Issuer and the City regarding the issuance of the Note (described below) (the "Joint Powers Agreement").
- e. A resolution was adopted by the Board on July 17, 2001 which gave preliminary approval to the issuance of revenue obligations and the proposal to undertake and finance the Project, approved the Joint Powers Agreement and referred the proposal regarding the issuance of revenue obligations in order to finance the cost of the Project on behalf of the Borrower to the Minnesota Department of Trade and Economic Development ("DTED"). The findings of the Board contained in said resolution are hereby ratified and confirmed as though stated in full herein.
- f. The following documents have been submitted to this Board and are on file in the office of the Clerk (the "Documents"):
 - i. A Loan Agreement (the "Loan Agreement") to be entered into between the Issuer and the Borrower, pursuant to which the Borrower agrees to repay the

loan made thereunder in specified amounts and at specified times sufficient to pay in full when due the principal of, premium, if any, and interest on the Note (described below).

- ii. A Construction Loan Agreement (the "Construction Loan Agreement") to be entered into among the Issuer, the Borrower and Community First National Bank with an office located in Fergus Falls, Minnesota (the "Lender"), pursuant to which the Lender will disburse the proceeds of the Note (described below).
- iii. A Pledge Agreement (the "Pledge Agreement") to be entered into between the Issuer and the Lender, pursuant to which the Issuer pledges and grants a security interest in all of its rights, title, and interest in the Loan Agreement (except for certain rights to fees and reimbursement of certain costs and expenses and for indemnification) to the Lender.
- iv. A Security Agreement (the "Security Agreement") to be entered into between the Borrower and the Issuer, pursuant to which the Borrower will secure its obligations under the Loan Agreement, including the payment of amounts due under the Loan Agreement, by granting to the Lender a security interest in the revenues described therein (the "Collateral").
- v. A Parity Agreement (the "Parity Agreement") to be entered into among the Issuer, the City, the Lender and The First National Bank in Sioux Falls, setting forth the respective rights of the parties thereto in the Collateral.
- vi. An Assignment of Security and Parity Agreements (the "Assignment"), from the Issuer to the Lender pursuant to which the Issuer assigns its interest in the Security Agreement and the Parity Agreement. (The Loan Agreement, the Construction Loan Agreement, the Pledge Agreement, the Security Agreement, the Parity Agreement and the Assignment are collectively referred to herein as the "Issuer Documents").
- vii. The form of the Note (described below).

Section 2. Findings. The issuance and sale of the \$6,000,000 Health Care Facilities Revenue Note, Series 2001 (Lake Region Healthcare Corporation Project) (the "Note") by the Issuer, pursuant to the Act, is in the best interest of the Issuer. The Issuer will receive substantial benefit from the Project located in the Issuer which will provide health care services and facilities, including health care facilities within the meaning of the Act, accessible and available on an equal basis to residents of the Issuer.

Section 3. The Note:

- a. In order to provide for the financing of the Project, the Issuer hereby determines, based on representations of the Borrower, that the offer of the Lender to purchase the Note in an original principal amount of not to exceed \$6,000,000, at an initial interest rate of not to exceed 5.00% per annum, subject to adjustment as provided in the Note, and upon the terms and conditions hereafter specified and specified in the

Note is reasonable and is hereby accepted. The Issuer will loan the proceeds of the Note to the Borrower in order to finance the Project.

- b. The Note shall be in substantially the form submitted to the Board and shall mature in the years and amounts, be subject to redemption, and bear interest at the rate as therein specified, subject to adjustment as therein specified.
- c. The Note will be a special limited obligation of the Issuer. The Note shall not be payable from or charged upon any funds other than the revenues pledged to the payment thereof, nor shall the Issuer be subject to any liability thereon. No holder of the Note shall ever have the right to compel any exercise of the taxing power of the Issuer to pay the Note or the interest thereon, nor to enforce payment thereof against any property of the Issuer. The Note shall not constitute a debt of the Issuer within the meaning of any constitutional or statutory limitation. The Note will not constitute an indebtedness, a pecuniary liability, a moral or general obligation or a loan of the credit of the Issuer or a charge, lien or encumbrance, legal or equitable, against the Issuer's property, general credit or taxing powers.

Section 4. Approval and Execution of Documents.

- a. The Issuer Documents and the Note are hereby made a part of this Resolution as though fully set forth herein and are hereby approved in substantially the forms presented to the Board. The Chair and the County Coordinator are authorized and directed to execute, acknowledge, and deliver the Issuer Documents and the Note on behalf of the Issuer with such changes, insertions, and omissions therein as the Issuer's attorney may hereafter deem appropriate, such execution to be conclusive evidence of approval of such documents in accordance with the terms hereof.
- b. The Chair, the County Coordinator, the Clerk and the Treasurer are authorized and directed to execute and deliver all other documents which may be required under the terms of the Issuer Documents or the Note or by bond counsel, and to take such other action as may be required or deemed appropriate for the performance of the duties imposed thereby to carry out the purposes thereof.
- c. The Chair, County Coordinator, Clerk, Treasurer and other officers of the Issuer are authorized to furnish to the Lender, the Borrower, and bond counsel certified copies of all proceedings and records of the Issuer relating to the Note, and such other affidavits and certificates as may be required to show the facts relating to the legality and marketability of the Note as such facts appear from the books and records in the officers' custody and control or as otherwise known to them; and all such certified copies, certificates, and affidavits, including any heretofore furnished, shall constitute representations of the Issuer as to the truth of all statements contained therein.
- d. In the event that for any reason the Chair, County Coordinator, Clerk or the Treasurer are unable to carry out the execution of any of the documents or other acts provided herein, any other officer of the Issuer or member of its Board as in the opinion of the Issuer's attorney, are authorized to act in that capacity and undertake such execution or acts on behalf of the Issuer, shall without further act or authorization execute and deliver the Note and do all things and execute all instruments and documents

required to be done or executed by such officers, with full force and effect, which executions or acts shall be valid and binding on the Issuer.

Section 5. Registration.

- a. Registered Form. The Note shall be issued only in fully registered form. The Note shall be numbered R-1 in a denomination equal to the principal amount thereof.
- b. Registration, Transfer and Exchange. The Issuer appoints the Clerk as bond registrar and transfer agent for the Note (the "Registrar"). The effect of registration and the rights and duties of the Issuer with respect thereto are as follows:
 - i. Register. The Registrar must keep a bond register for the Note in which the Registrar provides for the registration of ownership of the Note and the registration of transfers and exchanges of the Note.
 - ii. Transfer of Note. Upon surrender for transfer of the Note duly endorsed by the registered owner thereof or accompanied by a written instrument of transfer, in form satisfactory to the Registrar, duly executed by the registered owner thereof or by an attorney duly authorized by the registered owner in writing, the Registrar will authenticate and deliver, in the name of the designated transferee, one new note in an aggregate principal amount equal to the then outstanding principal amount of the Note and of like maturity, as requested by the transferor. The Registrar may, however, close the books for registration of any transfer after the fifteenth day of the month proceeding each interest payment date and until such interest payment date.
 - iii. Exchange of Note. When the Note is surrendered by the registered owner for exchange the Registrar will authenticate and deliver one new note in an aggregate principal amount equal to the then outstanding principal amount of the Note and of like maturity, as requested in writing by the registered owner or the owner's attorney.
 - iv. Cancellation. A Note surrendered upon any transfer or exchange will be promptly canceled by the Registrar and thereafter disposed of as directed by the Issuer.
 - v. Improper or Unauthorized Transfer. When the Note is presented to the Registrar for transfer, the Registrar may refuse to transfer the Note until the Registrar is satisfied that the endorsement on the Note or separate instrument of transfer is valid and genuine and that the requested transfer is legally authorized. The Registrar will incur no liability for the refusal, in good faith, to make transfers which it, in its judgment, deems improper or unauthorized.
 - vi. Persons Deemed Owners. The Issuer and the Registrar may treat the person in whose name the Note is registered in the bond register as the absolute owner of the Note, whether the Note is overdue or not, for the purpose of receiving payment of, or on account of, the principal of and interest on the Note and for all other purposes, and payment so made to a registered owner or upon

the owner's order will be valid and effectual to satisfy and discharge the liability upon the Note to the extent of the sum or sums so paid.

- vii. Taxes, Fees and Charges. For a transfer or exchange of the Note, the Registrar may impose a charge upon the owner thereof sufficient to reimburse the Registrar for any tax, fee or other governmental charge required to be paid with respect to the transfer or exchange.
- viii. Mutilated, Lost, Stolen or Destroyed Note. If the Note becomes mutilated or is destroyed, stolen or lost, the Registrar will deliver a new Note of like amount, number, maturity date, redemption privilege and tenor in exchange and in substitution for and upon cancellation of the mutilated Note or in lieu of or in substitution for any Note destroyed, stolen or lost, upon the payment of the reasonable expenses and charges of the Registrar and Issuer in connection therewith; and, in the case of a Note destroyed, stolen or lost, upon filing with the Registrar of evidence satisfactory to it that the Note was destroyed, stolen or lost, and of the ownership thereof, and upon furnishing to the Registrar and Issuer of an appropriate bond or indemnity in form, substance and amount satisfactory to it and as provided by law, in which both the Issuer and the Registrar must be named as obligees. A Note so surrendered to the Registrar will be canceled by the Registrar. If the mutilated, destroyed, stolen or lost Note has already matured or been called for redemption in accordance with its terms it is not necessary to issue a new Note prior to payment.

Section 6. Bank Qualified. In order to qualify the Note as a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Code, the Issuer hereby makes the following factual statements and representations:

- a. based upon representations of the Borrower, the Note, when issued, will be a qualified 501(c)(3) bond under Section 145 of the Code;
- b. the Issuer hereby designates the Note as a "qualified tax-exempt obligation" for purposes of Section 265(b)(3) of the Code;
- c. the reasonably anticipated amount of tax-exempt obligations (other than obligations described in clause (ii) of Section 265(b)(3)(C) of the Code) which will be issued by the Issuer (and all entities whose obligations will be aggregated with those of the Issuer) during the calendar year in which the Note is issued will not exceed \$10,000,000; and
- d. not more than \$10,000,000 of obligations issued by the Issuer during the calendar year in which the Note is issued have been designated for purposes of Section 265(b)(3) of the Code.

Section 7. Subject to DTED Approval. Notwithstanding anything in this Resolution to the contrary, the approvals and authorizations given herein are specifically subject to and contingent upon the receipt of approval of the Project by DTED.

Adopted this 4th day of September, 2001.

Dated: _____ OTTER TAIL COUNTY BOARD OF COMMISSIONERS

By: _____
Roger Froemming, County Board Chair

Attest: _____
Larry Krohn, Clerk

The motion of the adoption of the foregoing Resolution was duly seconded by Commissioner Lee and, upon vote being taken, the following voted in favor thereof: Commissioner Block, Nelson, Lee, and Mosher.

the following voted against the same: None

the following were absent: Commissioner Froemming

whereupon, said Resolution was declared duly passed and adopted, and approved and signed by the Chair and attested by the Clerk.

PROJECT DESCRIPTION

The Project consists generally of the general updating, remodeling and equipping of the Corporation's nursing home and 108-bed hospital; remodeling and equipping a portion of the Corporation's nursing home for use as an inpatient rehabilitation unit, reducing the number of skilled nursing home beds from 44 to 14; and constructing an approximately 4,273 square foot addition to the hospital and nursing home facilities to house rehabilitative services.

Proposals for Change

Lakeshore owner, Joe Honrud, expressed complaints regarding Land & Resource Management office personnel as well as provisions contained in the Shoreland Management Ordinance. Commissioners requested that Mr. Honrud submit his complaints and requests, in writing, and separate Shoreland Management Ordinance changes from personnel complaints.

Chairman Present

At 10:21 a.m., Chairman Froemming presided over the remainder of the County Board meeting.

County Ditch No. 4

Former Ditch Inspector, Tiny Holm, presented the Ditch Viewers report for County Ditch No. 4. Many of the properties that were looked at as a result of the Public Hearing were either taken out of the total benefit or received a reduced benefit based on a classification change. The total ditch benefit was reduced from \$75,000 to \$66,505. Motion by Froemming, second by Lee, and unanimously carried to accept the Ditch Viewers report as presented by Mr. Holm. The County Attorney will draft an order for redetermination and notice will be sent to landowners.

Discussion took place regarding the bid of \$27,000 from Duane Muench to clean out the next mile and one-half. Motion by Froemming, second by Nelson, and unanimously carried to authorize the Ditch Inspector to request additional quotations for the 1½ mile clean out for Ditch No. 4 and further, to authorize replacement of the culvert on Highway 136.

Animal Agriculture Generic Environmental Impact Statement Meeting

Extension Educator, Doug Holen, updated the Board on a recent GEIS meeting. In 1998, a committee of 25 members was formed to address the state of agriculture. The committee put together eight general themes and 76 recommendations to the State of Minnesota regarding animal agriculture. The recent meeting was for input to be incorporated in the final draft resulting from this committee. Discussion took place regarding responsibility for dealing with ag related complaints.

Approval to Pay Bills

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

Increased NSF Charges

Treasurer, Steve Andrews, requested authority to increase NSF charges from \$20 to \$30 as allowed per state law. Motion by Mosher, second by Block, and unanimously carried to increase NSF charges from \$20 to \$30 as allowed.

Bid Award - S.P. 56-624-10

After previously advertising for bids, Highway Engineer, Rick West, opened bids at 1:00 p.m. on August 29, 2001, for Reconstruction of CSAH No. 24 (approximately 7 mile project) as follows:

Mark Sand & Gravel Acquisition Co. Fergus Falls, MN	\$3,339,755.30
Kern & Tabery, Inc. Wadena, MN	\$3,865,785.74
Central Specialties, Inc. Alexandria, MN	\$3,971,912.83

Motion by Lee, second by Mosher, and unanimously carried to award to the low bidder, Mark Sand & Gravel Acquisition Co., in the amount of \$3,339,755.30, the CSAH No. 24 Reconstruction project, S.P. 56-624.10, MN Project No. STPX 5600(167).

Buy-out of Lease Agreement - New York Mills Building

Motion by Lee, second by Nelson, and unanimously carried to authorize pay off of the New York Mills building loan according to the payment schedule previously established. Pay off amount due is \$28,048.39.

Perham Resource Recovery Facility

Chair Froemming reported on a recent meeting regarding the Perham Incinerator. Work is progressing and they expect to be operational in December of this year.

Registered Land Survey

Motion by Lee, second by Nelson, and unanimously carried to approve Registered Land Survey No. 12, GL 5 of Section 18, Township 137N, Range 41W. GL 5 is being subdivided into 3 tracts and follows the preliminary plat. The survey was completed by MN Registered Land Surveyor, Roy A. Smith, No. 12004.

Letter Acknowledged

Commissioner Mosher provided copies of a letter from Ralph Humstad. Mr. Humstad is asking for an amendment to the Cluster Development rules in the Shoreland Management Ordinance

indicating that family reunions or weekend camp outs be allowed. Family reunions and weekend campouts are not prohibited. Additional campers are restricted by the SMO. Lengthy discussion followed regarding density issues around the lakes. The County Attorney will draft a letter in response to this specific situation and offer alternative options for large family reunions.

Health Fairs

Commissioner Block acknowledged the great work of the employees at the Health Fairs, specifically time spent by Public Health employees.

Adjournment

At 11:34 a.m., upon a motion by Nelson, second by Froemming and unanimously carried, the meeting of the Otter Tail County Board of Commissioners was adjourned until Tuesday, September 11, 2001.

Dated: _____ OTTER TAIL COUNTY BOARD OF COMMISSIONERS

By: _____
Roger Froemming, County Board Chair

Attest: _____
Larry Krohn, Clerk

CB/kd

Enc.