

TOWN OF BRIDGE CREEK
REGULAR MONTHLY MEETING
THURSDAY- JUNE 19TH, 2014
7:30 P.M. – TOWN HALL

The meeting was called to order by Acting Chair - Supervisor Steve Weiss at 7:35 p.m.

Roll Call: Board members present: Supervisors Steve Weiss, Dean Solie, Ricky Strauch, Dean Solie; Treasurer, Tamy Moss; Clerk, Patti Warner absent (Chairman Jeff Gerike)

Also Present: Attorney Rick Schaumberg, LeRoy Rindahl, Carol Peuse, Vaughn Nagahashi, Christine Yellowthunder, Terry O'Donohue, Mary O'Donohue, Jane Justesen, Glory Adams

Pledge of Allegiance:

Motion to approve the agenda was made by Supervisor Dean Solie. Seconded by Lynn Norheim. Motion carried: Supervisor; Steve Weiss (aye) Dean Solie (aye) Ricky Strauch (aye) Lynn Norheim (aye)

Citizen Comment

Christine Yellowthunder – concerns with blasting – passed report on what happened at her home. Lives 1 ¼ mi. from blast site – windows were open and entire house shook. Asked who is in charge of our blasting ordinance is it the state or township. June 5th there were several reports. Attorney Schaumberg stated we have adopted state ordinance. He suggested we contact the state safety and professional services department for concerns. Christine wants to propose and request that the board have Scott McCurdy conduct a geological formation study... 2nd comment given increased knowledge over last 18 months and what has been learned that we require any future mine to do a geological formation study – feels it's a safety issue. She also would like to see the ordinance be reviewed to tight it up and add an abandonment clause and also review of Attorney Kent's recommendations for the Ordinance revision due to recent events. Acting Chair Steve Weiss stated blasting will be discussed farther down on the agenda.

Mary Ann O'Donohue: Spoke about concerns with the blasting - stated she spoke with Barb Gingerich who filed an incident report – June 5th they were in their buggy coming back from Augusta by the gate where it said blasting – it went off their horse and they were very scared. Ricky Strauch asked if someone got hurt would we have more leverage with the blasting – Attorney Schaumberg stated it would be a personal liability suit. An activity on their property they could have a private cause of action. Supervisor Steve Weiss stated we know for a fact the Amish won't pursue that.

Glory Adams – spoke to the board he tropic “confusion” – she stated an issue will come there will be a vote – and then she finds out nothing is ever followed up – then 2 months down the road it's still not - how can suggestions be made and voted on and – how can they be followed as being taken care of. She also would like to know what order of rule for speaking do we follow. It seems that at meetings there is no rule. People will openly comment ongoing throughout our meetings.

Carol Peuse: Asked about the citation ordinances and when they will be filled. Attorney Schaumberg stated that all certification is done and the only thing left is to be filed at the courthouse. She spoke about 5-star and how they are currently involved in a lawsuit. While they are involved in this lawsuit her concerns are the stockpile of sand. When they stated they wouldn't stockpile. She stated the mounds are mounded meaning they are blowing away. She has spoken to the Korger's and their children have asthma and their asthma is getting worse. This is all really concerning to her – we know sand is in air and going to

other side. She handed out the annual report from Hi-Crush and stated she has concerns as they are speaking of expansion. She read a paragraph re: expansion in Augusta plant in 2015. What are we going be left here with – what can we do??

Terry O'Donohue – spoke that the institution belongs to the people. Hearing more and more about community based rule, law, ordinances, local people are running affairs and are not being dictated to by state or federal. Believes everything starts and ends at the local level. As an elected board they should reflect the will of the people. And he read out of a book advice from Abraham Lincoln.

John Miskis from Armor Tuff spoke to the board regarding the flooring they do – use epoxy for base coat. Granite chip floor - 1/8th inch size. Feels it's more attractive – floors are prepped put epoxy down a lot will sink in will displace and build up the floor then put application of clear finishes on top of that – clear urethane UV stable. 3 coat finish - high grade urethane – cures faster– low maintenance – you can polish and wax it yourself. Ricky Strauch asked if there is a PSI rating?? Are some stronger?? Doesn't have information with. Ricky Strauch asked where's the strength come from? Chips immersed into epoxy – key in the floor is floor preparation. Require shop blasting - ultimately – Ricky Strauch asked if there are cleaners not to use?? Rated for jet fuel so rated for a lot of strong chemicals. Dean Solie how about scratch's?? John stated he has the floors down where cars are driven on daily – over a period of years it could – especially interior – would suggest have a wax coat on top of it. It would protect against scratches. Clerk asked about slipping on the floor – he stated that it is pretty slip resistant - they can maintain more profile in actual chip finish – tend to use aluminum oxide for grit. Feels their product is higher quality – preparation is key part. 6 days at max to do the hall – he asked if could be done towards end of year as he is quite busy with outside jobs through the summer. Not prepared to give a quote tonight – but took measurements and will get back to us.

Minutes from previous meeting were read Ricky Strauch stated there was a comment on the minutes that said 5-star had been sighted – they had not been. Correction noted. Motion to approve following correction was made by Supervisor Dean Solie. Seconded by Lynn Norheim. Motion carried: Supervisor; Steve Weiss (aye) Dean Solie (aye) Ricky Strauch (aye) Lynn Norheim (aye)
Financial report was presented – motion to approve was made by Ricky Strauch – seconded by Lynn Norheim. Motion carried: Supervisors: Steve Weiss (aye) Dean Solie (aye) Ricky Strauch (aye) Lynn Norheim (aye)

Old Business:

Mining Committee: Vaughn Nagahashi– spoke to the board and stated they had met and sent a list of questions to Lance Guerny in regards to zoning. Christine Yellowthunder brought up revisiting ordinance –she know that it's in the charter – would feel they could look at it. Vaughn stated they would like to see more detail in the ordinance – not sure what town board wants the committee to do. Every blast is different and felt differently. Did the board expect the committee to get out on every blast or put out blasting monitor reports? Acting Chair Steve Weiss stated that the Amish would welcome anyone to stand and visit their premise during a blast – they did not however want hi-crush people there. Blast is tomorrow at noon. Terry O'Donohue spoke on community rights. Vaughn stated the WTA is putting on a special workshop - Worship on June 23rd - asked to be reimbursed the 40 for it. The board voted to reimburse Vaughn to attend.

Steve Stated guys have been getting all the stumps hauled off of Livermore.

Ricky Strauch – what's going on by Al Sonnentag's?? Steve stated they are putting down fill.

Supervisor Dean Solie gave an update on the Dam. He attended at meeting with the committee regarding the dam - and the committee stated the rights and liability of the Johnson Dam have been turned over to the City of Augusta. The county stated there is 40,000 matching funds through the county that the city could apply for. He stated that Bridge Creek has nothing to do with it anymore. The city asked if they decide to do it would we donate a truck to haul stuff. He told them that would have to taken up to the board. He didn't see any advantage to Bridge Creek staying involved. Now it will come before the County Board and if they agree City of Augusta will have full liability and maintenance of it. He stated that Hi-Crush would do around 40,000 worth of work out there for the city. Glory Adams stated if the City of Augusta chooses not to go ahead with repairs the county will step in and remove the dam.

Supervisor Ricky Strauch stated he received a complaint on the train crossing from his employee. At the long wait. Steve Weiss stated when it comes to RR issues we are suppose to call Union Pacific. 10 min is max per Jane - Jane Justesen stated to call local law enforcement if the wait is more than 10 min. Depending on where they are they may do nothing or they might send somebody. 10 min is max per Jane. Vaughn Nagahashi asked if it could be published in the Augusta paper – The CES could put an ad together. No decision was made.

RE: 5-star – Ricky Strauch stated he has only received one complaint. He contacted the County & DNR – basically dropped it. He called neighbors 2 or 3 – LeRoy Rindahl stated that supposedly there had been pictures taken – Ricky said he had pictures LeRoy said he thought there was a fire that day. Steve Weiss asked Vaughn to get the committee to get all the neighbors names etc and give them numbers to call. Kelly Jacobs, Tannor Connor.

New Business:

The clerk prior passed out to the board an email from Scott McCurdy from Cedarcorp along with comparison study re: High Crush blasting his comment was: “ *Blasting: I have received, forwarded to the Town, and am compiling and reviewing the blast reports and to date have all blast reports through June 12 this year (2014). None of the blasts have violated the requirements of State Administrative Code SPS 307 which quotes NFPA 495 and the Bureau of Mines Blasting requirements. The blasts this year vary in size from week to week as they did last year, there are shallow blasts when forming the 50 foot bench as well as deeper blasts for the 95 foot floor of the mine. A brief memo is attached for the record*”

Acting Chair Steve Weiss stated they are getting ready to start crushing down at Willy's pit we are going to be doing 40K ton.

Blasting – Acting Chair Steve Weiss asked if our only recourse is personal type injury – Atty Schaumberg stated in his opinion compared blast records that are in ordinance they are all within out code. Are they violating code no – ordinance no – what can you do..... We can't site them because they aren't violating - they are within their rights – as a town we are regulatory entity we are confined with how broad we can do this. We still have very broad encompassing powers protecting health safety welfare – there's a jeopardy if we try to impose a public nuisance restriction - it has to rise to an ascertainable harm - we have to have expert reports from an engineer or a doctor or a vet – we have to have provable type stuff then maybe we have a chance prevailing public nuisance. Even with high crush if we wanted to amend our ordinance they are signed on to our old one we have an agreement with them. If we amend to have more geological test – we can regulate and be more restrictive than administrative code – we can't pick numbers it has to be rationally based. It's not distances of a blast that's regulated. Their activity is offensive –if there is property damage people can sue them. Not that he thinks it will stop blasting. Perhaps we need to have high crush come back in – might be same as RR problem – might make smaller blasts but more often. Steve if went in and did a geological survey and find that plates are causing this shaking?? Attorney Schaumberg stated that would give us legitimate data to put in our blasting ordinance. Also if you get

more specific in your ordinance your pigeon holing yourself. You want to be able to set your numbers specific – if we can get something provable out there. What’s the cost?? Sounds and could be very expensive.

Steve Weiss stated he has spoken with Scott McCurdy and he has been exploring this – he said Scott said there’s definitely a tie. The costs are minimal - As a town attorney give him the evidence By using committee, concerned citizens, collecting data – how do we have to do it how can it be presented to court. Steve stated road workers heard and felt the vibration over on Krueger road. Attorney Schaumberg stated that you can reach out more as a group but you must document not manufacture. Anyone can report be it your property or not. You can go on Amish property and experience it. The forms are instructive in that they create a record. If in court only time form would be used - makes a record but not an admissible record.

Steve Weiss stated individually they don’t want to come together – but would collectively as a group - Steve stated talking with Scott it doesn’t seem like it will take much to be presentable He would need board approval for Cedar Corp to do a geological study – but wouldn’t have much of a cost as data is already out there. Attorney Schaumberg stated that their engineering conclusion are all data based . Steve Weiss stated to also include the 3rd party. Christine Yellowthunder stated a lot have common logic when they are pumping water the plates can collapse – WI has many kind of shale plates. That if nothing else for in the future we need to do this geological study for any other mine.

Steve Weiss asked if the board decides to do a geological study of the plates can the board recoup costs from Hi-Crush – Attorney Schaumberg stated no. Steve asked about incorporating passing along costs – Attorney Schaumberg stated you can require tests in your agreements. Steve stated we need to take measures and get out to different locations. Attorney Schaumberg stated we have to show harm.....be it a video reaction or pictures.

Terry O’Donohue spoke up stating we are either in charge of the future of our children or the corporations.

Steve Weiss stated we need to include Cedarcorp in our next meeting to find out costs for doing the geological study.

5-star update – Attorney Schaumberg reported he looked at agreement with 5-star and the violation was with the annual report he sent them a notice of default. We had to give notice of default – we did. We set a date for a meeting for June 11th at 4:00 p.m. He spoke with their attorney and they stated they filed their annual report with Eau Claire County and thought they would provide us with a copy. The meeting was canceled because they provided the chairman as well as attorney and clerk with a copy of their annual report. They resolved the default so the meeting was canceled. Attorney Schaumberg stated that the sand pile is not a violation of their agreement.

Steve Weiss asked about the pile and what we could do about it. Attorney Schaumberg stated there is nothing we can do – there is nothing in the agreement that states they cannot stockpile and it is his understanding that the stockpile currently is in litigation. Christine Yellowthunder spoke up and asked if anyone read the report.

LeRoy Rindahl stated there hasn’t been any watering going on. Steve Weiss stated we need to work with our engineering firm to pursue this. Attorney Schaumberg again stated we can’t do anything with the stockpile. Vaughn Nagahashi asked if the sand is blowing on to their property couldn’t they file a suit against 5-star. Ricky Strauch asked would we want the attorney or Scott McCurdy to read through their annual report? Ricky Strauch stated he is going to call the DNR re: removal and air monitoring. Attorney Schaumberg stated they are in violation of ambient air monitoring. Attorney Schaumberg will send a letter

to 5-star stating they are not in compliance with ambient air monitoring and if they do not respond with their plan a meeting will be held regarding the violation on July 14th at 4:30 p.m.

Discussion was held regarding sand mine bonding plans and suggestion was made to have Mark Wiese attend a meeting and discuss this. Steve stated he would try to contact him.

In regards to an annual report from Hi-Crush Attorney Schaumberg they are not required to provide the township with an annual report – however they are required to send one to Eau Claire County and it is on their website.

Steve Weiss stated that Hi-Crush verbally stated they were going to put out more air quality stations – doesn't think there have been more put up. Attorney Schaumberg stated that Hi-Crush when they have come in they have never exercised their true rights. They don't have to come to a meeting but they have. Maybe talk to them again about the blasting and air quality. Scott McCurdy may be one to contact them about this. Attorney Schaumberg stated he is not an expert on air monitoring.

Jane Justesen spoke and stated she sent a out complaint with photos of sand blowing.... to the DNR and to date s he has not heard anything back from them.

Vaughn Nagahashi spoke and stated he would like to have the board vote on whether or not the committee should go over the existing ordinance. No action taken – will be on next month's agenda.

Sealed Bids – we only received one bid for chip sealing and that was from Scott Construction. Total cost for roads \$52,447.00. After discussion Supervisor Dean Solie made a motion to approve bid. Seconded by Supervisor Lynn Norheim. Motion carried: Supervisor; Steve Weiss (aye) Dean Solie (aye) Ricky Strauch (aye) Lynn Norheim (aye)

Liquor License applications. Acting Chair Steve Weiss read off the applications received for Liquor License approval: Class A: Carol's DJ Mart - Class B Combination: Top Flight; Riverside Junction, and Trail's Edge Saloon, LLC; Class B beer only: Augusta Area Sportsman's. After discussion motion to approve was made by Supervisor Dean Solie. Seconded by Supervisor Lynn Norheim. Motion carried: Supervisor; Steve Weiss (aye) Dean Solie (aye) Ricky Strauch (aye) Lynn Norheim (aye)

All bills were audited and paid.

Motion to adjourn was made by Supervisor Ricky Strauch. Seconded by Supervisor Dean Solie. Meeting adjourned 11:25 p.m.

Patti Warner, Clerk

Motion carried: Supervisors: Steve Weiss (aye) Dean Solie (aye) Ricky Strauch (aye) Lynn Norheim (aye)