

TOWN OF BRIDGE CREEK
REGULAR MONTHLY MEETING
MAY 15TH, 2014 – 7:30 P.M.
TOWN HALL

The meeting was called to order by Chairman Jeff Gerike at 7:33 p.m.

Pledge of Allegiance

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

Also present: Tom Peterson, Josef Eklund, Christine Yellowthunder, Ralph Yellowthunder, Dan Carlson, Jane Justesen, Dale Kirchoff and Attorney Rick Schaumberg

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

Citizen Comment

Christine Yellowthunder – first wanted the board to know that the Bridge Creek guys did an excellent job fixing the culvert and its working great. She asked if the board received High Crush 1st earnings quarter. 1st 3 mos. they made 14.3 million – she's concerned because they plan to expand. They have revised their report 3x – increasing their tonnage – blasting weekly – she passed out an article on their earnings – she also has an article addressing the WTA about the benefits of zoning. She stated she was asked to speak at Town of Cleveland at their rezoning committee but it was canceled – but because they are zoned – the town has thwarted multiple sand mines from coming in. His view on zoning.

How zoning does provide a level of protection because they have a level of protection in zoning.

The minutes were read Supervisor Lynn Norheim made a motion to approve. Seconded by Steve Weiss. Motion carried: Supervisor Steve Weiss (aye) Dean Solie (aye) Lynn Norheim (aye) Ricky Strauch (aye) Chairman Jeff Gerike (aye)

The financial report was presented. Motion to approve was made by Supervisor Steve Weiss. Seconded by Supervisor Dean Solie. Motion carried: Supervisor Steve Weiss (aye) Dean Solie (aye) Lynn Norheim (aye) Ricky Strauch (aye) Chairman Jeff Gerike (aye)

Old Business:

Ricky Strauch asked about the ordinances. Attorney Schaumberg has all information just need to get a certification by paper. Ricky Strauch asked about the moratorium. He's assuming we are wanting to extend – due to it ending in June. Wonders how the board feels about extending it. Attorney Rick Schaumberg stated we can extend it for the reason of extending due to checking into county zoning. It can either expire or lift it. It is a restriction on people's rights – if we want to extend it next decision is how long. Supervisor Lynn Norheim made a motion to extend it 6 mos. Tom Peterson spoke to the board – stating that if we are actually looking into a zoned township – if that were the case we could go up to a year. Attorney Rick Schaumberg stated you can but he recommended no. To suspend it is to take away a constitutional right – if we start extending it too long. As he re-read the moratorium it looks like the primary reason was for zoning. Tom Peterson stated that the moratorium can last up to 1 ½ yrs. - Attorney Schaumberg stated we need to name a date and notice - Ricky asked what we would be discussing once Lance Guerny came down. Attorney Schaumberg stated we don't need anymore public hearings if the board chooses to adopt it. As long as it's an agenda item – any board member can move to adopt it. No requirement for public input. It only takes a resolution to do it. Once adopted current mining ordinance would have to be amended. Dean Solie stated we could adopt without a comprehensive plan – can always work on it later. Supervisor Lynn Norheim stated his motion was still on the floor to extend the moratorium 6 months to check further into zoning. Seconded by Supervisor Dean Solie - ending December 19th, 2014 Motion carried: Supervisor Steve Weiss (aye) Dean Solie (aye) Lynn Norheim (aye) Ricky Strauch (aye) Chairman Jeff Gerike (aye)

Ricky Strauch spoke regarding 5-star re: blowing sand – the sand cannot leave the property (i.e. blowing) that is what Kelly told him. She stated the DNR is handling it – Ricky stated that the county will wait until Monday.

The clerk spoke regarding the road bans – she spoke with a county board supervisor and also Marcus from the Highway Department. She stated the county would prefer that the road bans that we placed would be put on the same time and run concurrently with the county. That way they would all go on and off at the same time. While it is not a practice they did state that since the ban was off of a town road and the county ban still on they did offer an Amish to get some loads in and out between midnight and 4am at 20.00/load. But this is not something they normally do. They also feel that they do not place their bans on any longer than they need to be and that they do not put them on early.

Tom Peterson from the committee spoke regarding two things – did the board want the committee to submit questions – they are willing to do that. Questions would be based on what they heard at the public hearing. Also if hi-crush wanted to expand and we were under zoning can they. Attorney Schaumberg stated if they are expanding because they are going to produce more – (excavate their 20 year supply sooner) – or are they just getting up to what they are trying to do. Their permit is limited to what they originally provided. Christine Yellowthunder – stated they state they are going to double their size – they speak of acquisitions – stated they will double in the Augusta plant. If they purchase more does the plan come before board? Attorney Schaumberg stated that with the new legislation that was proposed it would come under the new permit. But right now if they go beyond what they originally stated they would have to come back before the board. Ricky Strauch – is the blasting permit just for that site or if they buy more property would it also include that. Attorney Schaumberg stated the permit was granted as part of their licensing agreement. Pertains to land that was in the agreement. It's incorporated into their mining permit.

Discussion was held regarding 5-star and hi-crush failure to timely file annual operation reports. Notice of violation failed to comply with filing of annual report. After discussion the board asked Attorney Schaumberg to send out a notice of violation. Forfeiture – suspension or revocation is to come before the board.

Attorney Schaumberg stated then the board could Issue a stop work order that specifies order to be taken refer matter to legal counsel – enforcement – suspend or revoke operators license. They have to give notice and a hearing date and then you can revoke or suspend.

Ricky Strauch asked about 5-star sand that is blowing around – could it violate standard?? Attorney Schaumberg stated – if there's a county or state violation – we can suspend based on that. Supervisor Dean Solie asked if we can request their annual report – do they have to tell us what they are going to do with the pile.

Steve Weiss asked if we can get Hi-crush since they already had violations with wells that they didn't get permits for. Steve stated they extended the opportunity for us to come out – when they blast Steve wants to go in there after the blast – he wants to see it before and after. Feels as a board should be sitting there watching. Amish were not there today. They had a wedding going on in the community.

Attorney Schaumberg stated there could be more diligence on the board but everyone has a job and when you only meet 1x month. It's hard for town to keep on their butts – we-re a part-time town. Somehow all will be putting in more time and doesn't know if we can.

In regards to DNR they have already sighted 5-star.

New business:

Supervisor Lynn Norheim suggested that the committee go out and watch them blast. Steve Weiss stated that Felty & Sam Bornreger had concerns about the blast on Friday – Steve Weiss said those being effected we need to know. Scott McCurdy sent Steve an email and had contacted hi-crush – he had contacted a firm in the cities Ricky asked to have Scott McCurdy to attend a meeting and give handouts to educate on blasting. Hi-Crush came to Steve Weiss's Tuesday and took a water sample.

Attorney Schaumberg stated when talking about the blasting – blast to a horse is different than a blast to a vehicle. When talking about reviewing blasting permit. It has to be something that violates or conflicts state violation. Current blasting indicates – all tests are within regulations so we don't have a violation there. If it's under violations but ticking everyone off – there really isn't much we can do as a town board. Our ordinance talks about ground vibration – air blast sound so many decibels – it's still being disruptive to people even though – as far as town regulation can't change it They could litigate – we can't always address all citizens concerns. Ricky Strauch asked if they took a graph in the house would that get a reading. Attorney Schaumberg stated Scott McCurdy would be the one to answer that. Steve Weiss stated it's causing structural damage. Attorney Schaumberg stated that's a lawsuit – but they would have to prove it – that means they have to get their own

experts etc. He feels that Hi-Crush wants to keep their community relations – they have attended meetings while it is not required of them. This all falls under private rights of enforcement. We can't regulate stricter than state or federal.

Ricky Strauch asked how can we document that?? Attorney Schaumberg stated that the individual would have to hire their own engineers. And a town as a whole... They could still be in regulation. Josef Eklund asked if anyone wants to go down to Boon and checkout their blasting. He was sitting a 1,000 feet from the site and he came out of the seat when they blasted.

Steve Weiss stated if we can get the committee to go out and listen to the blast. Steve asked if Jeff could contact Hi-Crush to get an invitation to see blast before and after.

Dean Solie – stated there will be a public hearing on the Johnson dam on the 20th at the county. County wants to remove it - they have done flow studies and it doesn't do a whole lot of good according to them. The City of Augusta has requested a hearing – he feels we need to decide what our policy is on that. There is a liability to it. Culverts all rusted out – and Chet explained from city it wasn't worth it either. But Thorson and Anton want a hearing. Is there any liability – versus a culvert? County wants to take it out. Joe Eklund said Carl Anton stated the survey only went 3 miles down and didn't go any further. County hired a firm – he's on land conservation committee – Dean wants to know whether we should support it or leave it up to city and county. County originally put them in and didn't maintain them. After discussion Dean stated he will let them know that we will bow out of it – too much liability possible.

Steve Weiss stated the floor guy couldn't make it tonight so will come next month.

Road work – discussed Krueger road – if we put a culvert in why don't we knock part of the concrete off of them and set guard rail right outside of it – would widen the bridge a couple feet.

Dale Kirchoff stated the guard rail on Bartig – it's a cattle pass made out of mortar – bottom is cement – thinking they could slide a culvert right through and get it packed – around other corner the county wanted it blocked off it currently is blocked off. County didn't want water getting out of the holding ponds and going down ravine.

Discussion was held regarding bid requests for the following roads for seal coating:

Seal coat – Chip Seal 7/16" – single coat Zank (between Haycreek to Gerth 1 ½ miles) 3/16" - Haskin 1 mi. – Von Haden .75 mile

Gerth – Dale thought to patch all uneven spots and do a double chip seal next year. Thinking 6 loads of blacktop – (same price as last year – granite has went up).

With what they hauled out of the Village of Fairchild Dale found somebody to crush it would have to mix 3-1 with pit run – minimum of 30K yds - 4/ton – if we wanted to go to 40K then we'd go to 3.50/ton. He spoke with Duane Merritt with Town of Fairchild - he wants to do it. Instead of paying towards reclamation fund we could put it towards Willy's house and reclaim what we can right away. Town of Hendren would also like to buy some. Would take us around 15K yds he figured to do Channey, Horse creek and Krueger. After discussion it was decided to go ahead with the 40K ton.

Dale asked about looking into getting a replacement truck. The board suggested looking into this.

All bills were audited and paid.

Motion to adjourn meeting was made by Supervisor Steve Weiss. Seconded by Supervisor Dean Solie. Motion carried.

Meeting adjourned 9:50 p.m.

Patti Warner, Clerk