

Minutes of the Regular Monthly Board Meeting of the Township of Spring Green

Proceedings of the Town of Spring Green Regular Board Meeting, held at 7:02 pm on Thursday, May 4, 2017 at the Town Hall located at E4411 Kennedy Road, Spring Green, and Wisconsin:

1. **Call to Order:** Kevin Lins, Town Chairperson called the meeting to order at 7:02 pm.
2. **Legal Posting:** Jenny Pappas, Clerk certified compliance with the open meeting law.
3. **Roll Call:** Members present were Chairperson Kevin Lins, Supervisor Dave Radel, Supervisor Carla Carmody, Clerk Jenny Pappas and Treasurer Karen Shelton. Also present were: Brad Haas, Marian Copus, Bill Mertens, Louis Weston, Denise Lins, Michelle Thomas, Kolby Hirth, Patty Brooks, Benny Stenner, Caryl Sprecher, Jim Sprecher, Mike Birr, Fred lausly, Irene Golembiewski, Carol Bindl and Jerry Bindl.
4. **Adopt Agenda:** Radel moved and Carmody seconded to adopt the agenda as presented. Motion carried.
5. **Approve Minutes:** Radel moved and Carmody seconded to approve the minutes of the April 6, 2017 Regular Board Meeting and April 10, 2017 Special Board Meeting as presented. Motion carried.
6. **Treasurer's Report:** Shelton reported beginning balance of \$423,266.62 with receipts of \$89,394.99 and disbursements of \$43,183.69 leaving a balance of \$469,477.92. Carmody moved to approve the report as presented. Carmody amended the motion to "file" the Treasurer's Report as presented. Radel seconded. Motion carried.
7. **Monthly Bills/Invoices:** Radel moved and Carmody seconded to approve the monthly bills/invoices for payment as presented. Motion carried.
8. **Chairperson & Supervisors Reports:**
Chairperson's report/Kevin Lins:
 - May 11th Had email correspondence with Natalie regarding the Town's role in enforcing a covenant and the actual wording of the same covenant for the Valley West Subdivision.
 - April 13th Requested a transcript of the oral ruling on the motions for summary judgement in the BHD lawsuit. Lori Lubinsky was going to request Rural Insurance pay the cost of \$110.00. I told her if they would not, the Town would and to go ahead and have it done. I have since received the transcript and Jenny is going to put it on the Town's website.
 - April 19th Received an email from a resident about flowers being removed at the cemetery during Spring cleanup. I referred him to the Cemetery Committee.
 - April 20th Received an email from a resident about a new ag driveway off of Peck Road. I referred him to our building inspector, Tracy Johnson.
 - April 20th Received a call from Ken Franzen from Bug Tussel about any permit needed for new equipment to be installed on the County tower in the Township. I referred him to Fred, and contacted Tracy Johnson to have Tracy give Ken a call.
 - April 26th Went with Brad to Simpson's Ford Tractor in Richland Center to look at the new 2016 model tractor from Ohio that they got in which had more of what we wanted than the new 2017 model we looked at earlier. I also received copies of both build sheets for the tractors for comparison to make sure they were identical and they were, except the one we are getting had the mechanical self-leveling loader (MSL) which has 30% more lifting capacity, had a factory installed 3rd hydraulic function hookup at the front of the loader, and one additional option; a lift assist ram on the three-point linkage (for additional lift capacity) that the 2017 tractor didn't have and which we didn't have to pay any extra for. We gave the go-ahead to George to get this tractor ready and bring it out along with the new mower that was purchased at the end of last year. They still need to add a third remote hydraulic outlet at the rear of the tractor along with a strobe light.
 - April 28th Received an email from Jenny with the latest well readings.
 - May 2nd Talked to Jon Callaway, Local Relations Consultant, for American Transmission Company (ATC) about the Cardinal-Hickory Creek Transmission Line project for over an hour on the telephone. I had emailed him scans of the four page flyer the Driftless Area Group had presented to the Board and attendants at our April Board meeting, along with a copy of the resolution passed by the Village of Spring Green, that the group was hoping the Town would consider passing as well.
 - May 2nd Attended a joint meeting with Village representatives at the Town Hall to talk about broadband possibilities for both the Village and Town. We worked on preparing a letter to the public asking for support.
 - Update on unresolved issues. I still haven't heard anything regarding what the Town will need to do in respect to purported burial sites in the area of the Rainbow Road reconstruction. I still have not received a copy of the unanimous consent resolution signed by all members of the Luther Family Farm LLC authorizing

Cherri Knerr to sign the warranty deed for the right of way for Rainbow Road on behalf of all members. The Town made an offer for an easement on the Joost property. Joost's attorney responded with a counteroffer. The Town responded back with a counteroffer.

Supervisor Report/Dave Radel:

- Radel reported speaking to various township residents regarding the repayment of the lawsuit and the consensus of the residents he spoke to is to pay it over 2 – 3 years.

Supervisor Report/Carla Carmody:

- No report

9. **Comment from the Public:** Benny Stenner – Big Hollow Ditch maintenance fund. Fred lausly – Recall Election date to be May 30, 2017.

10. **Reports:**

- a. **Patrolman:** Haas reported working on the following during the month of April: brush cutting, landscaping at the Town Hall, picked trash, removed snow plowing equipment, mowing at Park and Town Hall.
- b. **Building Inspector:** Pappas reported three permits were issued for April: 1) Dayton Ramirez, detached garage, 2) Jerry & Peg Sprecher, Accessory Building and 3) Dan Kampschroer, attached garage.
- c. **Emergency Planning:** No Meeting.
- d. **Plan Commission:** Worked on Element 6, Agricultural & Natural Resources which is a large section; will probably work on over the next couple of meetings. On 4/10 attended a Village Board Meeting and discussed the installation of year-round vegetative screening on the large manufacturing parcel that borders residential. The Board seemed receptive to the request and hopefully there will some dollars from the TIF to accomplish the screening.
- e. **Extraterritorial Zoning Committee:** No Meeting.
- f. **Fire District:** No Meeting.

11. Agenda Items for discussion and/or action by the Town Board:

- a. **Discussion/possible action regarding Meise Construction, LLC billing for Big Hollow Ditch clean out:** Lins explained that a large amount of sand blew into the Big Hollow Ditch from the Sprecher property, and was subsequently removed by Meise Construction. Lins referred to Ordinance Chapter 14 – Big Hollow Drainage Facility, which he asked Radel and Carmody to review prior to the meeting. Lins further stated the board needs to determine if there is a violation of the Ordinance and if the Sprecher's should pay for the removal of the sand. Radel stated he reviewed the Ordinance and does not see this as a violation, rather an "act of God". Radel stated the sand that blew across and into the ditch did not come from the easement. Lins stated he was not following Radel's logic. Hirth referenced 14.03 (4): "No person shall alter, or cause to be altered, the slope or elevation of the Big Hollow Drainage Facility, including any land alterations or disturbances within the Big Hollow Drainage Facility, that may result in erosion, sedimentation or change in runoff that could adversely impact the effective operation of the Big Hollow Drainage Facility". Hirth asked if the farming operations that occurred in this area resulted in a violation of this section. Carmody stated when crops are harvested, the farmer cannot control the weather. Hirth referenced 14.02 (5): "Construction Activity. Any land alterations or disturbances that may result in soil erosion, sedimentation, or change in runoff including, but not limited to, removal of ground cover, grading, excavating, and filling of land." Hirth pointed out that 14.02 (5) does not state the activity has to occur in the easement. Carmody asked how the board could justify making the farmer pay a bill just because the wind blew when the land was open. Carmody and Radel stated they did not authorize Meise to clean out the ditch. Lins stated he authorized Meise to perform the clean out as he felt it was an emergency situation. lausly stated the protection of the ditch is paramount and the intent of the ordinance is to protect the ditch. Hirth asked if the land could have been farmed differently. Polivka stated this language was put in the ordinance for an intentional occurrence. Polivka stated the ditch is a public utility and it is the Township's job to maintain it; there is nothing that the Sprecher's did to make the sand go into the ditch. Lins stated the point is not whether it was done intentionally or not, the point is that it happened. Caryl Sprecher stated we helped draw up this ordinance. Hirth stated just because you say you drew it up, does not mean someone else cannot read it and try to interpret it. Hirth asked if the farming style caused the sand to go into the ditch. Caryl Sprecher said it did not. Polivka stated it was an "act of God". Lins read the legal opinion provided by the Town Attorney – Natalie Bussan, which stated in part "...It is important that the Town take appropriate steps to see that Chapter 14 is enforced. When the WDNR granted permission to the Town to allow the BHDF to discharge onto the WDNR's property, the Town agreed to pass and enforce Chapter 14 to the WDNR's satisfaction. The Town agreed to "timely and effectively enforce all provisions of the Ordinance". If the Town fails to enforce Chapter 14, the WDNR can bring suit against the Town. If the WDNR is successful, the Town is required to pay the WDNR's reasonable attorney fees, costs, expenses and

disbursements. The WDNR could also withdraw permission for discharging from the BHDF onto WDNR lands." The letter also stated in part "...Section 14.03 of the Code provides that no person shall take or cause any action that impedes, or may impede, the operation of the BHDF. That section also provides that no person shall discharge or cause to be discharged, anything into the BHDF other than storm water...the photos of the sedimentation that I reviewed demonstrate activity that would fall within any of these prohibitions." Polivka stated this is no different than snow blowing onto the road; this is ridiculous – this is a public utility and the Township has to maintain it. Polivka asked who would be responsible for the trees growing in the ditch. Hirth asked if activities could be put in place to mitigate this from happening again. Caryl Sprecher stated you have no idea. Hirth stated that is why I am asking. Caryl Sprecher stated we had no control this year; this ditch has been in all this time and it is the first time this has happened. Radel stated he does not feel sand blowing across the prairie and into the ditch is covered under this Ordinance. Jim Sprecher explained that he always plants rye at the end of the season, and it was a bad year because there was an open winter and the rye did not hold. Caryl Sprecher stated this may never happen again. Polivka stated things happened this year that normally do not happen. Lins re-iterated whether the Sprechers did it intentionally or not did not matter. Jim Sprecher stated the rye did not come up right because of the wind; if we would have had snow in February this never would have happened. Jim Sprecher stated he always tries to keep everything cover cropped. Lins stated these are farming choices. Lins asked Radel and Carmody if their opinions had changed after hearing the legal opinion. Both Radel and Carmody stated they did not agree with the legal opinion presented. Radel moved and Carmody seconded to pay the Meise Construction, LLC invoice for the Big Hollow Ditch clean out in the amount of \$1,625. Motion carried.

- b. **Discussion/possible action regarding lawn mowing of the Spring Green Cemetery:** Radel moved and Carmody seconded to accept the recommendation from the Cemetery Committee to hire S & J Landscape, LLC for the 2017 mowing season. Motion carried.
 - c. **Discussion/possible action regarding Cemetery Committee appointment:** Lins moved and Radel seconded to appoint Carla Carmody to the Cemetery Committee. Motion carried. It was noted that additional committee members are being sought along with a liaison to sell gravesites. Hirth commented on the excellent work of Haas and Mertens on the recent clean-up of the Cemetery.
 - d. **Discussion/possible action regarding Plan Commission appointments:** Lins moved and Radel seconded to approve the following appointments to the Plan Commission: Carla Carmody (board representative), Michelle Thomas and Kolby Hirth. Motion carried.
 - e. **Discussion/possible action regarding R-1702, Resolution Authorizing the Sauk County Humane Society to sell dog licenses on behalf of the Township of Spring Green:** Radel moved and Carmody seconded to approve Resolution R-1702 as presented. Motion carried.
 - f. **Sauk County Clean Sweep – Saturday, June 3rd from 8:30 am – 12:00 pm:** No action taken.
12. **Adjourn:** Carmody moved and Radel seconded to adjourn at 8:23 pm. Motion carried.