

STILLWATER TOWN BOARD MEETING

June 9, 2022

Township Hall - *Hybrid

6:45 P.M.

PRESENT: Chairperson Sheila-Marie Untiedt, Supervisors Mike McMahon, Tim Sinclair, Robert Geisen and Rod Hunter (via Zoom). Clerk Barbara Riehle, Deputy Clerk Jenni Maes, Treasurer Marsha Olson, Planner Evan Monson and Engineer Mike Nielson (via Zoom).

REGULAR MEETING

1. STAFF – Town Board Supervisors interviewed Park Committee Applicant Justin Gervais. The Board welcomed Mr. Gervais to the Committee.

M/S/P McMahon/Sinclair moved to appoint Justin Gervais to the Park Committee. (4 ayes)

2. AGENDA – M/S/P McMahon/Sinclair moved to adopt the amended agenda to include HVAC discussion and Townhall rental both under “Old Business”. (4 ayes)

3. MINUTES – M/S McMahon/Sinclair moved to approve the 05/18/22 Informational meeting notes, but approval was tabled due to a request from the public. Clerk Riehle will look at the detail of the notes before the July meeting.

M/S/P Sinclair/Geisen moved to approve the 05/19/22 Regular meeting minutes which included AOP discussion. (4 ayes)

(Supervisor Rod Hunter entered meeting via Zoom)

4. ENGINEER – Michael Nielson was present via zoom.

a. Current Snow Removal and Road & Trail Maintenance contracts expire in November 2022; need authorization to place the ad for bid. Supervisor Sinclair had questions regarding fuel costs. Mr. Nielson will look at including the MnDOT fuel escalation costs in the RFP.

b. Road Maintenance (120th at Norell/Otchipwe) – sink hole near pond as reported by Steve St. Claire, Miller Excavating. Retired Engineer Paul Pearson is working with May Township; Mr. Nielson will follow-up on this issue along with the calcium chloride placement for dust control.

5. TREASURER –

a. Report given.

b. Claims and Checks #23852 through #23867 were approved for payment.

Ms. Olson added that the Assessor came in higher than what was budgeted. She also mentioned that the first half of tax payments will come in early July and second half of ARPA payment will come by end of July.

6. ATTORNEY- Not present. Follow-up items from OWB Informational meeting on 05/18/22. Chairperson Untiedt opened the discussion recap with history of discussion

points being: 1. The Outdoor Wood Burner was installed and began operation without a permit. 2. Then received a permit. The permit was for two buildings (a barn and a house). 3. It is currently operating for six buildings involving 3 separate parcel PID's.

Supervisors would like to look into enforcement of the permit issue. Supervisors would like legal clarification and to know what legal implications there would be. Further feedback from Building Official Jack Kramer would be welcomed.

Supervisor Geisen would like to see the following two items done:

1. A formal legal notice sent to the Haines' regarding violation of the permit asking for a response regarding compliance.
2. Direct our attorneys to dig into enforcement and investigate and respond with implications given service across 3 parcels.

M/S/P Geisen/McMahon moved to instruct our attorney to send formal notification that the Haines' are out of compliance with their permit. (5 ayes)

Resident comment that there has only been one HVAC pulled for one building.

Planner Evan Monson commented on the 3 separate parcels:

1. 5-acre parcel – 1 house – 9254
2. 55-acre parcel – several structures which include – 9262, 9264, 9272
3. smallest parcel – driveway parcel.

Supervisor Sinclair would like clarification on if the Haines' are found to be out of compliance, then would they be fined? If they come into compliance, then what?

M/S/P Geisen/McMahon moved to have the Town Board direct our attorney to investigate the legal implications of the wood burning serving 3 different parcels and take appropriate enforcement actions. (5 ayes)

7. PLANNER-

1. AOP Discussion Continuation- Evan Monson was present to give an overview recap of the AOP discussions which was previously tabled from March, April and May meetings. There were outstanding items the Town Board were continuing to looking into.

A.) Washington County water testing plans - Supervisor Chair Untiedt spoke with Washington County Planner, Kurt Howard. They do not currently ask for water tests. Mr. Howard mentioned to Chair Untiedt that they are now looking at what municipalities do and they may move that direction. Mr. Howard went on to say that the mining pit is in compliance according to Washington County standards and that the MPCA is checking.

Independent water testing (Spring/Fall) – could be added. Run-off versus groundwater. Residents are requesting adding 3x/year testing the water and not relying on MPCA or Washington County. Results should be reported back. Steve St. Claire stated that filtration recommended based on volume and size.

A resident asked if the testing would be done at various sites? Supervisor Geisen suggests trusting the Engineering firm (Sunde) who specializes in mining.

A resident stated that Washington County does not require water testing, MPCA does.

Resident stated that Mr. Isensee stated that there are rules changing for protection of groundwater.

Supervisor Chair Untiedt stated that this could mean adding two additional layers to testing of both groundwater and sediment.

B.) Fill Soil – The soil being brought into the pit, not from a Commercial contractor. The “Scale people” go off a pass/fail test. If it fails, there is a “sniffer machine” that is used. Supervisor McMahon questioned that in the Washington County permit, it states soil testing should be written certification from all job sites. Steve St. Claire stated that Sunde is working on the plan management side of this.

Resident Mitch Reiners via zoom commented that the regulations with the MPCA are being met regarding unregulated fill soil. However, the mining operation Chapter 7 and CUP says “all soil” needs to be analytical laboratory testing so this means they are not in compliance with the mining regulation with Washington County.

Supervisor Chair Untiedt has concerns of illegal dumping. If it becomes a requirement of “all” fill soil being tested by individuals then dumping may be more likely to happen. Residents are also encouraged to reach out to Washington County regarding the non-compliance issue. The CUP is issued without the requirement to produce testing reports which should come from a reliable certified source.

C.) Watershed permit - Steve St. Claire reported that he talked with Mike Isensee the Administrator at Carnelian Marine St Croix Watershed District (CMSCWD). Miller Excavating is working with the Engineering firm, Sunde who is going through a Comprehensive Plan of stormwater management review which will include elevation recommendations.

Supervisor Chair Untiedt reported that Washington County does a 5-year CUP and they do an annual inspection and an annual report. They measure the pit depth with a licensed Engineer or a Surveying crew. Kurt Howard will copy the Town Board Supervisors on the annual inspection and report.

D.) Solid Waste Storage – Steve St. Claire reported on that there were 3 areas which new rules had changed.

E.) Setbacks – Supervisor Chair Untiedt reported that Kurt Howard from Washington County told her that when they do their annual inspections they also observe to see if they appear different. They survey setbacks every 5 years.

Resident asked Steve St. Claire for information on how the device “photoionization detector” was used? Mr. St. Claire stated it was specialized detection for regulated compounds. Same resident asked whether this could be used as a test for all loads.

Mr. St. Claire clarified that this device could be used if a homeowner asked for an on-site inspection prior to excavation. Residential versus Commercial projects. Information is posted at the scale. A solution could be to get checked in at the scale beyond a visual inspection. Language could be added to the AOP regarding all loads being tested if the Town Board votes to do so.

Resident asked whether the potential is to damage the aquifer? Supervisor Sinclair stated that was a concern. Steve St. Claire responded that they do have reclamation pond in place.

F.) Grandfather status – Supervisor Chair Untiedt read a letter from Attorney Soren Mattick which stated his legal opinion would be not to investigate the “grandfather status” further as we already have processes established in the ordinances.

G.) Other – the Sunde Engineering report will be most helpful.

Supervisor Geisen moved to modify the AOP to require analytical testing for all fill loads coming into the mine and have each fill soil load checked with the sniffer. Approve the AOP with conditions. The motion was not seconded and failed.

Supervisor Rod Hunter asked whether there is a well at the pit? A: There is a well on the property.

Resident Mitch Reiners asked how the previous soil fill brought in will be inspected and certified as “clean”? A: If testing is done and reports are done, then there are no grounds for retroactive enforcement.

M/S/P Sinclair/McMahon moved to approve the AOP contingent on the following: 1.) the CMSCWD (Carnelian-Marine-St. Croix Watershed District) Approved report received within 45-days, 2.) every fill soil load brought in needs to be laboratory/analytical tested and PID sniff tested, 3.) Groundwater testing of the aquifer be conducted 2x/year below the pit producing a report. Location testing sites will be recommended by Sunde with the method TBD. Motion passes granting a contingent AOP permit.

(4 ayes, 1 nay {McMahon})

Planner Evan Monson will amend the permit.

2. Parcels south of HWY36 – Clerk Riehle was contacted by both Ann Miller at the Washington County Assessor’s Office and Dar Pankonie with the Washington County Sheriff’s Office (911 Division) who were looking for clarification on a couple of parcels. Planner Evan Monson explained that there were 2 Township parcels but one was annexed in 2019; the other remains in the Township and is surrounded on all sides by other jurisdictions.

Ms. Pankonie made awareness to emergency response for enforcement/fire. Right now, there are 3 municipal parcels (City of Stillwater, Stillwater Township and Lake Elmo). A letter could be sent.

3. Dog Licensing Ordinance changes – Planner Evan Monson recapped what our current ordinances (regarding dogs) state. Deputy Clerk Jenni Maes was in communication with Planner Evan Monson. The discussion was around the following:

- a.) Do we want to continue to license dogs?
- b.) Do we want to continue Kennel licensing both private and commercial?
- c.) If changes are made regarding kennels, zoning permit changes?
- d.) If changes, will need to address wild, unruly and dangerous animals in the township?

The discussion started with the idea that many communities no longer require licensing dogs. Vaccinated for rabies versus those who do not. Impound Penalty/fine.

Supervisors McMahon/Sinclair moved to remove (a. above) the licensing requirement pertaining to dogs but keeping (b.,c.,d. above).

Ordinance #52 was discussed; Planner Evan Monson will come back next month with an updated/modified ordinance to review. The motion and conversation were tabled until July.

8. COMMUNITY SERVICE DEPARTMENT – Mark Caroon was not present; Clerk Riehle read his report aloud.

- There were 8 burning permits issued in May.
- There were 88 total monthly calls for May.
- Jake braking – there has been enforcement with Washington County.
- Bear sightings increased – keep bird feeders in.
- Researching wood boiler certification and “tagged” certificate of compliance.
- Reminder with nicer weather to not leave pets out for an extended period of time as there have been complaints of barking dogs.
- Follow-up on a couple complaints about zoning/ordinance issues. Working with Planner Evan Monson.

Clerk Riehle also added phone call history and explained that CSO Mark Caroon has visited the addresses. He indicated that there are no violations as he could see. Covenant issues are civil matters. A follow up with Mr. Mike Schmitz will take place.

PEOPLE PORTION:

OWB- NEIGHBORS (Polasik, Johnson, Standemo, Steele) - Supervisor Chair Untiedt reported that she received the file from Attorney Jared Shepherd and it was shared with Kelly Steele. Clerk Riehle shared the information with other neighbors as requested.

Items discussed further as follows:

- Violation of Ordinance #150 – Resident Kacey Strandemo brought up that the installation of a wood boiling furnace requires an HVAC permit. Other requirements state that until U.S. EPA standards take effect, any new outdoor wood-burning furnace/boilers must meet EPA Phase 2 “white tag” program standards.
- CSO Caroon looking into tag certification. Information will be reported at a future meeting.

- Resident Kelly Steele reported that she spoke with Ann Jackson and Curt Stock with MPCA. The statement regarding the EPA compliance were related to the operation. Ms. Steele believes the Mankato test is invalid and incomplete and that there have not been emissions testing done on the Haines wood burner.
- Supervisor McMahon commented that if the OWB is found to be illegal use, then they should cease operation of it. Not sure how the legal use would have been missed.
- Resident Nathan Johnson requested the Town Board does not assume they do not have a back-up way to heat.
- Date for Ordinance #150 needs clarification whether it is 2013 or 2014?

Supervisor McMahon moved to have our attorney send a “cease and desist” letter based on Ordinance #150 being installed illegally. There was not a second.

M/S/P Geisen/McMahon moved to direct our attorney to investigate potential illegal non-conforming use and installation based on Ordinance #150 and “white tag” standards.

(5 ayes)

- Regarding Nuisance – Residents commented that they talked to two Engineering firms. They say there is a list of firms that would test. Supervisor McMahon reiterated that the attorney said those test results needed to be admissible in court to support his argument. It was suggested that the list be shared with our attorney.
- Odor – Ordinance #68 was adopted. Residents believe an independent company such as “St. Croix Sensory” can do odor testing.
- Resident Kelly Steele commented on the attorney research.

9. CLERK – No report.

10. PLANNING COMMISSION – No report.

11. PARK COMMITTEE – Park Manager Kelley Shantz was present.

a. The sport court has been repaired.

b. Mowing – Arcola Heights Park – mowing the evasive plants 2-3x/year at \$80/each time.

M/S/P McMahon/Geisen moved to approve the mowing at Arcola Heights not to exceed \$300 annually.

(5 ayes)

c. Tree service estimates – Park Committee member Noah Smith spoke on the bid proposal received from Randal tree service. His total bid for projects was \$16,000 but was broken down by sections in the park.

M/S/P Geisen/Hunter moved to authorize expenditure in an amount not to exceed \$5,500 for the tree project be spent now in service of safety concerns.

(5 ayes)

Supervisor Geisen asked Mr. Smith when the additional \$11,000 would be requested for maintenance? Mr. Smith would like to get an additional estimate for comparison purposes by the end of August.

There were estimates from Shifsky companies that was shared with Town Board Supervisors.

Clerk Riehle will consult Engineer Mike Nielson on Handicap parking striping.

12. COMMUNICATION COMMITTEE – No report.

13. OLD BUSINESS

- Govoffice – design upgrade proposal review; webinar Granicus update. Deputy Clerk Jenni Maes reported that Granicus provides website designs, etc. Ms. Maes will be getting a quote for service. Ms. Maes will be looking at other companies as well. The plan is to receive electronic payments and return deposit amounts. Clerk Riehle and Deputy Clerk Maes will be looking at all platforms and see what would be best for the Township. The plan will be to come back with comparisons at a future meeting.
- HVAC Bids - Supervisor Mike McMahon is working on bringing bids in. He is meeting with Hoffman and Markgraf. Schwantes has not been responding. ARPA funds would be used to pay.
- Town Hall Rental – Supervisor Geisen asked if we have had rentals. We have not.
- Road Paving – Supervisor Sinclair would like to look at paving gravel roads in the township. Engineer Nielson will be contacted.

14. NEW BUSINESS – No report.

15. ADJORNMENT – M/S/P Sinclair/Geisen moved to adjourn the meeting.
The meeting was adjourned at 9:58 P.M. (5 ayes)

Clerk_____

Chairperson_____

Approved_____