TOWN OF BURKE BOARD MINUTES

Wednesday, February 23, 2022 at 6:00 p.m.

5365 Reiner Rd., Madison WI 53718

ADMINISTRATIVE

It was determined that a quorum was present and the meeting was properly posted.

The meeting was called to order at 6:00 p.m. by Chairman Viney.

Members in attendance: Chairman Kevin Viney, Supervisors Steve Berg, Jeff Stieren and Chris Truitt. Also in attendance: Attorney Chris Hughes, Administrator/Clerk/Treasurer PJ Lentz, Deputy Treasurer/Clerk Elissa Friedl, and Public Works Lead Ron Kurt. Others in attendance: Bill Vachon of Vinton Construction, Gary Richards.

CONSENT AGENDA

1. Minutes of January 19, 2022
2. Bills and Payroll
3. Public Works 2021 PTO carryover (Ron 19 days, Eddie 18 days)

Motion by Sup. Truitt, seconded by Sup. Berg to approve consent agenda as presented. **Motion carried.**

NEW BUSINESS

1. Conditional Use Permit Application submitted by Madison Crushing and Vinton Construction Co. for a Temporary Concrete Batch Plant for an Airport Expansion Project to run spring of 2022 and spring of 2023.

Attorney Hughes explained that this process involves both the Town of Burke and Dane County and that eight standards need to be met to grant the conditional use permit. Administrator Lentz reported the Plan Commission reviewed the application and created 22 conditions that would help meet the eight standards. Chairman Viney said he didn’t agree with many of the conditions the Plan Commission suggested, including the hours of operation, possibility of extension of hours of operation, the road usage fee of $2,000 and the use of crushed asphalt on the driveway. Chairman Viney stated the crushed asphalt may be dragged into the roadway and create a safety hazard for bicycles and motorcycles and asked if there would be a sweeper truck to clean up after each truck goes in and out. Bill Vichon of Vinton Construction reported that there would be a sweeper and watering truck on site. Sup. Truitt said that based on feedback from residents, he doesn’t believe standards #1 or #2 will be met. He added that the weight of 24 trucks per hour could result in the need to rebuild Nelson Road. Sup. Berg said a bond could be required for repairs if that is condition the Town Board believes should be added. Chairman Viney agreed with Sup. Truitt that it is unlikely standards #1 and #2 could be met and there is no benefit to the Town for allowing the use of its roads. Sup. Truitt said there is no way to get around the hours that would allow the applicant to meet standards one and two so there is no point to creating additional conditions unless the hours are restricted to Monday through Friday from 1-3 p.m. He added that this activity will be detrimental to comfort of neighbors and make the surrounding property owners unable to enjoy their own property. Chairman Viney asked if Vinton Construction had contacted Sun Prairie about using their roads because there is potential work on Nelson Road that could potentially require re-routing through Sun Prairie to get to Reiner Road.

*Standard #1: That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort, or welfare.*

Sup. Truitt moved that standard #1 was not met due to residents of the neighborhood next door voicing that their comfort would be negatively impacted by the Temporary Batch Plant and additional concerns regarding asphalt and gravel being dragged onto Nelson Road causing safety concerns. Motion seconded by Chairman Viney. **Motion failed on a tie vote (2 AYE Truitt, Viney :2 NAY Stieren, Berg).**

*Standard #2: That the uses, values, and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by establishment, maintenance or operation of the conditional use.*

Sup. Truitt moved that standard #2 was not met because noise, dust and odors will negatively impact neighbors and the use of their property would be substantially impaired and diminished. Motion seconded by Chairman Viney. **Motion failed on a tie vote (2 AYE Truitt, Viney :2 NAY Stieren, Berg).**

*Standard #3: That the establishment of the conditional use will not impeded the normal and orderly development and improvement of the surrounding property for uses permitted in the district.*

Sup. Berg moved the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district, standard #3, has been met. Motion seconded by Sup. Stieren. **Motion failed on a tie vote (2 AYE Stieren, Berg: 2 NAY Truitt, Viney).**

*Standard #4: That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made.*

Sup. Stieren moved that adequate utilities, access roads, drainage and other necessary site improvements have been or are being made, standard #4, has been met. Motion seconded by Sup. Berg. **Motion carried. (3 AYE Stieren, Berg, Viney: 1 NAY Truitt).**

*Standard #5: That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.*

Sup. Berg moved that adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets, standard #5, has been met. Motion seconded by Sup. Stieren. **Motion failed on a tie vote (2 AYE Stieren, Berg: 2 NAY Truitt, Viney**

*Standard #6: That the conditional use shall conform to all applicable regulations of the district in which it is located.*

Sup. Berg moved that the conditional use shall conform to all applicable regulations of the district in which it is located, standard #6, has been met. Motion seconded by Sup. Stieren. **Motion carried by unanimous voice vote.**

*Standard #7: That the conditional use is consistent with the adopted Town and County comprehensive plans.*

Sup. Berg moved that the conditional use is consistent with the adopted Town and County comprehensive plans. Motion seconded by Sup. Stieren. **Motion carried by unanimous voice vote.**

*Standard #8: If the conditional use is located in a Farmland Preservation Zoning District, the Town Board and Zoning Committee must also make the findings described in s. 10.220(1).* **No motion, standard 8 not applicable to this application.**

Attorney Hughes recited the outcome and votes on each of the standards. Chairman Viney asked if the proposal gets pulled and the applicant can reapply. Atty. Hughes explained that if the Town Board votes no, the application does not go to Dane County. Sup. Berg said the Plan Commission spent a great deal of time on each condition presented in the Plan Commission’s resolution. Sup. Stieren said there were only three letters from residents in the packet and inquired if there are more. Administrator Lentz said two additional residents provided correspondence after the public hearing. Chairman Viney added that some of the comments were received from people attending the public hearing and not written. Sup. Truitt indicated he received correspondence via email and Facebook. Sup. Truitt said there are no conditions that could be set that would appease the residents and suggested the Temporary Batch Plant be located in the new business park on Hwy 51, the airport property itself or a vacant truck stop. Sup. Berg said the Madison Crushing location is a property with zoning where this type of use can be permitted with conditions. Sup. Truitt said every resident of Broken Bow will tell you their comfort will be negatively impacted. Sup. Berg indicated that is the reason for setting conditions on the use. Sup. Berg requested that Sup. Truitt provide the comments that he received individually regarding this application to the Town Administrator for record keeping purposes and to establish a reason for denial of the application. Atty. Hughes reiterated the need to establish a reason for denial. Bill Vachon said based on the current permit for the pit, a portable crushing pit could go in there today and run 10 hours per day. Sup. Truitt asked if the Town doesn’t approve, you (Vinton Construction) will just do it anyway? Vichon indicated that wasn’t the case, he was just pointing out currently approved use of the property but said he understands and accepts Town Board’s decision and will look elsewhere if the conditional use permit is not approved.

* 1. Resolution 02232022D Conditional Approval of a Temporary Conditional Use Permit for Vinton Construction at 3262 Nelson Road

**Sup. Truitt moved to deny approval of a temporary conditional use permit for Vinton Construction based on the eight standards not being met, Chairman Viney seconded the motion. Motion carried by unanimous voice vote.**

1. FedMadison Drive LLC Revenue Sharing of 2020 and 2021. Administrator Lentz said at the last meeting the Town Board suggested she research what the plan for these funds was when the revenue sharing agreement was approved. Lentz said she looked through the records but the discussions occurred during closed session. Lentz provided estimates to the Board of the effect of lowering the tax levy by the estimated amount of the annual revenue sharing permit. She noted that there is a possibility that if the assessment is contested or a change in value occurs and the amount of the revenue sharing annual payment is reduced, the Town will not be able to regain its lost levy capacity without a referendum. Information regarding levies for area municipalities was provided also. Sup. Truitt said the revenue sharing funds should be used to offset Town taxes now and if there is a change in assessed value on the property, the Town would have to go to referendum. He said the property was allowed to be annexed into Madison to benefit the Town, not just users of certain roads or parks. Chairman Viney said there haven’t been a lot of funds to do work within the parks and a lot of people use the parks. Sup. Stieren said he agrees with lowering taxes but to go down and go back up might be difficult and the funds could be used in lacking areas that haven’t been addressed. Sup. Truitt asked if there could be a split by lowering the levy a portion of the anticipated revenue sharing amount and using the remainder for specific projects. Administrator Lentz said she also included in the packet a list of roads that need to be done in the coming years and indicated that some of the cost estimates are three years old and have likely increased. Ron Kurt agreed that road funds do not go as far as they used to. Lentz said that as budget time approaches, there will be a better idea of how this would affect the tax levy. Sup. Stieren said later this spring there should be a better idea of what the parks needs are. **Sup. Stieren moved to gather priorities in the parks, get bids on those projects and bring that information to the Town Board at a future meeting. Motion seconded by Sup. Berg and carried by unanimous voice vote.**
2. Old New Holland Tractor Engine Replacement Options. Ron Kurt said that the Town Board previously discussed leasing options for a tractor. He has received a price from Mid-State Equipment but has not received a definite price Hennessey. The old tractor is currently at Carl F. Statz and Sons. At minimum there will be towing and inspection charges, but Kurt noted a decision needs to be made on whether to get rid of the old tractor or not. He is uncertain if Statz intends to charge any storage fees for the time the tractor has been there. Kurt said there is one potential buyer and the estimated assessment of what the Town could receive for the sale is $13,000-$14,500. Chairman Viney directed Kurt to find out if Statz is going to charge the Town storage.
3. Building Furnace & Air Conditioner. Chairman Viney said he doesn’t consider the second bid from NAMI comparable to the bid from Cardinal presented at the last meeting. Ron Kurt said NAMI provided a cost estimate of all units, but the price that would include work similar to what Cardinal quoted was $15,200 for NAMI, $10,000 for Cardinal. The Cardinal quote is over 30 days old and staff is uncertain if Cardinal will still honor that price.
   1. Resolution 02232022E transfer funds from reserve and amend 2022 budget for HVAC replacement. **Sup. Berg moved to approve Resolution 02232022E to transfer from reserve and amend the budget in an amount not to exceed $12,500 at the discretion of the Town Chair, seconded by Sup. Stieren. Motion carried.**

CLOSED SESSION

Sup. Berg moved to take the agenda out of order and convene into closed session pursuant to Wis. Stat. §19.85(1)(g) to confer with legal counsel for the Town who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation challenging a decision of the Office of the Commissioner of Railroads regarding railroad crossing at Nelson Road. Motion was seconded by Sup. Stieren and carried by unanimous roll call vote at 7:49 p.m. Present in closed session were: Chairman Kevin Viney, Supervisors Steve Berg, Jeff Stieren and Chris Truitt. Also in attendance: Attorney Chris Hughes, Administrator/Clerk/Treasurer PJ Lentz, Deputy Treasurer/Clerk Elissa Friedl, and Public Works Lead Ron Kurt. Motion was made by Sup. Truitt and seconded by Sup. Stieren to return to open session at 7:57 p.m.

NEW BUSINESS

1. Newsletter and Information options: TextMyGov/Remind/Email/Facebook. Administrator Lentz was contacted by TextMyGov, a company offering a text notification system. The price was $3,000 annually with a $1,500 setup fee. A later conversation reduced the price to $2,000 annually. Lentz also learned of a service called Remind that is free. These services could be used to notify residents of yard waste dates, road closures, etc. or we could begin collecting resident email addresses and send out notifications that way. Lentz said she solicited quotes from two printers for the spring newsletter and it is costly to print and mail them. She indicated residents have also asked about a Town Facebook page. Sup. Berg said the email notifications are a good idea, but people need to add Town of Burke to their address book so the emails don’t go to a spam file. Chairman Viney said we need to be careful not to disclose personal emails if we use this process and he would like to focus on improving the web site. Sup. Truitt suggested staff check into plugins offered by WordPress that allow newsletter management and email mailing lists which would allow residents to join and leave the mailing list. Lentz said she will research the WordPress features.
2. Fee Schedule review. Administrator Lentz presented a draft fee schedule. She said some of the items are what was in the code and some reflect what is currently being charged. She added that some things in the code may be outdated and should be removed from the code or revised. Lentz said it is her goal to get the code and fee schedule cleaned up during 2022.
3. Update telephone system in Town offices at a cost of $2,798. Administrator Lentz indicated the new system will provide new phones with voicemail, a calling tree and will install a line in the Town Board room for conference calls. Sup. Truitt asked if this was being paid for with the COVID grant (ARPA funds). Lentz said the use of those funds has not been decided yet and there are funds in reserve for the office.
   1. Resolution 02232022A to transfer funds from reserve and amend 2022 budget. Sup. Berg moved to approve resolution 02232022A, seconded by Sup. Stieren. **Motion carried by unanimous voice vote.**
4. Write off uncollectible accounts receivable in the amount of $115.91.
   1. Resolution 02232022B to write off uncollectible accounts receivable. Sup. Stieren moved to approve resolution 02232022B, seconded by Sup. Berg. **Motion carried by unanimous voice vote.**
5. Transfer from General Fund to Developer Fund in the amount of $1979.65. Deputy Clerk/Treasurer Friedl explained the last major cleanup/reconciliation between the Developer Fund and General Fund was in 2016. Since then, some accounting transactions have resulted in the Developer Fund not containing sufficient funds to refund the excess deposits on zoning applications or developer projects.
   1. Resolution 02232022C to transfer from General Fund to Developer Fund for reconciliation of developer escrow. Sup. Truitt moved to approve resolution 02232022C, seconded by Sup. Berg. **Motion carried by unanimous voice vote.**

REPORTS

1. Plan Commission, ETZ Committee, Parks Commission, NECC

Sup. Berg reported the Plan Commission met to consider the Temporary Batch Plant application earlier this month and will meet for a comprehensive plan training session on March 9, 2022. Sup. Berg reported the ETZ committee has not met but received an email from DeForest regarding the Pepsi plant changes. Sup. Berg sent his concerns to DeForest. Sup. Stieren said there is no update from Parks Commission until later this spring. No NECC report.

1. Administrator and Public Works Reports

The Administrator and Public Works reports were provided to the Town Board in the packet.

PUBLIC INPUT:

Gary Richards was present to remind the Town Board of the drainage concerns at Burke Conservancy Estates Park. Sup. Stieren said they are waiting for water to flow to assess the situation.

NEXT MEETING DATE: March 16, 2022 at 6:00 p.m.

ADJOURNMENT

Motion by Sup. Truitt to adjourn at 8:28 p.m.

Approved:

PJ Lentz, Administrator Clerk Treasurer