



REGULAR MEETING
WEDNESDAY JULY 31, 2019 - 7:00PM

The Orrock Township Board met in regular session, on Wednesday July 31, 2019, at the Orrock Town Hall, 26401 – 180th St. NW, Big Lake, Minnesota.

In attendance were Chair Corrie Silverberg, Supervisors Bryan Adams, Paul Ellinger, Bob Hassett and Eric Peterson, Clerk Brenda Kimberly-Maas, Treasurer Gary Goldsmith. Also in attendance were Mike Nielson – Town engineering firm, Darryl Waletzko – Town Contractor, ten audience members and Gary Meyer – West Sherburne Tribune.

A quorum was present, the meeting was called to order by Chair Silverberg, at 7:00PM and the Pledge of Allegiance to the United States of America was recited.

Meeting Agenda Approval

One requested addition to the Agenda by Treasurer Goldsmith to discuss obtaining a safe deposit box as letter “c” under Treasurer’s Business.

Motion/Second to accept the amended agenda by: Ellinger/Adams. All present Supervisors approved. Motion prevailed, and the meeting proceeded in accordance with the amended agenda.

Approval of Meeting Minutes

Motion/Second to approve the June Regular Minutes by: Ellinger/Adams. All present Supervisors approved. Motion Prevailed.

Open Forum

There were no residents present who wished to speak with the Board during Open Forum.

Clerk’s Business

Tom & Heidi Warnke – License Agreement

Clerk Kimberly-Maas gave a brief history on the reason the Warnke’s were present. In May of 2018, Ken Geroux and the Warnke’s attended the Regular Board Meeting, requesting comments on two variances. Sherburne County Planning and Zoning letter stated the Warnke’s would need to install an upgraded SSTS to handle the increased size of the home. The SSTS would require a mainline pipe to run under 253 ½ Ave. connecting the home to the SSTS on a lot across the road, also owned by the Warnke’s. The County requested the Town to grant permission to have this pipe installed through the Town’s road easement. The Town’s attorney has recommended these types of requests be handled by issuing a license agreement and have it recorded to the property. The Town has adopted a Fee Schedule Ordinance, which requires a \$750 escrow, for the writing and recording of each License Agreement. When Clerk Kimberly-Maas called Mr. Geroux, informing him of the escrow, she was told the project had been put on hold. During a later conversation with Mr. Geroux, she was told the project was no longer going to occur. No License Agreement was written. In June of 2019, Mr. & Mrs. Warnke phoned the Clerk, inquiring about the License Agreement. Clerk Kimberly-Maas relayed the information that an escrow of \$750 would need to be paid to the Town, before a License Agreement for the project could be written. To date, no escrow has been established by the Warnke’s to ensure costs associated with the matter are paid for by the Warnke’s, as is required by the Town’s Fee Schedule Ordinance (20160928.2

- Amended 3/28/2018). Clerk Kimberly-Maas sent, via email, the Fee Schedule Ordinance and a SAMPLE License Agreement – which had been watermarked “SAMPLE” and sent as a pdf document, to the Warnke’s for preview. Since the email correspondence, the Warnke’s hired a lawyer, Mr. Jim Neilson – who was also present at the July 2019 Regular Meeting, to represent them in their objection to language in the SAMPLE Agreement. Clerk Kimberly-Maas had shared with the Board two letters which had been sent to her. One from Nancy Riddle, Sherburne County Planning & Zoning Administrator, which informed the Board that the two variance applications made in 2018 by the Warnke’s had both expired. The second was received the afternoon of the meeting, from the Town’s attorney, Bob Ruppe. It was addressed to Mr. Neilson, sent to him via Email, and CCed via email, to the Town. This letter explained why the Town has the right to require a license agreement be entered between the Town and the Warnke’s. Chair Silverberg asked if Mr. Neilson had taken the opportunity to review the letters. Mr. Neilson stated he had been away from his office during the afternoon and had no access to his email, during that time. Clerk Kimberly-Maas gave a copy of the email sent by Mr. Ruppe, to Mr. Neilson. The Board moved on to another item of business to allow Mr. Neilson to review the letter from the Town’s attorney. After reviewing the letter Mr. Neilson addressed the Board. Mr. Neilson stated that he has been practicing law for 56 years, exclusively as a real estate lawyer. He also noted he had sent Mr. Ruppe a letter on July 16, 2019 stating MN State Statutes § 237.162 and § 237.163 subd. 2(b) was passed in 1997 and cannot be retroactive to the Ann Lake Beach plat which were dedicated in 1954. Mr. Neilson gave the Board his full professional biography and spent the next several minutes speaking about his experience as a real estate lawyer, the platted road easement, and his interpretation on what jurisdiction of the Town’s authority of the easement. It is Mr. Neilson’s opinion that the Town has no right to require a license agreement for the Warnke’s SSTS mainline pipe. Of other concern was the need for the Warnke’s to deposit an escrow with the Town to pay for professional fees associated with this matter. Board members informed Mr. Neilson that they would take his comments under advisement. However, the Board is following the Town’s attorney’s recommendation of requiring a license agreement between the Town and the Warnke’s for any encroachment in the dedicated road right-of-way easement.

Mr. David Larson requested a moment to add comment to the discussion. He and his wife, Carolyn, had also been before the Board requesting a license agreement, for the same situation of encroaching on the road right-of-way easement of 253 ½ Ave. for a SSTS. Their concern was the language of needing to obtain and maintain liability insurance at the current State tort limit (\$1.5 million) and the ability of the Town to require the equipment be removed at any time, for any reason. Mr. Larson told the Board they called their own insurer to ask about adding the liability insurance to their property insurance, and were told the company doesn’t write this kind of coverage. Further calls to other insurance companies, resulted in the same answer – no company would write this kind of coverage, even as an umbrella. The Road Committee was directed to investigate further on the insurance issue and inquire with the Town’s attorney if the language pertaining to equipment removal could be altered to state the Town would only require the removal of equipment if there was “just cause”. They will also ask about altering or removing the insurance language, based on what they learn. License Agreement language TABLED for Follow-up in August.

Phil Perrault – Heritage Trails Third Addition Lot 1 Blk 2, Drainage Easement question

Clerk Kimberly-Maas informed the Board that Mr. Phil Perrault had contacted her requesting to discuss the possibility of building his walk-out home, partially within the drainage easement on the lot he purchased in Heritage Trails Third Addition (Lot 1, Blk 2). Clerk sent the information to Mike Nielson for his review. Mr. Perrault was in attendance and was asked about the placement of the house. Phil stated he would like to have a small part of the walkout be within the recorded drainage easement. He also noted the area where he is proposing to encroach is very dry and unlikely to be affected by any standing water. Mike addressed the Board stating he cannot recommend any part of home be built within the defined easement. Mike also stated that if Mr. Perrault feels the recorded easement is incorrect; he could have a new grading plan done, which may reflect different information than is currently on file. Mr. Perrault asked if the Board would be agreeable to allowing a post for a deck, within the easement. The Board felt that this would be allowed, but an encroachment

agreement would need to be drafted and recorded on the parcel. Mr. Perrault will consider his options and return to the Board if needed.

No Action Taken, at this time.

Roads

229th Ave. Project

Mike Neilson reported the Joint Project of 229th Ave. had been completed. The Town of Big Lake had submitted an invoice to Orrock, for their full portion of \$101,000. By approving the invoice submitted by Big Lake Township, Orrock will have paid in full their portion of the bituminous contract with ASTECH. NOTE: Town of Big Lake is withholding the standard 5% retainage, of the total contract amount.

Chip Seal Project

Mike Neilson addressed the Board, telling them he was reviewing the bid specs for the chip seal projects and realized the junior engineer, who had written the quantities in didn't include segments 2-5 shown on the map. Therefore, Allied had completed the project as they bid it, but there are still roads which need to be chip sealed. Mike had spoken to Allied, to see if they would honor their bids unit pricing and if they had time in their schedule to return. Allied will honor their pricing and will be able to return to finish the rest of the roads. Mike told the Board that since the error on the bid specs was not caught prior to the notice for bids was done, WSB will pay for the remobilization of equipment. The total to complete segments 2-5 is estimated at \$74,800. Chair Silverberg asked the Board if they would have approved the additional cost, if it had been in the original bid. All members agreed they would have approved the amount. Treasurer Goldsmith confirmed the amount was within the summer road maintenance budget. Motion/Second to approve chip sealing of segments 2-5 on the bid map, to be done by Allied. Remobilization costs will be paid by WSB, as the bid specifications were published without the segments included, and engineering fees will also be waived for this portion of the project by: Adams/Hassett. In favor: Adams, Ellinger, Hassett, Peterson & Silverberg. Opposed: none. Abstained: None. Motion Prevailed.

SPRA Grant Project

233rd Ave. Trimming & Brushing

The budget for trimming within the right of way on 233rd Ave. was for far less than the initial project quotes received by the Town. The specs were adjusted to accommodate the higher pricing that was received. The approved project had been completed. Supervisor Adams would like to see the right of ways on 233rd Ave. be cleared further to ensure clearance for horseback riders, and to allow as much sunlight on the road during the winter months, as possible. Supervisor Adams noted additional clearing can be done in 2020.

233rd Ave. & 168th St. Construction & Overlay

Mike Neilson informed the Board the pre-con meeting will be held on Thursday August 1, 2019 and is open to the public. Construction is scheduled to begin on August 12, 2019. Both 168th St. and 233rd Ave. will remain open during construction. There will be flaggers on 233rd Ave.

Trimming other areas

Supervisor Adams presented a map of the areas he is proposing to be trimmed this season. He prepared specifications for the project. Trimming is to be done between November 2019 and December 2019. Clerk will place Request for Quotes notice in the West Sherburne Tribune. Quotes will be received and contract awarded by the Board at the August 28, 2019 Regular Board Meeting.

Sign Replacement Program

Supervisor Hassett informed the Board that all the signs in the Township, had been reviewed in 2018. Those in need of replacement were taken care of and unnecessary signs were removed. All installed signs were also stickered with the date which they were installed, to ensure they are rotated out, as required by law. In the

future, during the spring road tours, all signs will be reviewed and replaced as needed, due to age, wear or effectiveness. The Board recommended there be stock of the most used signs (like stop signs), in the event one is damaged. An inventory of signs that are currently in the shed, will be done. Additional signs will be ordered, for stock as recommended by the road committee.

Board Business/Updates – Committee Reports

Supervisor Adams reported he will gather quotes for storm drain jetting. The work will be done after the final sweeping of chip seal rock, is done – mid-September. Follow up with quotes at the August meeting.

Supervisor Ellinger reported he had attended the Zimmerman and Big Lake Fire Department Board meetings. He learned that the community facility/room is still going to be built within the new Zimmerman Fire Department building. 2020 rates were discussed, and it was mentioned that the rates may include an assessment for a portion of the community hall. One board member stated he felt the residents of Orrock should then be given the same privileges of use to the hall, if there was an assessment to the residents, for the construction of the event hall. Supervisor Ellinger noted the Board will want to consider the possibility of these increased rates, when calculating future budgets.

Supervisor Ellinger noted the Big Lake Fire Board is also discussing their budget and some increases for 2020 in the Fire Department's budget. The formula for Orrock's contract with Big Lake Fire Department, is based on the tax capacity of the Township. A budget increase to the Big Lake Fire Department's budget would not affect the Town's cost for services.

Supervisor Ellinger would like to discuss and take formal action on the permit & escrow reimbursement forms that Clerk Kimberly-Maas had shared via email, at the August meeting. Additionally, he would like to have the On-going maintenance agreement for Townline Road, 229th Ave. ready for discussion and action at the August meeting. Clerk Kimberly-Maas will revise the Ongoing Maintenance Agreement and have both items on the August Agenda. Follow-up in August.

Supervisor Hassett attended the Board of Adjustment meeting where he learned the County is considering changing the governance of the St. Cloud airport. Discussion is being made on the creation an Airport Authority.

Supervisor Silverberg requested an email be generated when an official contacts Darryl to perform work for the Township. This will help with record keeping.

Supervisor Peterson told the Board he had received calls about the need to install additional Speed Limit signs on 229th Ave. Supervisor Peterson made a site visit and reported there is a 30 MPH speed limit sign at the junction of 229th and CSAH 43 and another on the west end of 229th Ave., at 170th St. He feels additional signs are not needed. Clerk Kimberly-Maas stated, Big Lake Township received 2-3 calls from residents, making the same request. Big Lake Road Committee members also feel the signage installed is adequate. No further action taken.

Treasurer's Business

Claims Approval – Routine, Individual and Payroll

Claims and payroll presented for payment, were electronically made available for Board review, and were available as hard copy, during the meeting, for public review. There was one addition, which were presented to the Board prior to the meeting. Treasurer Goldsmith also informed the Board the first distribution of 2019 tax collections (70%) had been received from Sherburne County. The distribution will be reflected in the June reports, July meeting.

Routine Claims – including the invoice from Big Lake Township, for Orrock's portion of the Joint project on 229th Ave, PERA payment, and Handy-man Compensable time: Motion/Second to approve routine claims by: Ellinger/Hassett. In favor: Adams, Ellinger, Hassett, Peterson & Silverberg. Opposed: none. Abstained: None. Motion Prevailed.

Payroll Claims – July 2019: Motion/Second to approve payroll claims by: Silverberg/Peterson. In favor: Adams, Ellinger, Hassett, Peterson & Silverberg. Opposed: none. Abstained: None. Motion Prevailed.

Treasurer's Report

Town Funds balances as of June 3, 2019:

General Fund: \$ 45,725.66

Road & Bridge: \$876,185.94

Fire: \$56,129.71

Capital Reserve: \$195,373.68

The escrows were unchanged

Motion/Second to accept the Treasurer's Report date ending 05/31/2019 by: Ellinger/Peterson.

Approved by: Adams, Ellinger, Hassett, Peterson and Silverberg. Opposed: None. Abstained: None. Motion Prevalled.

Treasurer Goldsmith presented the Board with the Cash Control statement. Ending cash balance after reconciling the books with the bank statements: \$1,065,07.56 This amount included 4M fund balance information.

Motion/Second to accept the June Cash Control Statement: Ellinger/Peterson. Approved by: Adams, Ellinger, Hassett, Peterson and Silverberg. Opposed: None. Abstained: None. Motion Prevalled.

Treasurer Action Items

Banking update

Treasurer Goldsmith reported that he purchased the Town's first (1st) cd through Sherburne State Bank and will be purchasing another on 8/19/2019. Treasurer Goldsmith also told the Board that the person(s), who are authorized to sign checks on behalf of the Town, needs to be updated. Treasurer Goldsmith also told the Board that he would like to obtain a safe deposit box for storage of the CDs and other important paperwork. The Board agreed this is a wise decision. He presented a resolution updating the Town officer names who are authorized to sign checks drafted on Sherburne State Bank and the 4M fund, and authorize the rental of a safe deposit box, at Sherburne State Bank.

Motion/Second to adopt presented resolution updating the names of the officers who can sign checks, and authorize the rental of a safe deposit box at Sherburne State bank by: Peterson/Hassett.

Approved by: Adams, Ellinger, Hassett, Peterson and Silverberg. Opposed: None. Abstained: None.

Motion Prevalled.

Announcements

Clerk Kimberly-Maas announced the celebration of retirement for Assessor Greg Olson. The Board members are invited to attend the festivities on Wednesday, August 28, 2019 in the Maple Room, at Sherburne County Government Center, from 2-4PM.

Adjournment

Motion/Second to adjourn regular meeting by: Silverberg/Peterson. All present approved. Motion Passed, adjourning the Regular Monthly Meeting, on Wednesday July 31, 2019 at 8:44PM.

Respectfully Submitted,
Brenda Kimberly-Maas
Town of Orrock, Clerk

Accepted this 28th day of August, 2019 by the Orrock Township Board of Supervisors.

Corrie Silverberg, Chair

Attest: _____
Brenda Kimberly-Maas, Town Clerk