



CASCADE
--- TOWNSHIP ---

2025 75TH ST. NE
Rochester, MN 55906
www.cascadetownship.us

CASCADE TOWN BOARD MINUTES

December 1, 2014

Call to order at 6:00 PM at the Cascade Town Hall Meeting Room.

Members present: Supervisors Heathman, Atkinson, and Laures, Clerk/Treasurer Michael Brown

Attendees present: Roger Ihrke of TCPA, Messrs. Peters, Minnich, Tomashek, Bauer, Glaser, Schumacher, Atterholt, and Kelly of Mathy/Milestone/RSG, Messrs. Hinderman and Fitzgerald of Wilmar Investments LLC., 100+ township residents and others as noted on the attendance list.

Chairman Laures called for additional agenda items. Supervisor Heathman requested an agenda item to address the Schoeppner CUP complaint.

Township Board Continuing Business.

- A motion by Mr. Atkinson to approve the minutes from the November 3, 2014 town board meeting as published and distributed. Second by Mr. Heathman.
AYE: Atkinson, Heathman, Laures
NAY: None
Motion Approved
- A motion by Mr. Heathman to approve the minutes from the November 12, 2014 special town board meeting with the township attorney as published and distributed. Second by Mr. Atkinson.
AYE: Atkinson, Heathman, Laures
NAY: None
Motion Approved
- A motion by Mr. Heathman to approve the minutes from the November 12, 2014 special town board meeting for Majestic Meadows as published and distributed. Second by Mr. Atkinson.
AYE: Atkinson, Heathman, Laures
NAY: None
Motion Approved

- A motion by Mr. Heathman to approve and pay the Joint Powers bill (claim # 1730) of \$35,484.01. Second by Mr. Atkinson
 AYE: Atkinson, Heathman, Laures
 NAY: None
 Motion Approved
- A motion by Mr. Heathman to approve and pay the remaining Cascade bills (claim #s 1708 – 1729) of \$94,368.17. Second by Mr. Atkinson.
 AYE: Atkinson, Heathman, Laures
 NAY: None
 Motion Approved
- Clerk/Treasurer Brown reviewed the financial reports.

Total receipts in November 2014 were:

1. Checking interest of \$127.72
2. Ashley Nierman (1 of 2), Town Hall rental \$150.00
3. Ashley Nierman (2 of 2), Town Hall rental \$150.00
4. City of Rochester Annexation payment \$2,965.23
5. Culvert Payment, Chris DeCook \$462.20

The Premier Bank account balance as of November 30, 2014 was \$204,489.43

The CTAS balance as of the start of this meeting is \$204,489.43

The total outstanding checks are:

1. Checks written at this meeting - \$133,198.42
2. CK #4293 - \$80.00
3. CK #4310 - \$12,383.25

Ending CTAS balance on December 1, 2014 is \$58,827.76

- A motion by Mr. Atkinson to approve the financial report. Second by Mr. Heathman.
 AYE: Atkinson, Heathman, Laures
 NAY: None
 Motion Approved
- Sheriff Deputy's Report:
 Deputy Chad Miller provided an update on patrol activities. There were a total of 66 calls for service.

- Mail Review
- Meeting Review
Mr. Heathman attended the RUA MS4 meeting
Mr. Laures attended the TCPA meeting

Township Board New Business

10. Audio/Video Recording of Township Meetings

Mr. Heathman requested clarification on the use of audio recording equipment at township meetings. Mr. Brown advised that one recording device is used by the clerk for assembling minutes. Another device is used by Mrs. Brown for recording of the meeting and in keeping with established law may be used as desired. Questions regarding past dissemination of recordings were answered. No further questions were raised. Clerk Brown noted that he and Mrs. Brown had retained a private attorney for advice pertaining to questions raised by the town board relating to audio/video recording of town board meetings.

11. Records Management and Retention

In light of the number of pieces of correspondence received and/or sent by the members of the board, Clerk Brown reviewed the definition of government records and the records retention policy of the township. It was noted that a three year minimum retention applies to correspondence relating to matters before the board. It was noted the records may be placed with the clerk's office for retention or maintained by individual supervisors according to the schedule in effect.

12. Mathy Rezone Request - Mr. Derby

Mr. Derby appeared before the board to address the matter of the pending rezoning application by Wilmar Investments. The full text of Mr. Derby's statement is available in the public inspection copy for this meeting. Mr. Derby addressed the deleterious impacts of the proposed intent to quarry the subject property. Mr. Derby requested the board to either deny the application or delay a decision until the January board meeting in order to allow him sufficient time to engage legal counsel to protect his interests.

13. Mathy Rezone Request Staff Report Errors – Mr. Wallace

Mr. Wallace appeared before the board to address the staff report prepared by TCPA for the rezone application by Wilmar Investments. Mr. Wallace noted two issues of incongruence with the county General Land Use Plan and county staff advice: The definition of short term is 2-3 years and the co-location of aggregate extraction in a suburban area was unaddressed. Mr. Wallace also noted errors in the application process and the staff report. According to the Cascade Township Zoning Ordinance section 10.48 a traffic impact study, or waiver of same, was required as a prerequisite for an application

to be considered complete. No study or waiver was submitted. It was also noted the staff report, in presenting the applicable section of the zoning ordinance for consideration by the Planning Commission, included the correct title for the ARC Aggregate Extraction district definition but included the descriptive text of the ARC LILI district. Mr. Wallace noted the Planning Commission evaluated the application against the wrong district description. Mr. Wallace submitted his comments for the public inspection copy of this meeting.

14. Mathy Rezone Request – Tabled Action

Mr. Laures re-opened the tabled application for discussion. Mr. Laures noted the efforts to redress the confusion created by the board's imperfect understanding of the rules applying to meetings with a township attorney. Mr. Laures invited additional comments from the applicant.

Mr. Hinderman of Wilmar Investments addressed the comments by Mr. Derby.

Mr. Tomashek of Mathy/Milestone summarized the information presented by Mathy/Milestone at the community information session held November 24, 2014.

Mr. Peters of Mathy/Milestone noted the quarry plan does not include de-watering at this time and any future de-watering would require a subsequent application for an amended CUP.

Mr. Fitzgerald of Wilmar Investments discussed the history of his operations.

Mr. Laures invited questions and/or statements from the public.

Multiple individuals addressed the board noting the following summarized comment topics:

- Concern regarding the effects of blasting
- Concern that granting a zone change creates a vested right to quarry operations
- Questioned the assertion of contiguous use and continuous use.
- Questioned the ability of the board to enforce CUP conditions
- Statements addressing the impact on property values, health, safety and welfare and the obligation of the board to follow the dictates of the township zoning ordinance.
- Questions regarding eventual de-watering
- Questions regarding costs of CUP and/or zoning enforcement
- Questions regarding the applicability of EIS requirements
- Concern that the proposed use is no longer timely and rights to mine have been waived through inaction
- Questions regarding the assertion of grandfathered status
- Questions regarding the application process going forward and the applicable timeline
- A question regarding the board's consideration for the input of the electorate
- A statement regarding the 55th street extension and land acquisition costs for the county and taxpayers
- Statements regarding the errors in the application process and staff analysis and report
- A question regarding escrow accounts for impacts arising from the proposed use
- Imposition of CUP conditions

Mr. Tiede, the township attorney, noted the following:

- The matter in front of the board is a legislative and policy issue of rezoning. Non-conforming rights are not part of this.
- Applicable court cases regarding quarry operations and expansion are unclear.
- The matter in front of the board consists of factual and legal issues.
- The township is not bound by past letters from the county
- The possible range of court costs could reach six figures
- The EQB stated a three year look back period for consideration of the EIS requirements
- The township could require an EIS as part of any CUP
- Zoning is a policy matter and is highly discretionary based upon the board's objectives and factors of consideration

Mr. Heathman inquired of Mathy if they have a contingency plan. Mathy representatives stated they were not at liberty to discuss this question.

Mr. Atkinson addressed the audience summarized the dilemma facing the board of allowing the matter to potentially play out in the courts or seeking control through a CUP.

Mr. Lares stated his belief that the requested location is not the best location for a quarry given surrounding development.

- Mr. Atkinson moved to approve the zone change request. The motion died for lack of a second.
- A motion by Mr. Heathman to deny the rezone application. Second by Mr. Lares.
AYE: Atkinson, Heathman, Lares
NAY: None
Abstain: None
Motion Approved
- A motion by Mr. Lares to adopt the resolution stating the findings of fact for denial of the rezone application. Second by Mr. Atkinson.
AYE: Atkinson, Heathman, Lares
NAY: None
Abstain: None
Motion Approved

15. 2015 Ballot Question Petition – Five Member Board

Mr. Brown reviewed with the board the petition received to place upon the 2015 township annual election ballot the question of adopting a five member board of supervisors. Mr. Lares reviewed for the audience the potential benefits of an expanded board. In response to a request for a copy of the petition Mr. Brown requested authorization from the board to contact the township attorney for clarification on

how to handle the data request and what data, if any, required redaction. Mr. Brown also requested, per state rules, authority to contact the township attorney for approval of the ballot question title. Approvals were granted.

16. 2015 Ballot Question – Appointed Clerk/Treasurer Position

Mr. Laures introduced the suggestion for asking the electorate to allow the board of supervisors to appoint the town clerk/treasurer as opposed to having that as an elected position. Mr. Laures noted the potential benefits. Mr. Brown noted potential detriments and the value of independence from the board.

- A motion by Mr. Heathman to place upon the 2015 township election ballot the question of adopting the option for an appointed clerk/treasurer. Second by Mr. Atkinson.
AYE: Atkinson, Heathman, Laures
NAY: None
Motion Approved

Mr. Brown requested authorization from the board to contact the township attorney for approval of the ballot question title. Approval was granted.

17. Planning Commission Issues.

The board discussed the recent issues at the planning commission for assignment of roles. Mr. Laures noted he has reached out to MATS for advice and has secured the support of the deputy clerk for scribe duty. Mr. Laures will be contacting each of the commission members for discussion.

Township Board Discussion Items

18. Road Maintenance

Summer/Fall chores are complete

19. Fire Contract

No update. Revisit in January

20. Town Hall Building Concerns

Mr. Heathman will draft a letter to KBS documenting the concerns as the KBS contact has been non-responsive.

21. Town Hall Rentals

Reservations for December 12 and 24. Mr. Heathman expressed a desire to revisit at a future meeting the policy as it relates to reservations by one party for multiple dates.

22. Upcoming Meetings

None

23. Call to Audience

No additional comments/questions from the audience.

24. Schoeppner CUP Concerns

Planning staff will arrange for an inspection to verify the complaint and will report back to the board.

Motion by Mr. Atkinson to adjourn. Second by Mr. Heathman.

AYE: Atkinson, Heathman, Laures

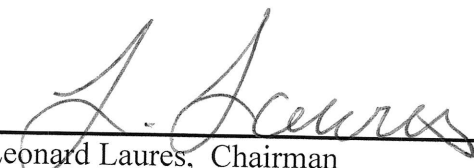
NAY: None

Motion Approved. Meeting adjourned at 9:13 PM

Submitted: Michael Brown, Clerk/Treasurer



Michael Brown, Clerk/Treasurer



Leonard Laures, Chairman