

Minutes from the Town of Trenton Town Board Meeting

Date and Time: April 17, 2007 – 7:30 P.M.

Place: Town of Trenton Town Hall, 1071 Highway 33 East, West Bend, WI 53095

Present: Chairman Joe Gonnering, Supervisor Ed Doerr, Supervisor John Norman, Town Clerk Barbara Davies, Treasurer Monica Diaz, Deputy Clerk/Treasurer Cindy Komro, Town Attorney Robert Feind, Town Attorney Deb Hoffmann, Building Inspector/Zoning Administrator Frank Mayer

Prior to the Meeting, notice was properly posted on the Town Bulletin Boards and mailed to the West Bend Daily News and WBKV AM/FM.

Chairman Gonnering called the Meeting to order at 7:30 P.M.

Chairman Gonnering asked the citizens in attendance to join in saying the Pledge of Allegiance.

Approval of Minutes – Town Board Meeting of April 2, 2007:

It was moved by Ed Doerr and seconded by John Norman to approve the Minutes of the Town Board Meeting of April 2, 2007. Carried unanimously.

Comments and Questions from the Audience:

Mike Bykowski asked if the agenda could be changed to move item #7, Certiorari Appeal, to item #9. Chairman Gonnering noted that this request would have to be considered under the next agenda item, accept/review agenda. Mike Komro asked for an update on the status of the junk citation issued to Donald Geib (Decorah Road). Deb Hoffmann will check the status. Gonnering said he would check the status of the citation with Chief Gabrish.

Accept/Review Agenda:

It was moved by Ed Doerr and seconded by John Norman to approve the Agenda with this change: Move agenda item # 7, Certiorari Appeal, to follow agenda item #9, Renew Membership in Wisconsin Towns Association. Carried unanimously.

Award Bid for Grass Cutting – Town Park and Cemetery:

Chairman Joe Gonnering opened and read the bids as follows:

Kevin's Lawn Care, \$300/cut Town Hall, \$26/cut cemetery

Cedar View Lawn Services, \$290/cut Town Hall, \$40/cut cemetery

Grass Chopper, \$325/cut Town Hall, \$50/cut cemetery

Viking Brothers, \$400/cut Town Hall, \$60/cut cemetery

Supervisor Ed Doerr moved to table the award for two weeks to allow Jim Wollner to review the bids.

Discussion followed. Doerr then stated that he wished to withdraw his motion. It was moved by John Norman and seconded by Ed Doerr to award the bid to Kevin's Lawn Care, the low bidder. Carried unanimously.

Carmody Declaration of Condominium Documents and PDO Development Units:

Frank Mayer stated that the Plan Commission has recommended approval of the condominium documents and the planned development overlay development unit's plans for the 35.01 acres described in the documents. Phil Eckert introduced himself as Mr. Carmody's attorney. He presented the Board with five large-scale maps of the property and a revised copy of the condo documents. The title company will do the recording. Attorney Feind summarized the 1986 attorney general's opinion regarding condominium common elements. Carmody's agreement conforms to those elements.

The Board Members reviewed the documents and the map. Supervisor Doerr asked several questions. It was moved by John Norman to approve the Condominium Documents for Carmody's 35.01 acre project. Doerr seconded the motion. Attorney Eckert pointed out that the PDO Development Plans also require approval. John Norman stated that he wished to amend his motion as follows: to approve the Condominium Documents and the Planned Development Overlay Development Units plans for the 35.01 acres owned by Carmody. Doerr seconded Norman's amended motion. There was no further discussion. Carried unanimously.

#### Holding Tank Agreement - Foursome Management Inc.

The holding tank agreement and pumpers agreement have not yet been submitted. Chairman Gonnering asked that this matter be placed on the 5/1/07 agenda.

#### Professional Ventures LLC Transfer of Conservation Easement:

It was moved by Ed Doerr and seconded by John Norman to table action on this matter to May 1, 2007 to allow Attorney Hoffmann time to review the DNR documents. Carried unanimously.

#### Renew Membership in Wisconsin Towns Association:

It was moved by John Norman and seconded by Ed Doerr to approve the renewal of the Town's membership in the Wisconsin Towns Association. Carried unanimously.

#### Certiorari Appeal, Zellmer Case:

Attorneys Hoffmann and Feind outlined the certiorari appeal process. Copies of the certified records from the Town have been submitted to the Court. Hoffmann said that a scheduling order has been submitted with copies of the Town's records. Following submission of the records, both parties will submit briefs. Submission of the briefs set in motion a time frame for response to the briefs. Hoffman said that this process would probably extend into June 2007. Attorney Feind stated that the Town has a record in this case, and that he feels it is a complete record. In a certiorari case the judge is looking at the decision: did the Town have jurisdiction, was the decision based on fact, etc. Feind closed by stating that he felt it would be premature to start any additional actions until the Town has received the judge's ruling on the certiorari appeal. The Board asked that this matter be placed on the June 19, 2007 Town Board agenda for a status update.

Mike Bykowski, a member of Town Plan Commission, asked to address the Board. Bykowski said he felt that residents affected by Zellmer's business activities are getting "slow-walked" through Zellmer's ongoing violation of the zoning ordinances. Bykowski said that complaints about Zellmer's activities have been going on for at least two years. Bykowski said that Zellmer is clearly not in compliance, and he could not see why the Town kept letting Zellmer flaunt the law. Bykowski asked that the case be filed as quickly as possible to keep the process moving forward, even if the case may be delayed until the certiorari appeal has not yet been completed. Discussion among the Board members, Bykowski, and Attorney Feind followed. Feind and Attorney Hoffmann again advised waiting for the certiorari decision first. Discussion followed. Supervisor Ed Doerr asked what happens if Zellmer submits another conditional use permit (CUP) application in the meantime. Feind stated that the Board could turn down a CUP that is essentially the same; a CUP with different terms could be reheard. Doerr asked if a CUP application could be heard while the certiorari appeal is in process. Feind said that the application could be heard as long as the request would be substantially different. Plan Commissioner John Herlinger said he did not see any way that Zellmer's business qualified as a "home occupation" allowed under Town ordinances. Herlinger said he thought Zellmer's property would have to be rezoned. Attorney Feind replied that a CUP is a type of rezoning.

#### Plan Commission Recommendations:

None.

#### Review of Annexation Petitions:

None.

Reports:

Frank Mayer said he had just issued the first new home permit for the year. Mayer said he would be looking at a concept plan for a lot on Pleasant Hill and Decorah in the Plan Commission.

Cindy Komro reported that all votes cast at the 4/3/07 election had been scanned into the SVRS system.

Monica Diaz reported receipt of the 2<sup>nd</sup> quarter transportation aids.

Barb Davies reported an agenda request from Augie Fechter for the 5/15/07 Town Board Meeting. Attorney Hoffmann will attend the meeting as well.

Attorney Deb Hoffmann had nothing further to report.

Chairman Joe Gonnering reported that the 2007 Recycling Grant is \$20246.21 and should be received in June 2007.

Supervisor Ed Doerr reported that the weeds are growing.

Supervisor John Norman reported a call from AT&T re: their new "bundled" service. Satellite dishes can be used in the meantime.

Payment of Bills:

It was moved by Ed Doerr and seconded by John Norman to pay bills totaling \$43,297.76, and payroll of \$12,900.34. Carried unanimously.

Other business.

Chairman Joe Gonnering reported that the County would be putting up another monument at the Old Courthouse; supporters are sought to make contributions. Contributions can be made at the Historical Society. John Norman suggested an article for the next newsletter.

John Herlinger asked when the collapsed barn on CTH M would be cleaned up.

Consideration of any Preliminary Plat or any Final Plat which may be submitted pursuant to Chapter 236, Wisconsin Statutes:

None.

Action on Authorization Allowing Town Officials to Attend Seminars:

None.

Action on any Ordinance, Resolution, Report or Recommendation already Pending Before the Town Board:

None.

Adjournment:

It was moved by Ed Doerr and seconded by John Norman to adjourn the Meeting at 8:45 PM. Carried unanimously.

Respectfully submitted,

Barbara J. Davies  
Town Clerk

Affidavit of Posting:

These Minutes were posted on the Town of Trenton Town Hall Bulletin Board at 1071 STH 33 East, West Bend, WI on Friday, April 27, 2007.

Barbara J. Davies, Town Clerk