

Minutes from the Town of Trenton Town Board Meeting

Date and Time: May 15, 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, Town Attorney Deb Hoffmann, Building Inspector/Zoning Administrator Frank Mayer, Town Engineer Burt Naumann.

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 May 1, 2007:

It was moved by Ed Doerr and seconded by Joe Gonnering to approve the Minutes of the Town Board Meeting of May 1, 2007. Carried unanimously.

Comments and Questions from the Audience:

Karen Christianson introduced herself to the Board as an attorney representing several property owners on Deer View Court. Christianson said she would like the opportunity to address the Board during its consideration of agenda item 5, Deer View Court road construction.

Accept/Review Agenda:

It was moved by Ed Doerr and seconded by John Norman to approve the Agenda as presented.

Open and Award Bids, 2007 Roadwork:

Chairman Gonnering opened and announced bids submitted by the following companies:

N&R Asphalt, Bartelt Enterprises, Fahrner Asphalt, T & C Pavement Maintenance, ISC, and American Pavement, submitting bids for the crackfilling; Payne & Dolan and Stark Asphalt, submitting bids for the hot mix asphalt. It was moved by Ed Doerr and seconded by John Norman to table action on possible bid awards to the Town Board meeting of June 5, 2007 to allow Jim Wollner time to compile the bid results. Carried unanimously.

Deer View Court Road Construction, Road Completion:

Chairman Joe Gonnering stated that he had asked this item be placed on the agenda in an attempt determine the current status of the road's construction and completion. Gonnering asked if developer Augie Fechter or a representative was present. Attorney Ed Ritger (Random Lake) introduced himself as representing Fechter. Ritger said he had some questions about damage to the roadway allegedly caused by drainage from a driveway that may have been constructed without a culvert or permit. Ritger asked Town Engineer Burt Naumann if road deficiencies identified by Naumann in a 2006 letter to Fechter had been caused by the driveway put in to serve lot 3. Ritger said that the property owner of lot 3 should have to repair this, not Fechter. Burt Naumann answered that his letter was not addressed to an owner to affix blame, and that Graef Anhalt was looking at the Town's right-of-way issues, ditching and grading, when he made his review. Richter stated that he had a copy of Fechter's contracts with Scott Construction for two lifts of asphalt, one lift in 2001 (2"), one in 2002 (1.5"). The 2001 work was completed. Ritger said that Scott's contacted Fechter in 2002 and told him that they were ready to do the remaining 1.5" lift, but that someone from the Town told him not to do it at that time. Discussion

followed. Ritger and Augie Fechter stated that the person who told them to wait to put down the second lift was Mr. Bade from Scott's. Ritger and Fechter stated that Bade told them that a town official had told him (Bade) to wait until more homes were completed on the street. Now Scott's is no longer in business in this area. Ritger also stated that Fechter maintains that the Town has accepted this road as a Town road because it has plowed the snow on the road for the past four to five years. Ritger also questioned the language on the Certified Survey Map stating, in Ritger's words, that this is a "dedicated Town road". Ritger said that, based on these factors, Fechter maintains that Deer View Court is a Town road. Ritger said that Fechter is still willing to pay the approximately \$10,000 that he was willing to pay in 2002, even though this second 1.5" lift of asphalt is apparently, in Ritger's opinion, beyond what the Town ordinances require for road construction. Ritger said that Fechter also maintains that the many loads of fill trucked into lot 7 by lot 7's owner caused a lot of the damage to the road. Fechter feels that this is not his (Fechter) problem or Weyker's (original road construction contractor) problem. Lengthy discussion followed on the 2000 road construction, and the course of events since that time. Richter added that he wanted to call attention to covenants in the titles of all seven lot owners, putting the burden of road repairs on each lot owner while each is constructing a home on the applicable properties. Ritger said that Fechter was willing to write out a check tonight for the \$10,000 estimated 2002 cost of the second lift of asphalt.

Chairman Gonnering asked Burt Naumann to respond to points raised by Ritger.

Burt Naumann responded that the Certified Survey Map dedication language is for the right-of-way only, not any improvements such as the roadway. Dedication of the road itself – voting on acceptance of the road as a Town Road - must be a Town Board function. It is the responsibility of the developer to petition for acceptance. Naumann said that a final inspection is done by his firm at that time, and a letter is issued to the Board indicating whether or not the road meets Town standards and qualifies for a vote on acceptance. Discussion on the procedures for petition/acceptance of a Town roadway followed. Regarding the issue of a 2" pavement thickness, Naumann said that he was not sure what ordinance Ritger was looking at. The Town's standards are 2" binder course, 1.5" surface course for roadways. The Town can choose, on its own rural roads, to go with a 2" binder course alone. This choice is not available for developers seeking to build a road to Town standards. Naumann said he had no observation or knowledge of fill trucked to lot 7. Naumann referred to inspection diaries kept by Graef Anhalt Schloemer (GAS) employees performing onsite inspections. Naumann noted lots of problems, including problems with the way Weyker was approaching the construction. The roadway was constructed before the ditch was put in place. Naumann stated that, in his opinion, this was unusual. There were problems with proofrolling (run loaded trucks over the subgrade, look at the deflection). There were concerns about soft spots in the subgrade. Naumann explained some of the more technical problems. Naumann said that neither he nor any other GAS employees returned to the site until Fechter notified the Town that he was ready to lay the final course. Problems with the road were apparent at that time. Naumann said that the lack of proper ditches, etc. caused moisture seepage under the road, among other things.

Town Attorney Deb Hoffmann spoke next, referring to GAS's August 3, 2006 letter to Fechter regarding the road. She asked Naumann to confirm GAS's recommendation to remove the binder course, regrade the road, and relay binder course. Payne & Dolan (asphalt pavers) advised pulverizing the existing binder course, putting the pulverized material back down to add to/improve the base, regrading the road, and repaving it. Chairman Gondering asked Naumann if this had been done on other areas of the Town where road base problems have been encountered, and Naumann said that the Town has fought these same issues on other roads. Discussion followed. Gonnering asked if the Town would have recourse to the developer if it accepts the road and later encounters a problem with the road. Attorney Hoffmann said it would depend on the history of the problem. The Town would want to get an agreement in writing with the developer to be able to go back to developer for repair of problems occurring after acceptance of the road.

Ritger and Fechter again stated that the Town, through Mr. Bade of Scott Construction, had told them not to go ahead with completion of the road project in 2002, and that no one from the Town had ever contacted Fechter about acceptance of Deer View Court as a Town roadway. Attorney Deb Hoffmann stated that the Town relies on the plans submitted by a developer to approve subdivisions. It is not the Town's job to decide how to go about the project, which lots should be built on first, etc. The Town is now requesting that Fechter satisfy his plan obligations. Naumann said that neither he nor any GAS employees had given Fechter advice on waiting to do paving. Discussion followed. Fechter stated that someone from Scott's, probably Mr. Bade, called an unknown Town representative in 2002. Bade (not present at this meeting) told Fechter that he had been told not to proceed with more blacktopping until more people had built their homes. This was in 2002.

Supervisor Doerr asked for a ballpark estimate of the cost of redoing the road. Burt Naumann said it would be difficult to predict as asphalt has gone up about 45% in the last two years, but perhaps approximately \$45,000.

Attorney Hoffmann said that one possibility would be to litigate this, which could take 2-3 years plus legal fees. The Town cannot legally expend public funds to benefit private individuals. Attorney Karen Christianson, representing some of the property owners, said she thought the Town could spend money on the right of way to get that in shape. Discussion followed. Doerr suggested splitting the cost: 1/3 Fechter, 1/3 Town, 1/3 property owners. Christianson objected, noting that the homeowners are innocent victims and they will not contribute. Lengthy discussion followed. Attorney Hoffmann noted that this would not be settled tonight. The Board can authorize discussions among the parties or table the issue. Chairman Gonnering said he did not feel the Town had any liability and felt the developer should make good on his promises. It was moved by John Norman and seconded by Ed Doerr to table the matter to the Town Board meeting of June 19, 2007. Carried unanimously.

Curtis Meinert, Church Road Flooding:

Chairman Gonnering said that he and Burt Naumann had visited the site on Monday. Water runs across Church Road from a large pond to a swamp on the south side of the road when the water table is high or heavy rainfall occurs. This has consistently been a wet area. Washington County will be regrading, ditching, raising the roadbed, and putting in two 18" culverts. The culverts will be placed further to the west.

David Lake re: Land Split Concept Plan

Frank Mayer noted that the Plan Commission had voted to deny Lake's land split plan. It was moved by Ed Doerr and seconded by John Norman to deny David Lake's land split plan and request. Carried unanimously.

Jamestowne East, Architectural Approval, New House:

Frank Mayer said that the Plan Commission had voted to approve the house plans for Lot 9 (6803 Jamestowne). It was moved by John Norman and seconded by Joe Gonnering to approve the house plans for Lot 9, Jamestowne East. Carried unanimously.

Set Dates for Board of Review:

The Board of Review will be late this year due to the revaluation in process. The Board will convene and adjourn on June 5 at 7:25 PM. Grota Appraisals has proposed 9/11/07, 5:00 PM to 7:00 PM, for the Board of Review. It was moved by John Norman and seconded by Ed Doerr to set Board of Review for Tuesday, September 11, 2007 from 5:00 PM to 7:00 PM. Carried unanimously.

Plan Commission Recommendations:

Frank Mayer stated that the Plan Commission had recommended that Brett Richson ask the extraterritorial committee to review his land division concept plan.

Review of Annexation Petitions:

None.

Reports:

Frank Mayer reported three new home permits issued.

Monica Diaz reported that the fuel tax refund has been received.

Barb Davies reported that the 2006 Form C has been filed. An audit date will be scheduled with Schenck.

Deb Hoffmann updated the Board on the Zellmer Certiorari appeal. Hoffmann said she is researching the Jamestowne road question posed by the Board.

Joe Gonnering said he would have some prices on mules – park utility vehicles - for the next meeting. Tilling and seeding the new park will cost about \$7000.

Ed Doerr asked about the Smartgrowth meeting at the Town Hall. The date is 5/22/07 at 6:00 PM at the Town Hall. Weeds are growing.

John Norman reported that his driveway had been vandalized Sunday May 13, 2007 sometime between 9:30 AM and noon. Oil and hydraulic fluid was dumped on the driveway. A police report has been filed. Norman said that if anyone knew anything about this, he would like to know.

Payment of Bills:

It was moved by John Norman and seconded by Ed Doerr to pay bills totaling \$19,299.93, and payroll of \$10,427.51. Carried unanimously.

Other business.

None.

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 9:25 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, May 18, 2007.

Barbara J. Davies, Town Clerk