

**MINUTES  
TOWN BOARD MEETING  
AUGUST 3, 2016**

The meeting was called to order at 7:00 p.m.

Present: Supervisors: Kermes, Prudhon, Ruzek; Clerk: Short; Attorney: Lemmons;  
Planner: Riedesel; Engineer: Studenski.

**APPROVAL OF AGENDA (Additions/Deletions):** Prudhon moved approval of the agenda with the following amendment: Add Consent Agenda Item 5J) In Accordance with the Township's Special Events Policy approve the White Bear Soccer Club 5K Color Run Event to be held on Township Trails on Saturday, August 20, 2016 beginning at 10:00 a.m. at Polar Lakes Park and ending at 12:00 noon at Polar Lakes Park, subject to receipt of a Certificate of Insurance listing White Bear Township as an additional insured. Ruzek seconded. Ayes all.

**APPROVAL OF PAYMENT OF BILLS:** Prudhon moved approval of payment of bills. Ruzek seconded. Ayes all.

**APPROVAL OF SPECIAL TOWN BOARD MEETING MINUTES OF JULY 1, 2016 & TOWN BOARD MEETING MINUTES OF JULY 18, 2016:** Ruzek moved approval of the July 1, 2016 Meeting Minutes. Prudhon seconded. Ayes all.

Ruzek moved approval of the July 18, 2016 Meeting Minutes. Prudhon seconded. Ayes all.

**CONSENT AGENDA:** Ruzek moved approval of the Consent Agenda as follows: 5A) Receive & Accept the 2017 Budget & Community Apportionment Information from White Bear Lake Conservation District; 5B) In Accordance with Town Ordinance No. 35, Section 9-6.3(e) and Based on Staff Review & Recommendation & Approval, Ratify the Town Clerk's Issuance of an Administrative Driveway Variance at 5270 Otter Lake Road; 5C) Due to Labor Day Holiday Reschedule the September 5, 2016 Town Board meeting to Wednesday, September 7, 2016 at 7:00 p.m.; 5D) Call Public Hearing for Wednesday, September 7, 2016 at 7:10 p.m. to Amend Section 9-5.5 of Ordinance No. 35; 5E) Adopt Resolution for Data Practices Policy Appointing the Responsible Authority & Compliance Official for the Town of White Bear; 5F) VFW On-Sale Liquor License – Township Day On-Sale License Request; 5G) Based on Town Engineer Review &

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Recommendation & Including His Recommended Conditions, Approve Comcast Permit Through the M.R.I. Company to Replace a Fiber Cable Line to Service 5445 Lakeview Avenue With Work to Include Directional Boring Under Lakeview Avenue; 5H) Based on Town Engineer Review & Recommendation & Including His Recommended Conditions, Approve Xcel Energy Permit to Provide Gas Service on Pine Hill Lane to all the New Homes; 5I) Based on Town Engineer Review & Recommendation & Including His Recommended Conditions, Approve Connexus Energy Permit to Provide Electric Service on Pine Hill Lane to all the New Homes; 5J) In Accordance With The Township's Special Events Policy Approve the White Bear Soccer Club 5K Color Run Event to be held on Township Trails on Saturday, August 20, 2106, beginning at 10:00 a.m. at Polar Lakes Park and Ending at 12:00 noon at Polar Lakes Park, subject to receipt of a Certificate of Insurance listing White Bear Township as an additional insured. Prudhon seconded. Ayes all.

**OLD BUSINESS:** There were no old business agenda items.

**7:10 P.M. PUBLIC HEARING – ORDINANCE NO. 35 – AMENDMENT TO SECTION 7 – GENERAL REGULATIONS BY ADDING SECTION 7-19 – OPTING OUT OF TEMPORARY FAMILY HEALTH CARE DWELLINGS LAW:** The Public Hearing was held at 7:10 p.m. Prudhon moved to waive the reading of Public Notice noting that proper publication was made. Ruzek seconded. Ayes all. Ruzek moved to open the public hearing. Prudhon seconded. Ayes all.

The Planner reported that included in the legislation that Governor Dayton signed on May 12, 2016 creating and regulating temporary family health care dwellings, was a provision allowing cities to “opt-out” of the law which established the creation and regulation of temporary family health care dwellings in the State. The intent of the law is to have a transitional place for seniors who need to recuperate after surgery or others who need professional health care. The law has a broader effect so that anyone who needs assistance with two or more instrumental activities of daily life for mental or physical reasons may be eligible to be housed in this manner. The Township has elected to adopt the “opt-out” portion of Minn. Stat. §462.3593, citing the fact that facilities are readily available to the residents of the Township which would assist with families in need of short term care for aging family members or physically impaired persons. The law lists the information required and the requirements that may be considered in that decision. The League of Minnesota Cities states key components, some of which are:

- Creates a new type of permit referred to as a temporary dwelling permit that has a six-month duration, with an option to extend the permit for six months.
- Requires that the permit be for a property where the caregiver or relative resides.
- Allows modular and manufactured housing (instead of just recreational vehicles) to use this permit process as long as the unit meets all of the listed criteria.
- Lists the criteria for the structure and the information required in the permit application.

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- Addresses sewer safety issues with required backflow valves and advance verification for septic service contracts.
- Requires the inclusion of site maps showing where the unit will be placed and notification of adjacent neighbors prior to application.
- Requires applications to specify the individual authorized to live in the unit.
- Applies the permit approval process found in Minnesota Statutes, Section 15.99, but allows the local government unit only 15 days to make a decision on granting the permit (no extension). It waives the public hearing requirement and allows the clock to be restarted if an application is deemed incomplete as long as the applicant is notified of how the application is incomplete within five days. A 20 day decision is allowed if the regular council meeting occurs only once a month.
- Requires unit placement to meet existing stormwater, shoreland, setback, and easement requirements. A permit exempts the units only from accessory unit ordinances and recreational vehicle parking and storage ordinances.
- Sets a default permit fee level that may be replaced by a local ordinance.
- Allows cities to pass an ordinance opting out of using this new permitting system.

The Planning Commission noted at their June 23, 2016 meeting, that the Town has other options, such as a “Mom-in-law” apartment; are willing to consider on a case by case basis; the issue is permitting and enforcement; there is no public hearing required so there might be units popping up all over the place; six month permit with a six month extension is a hospice situation; are people really safe being in a temporary dwelling during this time. It would be better to modify the home for these types of situations; this type of temporary dwelling situation is not in the best interest of the residents of the Township. The Planning Commission recommends opting out.

There was no public comment. Ruzek moved to close the public comment portion of the Public Hearing. Prudhon seconded. Ayes all.

Prudhon moved, based on Planning Commission and Town Attorney review and recommendation to adopt Ordinance No. 89 being an Ordinance Opting-Out of the requirement of Minnesota Statutes, Section 462.3593 in the Town of White Bear, Ramsey County, Minnesota. Ruzek seconded. Ayes all.

Prudhon moved, based on Planning Commission and Town Attorney review and recommendation to amend Ordinance No. 35 (Zoning) by adding Section 7-19. Ruzek seconded. Ayes all.

Prudhon moved, based on Planning Commission and Town Attorney review and recommendation to authorize execution by the Town Board Chair and Town Clerk. Ruzek seconded. Ayes all.

Prudhon moved, based on Planning Commission and Town Attorney review and recommendation to authorize publication of Zoning Ordinance amendment in the White Bear Press. Ruzek seconded. Ayes all.

**TOWN HALL RELOCATION – APPROVE CHANGE ORDER #1 AND PAY ESTIMATE #6 TO UTILITY SYSTEMS OF AMERICA:**

The Town Engineer noted that the contract was awarded to the low bidder Utility Systems of America for \$167,296.00. The work has been completed. During the moving process, some additional work was required to be performed on the building. The contractor presented a proposal to perform the work and staff reviewed with other contractors and the schedule of the work to be performed. Township staff and Utility Systems of America also agreed upon removal of the erosion control bid item and having the Township perform those activities as necessary. Town staff and engineering accepted Utility Systems of America's proposal to repair and replacement of deteriorated floor joists including the rebuilding of the front wall sub-support structure for \$13,000 and eliminating from their contract the erosion and control item for \$5,500.00 which gave a net contract increase of \$7,500.00. These adjustments bring the total project cost of the original bid of \$167,296.00 plus the change order of 7,500.00 to an amount of \$174,796.00. The Engineer reported that all activity has been done and that there are no remaining items to be completed.

Prudhon moved, based on Town Engineer review and recommendation to approve both the Change Order #1 and Pay Estimate #6 to Utility Systems of America for a cost of \$7,500.00. Ruzek seconded. Ayes all.

**2016 BOW HUNTING REQUESTS – APPROVE 2016 DEER HUNTING REQUEST FOR HARRY KAVALOSKI & JOE MAILER ON TOWNSHIP PROPERTY SOUTH OF BENSON AIRPORT:**

The Planner reported that Harry Kavaloski and Joe Mailer have been approved in the past to bow hunt on Town owned property south of Benson Airport. He noted that discharge of a firearm in the Township is not permitted except by special exemption approved by the Town Board. One of those exemptions is bow hunting of deer. Some of the larger acreage of the Township has been opened for bow hunting, with special approval by the Town. He reported that bow hunting season starts September 17, 2016 and goes to the end of the year. Applications have been received from Harry Kavaloski and Joe Mailer to hunt the property south of the Benson Airport. This is a large wetland area and is open space. Historically there has been excessive deer population in the Township and the Town works with the County on deer inventory which is done each year. The latest results of the deer inventory done in January, 2016 shows few in the Township. There was one deer in the Benson Airport area; three in the Bald Eagle/Otter Lake area; five in the area of Heritage Hall; and many deer in the Gem Lake area. Ramsey County has 1199 acres in the Town and has a deer hunting program. They have had hunts in the Tamarack Nature Center and the Poplar Lake area. Due to the inventory numbers Ramsey County is only going to hunt the Poplar Lake area this year. They have also offered to again work with the Town to provide hunters on the property south of the Benson Airport. They are prepared to schedule four hunters on three 3-day weekends in October. Harry Kavaloski and Joe Mailer would like to hunt on either side of the Ramsey County hunt dates and throughout the season. This is a hunt area defined by the DNR and there is no limit of the number of antlerless deer which may be taken because of the deer population. A resident on Fenway Court

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notified the Town in 2015 of her objection to the Town Board authorizing any deer hunting on Town owned property south of Benson Airport. She said that there appears to be fewer deer in the area now than there has been at any time during the past 20 years. She requests that the Town Board stop issuing permits for that area until the herd grow more. Ruzek noted that the objection from the resident on Fenway Court was made last October before the deer inventory was done. He asked if she has objected prior to that. The Planner stated that there are no objections noted.

Harry Kavaloski, 2500 Meehan Drive, asked if the inventory only showed one deer in the property south of the Benson Airport why Ramsey County would want to place four hunters there. He reported that Meehan Drive is on the south end of the Benson Airport property and there are not as many deer as there used to be but there is definitely more than one deer there. He stated that he sees deer and his neighbors see deer. He stated that he and Joe Mailer have appreciated the opportunity to hunt in past years. He reported that he and Joe hunt evenings during the week and they try to get out there mornings on the weekends. He reported that he provides information to the Planner regarding how many deer they take. He stated that last year they took two deer. In response to a question if they ever see deer on the airport Harry Kavaloski reported that they have seen deer on the runway causing planes to abort their landing. Harry Kavaloski reported that they are aware when the Metro Bow Hunters are there. The Metro Bow Hunters drive in park and hunt the corner of the property by Deer Meadow Park. He and Joe Mailer do not hunt that corner because it is pretty much residential. He reported that they register their deer with the Planner and the DNR as well. Kermes suggested that the Town consider not asking Ramsey County to schedule a hunt south of Benson Airport this year. The Planner stated that could be done.

Prudhon moved to approve the 2016 deer hunting request for Harry Kavaloski and Joe mailer on Township property south of Benson Airport, noting that the terms and conditions are the same as previous years. Ruzek seconded. Ayes all.

**ORDINANCE NO. 5 (ANIMAL) AMENDMENTS:** The Clerk reported that the Town Board has discussed changes to the hobby kennel license process since last spring. Staff and the Town Board discussed what it could be called that would be more effective. He provided the concepts considered at the last Town Board workshop. The proposal is to amend Ordinance No. 5 to rename the process of the hobby kennel license to Special Three Dog licenses to be less confusing. The public was interpreting a hobby kennel license to mean a commercial our outdoor kennel. The Town would issue a special a permit for someone who wants to have three dogs. Each dog must have a dog license. Ordinance No. 5 amendments would include: rename process for hobby kennels to Special Three Dog License; add a definition for Special Three Dog license; delete reference to outside kennels; amend language for renewal of licensed by separating Section 5-6 – Expiration of License, into two categories and set for the expiration dates for each. The Clerk read Section 5-6.2. Special Three Dog License: “All Special Three Dog licenses shall expire four (4) years after date of issuance and may be reissued without a public hearing provided no complaints have been received

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and upon receipt of a completed application, payment of the fee, and a site visit by the Town Animal Control Officer.” Those who apply for the first time will go through the public hearing process. After that, if there are no complaints, a public hearing is not necessary for renewals. However, a visit by the Animal Control Officer will still be required.

Prudhon moved based on Town Board, Staff, and Town Attorney review and recommendation to adopt amendment to Ordinance No. 5 (Animal) noting the change in Section 5-6.2 as presented in the meeting supplement, to authorize execution by the Town Chair and Town Clerk, and to authorize publication. Ruzek seconded. Ayes all.

**ORDINANCE NO. 32 (LIQUOR) AMENDMENTS:** The Clerk noted that earlier this summer the Town Board amended the Liquor Ordinance in response to a request to allow beer and wine sales in restaurants smaller than the minimum seating originally set. The Town allowed wine licenses to be issued to restaurants having 40 seats or more. The language that was adopted applied unintentionally to all restaurants which included those that had full liquor licenses. The Board passed a moratorium last month to prohibit issuing any liquor licenses until this was straightened out. In the interim the applicants have advised the Board that they may consider having a 100 seat restaurant which would have eliminated the need to define restaurants for beer and wine license at 40 seats. The Clerk presented two options: 1) on-sale liquor license will only be issued to a restaurant which has seating for not less than 100 guests at one time and states that a wine and beer license will only be issued to a restaurant which has seating for not less than 40 guests at one time; or 2) on-sale liquor license will only be issued to a restaurant which has seating for not less than 100 seats at one time and states that a wine and beer license will only be issued to a restaurant which has seating for not less than 100 guests at one time. Prudhon asked for clarification if option #1 includes strong beer. The Clerk stated that it does.

Rob Scott, apologized for the original confusion. Their impression was that the liquor license issued would be for full liquor for a restaurant of not less than 40 seats. They designed the original plan with 50 seats with that license in mind. Since then they have started to re-design that spot with 50 seats to accommodate just beer and wine. They have also been in negotiation with the landlord for a bigger spot that would fit 100 seats. There is an existing tenant in that building who is also negotiating for half of that space. The landlord states that he has to let those negotiations play out. If the existing tenant would like that space there is not a space big enough anywhere in the complex for Rob Scott and Joel Kunza’s 100 seat design. Their plan A is for 50 seats and with a beer and wine license; Plan B is for the larger spot with 100 seats with a full liquor license. He reported that the landlord has given the other tenant two weeks to decide if they are going to take the other space. In the interim while waiting they are re-designing the interim space. Joel Kunza stated that they are hopeful that the Town Board will approve Option 1 so if they can go with a larger space the liquor license matter will have been addressed again.

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Ruzek moved to approve amendment to Ordinance No. 32 (Liquor) as follows: Option 1: An on-sale liquor license will only be issued to a restaurant which has seating for not less than 100 guests at one time and that a wine and beer license will only be issued to a restaurant which has seating for not less than 40 guests at one time. Prudhon seconded. Ayes all.

**ORDINANCE NO. 90 (TERMINATING LIQUOR LICENSE MORATORIUM) – ADOPT**

**ORDINANCE:** Kermes noted that a moratorium was placed on issuing liquor licenses until the amendment to Ordinance No. 32 (Liquor) was clarified.

Ruzek moved, based on Town Attorney recommendation to adopt Ordinance No. 90 being an ordinance terminating the moratorium suspending the issuance of liquor licenses in the Town of White Bear and to authorize execution by the Town Board Chair and Town Clerk, and to authorize publication of same. Prudhon seconded. Ayes all.

**ORDINANCE NO. 87 (STORMWATER MANAGEMENT) – ADOPT ORDINANCE:**

The Planner reported that Ordinance No. 87 is a new ordinance. He reported that the purpose of the ordinance is to set forth the minimum requirements for stormwater management that will diminish threats to public health, safety and private property and natural resources of the Township by establishing performance standards including: 2-1: Protect life and property from dangers associated with flooding; 2-2: Protect public and private property from damage resulting from runoff or erosion; 2-3 Ensure the annual runoff rates and volumes from predevelopment site conditions are consistent with the annual runoff rates and volumes from predevelopment site conditions; 2-4: Ensure site design minimizes the generation of stormwater and maximizes pervious areas for stormwater treatment; 2-5 Promote regional stormwater management by watershed; 2-6: Provide a single, consistent set of performance standards that apply to all developments; 2-7: Protect water quality from nutrients, pathogens, toxics, debris, and thermal stress; 2-8: Ensure no increase in temperature of stormwater post-construction in order to protect cold water resources; 2-9: Promote infiltration and groundwater recharge; 2-10: Provide a vegetated corridor (buffer) to protect water resources from development; 2-11: Protect functional values of natural water courses and wetlands; 2-12: Provide plant and animal habitat and support riparian ecosystems; 2-13: Achieve an 80% reduction in sediment load rates to community waters compared to no controls for all new development, a 40% reduction in sediment load rates compared to no controls for all redevelopment and street reconstruction, and a 20% reduction in sediment load rates compared to no controls for existing developments. The Planner reported that the Ordinance will require stormwater management plans from any applicant who proposes to disturb at least 10,000 square feet of land; plan approval required; plans have to be consistent with the national pollution discharge elimination permit requirements; approval requirements of the Watershed District, Rice Creek Watershed District, Vadnais Lake Area Water Management Organization; and the Ramsey Soil and Water Conservation District. The Ordinance also requires that the applicant provide a stormwater management plan, have to show existing conditions and have to show proposed conditions on how water is managed. The specifics of the

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stormwater management plan are listed in the ordinance. All plan information must show how post development conditions; water runoff not exceed pre development conditions and how sediment during stormwater events will be controlled. Ponding requirements are set for projects creating more than one acre of impervious area. The ordinance confirms buffer strips along wetlands and lakes which is consistent with the Town's current setback requirements from a wetland at 20 feet and 50 feet from a lake. The ordinance also prohibits illicit discharges and illegal disposal of trash, grass, leaves, etc. in the streets and drainage ways. The ordinance sets requirements of maintenance of stormwater treatment facilities. The ordinance has been reviewed by the Planning Commission and recommended for approval as modified.

The Planner reported that pursuant to Minnesota Statutes, Section 368.01, Subd. 21, it is permissible for the Town Board to authorize publication of the title and summary of an ordinance by resolution if it is determined that the summary clearly informs the public of the intent and effect of the ordinance.

Prudhon moved, based on Staff review and recommendation to adopt Ordinance No. 87 (Stormwater Management) and to authorize execution by the Town Clerk. Ruzek seconded. Ayes all.

Prudhon moved to approve synopsis of Ordinance No. 87 (Stormwater Management. Ruzek seconded.

Prudhon moved to pass Resolution Authorizing Publication of the Title and Summary of Ordinance No. 87 (Stormwater Management). Ruzek seconded. Ayes all.

**OPEN TIME:** No one appeared for the open portion of the meeting.

**RECEIPT OF AGENDA MATERIALS / SUPPLEMENTS:** Ruzek moved to receive all of the agenda materials and supplements for tonight's meeting. Prudhon seconded. Ayes all.

The meeting adjourned at 8:00 p.m.

Respectfully Submitted,

William F. Short  
Clerk-Treasurer

Approved as Official Meeting Minutes

\_\_\_\_\_  
Town Board Supervisor

\_\_\_\_\_  
Date

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