

**MINUTES  
TOWN BOARD MEETING  
JULY 20, 2020**

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

Present: Supervisors: Prudhon, Ruzek, McCune; Town Clerk: Christopherson;  
Attorney: Lemmons; Town Planner: Riedesel; Town Engineer: Poppler

**APPROVAL OF AGENDA (Additions/Deletions):** Ruzek moved to approve the agenda as submitted with the added consent agenda item 5D, added supplemental information for item 8A, and an Attorney Update on the WBL Lawsuit. McCune seconded. Ayes all.

**APPROVAL OF PAYMENT OF BILLS:** Ruzek moved to approve payment of bills. McCune seconded.

**APPROVAL OF MINUTES OF JULY 6, 2020 (Additions/Deletions):** Ruzek moved to approve the minutes of July 6, 2020. McCune seconded. Ayes all.

**CONSENT AGENDA:** McCune moved to approve the amended consent agenda as follows (pulling 5G Special Three Dog License from the consent agenda to amend): **5A) Resolution Supporting Metro I-Net's Efforts to Become a Separate Entity** – Adopt; **5B) 2<sup>nd</sup> Quarter Construction Reports** – Receive; **5C) Right-of-Way Permit** – Based on Town Engineer review & recommendation & including his recommended conditions, approve CenturyLink permit for access to splice three different line locations regarding Water Gremlin at 4400 Otter Lake Road along Otter Lake Road; **5D) Special Three Dog License, 5795 Otter Lake Road** – Call public hearing for Monday, August 17, 2020 @ 7:00 p.m. to consider the request for a special three dog license. Ruzek seconded. Ayes all.

**EMERGENCY MANAGEMENT TEAM REPORT:**

**1. Ramsey County COVID-19 Incident Management:** The Town Clerk reported that the County has had discussion on how the County is responding to the events within the pandemic. Some municipalities remain closed to the public still.

**2. Contract Group Update:** Most of the resources have been addressing COVID-19. It was noted that the Sheriff's Department will be expecting a high volume of off-time for

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officers as soon as things clear up a bit to combat the high-stress situation. Out of a staff of 500+ officers, only one has contracted the Coronavirus.

**3. Attorney Update:** The Town Attorney noted that nothing has changed since the Governor has reopened municipalities and Town committees can meet in-person. There will be more to note after his next executive decision. He suspects there will be an order on masks.

**4. Operations Logistics/Administrative Offices/Public Works – Rescind Resolution Declaring Civil Emergency:** The Town Clerk reported that operations are still at full-time and staff sees steady traffic.

**5. Mandatory Face Mask Discussion:** The Town Clerk reported that White Bear Lake passed a proclamation specific around the city 3-2 that mandates masks inside public common areas. The details are on the City’s webpage or in the meeting packet. There was some discussion of whether or not the Board should proceed with a resolution or ordinance, etc. It was decided that the Board should wait to hear what the next order of the Governor is, since he could mandate it at the state level. There was some discussion of the cases within the Township. The Town Clerk will see if he can gain stats on the cases and compare to the City and other municipalities that have mandated masks.

**6. White Bear Lake Lawsuit – Update:** The Town Attorney gave an update of the Minnesota Supreme Court decision from Wednesday, July 15<sup>th</sup>. They reversed the Court of Appeals on the issue of whether or not the plaintiffs brought the action under the proper statute, 116B.03, and the state and the position of the Town of White Bear was that they had to bring it under the statute 116B.10. The difference was the relief that the court could craft. But because there are a number of issues raised by the state, Township, and the City that were not dealt with by the Court of Appeals, the case has been remanded back to the Court of Appeals to make decisions on the issues not dealt with. The Attorney received a letter from the Court of Appeals outlining how they intend to do that, and the Town has until August 14<sup>th</sup> to file amended additional briefs if it so chooses, but it has to be new information. At this point, it isn’t clear whether the Court will hold oral hearings or just take the case under advisement based on the briefs that are submitted.

There was some discussion of how the Town has noted in the briefs so far and that there is nothing new to add. The Town Attorney will keep a close eye on whether or not case law has changed. There was some discussion of the permits and how the plaintiffs would have to proceed if they wanted to take on that route. The lawsuit was filed in August of 2013, and it keeps dragging on. It was noted that the Doctrine of Public Trust doesn’t apply. And there was some other discussion.

**IMPROVEMENT 2020-5 – OTTER RIDGE CIRCLE ROAD IMPROVEMENTS: ORDER IMPROVEMENT – ORDER PREPARATION OF PLANS & SPECIFICATIONS:** Ruzek

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moved to note proper publication of the hearing notice in the newspaper & waive reading of the notice. McCune seconded. Ayes all.

Ruzek moved to open the public hearing. McCune seconded. Ayes all.

The Town Engineer gave an update of the project process this far. Otter Ridge Circle is currently rated 1.99 out of a 5 on the Township scale for roads. The goal is to keep all roads within the Township at a 3.4-3.6 rating. A reclamation is proposed for this road, which includes grinding down the asphalt from the road and mixing it with new asphalt. If anything is needed with curbing or other things (like sealing manhole covers) they will be taken care of as they come up. The neighborhood meeting was on Wednesday, July 8<sup>th</sup>. The estimated cost is \$156,400 and it will be split between the Township and the residents' assessed rate of \$7,500 paid over a 10-year period. The Town is taking on this project to take advantage of the favorable climate of the construction industry. Many private projects are on hold so contractors' rates are low to gain more work for the summer.

Ruzek moved to open public comment portion – ask for comments. McCune seconded. Ayes all.

Resident Tom Cook, 5494 Otter Ridge Circle, was present to address his concern. He was present 6 years ago when this project was proposed and denied. He wasn't for the project then and he isn't now. Because it is a minimum traffic road and that it hasn't seen a lot of degradation over the last 6 years, he doesn't feel that this project should be completed at this time either. The bids are low because no one has any money, and he asked why the Town thought it to be fiscally responsible to accrue more debt at a time like this where no one knows if they may have a job in the near future.

Resident Larry Simek, 5894, was present to ask questions. He wasn't at the neighborhood meeting. So the Town Engineer briefly explained the slides presented in the packet. He explained the Town's position on the street management: the improvements put in place to prolong the life of a street at a lesser cost to the Township and its residents by doing little maintenance projects over the years. He showed the graph on page 45: there are nearly 11 miles of streets below the 2.2 rating, meaning they need reclamation. The goal of a street's life cycle is graphed on page 46: the red line is if the Township did nothing; the blue line is if there are little projects done over time. The Engineer noted that though the street may not have seen significant degradation over the last 6 years, the soil borings show that the ground must be maintained as well, and that is a part of the reclamation.

There was discussion of how adding Otter Ridge Circle to the Peterson Road project will get better bids for both of them. It was also noted that if the bids come in high, the Board can reject them later.

Ruzek motioned to close the public portion of the hearing. McCune seconded. Ayes all.

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Ruzek moved based on staff review & recommendation adopt resolution ordering Improvement 2020-5. McCune seconded. Ayes all.

Ruzek moved based on staff review & recommendation adopt resolution ordering preparation of plans & specifications for Improvement 2020-5 in an amount not to exceed \$13,000.00 with funding from the Improvement Fund 5050. McCune seconded. Ayes all.

**CONTINUATION OF HEARING TO VACATE A DRAINAGE & UTILITY EASEMENT**

**@ 4850 CONSTELLATION DRIVE:** The Town Planner reported that this is the continuation of the November project last year that Scannell had requested. They have a permitted Use Standards permit, but since the utility easement or utility isn't completed yet, the Town would like to continue this public hearing until once the project is done. Scannell has taken a pause on the project due to COVID-19. Once it is finished, then the Town can vacate the easement and re-establish it at that time.

There was some discussion of how it is not a good practice to just keep this public hearing open for 1 year or more. There was some discussion over a potential 60-day rule. It was noted that since this is not a zoning issue there is no concern about a 60-day rule. It was decided that the continuation should be denied and then once Scannell has finished the project they can either re-apply or the Town can initiate the vacation of easement and remove the application fee.

It was decided that the Board should adopt a resolution denying the application on the basis of no necessity at this point with the understanding that the applicant can reapply in the future if they wish or the Board can initiate it if it wishes. The applicant should wait until the new watermain is replaced and establish a new easement and then vacate the old one. At that point, the Board will consider vacating the easement subject to replacement of the existing main and granting a new easement.

Ruzek made the motion to adopt a resolution to deny the present petition, however, the Board will, upon construction of the new watermain and a new application for vacation, revisit the matter at that time. McCune seconded.

**TOWNSHIP DAY 2020 – UPDATE:** The Town Planner reported that Township Day is set to be September 19<sup>th</sup> and so far planning has gone well except for COVID-19. At the July Park Board meeting, the Board recommended cancellation with a simple motion. The issue is with pre-planned events, like the fireworks display. But the Town doesn't have a current contract, so it is not obligated to pay a cancellation fee. It was noted that the fireworks contractor should understand since everyone is in the same boat there. The Town has had this contractor for over 10 years, though. Legally the Town can't pay them without a signed contract. There was some discussion over the Ramsey County Sheriff's Department not able to police the event down to 250 people, and fireworks ability to draw crowds.

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As liaison to the Park Board Ruzek made the motion to cancel Township Day 2020. McCune seconded. Ayes all.

There was some brief discussion of the Movies in the Park success: 125 people showed up and there was social distancing.

**CRESCENT CURVE STREET LIGHT INSTALLATION – APPROVE LIGHT TYPE & LOCATION:** The Town Planner introduced this agenda item. Residents within the Weston Woods development are requesting a street light installation. A map of the location is in the packet. The Township requires rational and support for the lights. The area, however, is owned by the association, so there was some discussion of the association needing to be involved as the proper party. There was a consensus that the Board needs a resolution from the Homeowners Association prior to acceptance.

Ruzek motioned to table this agenda item until the Town gets more information from the Homeowners Association. McCune seconded. Ayes all.

**RESIGNATION OF ACCOUNTING CLERK/ADMINISTRATIVE SECRETARY: ACCEPT RESIGNATION – AUTHORIZE HIRING OF AN ACCOUNTING TEMP:** The Town Clerk reported that on behalf of the Finance Department, the Town would like to hire a temporary Accounting Clerk in order to rethink this position and rewrite the job description and dynamics. Within the last 10 years, the Township has had a turnover of 4 to 5 employees from this job position. The Town is requesting the Board to accept the resignation and staff can withstand completing this position's job duties on a temporary basis until a temporary Accounting Clerk can be hired. There was consensus that the Board does not need to see the redraft of job description before posting.

Ruzek moved to accept resignation of Accounting Clerk/Administrative Secretary. McCune seconded. Ayes all.

Ruzek moved to authorize hiring an Accounting temp from an Employment Agency to fill the position until it is redrafted. McCune seconded. Ayes all.

**OPEN TIME:** Denny Peterson, 5474 Peterson Road, was present to discuss the Peterson Road Street Improvement project with the Board. His wife had sent emails to a couple of the Board members, but it may have been incorrect email addresses, as the Board members never received them and it wasn't a Gmail account. There was some discussion on the 2 projects set together to get a good deal on the street improvements. Peterson doesn't feel that there is a high cost of maintaining the gravel road, especially if it doesn't open up. There was discussion of legal litigation that would ensue if the Town doesn't open the road, as that is in the North Oaks developers' contract. There was discussion of the unethical charging of future property owners for a past street improvement project or future street improvement project. Examples of Eagan and Woodbury were given by the Town Attorney. There was also discussion of how the Township is under pressure to monitor water, run off, sewer, etc. and how Peterson

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Road and the residences are blind spots since there are wells and septic there. Peterson decided that if the street improvements must happen, they might as well not save the 1 to 3 percent and get the concrete sidewalk.

**ADDED AGENDA ITEMS:** There were no added agenda items.

**RECEIPT OF AGENDA MATERIALS / SUPPLEMENTS:** Ruzek motioned to receive all Agenda Materials & Supplements for tonight's meeting. McCune seconded. Ayes all.

McCune moved to adjourn the meeting at 8:59 p.m. Ruzek seconded. Ayes all.

Respectfully Submitted,

Patrick Christopherson  
Town Clerk-Treasurer

Approved as Official Meeting Minutes

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Town Board Chair

\_\_\_\_\_  
Date