

**MINUTES  
TOWN BOARD EXECUTIVE MEETING  
MAY 20, 2016**

The meeting was called to order at 12:04 p.m.

Present: Supervisors: Kermes, Prudhon, Ruzek; Clerk: Short; Attorney: Lemmons;  
Finance Officer: Kelly; Public Works Director: Reed; Planner: Riedesel;  
Engineer: Studenski.

**APPROVAL OF AGENDA (Additions/Deletions):** Prudhon moved approval of the agenda with the following amendment: Add 20A) Bellaire Beach Letter; 20B) Hobby Kennel License Requirement Amendment. Ruzek seconded. Ayes all.

**APPROVAL OF April 22, 2016 MEETING MINUTES:** Ruzek moved approval of the April 22, 2016 Meeting Minutes. Prudhon seconded. Ayes all.

**DNR GROUNDWATER MANAGEMENT – UPDATE:** The Clerk reported that in the past during drought years, the Township hired Mr. Zupan to help enforce the sprinkling ban. Since he will not be able to assist this year the Clerk suggested that the Town use the Ramsey County Sheriff's Office Reserves or Community Service Officers. They would be wearing their uniforms during enforcement. He reported that only a warning would be issued for the first offense of the season. Second time offenders would receive a \$40.00 fee. In the past this procedure helped change people's behaviors relative to water sprinkling. Ruzek suggested a progressive fee for those who don't observe watering restrictions. This procedure could be noted on the water bill, News and Views, and on the Town's web site. The Clerk will contact the Sheriff's Office regarding use of Ramsey County Deputy Reserves or Community Service Officers and report back at the next meeting.

**I & I PROGRAM – UPDATE:** The Town Engineer reviewed the Town's MCES I/I Mitigation Work Documentation Form for the 2015 Program year. He stated that a portion of the Town's I/I work is proposed to be satisfied during 2016. The 2016 Mitigation Work Documentation Form is due by March 31, 2017. The MCES stated that they appreciate the Town's commitment and continued work in mitigating I/I. He reported that work on the project north of County Road H-2 and west of West Bald Eagle Boulevard is nearing completion. However, a document needs to be provided showing the Town's ability to work in the easement. The Town Attorney is working with

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TKDA, Ramsey County, and the Metropolitan Council regarding the easement. The contractor will be finishing up work on the manholes and the sewer main is being televised in the Buffalo Street area. This will provide information on where work is needed. When work was occurring on the Overlake Avenue Sanitary Sewer Lining project it was found that some pipe was 10" VCP and not 8" VCP. Public Works has confirmed the change in pipe size. The contractor has submitted a cost to address the change in pipe size.

The Town Engineer reviewed a map showing the location of the project north of County Road H-2 and west of Bald Eagle Boulevard. He identified the area where an easement is needed for the Town to work in that area. The Town Attorney stated that the Town may get a temporary easement to start the project to do repairs and to do an evaluation later. He will report back.

**SOUTHEAST AREA SANITARY SEWER LINING – UPDATE:** Two neighborhood meetings were held to provide information to affected property owners. The first meeting had 50 attendees and the second meeting had 20 people attending. There was no opposition to the project or assessment. Plans are to bid the project this summer with work to begin in the fall and continue over the winter into next year. The meetings were informational only and a public hearing will still need to be scheduled. One component of the project is to gather information on the five commercial parcels to determine equivalent assessment. The Town Engineer reported that a feasibility report will be provided at the June Town Board Executive Meeting. The schedule and Public Hearing time frame will be discussed.

**WATER SUPPLY PLAN – UPDATE:** The Town Engineer reported that the Water Supply Plan will cover the 10-year period of 2006-2015. He reviewed the gallons of water pumped for north residential, north commercial-industrial; south residential and south commercial-residential for that time period. He noted that there has been a 35% reduction in water usage in the past ten years. He noted that metering was started in 2010 and the information gets more definitive as the information is gathered. This information will be used to determine how much water is used per person and will go into the Water Supply Plan. He reported that the Town's appropriation for water is 550 million gallons in the north system and 65 million gallons in the south system. He will continue to provide more information regarding the Water Supply Plan as they move forward.

**VLAWMO JOINT POWERS AGREEMENT – 10 YEAR UPDATE:** The Clerk reported that the Town received a ten-year update to the VLAWMO Joint Powers Agreement. Most of the changes beyond the dates noted are relatively minor and more of a house-keeping nature. He noted that the VLAWMO Board of Directors is satisfied with the update. He reported that receipt and approval of the Joint Powers Agreement will be on a Town Board agenda for action.

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**TOWN WATER SYSTEM:** It was reported that there have been complaints about brown water on the north side of the Township. This discolored water is based on too much chlorine. The Public Works Director reported that hydrants have been flushed and they are working on the polyphosphate feed with John Berrigan, TKDA, and the supplier. There is an increased iron residue build up and the polyphosphates need to be increased. It was noted that polyphosphates sequester iron. This will be done at each well. With the increased parts per million less iron should be seen and a difference should be seen in a few weeks. Kermes asked what the testing program is for well water. The Public Works Director reported that testing is done weekly but the iron or ammonia does not change. John Berrigan suggested that treatment needs to be adjusted when the water consumption goes up. Kermes asked if specific systems can be monitored if a problem shows up. The Public Works Director stated that in the future they will work in real time performance of the system in a specific area where there is increased demand. The Public Works Director stated that they want to start using Well #5 soon. There was a small hiccup with components and sensors went bad. Work is being done on the seepage pond.

**1:00 P.M. – CHRIS SANDBERG – BALD EAGLE ISLAND:** Chris Sandberg appeared before the Town Board to provide an update on the insurance bond or cash surety bond for the Megabien project on Bald Eagle Island. He reported that they have contacted several insurance companies and have had no luck in obtaining an insurance bond that would have no termination date. Prudhon asked what insurance companies they have contacted. Mr. Sandberg reported that they used an insurance broker out of California. Ruzek stated that with the proper qualifications and meeting the conditions insurance bonds might be obtainable in a larger market. Mr. Sandberg was asked if Hans Stachowiak could provide a cash bond. Mr. Sandberg stated that he did not know. Kermes suggested that if a bond or surety with no end date is not obtainable, then what ideas does Mr. Sandberg have as an alternative. Kermes instructed Mr. Sandberg to let his client know that Condition No. 34 of the Conditional Use Permit requires that an insurance bond or surety bond in whatever form as agreeable to the Town Board and Mr. Stachowiak must be provided within 90 days from approval of the permit which was approved on April 4, 2016. The bond needs to be provided by July 4, 2016. Mr. Sandberg will contact Mr. Stachowiak and relay the message.

**BOWFISHING – UPDATE:** A survey was conducted of the people who live around Bald Eagle Lake. Nineteen responses were received. Eight were in support of bowfishing, 7 opposed, and four could go either way. If the Township did allow bow fishing it would be an exemption to the Weapons Ordinance which prohibits discharge of bows and arrows. The Township does allow deer bow hunting under special permission. It was the consensus that bowfishing not be allowed. The rationale for the decision is based on citizen input which clearly had significant opposition. The Town Board realizes that bowfishing would be difficult to regulate in a fashion which would not be offensive. While there does seem to be an interest in bowfishing, there is the issue of bright lights, late night noise, and the distance from houses and docks where a bow

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would be discharged. After review of the matter it was the consensus that the Weapons Ordinance not be amended to allow bowfishing.

**SALE OF TOBACCO TO MINOR VIOLATIONS: CRIMINAL VS ADMINISTRATIVE:**

The Clerk reported that Minnesota Statute § 461.12, Subd. 2 states that if a licensee or employee of a licensee sells tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products to a person under the age of 18 years, or violates any other provision of this chapter, the licensee shall be charged an administrative penalty of \$75. The statute continues with additional administrative penalties for each additional violation.

Minnesota Statutes § 461.12, Subd. 3 states that an individual who sells tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products to a person under the age of 18 years must be charged an administrative penalty of \$50. Minnesota Statute §609.685, Subd. 1a.(a) states that whoever sells tobacco, tobacco-related device, or electronic delivery devices to a person under the age of 18 years is guilty of a misdemeanor for the first violation. Whoever violates this subdivision a subsequent time within five years of a previous conviction under this subdivision is guilty of a gross misdemeanor. White Bear Township Ordinance No. 69 regulates the sale of tobacco in the Township. Section 12 provides the administrative penalties for violation of compliance checks. Section 12-6 states "Nothing in this Section shall prohibit the Town from seeking prosecution as a misdemeanor for any alleged violation of this Ordinance. If the Town elects to seek misdemeanor prosecution, no administrative penalty shall be imposed." This section seems to limit the Township to choose between violation of the ordinance and impose administrative sanctions and then charge the individual who sold the tobacco under Minnesota Statute §609.685, Subd. 1a.(a). The Township has two options moving forward with tobacco compliance check violations. 1) Impose a criminal penalty for the individual who failed compliance check, and impose an administrative penalty for the business/licensee; 2) Impose administrative penalty for both the individual and the business/licensee. Option 1 seems like the best option for holding both the individual and the business/licensee responsible. The only problem is the language in Minnesota Statute §461.12, Subd. 3 which states than an individual must be charged an administrative penalty of \$50. The Township should have some discretion regarding this and under Option 1 an administrative penalty would still be imposed upon the business/licensee. The Town Attorney will discuss the matter with people who prosecute in other communities and see what they do. The Town Attorney will report back at the next Town Board Executive Meeting.

**SPECIAL ASSESSMENT – ATTORNEY NORDER MEMO:** The Town Attorney's office has researched Minnesota Statutes and case law to try and determine if the Township can have a remedial assessment hearing after a contract has been awarded. Case law is clear that there must be strict compliance to the notice in Minnesota Statute §429.031. Subdivision 1(a) states that before the municipality awards a contract for an improvement the council shall hold a public hearing on the proposed improvement

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following two publications in the newspaper of a notice stating the time and place of the hearing, the general nature of the improvement, the estimated cost, and the area proposed to be assessed. Minnesota case law has held that there must be strict compliance to this statute in order for a municipality to retain jurisdiction over an assessment. Compliance with the requirement is mandatory and failure of such compliance precludes any assessment for the improvement. Once the construction contract has been awarded, no additional feasibility hearings may be held. In this case, the Township has already awarded the contract prior to the holding of any hearing pursuant to Minnesota Statute §429.031. The Township no longer has any jurisdiction to hold any special assessment hearing or to assess any costs to the benefitted properties.

**ORDINANCE NO. 87 (STORMWATER MANAGEMENT) – UPDATE:** The Clerk reported that the Public Works Director and Town Engineer have reviewed the update and provided their comments. The Utility Commission has also reviewed the update. The proposed ordinance will come forward for adoption.

**NON-DOMESTIC ANIMAL REGULATIONS – ORDINANCE NO. 35, SECTIONS 3 & 7-12:** Ruzek referred to an article in the White Bear Press regarding chickens on residential properties. He noted that there is a Township resident who has chickens. According to Town Ordinance a minimum of two acres of fenced property must be available to keep non-domestic animals. It was suggested that other communities be asked what they do to provide the Township with information to see if an update is needed. Staff will review the matter and it will be placed on the agenda for a Planning Commission meeting.

**ADULT ENTERTAINMENT REGULATIONS:** Ruzek asked if the Town is comfortable with Town Ordinance relative to adult entertainment regulations. The Town Attorney noted that the Town can zone for adult entertainment establishments, but cannot prohibit. The matter will be referred to the Planning Commission for review and recommendation.

**PUBLIC WORKS DIRECTOR MONTHLY REPORT:** The Public Works Director reviewed Public Works Department activity for the month of May, 2016. **Polar Lakes Park Baseball Fields:** Fields #1 and #3 are being considered for having the ag lime replaced. Quotes are being received to seed in the base lines and backstop area at either field #2 or #4 to see how a grass infield will be established before actually placing a grass infield on field #1 and/or #3. A pitcher's mound will also have to be added to the field that is chosen. Baseball field rehabilitation was reviewed with the Park Board. The baseball fields have had drainage issues since they were constructed in 2001. Staff is investigating options to the ag lime portions of the infields. The existing ag lime that was installed in all four fields provides substandard playing conditions after a moderate rain fall. That combined with poor draining subsoils under the 6-7" of ag lime has deterred baseball associations from committing to playing at the Town's complex on a regular schedule since the fields do not recover quickly after a moderate rainfall. Staff

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has consulted with Professional Turf and Restoration regarding options for each of the fields. Options were reviewed by the Park Board and they recommend approval of an expenditure per field of \$15,500, which includes irrigation.

The Public Works Director provided a list of frequently asked question, with accompanying answers for Sewer, Storm Water, Water, Street Maintenance, Park Maintenance, and General frequently asked questions. It was the consensus that this is a good resource for the residents.

**CODE ENFORCEMENT OFFICER / BUILDING INSPECTOR ITEMS: A) 1011 MEADOWLANDS DRIVE; B) 5846 HOBE LANE; C) VACANT PROPERTIES: 1011**

**Meadowlands Drive:** Work has started and been discontinued. The trail is impassable. The Hallmark Store has vacated and a small café is proposed for that location. The café will be aimed at families with young children and will have a crepe maker. A food service license will be required from Ramsey County. The Code Enforcement Officer sent correspondence to Jim Faulkner, Meadowlands Shoppes regarding the building permit application. Several items were inconsistent with the Minnesota Building Code and were identified in the correspondence. There are on-going issues with the wetland and storm water pond. The owner is still in violation. **5846 Hobe Lane:**

Correspondence was sent to US Bank regarding the property which has been declared vacant and unfit for human habitation. The dwelling lacks sanitary facilities to the extent that the defects create a hazard to the health, safety or welfare of the occupants or of the public. Sewer and water is available for hookup. Corrective action must be taken no later than midnight on June 15, 2016 by properly abandoning the failing on-site sewer treatment system and connect to the Township's public sanitary sewer system. All permits, fees and approvals must be completed prior to building habitation. **Vacant Properties:** The 23 vacant properties were reviewed. Two of the properties have sold. It was noted that this report is comprehensive and useful.

**CLERK-TREASURER REPORT:** The Clerk reported that Barb Strandell, Consultant, is working on a mission, vision, and value statements. The statements will focus on grass roots, transparency, responsiveness to residents, and open mindedness. Goals to be discussed are: succession; infrastructure review; using electronic means; understanding the demographics of the community; how the Public Works Department has expanded; and LGA.

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

**BELLAIRE BEACH LETTER:** A letter written to the Mayor of the City of White Bear Lake was reviewed. The letter was written by an adolescent regarding Bellaire Beach. Her concern was with the playground equipment; the parking lot and the area as a whole. She would like to set up a clean-up day or organize a clean-up crew. She noted in her letter that she was involved in Earth Day last year and helped pick up trash at Bellaire Beach but now it looks the same. It was the consensus that the Park Board

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Chair or Town Board Liaison respond to her letter. In the meantime Public Works will look at the area to be sure that there are no problems.

**HOBBY KENNEL LICENSE:** The Clerk reported that Ordinance No. 5 (Animal), requires that a resident obtain a Hobby Kennel License if they plan on owning 3 dogs, and such licenses coincide with the expiration of the dog licenses. Therefore, all hobby kennel licenses expire at the same time every time every two years. The Township approved 7 Hobby Kennel Licenses on May 16, 2016 with Public Hearings scheduled for three more. The cost to apply for the license is \$100 and the ordinance currently requires that a Public Hearing be held each time it is renewed. The Township is the only one of seven communities in the Sheriff's Contract group which requires a hobby kennel license. Most simply have a maximum of three dogs per dwelling (North Oaks has a 2 dog maximum). Staff reviewed the procedure for the renewals and the following issues were raised: 1) publication fees for the notices run between \$70 - \$90; 2) mailing notices to an average of 30 neighbors who reside within 350 feet uses approximately 2 hours of staff time each, plus postage which is minimal (\$15.00); 3) considerable time is spent by staff and the Animal Control Officer in complying with the hobby kennel license requirements of the current ordinance (i.e. calling hearing, mailing to residents within 350 feet, Animal Control Officer site visits, ACO report preparation). Following options for modifying Town requirements include: Option 1) no change – 2 year license \$100 fee with public hearing when renewing; Option 2) if licensing 3 dogs at the same address for **first time** collect \$100 fee, hold Public Hearing **only for 1<sup>st</sup> time application** and: a) hobby kennel license renewable every four years without a hearing unless complaints are received: b) hobby kennel license good of 10 years unless....; c) hobby kennel license good forever unless..... ; Option 3: no fee, no hearing, and no hobby kennel license required. It was the consensus that having the hobby kennel license renewable every four years without a hearing unless complaints are received was the best option. A summary of staff time will be provided and the matter will come back when amended.

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

The meeting adjourned at 3:28 p.m.

Respectfully Submitted,

William F. Short  
Clerk-Treasurer