

**MINUTES  
TOWN BOARD EXECUTIVE MEETING  
JUNE 24, 2016**

The meeting was called to order at 12:02 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 amendments: Add: 21A) VLAWMO Joint Powers Agreement – 10 Year Update – Review; 21B) Water Treatment Rehabilitation Well #5 – Update; 21C) Bruce Vento Trail – Update; 21D) Joel Kunza / Rob Scott, Theatre Shops Liquor License – Update. Ruzek seconded. Ayes all.

**APPROVAL OF MAY 20, 2016 MEETING MINUTES:** Ruzek moved approval of the May 20, 2016 Meeting Minutes. Prudhon seconded. Ayes all.

**DNR GROUNDWATER MANAGEMENT – UPDATE:** The Town Attorney reported that the Judge has provided orders to the parties in the lawsuit how to conduct their trial witness lists and what evidence should be admitted. In about two months they will talk about witnesses. The Town Attorney reported that he and the Clerk will attend the July 12<sup>th</sup> settlement agreement meeting between the plaintiffs and defendant and intervenors. He stated that they hope to avoid a trial. There was discussion regarding how to get the information out regarding water conservation, as part of the Town's effort in connection with the lawsuit. It was the consensus that information in News & Views, the Town's website, Facebook, reminder of sprinkling regulations on the customers' utility bill. It was noted that none of the Sheriffs contract communities want to have an enforcement program; they would rather educate the public. At the next Executive meeting there will be discussion regarding water enforcement. Prudhon asked about the budget for the litigation process. The Town Attorney will provide the information.

**I & I PROGRAM – UPDATE:** As part of the sanitary sewer lining project on the west side of Bald Eagle Lake the manhole covers will be done. The sewer televising on Buffalo Avenue has been completed and the report could show that there is more sewer lining that needs to be done in the area. There is a lot of infiltration in the pipe. A lot of

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joints showed constant flow where the pipe enters the manholes. Additional televising of the line will be done.

**SOUTHEAST AREA SANITARY SEWER LINING – DRAFT FEASIBILITY REPORT:**

The Town Engineer reviewed the feasibility report for the southeast area sanitary sewer lining. He reported that the total project cost will be \$1,713,000. He noted that the residential unit assessment would be \$2,500 per unit. An assessment of \$2,500 for the 452 benefitting properties would provide \$1,130,000. He reported that there are five commercial properties equaling 35 SAC units. The assessment of \$2,500 for the 35 units will provide \$87,500.00. He reviewed each of the five commercial properties as follows: 1) Bellaire Auto – 1 unit (\$2,500); 2) Bellaire School – 26 units (\$65,000.00); 3) Dental Clinic- 4 units (\$10,000.00); 4) South Shore Trinity Church – 3 units (\$7,500.00); 5) Storage Building – 1 unit (\$2,500). He noted that the units for commercial are based on SAC units provided by the Met Council. He stated that he will do one last review of the number of parcels. The Engineer reported that the next step is to set up a schedule for the public hearing. It was the consensus that a public hearing can be scheduled for August/September. The Engineer will come up with the dates. The Engineer reported that once the feasibility report is approved by the Town Board the project can be ordered.

**WATER SUPPLY PLAN – UPDATE:** The Engineer reported that over the past two months data was provided for pumping for residential and commercial customers. They are now looking at specific data. He stated that they need more information from commercial customers that the Township supplies water to. For residential properties data is needed on how much water is used per person per household. The City of North Oaks needs to be included as additional data to meet what the water supply plan requires. He stated that the report needs to be balanced by showing the number of gallons per month sold and consumed. The Town's Finance Office can supply most of the information. The Engineer stated that the amount of unaccounted water also needs to be put in the report. The Engineer reported that the deadline for the report is December 31, 2016. He stated that he will have more information for the next Executive Meeting.

**ORDINANCE NO. 87 – (STORMWATER MANAGEMENT):** The Planner reported that the Planning Commission and the Utility Commission have reviewed and provided comments for the Stormwater Management Ordinance. The Engineer reported that the Enforcement Response Procedures for MS4 Permit Violations will go into the Ordinance procedures and how the Township regulates enforcement activities. The Public Works Director reported that Public Works has had training and education. The next step is enforcement. The Engineer reported that the report will come back in final form for the next Executive Meeting.

**BALD EAGLE ISLAND – UPDATE:** Bald Eagle Island has been sold to a party other than Megabien. It was noted that the primary use on the island is residential. Prudhon asked if the usage could be changed. It was noted that the use could be deleted via

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ordinance amendment. The zoning would remain but without the usage. In that case the property would go back to residential use. The Town Attorney reported that the Board could initiate a rezoning. He noted that under Minnesota law zoning is not part of the property right. The Township has the right to change the zoning on a piece of property. There was discussion regarding the failure of Hans Stachowiak providing a surety bond or cash bond for demolition. Ruzek noting that something in writing is needed to show what they have done to procure a bond. The Board has been willing to discuss an alternate method which would be suitable, such as a letter of credit or surety bond and come back and discuss it.

Chris Sandberg, legal counsel for Megabien, stated that he requested that he be permitted to inspect and copy the public data at the Township office regarding all records relating to any Township action requiring a person responsible for real property within the Township provide a bond or other form of security in favor of the Township to be used to cover the demolishing or removing of a building at a future date, as a condition for the Township granting permission for the construction of that building. He stated that the Town's requirement, No. 34 for Conditional Use Permit, is arbitrary and capricious and is fundamentally wrong. He reported that Hans Stachowiak was not informed by Nick VanBrunt about the sale of the island. He stated that he has not been able to locate any document filed for the sale of the property yet. It was noted that the Township does not have any jurisdiction over the sale of the property. The Board asked Mr. Sandberg if he had any suggestions regarding changing requirement No. 34 to something that he could provide. Mr. Sandberg said that he would have to get back to the Board on that.

**NON-DOMESTIC ANIMAL REGULATIONS – ORDINANCE NO. 35, SECTIONS 3 & 7-**

**12:** The Planner reported that the matter of non-domestic animals was referred to the Planning Commission. The issue was raised due to phone calls to the Town office relative to having chickens. The Ordinance states that a minimum of two acres of fenced property is required for agricultural animals. If the fenced acreage is available the property owner may keep up to four animal units per each two acres. The ordinance provides equivalents which apply to the animals which would be allowed. The Planning Commission recommends that the Ordinance be left as is. It was the consensus at the Executive Meeting that the Ordinance be left as is and that if there is a request they can come in and address it with the Town Board.

**TOWN WATER SYSTEM:** The Public Works Director reviewed correspondence from TKDA dated May 6, 2016 relative to the investigation and recommendations to address water complaints. Pentair had issues with their filters capturing iron. The recommendation provided was that in addressing specific consumer complaints, that the level of the drinking water additive used to sequester iron be raised from a dosage of 13 ppm of product to 17 ppm. The residue presented by Pentair has the color and appearance of an oxidized iron residue without evidence of biological component. The particle size distribution indicates that the residue is just large enough to be visible, and captured in the pre-filtration cartridges in Pentair's plant water system. With the

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exception of Well #5 the iron level at the Town's other wells are low enough to effectively sequester iron with a sodium polyphosphate additive. If the additive is applied in doses that do not completely sequester the iron, very fine iron residue may develop in the system. Hawkins, the supplier of the iron sequestering chemical indicates that the product LPC-5, their own formulation, has been used by the Town for the last year. Hawkins indicates that the active ingredient is 36%. John Berrigan, TKDA asked Hawkins if they may wish to check their quality assurance and notify TKDA of any lots of chemical delivered that may have been less than 36% active ingredient. Increasing the dose of sequestering agent has the strong potential to reduce or eliminate the iron residue that may be forming in water served. By fully sequestering the iron, the naturally occurring iron would remain dissolved in the water, passing through consumer pre-filters and extending their useful life. If the product is being applied at less than the minimum effective dosage at Well #6, re-evaluation of the dosage at the other wells might be appropriate, especially if similar complaints are observed elsewhere in the Town's water system. The Public Works Director will continue to be in touch with John Berrigan, TKDA on the issue.

**12:30 P.M. – CHRIS KNOPIK – AUDIT REVIEW:** Chris Knopik, CliftonLarsonAllen, reported that they performed an independent audit for year ending December 31, 2015. He reported that in connection with their audit, nothing came to their attention that caused them to believe that White Bear Township failed to comply with provisions of the Minnesota Legal Compliance Audit Guide for Towns, except for the item described in Schedule of Findings and Responses (2015-001, 2015-002, 2015-003, 2015-004). 2015-001 dealt with acceptance of gifts. The instances were a Township day donation or Public Safety Carnival, both in small amounts. 2015-002 dealt with prompt payment to subcontractors. One of the three contracts tested did not contain the proper language as required by the state statute. 2015-003 dealt with unclaimed property. Minnesota Statute requires everyone holding funds or other property presumed abandoned shall report annually to the state Commission of Commerce with respect to the property. In this instance there two outstanding checks which were greater than three years old and therefore should have been reported to the state as unclaimed property. 2015-004 dealt with credit cards. Minnesota Statute states that the use of credit cards by any city officer or employee must be approved by the city council or town board and that all purchases by credit card must otherwise comply with all statutes. The audit found that an employee made a purchase with the credit card of another employee who had recently left the Township. Verbal approval was given for the purchase but this does not comply with state statute. CliftonLarsonAllen considered the Township's internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing their opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Township's internal control. Based on the audit, the Township's financial statements, as of and for the year ended December 31, 2015, are presented in conformity with GAAP.

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**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 \$75.00. The statute continues with additional administrative penalties for each additional violation. Township Ordinance No. 69 regulates the sale of tobacco in the Township. It provides for administrative penalties for violation of compliance checks. Nothing in the Ordinance prohibits the Town from seeking prosecution as a misdemeanor for any alleged violation of this Ordinance. The Town's prosecutor, Caroline Bell Beckman stated in phone call that other cities cite the establishment civilly with a fine and also cite the individuals criminally for violations. The City of St. Paul does not prosecute individual sales clerks as a misdemeanor. They use a fine. It was suggested that the Town start with an administrative fine, and double the fine for a repeat violation. After that, prosecute as a criminal misdemeanor. It was the consensus that the Town Ordinance is fine and to leave it as is.

**BOWFISHING – UPDATE:** As a follow up to a request that the Town allow bowfishing on Bald Eagle Lake, a survey was done and presented at the last Executive meeting. Residents around the lake responded as follows: 11 residents are opposed to bowfishing and 9 support it. Since then four emails were received; one in support and 3 opposed. The problems cited by those who opposed bowfishing included sound that carries over the water and bright lights. There was also concern about the bow fishermen fishing in shallow water near docks and the shoreline. This would bring the activity near the property owner's docks and would violate discharging of a bow within 50 feet of a residence. It was the consensus that the Town not amend the weapons ordinance to allow bowfishing and to advise the Sheriff's Office be aware of the Town's rules and ordinance regarding bowfishing.

**WHITE BEAR LAKE CONSERVATION DISTRICT FUND BALANCE – UPDATE:** The Finance Officer reported that he contacted the White Bear Lake Conservation District regarding their 2015 year-end financial report. Several questions had come up regarding the fund balance. There appeared to be confusion in terminology used on the spreadsheet. What is referred to as the "fund balance" on the last page of their report is more accurately "total assets". An accurate figure of the "fund balance" is determined by taking total assets, less operating budget. As of December 31, 2015 the total assets of the WBLCD were \$178,603.55. Expenses were \$83,833.25, resulting in \$94,770.30 left in the "fund balance" for reserve. The Finance Officer feels that there is a fund balance problem. It was noted that the Town's share in the WBLCD funding is not small. The Town Attorney stated that the statute needs to be looked at to determine what the statutory authority to change the fees is. The Finance Officer will review the matter again next year and any change can be done at that time.

**SOUTH SHORE BOULEVARD TRAIL – UPDATE:** The Planner reported that the Ramsey County Public Works Department is gearing up for pavement improvements

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along South Shore Blvd., between East County Line, and White Bear Avenue in 2018/2019. They would like Township input regarding a bike lane and one way street. There is interest to try to provide a safer route for pedestrians and bikers. The matter will be referred to the Park Board. Their comments will be provided to the Town Board.

**TEMPORARY FAMILY HEALTH CARE DWELLINGS:** The Temporary Family Health Care Dwelling legislation was signed by the governor and will take effect on September 1, 2016. The motivation for the new law is to provide transitional housing for seniors. Specifically in the event a grandmother/grandfather needs a place to recuperate from surgery. The law has a broader effect. 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. Local governments may opt out of this program if they determine that this type of expedited land use permitted for temporary dwellings is not well suited to their community. The League of Minnesota cities advises, unless a city chooses not to participate in this program by passing an ordinance specifically opting out, the law will require the city to issue permits to qualified applicants starting on September 1, 2016. The Planning Commission reviewed the legislation and recommends that the Town opt out. It was noted that a city can always pass an ordinance adopting the new legislation at a later date if it seems warranted. An Ordinance will be adopted adopting out of the Temporary Family Health Care Dwellings law at the July 18, 2016 Town Board Meeting.

**PUBLIC WORKS DIRECTOR REPORT:** The Public Works Director reviewed the Public Works Department Activity report for June 2016. **Sealcoating:** Sealcoating will be done the week of July 7-11. The project is anticipated to take 2-3 days. **Water Treatment Rehabilitation Well #5:** On June 15, 2016 Magney Construction attempted to complete the startup demonstration without the filter manufacturer, Tonka Water, present. Magney Construction was unable to demonstrate operability as operation of the Dualator® II equipment with GreensandPlus® filter media was the specialty of Tonka Water. Filter training as specified in §1650 ¶3.05 should be completed in order for Tonka Water to transfer the knowledge necessary to operate the equipment to the Township. The Town may have full use of the system after filter training is complete. **Pine Hill Project:** The Town Engineer reported that the project is under way. There are 9 residents on the north side of County Road H-2 who were provided information regarding looping the water main. None of the 9 property owners object to the project.

**CODE ENFORCEMENT OFFICER / BUILDING INSPECTOR ITEMS: 1) 5500 TOWNSHIP DRIVE; 2) 1508 HAMMOND ROAD; 3) 5357 PORTLAND AVENUE; 4) 4403 OTTER LAKE ROAD: 5500 Township Drive:** An inspection done on June 30, 2016 showed that the property was found to be in compliance with applicable Town ordinances. The Township is requesting that all charges pertaining to housing code violations be dismissed. It is not known how the court will finalize the process. It is up to the court. **1508 Hammond Road:** The Code Enforcement Officer has documented a violation of Township Ordinance No. 35, Section 7-6.2 which requires that all vehicles must be currently licensed and operable. The deadline for compliance is June 28, 2016. The Code Enforcement Officer will prepare a resolution for cutting the grass and

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removal of the vehicles or have them licensed and operable. It was noted that the neighbors are becoming frustrated and have concerns about the non-compliance. **5357 Portland Avenue:** This property has been a problem for a long time. There are three cars currently unlicensed and inoperable on the property. The deadline for compliance is July 1, 2016. **4403 Otter Lake Road:** A second abatement notice has been sent regarding the two unlicensed and inoperable vehicles. The deadline for compliance is July 1, 2016. The Code Enforcement Officer will prepare a resolution.

**CLERK-TREASURER REPORT:** The Clerk provided a draft of a mission statement for review. The Town Board will review the mission statement, vision, and what the Township values. It was noted that the document should be fluid and in cooperation with all positions of management. It was suggested that the mission stated and values be discussed quarterly at an Executive Meeting. This would provide a chance to address complicated issues and on-going issues. The Board will review the mission statement, vision, and values and provide input to the Clerk by July 1, 2016.

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

**VLAWMO JOINT POWERS AGREEMENT – 10 YEAR UPDATE – REVIEW:** The Town Attorney noted that the proposed operating budget and the sources for these funds will be recommended for approval to the members. He referred to various methods available to VLAWMO to pay for capital projects. He reported that he has reviewed the agreement and stated that it is fine as it is.

**WATER TREATMENT REHABILITATION WELL #5 – UPDATE:** The Town Engineer reported that notification was received on June 6<sup>th</sup> of additional items that have not been completed. Start up as specified had been rescheduled to June 15, 2016 and not fully completed. On June 16, 2016 Magney Construction requested additional detail on the list of items necessary for final completion. Magney Construction minimally met the definition of the work being substantially complete on May 31, 2016 as defined by the Contract General Conditions, Section 00700 Article 1, ¶1.01.A.44 and Section 00800, Article ¶14.04. With this recommendation, warranty claims would be filed through May 31, 2017. The list of items remaining for final completion is significant. He reviewed the items not completed. TKDA received a proposal from Magney Construction on June 20, 2016 in response to a consensus of all parties on April 8, 2016 to replace seven solenoid valves in the air wash system solenoid valve panel. The project would be improved by the replacement of these valves and simplify the startup and closeout of the project. Unfortunately, Magney Construction's proposal to replace \$266.70 of valves is \$1904.10. In review of the proposal TKDA found a charge of \$975 labeled as "subcontractor" which is unsubstantiated and unsupported. The Engineer recommended that the Township purchase the solenoid valves directly from the OEM and have them installed by the Town. Alternatively, a revised proposal eliminating the \$975 charge and having the contractor supply and install them for \$960.37 would be an alternative. Magney Construction scheduled additional inspection on June 15<sup>th</sup>. Work was not completed and training was not completed. An additional operation

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demonstration is now scheduled for July 11, 2016. Additional costs incurred of \$3,300.06 after the missed completion date are tabulated in the summary. It is estimated that an additional \$2,248.14 will be required to re-inspect the work and verify the work is complete. TKDA recommends that the sum of \$5,548.20 be withheld from the final payment as direct cost to re-inspect the work for final completion. He reported that a Change Order for the contract will be prepared for the Board.

**BRUCE VENTO TRAIL – UPDATE:** The Planner reported that Ramsey County Parks and Recreation is planning to submit an application for the 2016 Regional Solicitation for Federal Funding. This application will address the extension of the trail from Buerkle Road to Highway 96. As part of the application Ramsey County is requesting a letter of support from the Township for the preliminary design and submission of the application. Graphics were reviewed showing the Vento Trail, north extension, Buerkle Drive to County Road E; County Road E to Cedar Avenue; Cedar Avenue to Scheuneman Road. Final construction plans will need to be completed and any approval process with agencies. Scott Yonke, PLA, Director of Planning Development, RC Parks and Rec, has provided a draft letter of support document for use. It was the consensus of the Town Board to support the application and to refer further consideration of this and other trail projects to the Park Board.

**JOEL KUNZA / ROB SCOTT, THEATRE SHOPS LIQUOR LICENSE- UPDATE:** The Clerk reported that the applicants contacted the Town via email asking if they need to apply for an On Sale Liquor License, 3.2% Liquor License, or Sunday Liquor License. The vision they presented at the April 4, 2016 Town Board Meeting was for a burger shop where customers can have a burger, fries, coke, or a beer. Their email of June 23, 2016 stated that the reason that they are asking about which liquor license they need is because they have a full bar going in and they will want a full liquor license. The Clerk will follow up on the matter. The Town Board discussed their understanding that the applicants were interested in selling beer and not liquor, and that it was the Town Board's intent to allow the minimum seating for a restaurant selling strong beer to be reduced from 100 to 40. That would be done by redefining "restaurant" for a wine license only.

**OPEN TIME: Special Meeting:** The Town Attorney reported that there will be a special meeting on June 30, 2016 at 9:00 a.m. with League Attorney, Paul Reuvers. An alternate date will be July 1, 2016.

**Sheriff Bostrom:** Kermes reported that Sheriff Bostrom would like to come to an Executive Meeting. Town residents are concerned that they are not seeing the patrol deputies around the Township.

**Tom Snell:** Tom Snell would like to come back to an Executive Meeting to talk about lakeshore owners funding augmentation levels.

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**MnDOT:** All work between 35-E and County Road J will be finished by the end of the year.

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

The meeting adjourned at 4:16 p.m.

Respectfully Submitted,

William F. Short  
Clerk-Treasurer