

**MINUTES
TOWN BOARD MEETING
JULY 18, 2016**

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

Present: Supervisors: Kermes, Prudhon, Ruzek; Clerk: Short; Attorney: Lemmons;
Code Enforcement Officer / Building Inspector: Johnson; Planner:
Riedesel; Engineer: Studenski.

APPROVAL OF AGENDA (Additions / Deletions): Prudhon moved approval of the agenda with the following Consent Agenda amendments: 5B) Resolution Ordering Abatement of Nuisance Conditions at 1508 Hammond Road – Approve Resolution - Revised Resolution – Date Change; 5C) Resolution Ordering Abatement of Nuisance Condition at 5357 Portland Avenue – Approve Resolution – Revised Resolution – Date Change. Ruzek seconded. Ayes all.

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

APPROVAL OF JULY 6, 2016 MEETING MINUTES: Ruzek moved approval of the July 6, 2016 meeting minutes. Prudhon seconded. Ayes all.

CONSENT AGENDA: Ruzek moved approval of the Consent Agenda as follows: 5A) Re-Appoint Patricia Lee & Peter Nasvik to Three Year Terms on the Park Board to Expire April 30, 2019; 5B) Resolution Ordering Abatement of Nuisance Condition at 1508 Hammond Road – Approve Resolution; 5C) Resolution Ordering Abatement of Nuisance Condition at 5357 Portland Avenue – Approve Resolution; 5D) Call Special Town Board Meeting for Tuesday, August 2, 2016, Beginning at 5:30 p.m. for Night-to-Unite; 5E) Call Public Hearing for Wednesday, August 3, 2016 at 7:10 p.m. to Amend Ordinance No. 35, Section 7 – General Regulations by Adding Section 7-19 – Opting Out of Temporary Family Health Care Dwellings Law; 5F) Based on Town Engineer Review & Recommendation and Including His Recommended Conditions, Approve Comcast Permit to Provide a Cable Service to 1185 Birch Lake Boulevard North – Nextern Building Extending a Service from the Existing Line; 5G) Receive Finance Officer's Second Quarter Finance Report. Ruzek noted that Consent Agenda Items 5B and 5C are approved with amended date change. Prudhon seconded. Ayes all.

WILBERT, INC., 4221 OTTER LAKE ROAD – REQUEST FOR PERMITTED USE STANDARDS PERMIT & VARIANCE REQUEST:

The Planner reported that Wilbert Inc. appeared at the July 6, 2016 Town Board meeting with two requests, one for a Permitted Use Standards Permit to allow construction of a new cooling tower and a front yard setback variance from the White Bear Parkway right-of-way. He reported that the first cooling tower was approved in 1994 which required a variance because it was within the front yard setback along White Bear Parkway. The second cooling tower is proposed to be adjacent to the first cooling tower which would be 21.5 feet from the right-of-way. This would require a right-of-way setback variance of 13.5 feet. Both the Variance Board and Planning Commission reviewed the 13.5' right-of-way setback variance request and the Planning Commission recommended approval. When reviewed by the Town Board on July 6, 2016 a nearby resident addressed concerns about noise coming from the cooling towers and asked if Wilbert, Inc. could do some type of noise buffering to help accommodate the residents. The noise does not appear to exceed MPCA standards but the cooling towers run all night and with windows open it can be heard as a constant hum in the background. As a result Wilbert has come up with a slightly adjusted plan which would install a sound barrier wall. The wall would be an "L" shaped structure with a 5' high fence elevated above ground on posts. A 10' length of fence would be placed on east, facing Otter Lake Road and a 20' length facing White Bear Parkway. It would surround two sides of both of the cooling towers. The panel would be metal matching the exterior of the building. On the inside of the panel would be acoustic foam to absorb noise and distribute it away from where it is currently going. The Planner reported that he spoke with the resident who voiced concerns about the noise and he appreciated the effort and can go along with what is proposed. When Wilbert, Inc. applied for a Permitted Use Standards Permit they were also looking at a noise wall on the south side of the building. At this time they feel that they have resolved that noise issue and have notified the Town that they withdraw that request from review. Prudhon asked if there would be any additional landscaping with the proposed sound barrier. The Planner reported that there is not. He explained that when the original cooling tower was put in the Town required installation of a dozen trees with irrigation. One of the spruce trees will have to be removed for the second cooling tower. It will be replaced. Prudhon asked if the resident was okay with the screening. The Planner stated that they did not talk about that screening and that the trees have grown to the height of the building and screen the tower. Ruzek asked if Wilbert, Inc. designed the sound barrier wall themselves or if they consulted professionals. The Planner reported that Wilbert, Inc. was in contact with an acoustic professional. He did not know if they were part of the design but there were discussions early on in the process. Wilbert, Inc. feels that the sound barrier will work and if it does not they will address it. Kermes noted that Wilbert, Inc. has invested in noise meters and have taken noise levels. He asked if they will take noise levels after the second cooling tower is constructed. The Planner stated that Wilbert, Inc. owns the noise meter and can test the noise levels after the second cooling towers goes in. Kermes asked if there are additional corrections needed to address noise levels if that would be done. The Planner stated Wilbert has agreed to make changes if necessary. He reported that is not required at this point but could be added as a condition to the Zoning Certificate. Prudhon asked what the decibel readings are now. The Planner reported that the readings are individual decibel meter

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readings. When decibel readings are ordered, the Town usually asks the MPCA do a 24 hour study. He explained that there are overall averages for different situations. He stated that various decibel meter readings per State statute are included in Town Ordinance. Prudhon asked if the terms of the permit are the same as set when approved in 2009. The Planner stated that they are. He noted that Wilbert, Inc. has had several modifications to the site and building over the years since they developed. All modifications are included in the new Permitted Use Standards Permit.

Prudhon moved to approve the request for Permitted Use Standards Permit to add a second cooling tower at Wilbert, Inc., 4221 Otter Lake Road, subject to conditions outlined on pages 41 and 42 of the meeting packet, noting that Wilbert Inc. will modify their project if the decibel readings exceed the standards set forth by the MPCA. Ruzek seconded. Ayes all.

Prudhon moved to approve a 13.5' right-of-way setback variance to construct a second cooling tower on the north side of the building along with submitted screening application. Ruzek seconded. Ayes all.

BUILDING INSPECTOR REPORT – 2ND QUARTER CONSTRUCTION REPORT: The Building Inspector reviewed the 2nd Quarter Construction Report. He reported that 3 housing permits were issued in June. 2016 year-to-date permits issued are 6 with a valuation of \$1,868,704. 2015 year-to-date permits issued was one with a valuation of \$180,000. There were 100 miscellaneous residential permits issued in June. 2016 year-to-date permits issued were 298 with a valuation of \$3,052,802 compared with 335 permits issued year-to-date in 2015 with a valuation of \$3,531,754. Two commercial permits were issued in June. 2016 year-to-date permits issued are 10 with a valuation of \$3,816,155. 2015 permits issued were 6 with a valuation of \$236,540. There were three demolition permits issued year-to-date for 2016 and 7 demolition permits issued year-to-date for 2015. There was a total of 105 permits issued in June, 2016 with a valuation of \$1,553,041 and 317 permits issued year-to-date with a valuation of \$8,737,661. There were 349 permits issued year-to-date for 2015 with a valuation of \$3,948,294. The Building Inspector reviewed total number of permits issued by year for the past ten years. 2nd Quarter 2016 permits were issued by the following types: Building permits - 46.92%; Electrical permits - 14.65%; Plumbing – 11.9%; Mechanical – 9.98%; Utilities – 2.76%; Fire – 0.43%.

Prudhon moved to receive the 2nd Quarter Construction Report. Ruzek seconded. Ayes all.

HIGHWAY 96/ EAST-WEST BALD EAGLE TRAIL – ADD TO TOWNSHIP TRAIL MAP: The Planner reported that there are two agencies looking at upgrading trails in the region. MNDot is proposing a USB Route 41 which would connect St. Paul with Grand Portage on the Canadian border utilizing the existing roads and trails, with no new construction. They are only designating a route. The trail follows the Gateway trail in North St. Paul then utilizes existing roads and trails located in the City of White Bear Lake eventually connecting with Northwest Avenue in the Township. MNDot held an

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open house and presented the trail to the public. Another trail option which is proposed is by Ramsey County for the Vento Trail which currently goes from St. Paul along the Burlington Northern rail corridor to Buerkle Road. The County is putting together a grant application for the next section of trail which will go from Buerkle Road to Highway 96 where it will connect to the Highway 96 regional trail. The trail is proposed to be on and off the rail right-of-way. The Park Board has reviewed the proposals. They recommend that the State reconsider the route when the Gateway trail is completed because the Gateway trail intersects with the Vento trail in Maplewood and follows the corridor to Buerkle Road and eventually Highway 96. The Park Board recommends that the Township add a trail corridor along Bald Eagle Avenue in White Bear Lake and White Bear Township north of the Soo Line railroad tracks to the Township trail map. In addition, the Park Board recommended the State look at the Vento trail option instead of having on road trails for Bicycle Route #41. The Park Board requests that they hold a joint meeting in October with the City of White Bear Lake Park Board to discuss other trail routes, such as South Shore Boulevard. Both jurisdictions share that trail and is on the County's re-do list in the future. The Planner provided an overhead map showing the Town's trails. A gap will remain along the Vento Trail corridor through White Bear Lake, White Bear Township and Hugo. Local bicycle advocates recommend a trail route which includes Bald Eagle Avenue to East Bald Eagle Boulevard to Park Avenue to Hugo Road and north or along East Bald Eagle Boulevard to Taylor and to Hugo Road and to the north. These sections are identified on the Town's trail plan but Bald Eagle Avenue is not. The Park Board recommends adding that section to the Town's trail map. Prudhon asked if there is any consideration staying along the lake and taking Portland to Highway 61 instead of going along the south side of Bald Eagle. It was the consensus to wait until after the joint meeting with the Township Park Board and the City of White Bear Lake Park Board.

DNR CRITICAL PROTECTED WATER ELEVATION – ADOPT WHITE BEAR LAKE ELEVATION: The Planner reported that the Summit Lane property on the south side of the Township is a property which has a dock that is not currently there due to the low lake level. He reported that the Town has been receiving calls asking when the dock would be re-installed since the water level has risen. He reported that the lake level is 921.99'. At that elevation the dock would still not reach the water. He reported that the Park Board wanted to establish an elevation when the dock would be put back. He reported that the ordinary high water elevation of White Bear Lake is 924.89'. The highest level recorded in 1943 was 926.7' and the low level was in 2013 at 918.84'. The White Bear Lake Conservation District established the protected elevation of the lake at 923.5'. The Park Board's recommendation is that would be the critical protected water elevation and the elevation at which the dock would be installed. The Town Attorney stated that discussion should be tabled until the litigation is completed.

OPEN TIME: Joel Kunza and Rob Scott asked about the moratorium the Town placed on issuing liquor licenses. Joel Kunza stated that they are in the process of designing the café. Originally they had talked about having beer and wine along with burgers. He stated that looking at Ordinance No. 32 for them it would make better sense to provide table service, a full service bar and tasty burgers. Their layout expects to seat

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approximately 54 guests. This would add a more family oriented feel and will deliver a similar small concept but with table service and full service bar option. Rob Scott stated that originally there was confusion between beer and wine and full liquor. They misinterpreted it as meaning full liquor or nothing. When they designed their most recent plan for the space it was designed for providing full liquor. If full liquor is not an option they will have to redesign the space. Kermes stated that originally it was a burger and beer concept and wine was included because the ordinance lists beer and wine together. Due to confusion, a moratorium was placed on liquor licenses for the short term. He noted that the matter is on the agenda for the Executive Meeting this Friday. He stated that he would like to have more feedback from the Township Public Safety Commission on the idea of a liquor license in this type of venue for this type of plan. Rob Scott stated that the concept of the restaurant has not changed. It is still burger and beer. But with a liquor license it would be table service, hostess stand and bartender. The design and type of service would not change. The type of license would change the business. Prudhon reported that the Public Safety Commission's focus was on beer and wine. The only change was beer and wine for a 40 seat restaurant and to raise the alcoholic content of wine to 24%. He stated that there was no discussion about allowing full liquor in a restaurant with less than 100 seats. Ruzek reported that the moratorium was placed so that the Town could come to some consensus. The Clerk reported that when the amendment was made it changed the definition of restaurant for both liquor and beer and wine. The intent was for beer and wine only. At this point the Board needs to determine if there should be a different definition for a restaurant with liquor and for a restaurant for beer and wine. Joel Kunza reported that he has surveyed surrounding communities and noted that the Town appears to be the most restrictive city. Rob Scott stated that they have looked at other locations but this location in the Township is by far their preference.

Kay Sargeant, 5344 Eagle Street, expressed her appreciation and thanked Mike Johnson and Tom Riedesel for taking care of a problem with a leaning cottonwood tree on her neighbor's property. This spring she and a neighbor took down a large clump of silver maples. She reported that every tree service that came out did not want to focus on the clump of silver maple. They wanted to focus on the neighbor's cottonwood tree. They all said that it was a hazardous tree and someone ought to do something about it. She called the Township and asked Mike to come out and take a look at it. Although Mike was sick he came out anyway. No action was taken at that time. She hired a certified arborist, someone who was trained as a tree-risk assessor. It was deemed that the crown of the leaning tree was offset, the roots are not healthy and it was deemed a high-hazard, verging on an extreme-hazard tree. Ms. Sargeant thanked the Town for dealing with it and acting on it promptly.

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

The meeting adjourned at 7:51 p.m.

Respectfully Submitted,

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William F. Short,
Clerk-Treasurer

Approved as Official Meeting Minutes

Town Board Supervisor

Date