

TOWN OF COTTAGE GROVE  
TOWN BOARD MEETING  
SEPTEMBER 8, 2015

I. ADMINISTRATIVE

- A. Notice of the meeting was posted at Town Hall, the park at 4539 American Way, Gaston Road at Brown Thrush and US Hwy 12 & 18 at County Road BN, and on the Town's web site. Town Chair Kris Hampton, Supervisors Mike Fonger, Steve Anders, Kristi Williams and Mike DuPlayee were present, along with Clerk Kim Banigan and Treasurer Debra Abel.
- B. Hampton called the meeting to order at 7:00 P.M.
- C. Minutes of previous meeting(s): **MOTION** by Williams/DuPlayee to approve the minutes of the Town Board meeting held on August 17, 2015 as printed. **MOTION CARRIED 5-0.**
- D. Finance Report and Approval of Bills:
1. **MOTION** by DuPlayee/Fonger to approve payment of bills corresponding to checks #23915-23979, including voided check 23994, as presented. **MOTION CARRIED 5-0.**
  2. **MOTION** by Anders/DuPlayee to approve payment of August Per Diems as presented, and payment of \$747.00 to Viken Inspection Agency LLC for August building permits. **MOTION CARRIED 5-0.**
- E. Public Concerns: None initially, but later in the meeting Gloria Binnette, 3840 Blazing Star Road asked to be heard since she arrived too late for the agenda item. She asked about changing the 4-way stop at the intersection of Nora Road with South and West Jargo Roads to a 2-way stop (East to West) only, and adding a speed limit sign just north of Doubledays on Baxter Road. The Board did not show interest in considering either of these suggestions.
- F. Road Right of Way Permits: **MOTION** by DuPlayee/Williams to permit Alliant Energy to trench and drill across and parallel to the right-of-way on Luds Lane for underground electric and plastic gas service. **MOTION CARRIED 5-0.**

II. BUSINESS:

- A. Plan Commission Recommendations:
1. Wade Cattell, Rocky Rights LLC – Applicant, Duane Swalheim – Landowner. Parcels 0711-342-9730-0 and 0711-342-8500-9: Seeking conditional use permit for non-metallic mining on 35 acres: Hampton explained that the Plan Commission had considered and denied this request back in May, but the petitioners postponed their appearance before the Town Board until now to allow time for them to address concerns and for the Town Board to tour the site. Mr. Cattell said he is asking for a 20 year conditional use permit to expand the mining site to provide gravel for his concrete plant and some fill sand. There would be no changes to traffic patterns, the existing driveway would be adequate. Hours would be 6 a.m. to 6 p.m. Monday thru Friday, and 6 a.m. to 4 p.m. on up to five Saturdays per calendar year, probably in the fall and consecutive, with prior notice given to quarry neighbors. No blasting is planned at this time. A berm would surround the entire active areas of the site, with a 3-wire barbed wire fence and no trespassing signs along the entire western property line. He suggested annual review by the Town Board with a walk-through every three years. He said he is not currently out of gravel but is making this request in an effort to plan ahead.
    - Duane Swalheim said that he barely hears noise from the the current quarry operation from his nearby farm. Most of it takes place down below.
    - Jon and Andrea Enriques, 3380 North Star Road, expressed their opposition to expansion of the quarry toward their home due to the negative effects it could have on

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air and water quality as well as property values. They indicated they can hear current operations from their home. They had obtained a copy of the existing site's erosion and stormwater control plan from Dane County, but were unclear as to who enforces it. They had also contacted the DNR and learned that the operation is missing a necessary industrial stormwater permit, and determined an air quality permit is also needed if any crushing is performed on site. They suggested that if the operators cannot be trusted to follow the rules for the existing site, how can they be trusted to follow them with an expansion?

- Alex Tukiendorf, 2292 US Highway 12 & 18, provided photos alleging violations to operating hours of the existing site since the May Plan Commission meeting, including shots of the gate open after hours and dust generated by truck traffic.
- Jim Merritt, 3290 North Star Road, alleged that the quarry operators have a history of disregard for the environment, and said it is the Town Board's responsibility to support the recommendation of the Plan Commission to deny the expansion, which could be devastating to future development in the vicinity.
- Otto K. Otteson, 2173 Nora Road, said the quarry has been active there his whole life and he hears noise from it all the time, although more now than ever before. He suggested that the operators could show good faith by reclaiming portions of it, and wondered if they could be forced to reclaim some of it before being allowed to open up any more.
- Anders asked Mr. Cattell a series of questions:
  - Q: Define "berm": A: 10 foot minimum height, seeded or mulched.
  - Q: Will the site be a "borrow site" for storage of offsite materials" A: There would be no reason for that to occur, other for reclamation dirt.
  - Q: How many acres would be open at any one time? A: 2/3 of the 35 acres would be stripped and surrounded by a berm at a time, moving north to south on the site.
- Williams was concerned whether a 3-wire barbed wire fence would be enough to keep out curious children.

**MOTION** by Anders to approve the conditional use permit for five years beginning on January 1, 2016 to allow non-metallic mining on 35 acres with the following conditions:

- No more than 10 acres of the expansion area may be open at any one time, and for each acre opened, an acre must be reclaimed on the existing site, and seeded with some type of ground cover.
- All open areas must be completely surrounded by a 10' berm and 3 strand barbed wire fence.
- The entire 35 acres shall not be used as a borrow pit or allowed to be used for storage of off site materials including gravel, concrete or blacktop. It would be acceptable to bring in dirt for building a berm.
- Hours of operation limited to 6 a.m. to 6 p.m. Monday thru Friday, and 7 a.m. to 4 p.m. on up to five Saturdays per calendar year, with prior notice given to neighbors. No operations on Sundays.

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- All necessary State and County permits must be secured prior to the beginning of mining operations.
- Operator shall notify neighbors in advance of any crushing done on the site.

**MOTION FAILED FOR LACK OF SECOND.**

**MOTION** by DuPlayee/Anders to approve the conditional use permit beginning on January 1, 2016 to allow non-metallic mining on 35 acres with the same conditions as the failed motion above, but allowing up to 15 acres of the 35 to be open at any one time. The six standards under DCCO section 10.255(2)(b) were considered with the following votes:

1. Failed 2-3
2. Approved 3-2
3. Approved 4-1
4. Approved 5-0
5. Approved 5-0
6. Approved 4-1

**MOTION FAILED 2-3** (Fonger, Anders and Williams opposed).

2. John T. Mulligan, applicant, Don Peckham, owner – parcels 0711-071-8790-7 and 0711-07-9050-0 on County Road BB: seeing rezone to LC-1 with a conditional use permit for outdoor storage of construction materials for .224 acres currently zoned R-1A and 1.959 acres currently zoned C-1: Anders stated that he had opposed this rezone at the Plan Commission level because he did not approve of the large quantities of material it would allow to be stored outdoors. Discussion was that materials would be limited to gravel, sand, boulders and topsoil and the piles would not be visible from County BB. DuPlayee wondered about truck traffic on such a busy road, but Mulligan stated there would be a half dozen or so coming and going each day. **MOTION** by Fonger/Anders to accept the Plan Commission's recommendation to approve the rezone of the entire 2+ acres to LC-1 with a CUP for outside storage of materials and vehicles as specified above and below:

- a) Design review and landscaping plans to include:
  - Overhead doors facing south and no windows.
  - Screening requirements: continuous evergreen plantings, ultimately reaching 6' wide by 5' high, or a 6-8' fence.
  - Outdoor lighting only at the back doors of the building, and downward facing.
  - Up to 3 full time employees.
  - No additional signage.
- b) Hours from 6:00 a.m. to 8:00 p.m., winter excluded from enforcement of these hours due to the unpredictable nature of snow removal.
- c) Total vehicles and equipment on site not to exceed 24.
- d) Total vehicles and equipment stored outside at any one time not to exceed 18.

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- e) Outdoor material storage size not to exceed 18 yards of any individual item, limited to gravel, sand, boulders and topsoil.

The six standards under DCCO section 10.255(2)(b) were considered with the following votes:

1. Approved 4-1
2. Approved 5-0
3. Approved 5-0
4. Approved 5-0
5. Approved 4-1
6. Approved 5-0

**MOTION CARRIED 4-1** (DuPlayee opposed).

- B. Discuss/Consider progress of property clean-up at 2842 Gaston Road: The property owners were present and asked to be allowed until the end of September to complete the residing of the outbuilding. **MOTION** by DuPlayee/Williams to extend the deadline for residing of the outbuilding to September 30<sup>th</sup>, with no more extensions granted. **MOTION CARRIED 5-0.**
- C. Discuss/Consider approval of Collective Bargaining Agreement between the Deer-Grove EMS District and International Association of Fire Fighters Local 311: Lt. Jerry McMullen, who had lead the bargaining committee, said that negotiations had gone smoothly and without legal costs except to draft the tentative agreement to include the negotiated terms. The main thing the union was looking for was wage steps, which a spreadsheet showed occurring over the proposed three year contract, along with the wage related costs for each of the three years. There were also three non-budgeted items, including the extension of benefits to continue for up to 6 months under workers compensation, use of accrued vacation after 6 months of employment, and allowing for vacation hours to count toward overtime when an employee would normally be scheduled for 48 hours during the week of the vacation. **MOTION** by DuPlayee/Williams to approve the Collective Bargaining Agreement between the Deer-Grove EMS District and International Association of Fire Fighters Local 311 as presented. **MOTION CARRIED 4-0-1** (Anders abstained).
- D. Discuss/Consider approval of a second driveway for 1986 Nora Road: Highway Superintendent Jeff Smith was not at the meeting but had advised Hampton that he has no problem with the second driveway as represented on the diagram provided. **MOTION** by Anders/Fonger to approve a second driveway for 1986 Nora Road as presented. **MOTION CARRIED 5-0.**
- E. Discuss/Consider approval of waiver of Change of Land Use Fee for the Madison Area Radio Control Society: An email from MARCS President David Rush requested the waiver based on the club status of the applicant, stating that Dane County has waived their re-zoning fees. **MOTION** by Fonger/Anders to waive the change of land use fee. **MOTION CARRIED 5-0.**
- F. Discuss/Consider approval of loan for 2016 Patrol Truck: The Treasurer provided three loan quotes for a 60 month loan for \$109,195.00 with 5 annual payments.
  1. Bank of Sun Prairie: 1.75% interest
  2. Monona State Bank: 2.45% interest

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3. Wisconsin Bank & Trust: 1.95% interest

**MOTION** by DuPlayee/Williams to accept the quote from the Bank of Sun Prairie.

**MOTION CARRIED 5-0.**

- G. Discuss/Consider approval of Agreement for Maintenance Assessment Services for 2016, 2017, 2018 with Associated Appraisal Consultants, Inc.: The agreement calls for payment of \$8,000 in 2016, \$8,100 in 2017 and \$8,200 in 2018, with an additional \$.15 per parcel per month for internet posting of assessment data. **MOTION** by DuPlayee/Hampton to approve the agreement as presented. **MOTION CARRIED 5-0.**
- H. Discuss/Consider additional storage for 2011 Crown Vic squad car: Hampton stated that portable shelters did not seem to be the answer but had obtained a quote to cut another door in the police building for \$9,350. **MOTION** by Williams/Fonger to not provide shelter for the 2011 Crown Vic squad car, but to outfit it with a block heater if it does not already have one. **MOTION CARRIED 4-1** (DuPlayee opposed).
- I. Set 2016 Budget Workshop Meeting dates: Workshops will be held on October 20 and 22 beginning at 6:30 P.M. each night.
- J. Complete 2016 Insurance Renewal Questionnaire and set insurance quote due date and opening: The questionnaire was reviewed with no changes.
- K. **MOTION** Discuss/Consider approval of DCTA meeting on September 16<sup>th</sup>: **MOTION** by Hampton/Anders to allow 4 attendees. **MOTION CARRIED 5-0.**
- III. CLERK'S REPORT: The Clerk distributed a memo from the WTA including 2016 dues.
- IV. BOARD REPORTS AND COMMUNICATIONS: Hampton reported receipt of an Air Pollution Control Operation Permit for Dane County Landfill, Site 2. It will be available at the Town Hall.
- V. COMMITTEE REPORTS:
- A. Flynn Hall Committee: The 2016 budget will be the same as 2015, and quotes for a replacement furnace are being sought.
- B. Deer-Grove EMS: The commission is working on the 2016 budget.
- VI. Adjournment: **MOTION** by DuPlayee/Williams to adjourn. **MOTION CARRIED 5-0.** The meeting ended at 9:35 P.M.

Kim Banigan, Clerk  
Approved 10/05/2015