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|  | MINUTES OF MONTHLY MEETING OMRO TOWN BOARD OF SUPERVISORS | |
| | DATE: August 16, 2021 | TIME: 6:00 p.m. |

Call to Order

The meeting was called to order at 6 p.m. by Chairman Brian Noe. The Pledge of Allegiance was said in unison.

Attendance

Chairman Brian Noe, Supervisors Mark Krings and Steve Disterhaft, Treasurer Beth Jackson, Clerk Dana Woods, and Attorney Karen Marone were present.

Statement of Public Notice

Notice of this meeting was posted at the following locations: Omro Town Hall, 4205 Rivermoor Road; Garbage & Recycling Drop-Off Center, Wendt Road & County Road FF; and at the Corner of Liberty School Rd & County Road F. Notice was also posted on the Town of Omro website and emailed to the Omro Herald and the Oshkosh Northwestern.

Public Comment

Resident Chris Musha commented:

- Expressed his hope the town will pursue an appeal of the judge’s recent decision in the Ross/Wagner case, suggesting town could lose authority in future zoning requests. If town decides not to appeal, and if county does have final zoning authority, wants town board to consider abolishing Planning Commission. Applicants knew what the property was zoned when purchased and have not displayed any hardship requiring the need to rezone. Other facts from case were not considered by judge when decision was rendered.

Resident Ken Woolf commented:

- Agreed with Chris Musha’s comment. Confused by zoning saga and who has final authority. Anyone who feels they’ve been wronged has the right to seek redress in court; understand that. But if court’s decision means county has final authority, town should appeal it.

Resident Harve Ross commented:

- Town gave over zoning authority to county back in 1990s, so county has final say. Town thought they could overrule it. That’s his understanding of it.

Wally Wagner commented:

- Wouldn’t have been a lawsuit if everything had been acted on properly. Doesn’t want bad feelings. Were told when it started if it met statutes and codes, could not be refused, then other issues came up and ultimately told it was against comprehensive plan. Wants a working relationship with town but were denied based on things with no merit. Suggested things brought up for vote were not discussed and implied decisions were made outside of meetings.

Resident Dean VanDyke commented:

- Opposes Wagner project; not what the property was zoned for. It has infrastructure in it to hold something else. Recalled conversation with Harve Ross telling him he’d like to see a church go there; was surprised to see first proposal brought up was for storage units with application for rezoning.

Resident David Rupnow commented:

- Difference between storage unit plans in different spots is “We don’t want you here.” Recalled Wagner was offered numerous alternative places to place storage unit project.

Resident Brian Seaman commented:

- Same situation down the road. Petition stated people didn’t want it. Why did it run through the board faster? Stressed it is the same thing.

Eric Wagner had his hand up, and was called on, but then said he “respectfully declined” to comment.

Resident Nathan Ross commented:

- Been listening to everyone that’s been talking. When his wife handed in petition (opposing Zillges project) it was barely glanced at while passed down the table. Questioned why when people opposed Wagner project, it’s been 2.5 years and it hasn’t gotten to a zoning change, when Zillges project gets it done in 5.5 weeks. “Something’s going on. I’m going to stop there; I’ll let loose.”

Resident Debbie Rupnow commented:

- Speaking of petitions, she had one (against Wagner project), had 75% of the land owners within 300 feet of the property who did not want it. Turned it into county, and county neglected to look at it.

Resident Brad Ertmer commented:

- Regarding ATV/UTV routes. Felt rules of the routes were obeyed over the past year. Would like to see the town open up more roads.

Community Policing Discussion

No representative present.

Stormwater Discharge for Proposed Wagner Storage Units

Chairman Noe explained, don’t know yet if it will definitely move forward; Wagner requested it be put on the agenda just in case to pick up where it left off before the lawsuit. Need to know what to do with stormwater at that site regardless of what goes there - Preliminary work done.

Supervisor Krings asked if engineers mentioned seeing a major problem at this time.

Chairman Noe said it would overtop the road; would need to be discharged/piped somewhere else.

Eric Wagner asked about storm sewer across the street; was told it was not a storm sewer and asked confirmation about the direction of flow.

Chairman Noe responded, suggested it may have to pipe from pond or put a pond at a different location.

Supervisor Krings suggested the topic be tabled until we hear from engineers, and two engineers work together.

Wagner wanted “to know where you stand.”

Chairman Noe, “I stand that we can’t create a problem with drainage downstream. So, whatever we need to do to not create a problem downstream or overtop a road, that’s for the engineers to figure out and give us a recommendation. We won’t overrule our engineer.”

Supervisor Disterhaft asked for clarification on suggested discharge plan.

No board action taken.

Mechanical Services Site Plan Modification Agreement

Attorney Karen Marone had a couple of minor comments; very good contract overall. Noted C11 are maps that accompany contract and will be attached. Happy to see responsibility for maintenance goes to owner or successors and if failure to complete work advised as necessary by the town, special assessment can be done.

Requested that a few words be added to paragraph nine. Contacted by Attorney for Mechanical Services; will forward her remarks to him as well. There was also a spelling error in legal description and that can complicate things at county.

Chairman Noe, started, “So with these two changes...”

Brian Seaman interjected, “I have a question since this is my site plan. I contacted Jack, Jack contacted you, my Attorney contacted town Attorney, nobody replied. I’m asking everybody NOT to vote on this tonight because it has not been reviewed by myself, Jack from Martenson & Eisele or my attorney.”

Chairman Noe asked, “Then who sent this to us?”

Brian Seaman answered, “That was sent by Jack, but you never sent any comments back to say if there was anything that needed to be handled.”

Chairman Noe explained that it needed to be discussed by the board together (requires open meeting) and that the changes were minor enough they could be voted on.

Attorney Marone stated, “My intent was to have the board vote on it, with changes subject to review by your attorney.... I had notes in the margin, and I had to address them with the board tonight.”

Attorney Marone will send suggested revisions to Mr. Seaman’s attorney.

No board action taken.

Ordinance 2021-8-1 for Speed Limit Change on Reighmoor Road from 55 to 45 mph

MOTION by Supervisor Krings, second by Supervisor Disterhaft to approve Ordinance 2021-8-1 to change the speed limit on Reighmoor Road from 55 to 45 mph.

Motion carried on a 3-0 voice vote.

Amendment to the Road and Highway Ordinance Section 1 Part B with regard to Culvert Size

Requirements

Follow up to last month’s discussion regarding requests for longer culverts on agricultural and commercial properties. Will allow longer culverts in areas where appropriate and beneficial.

MOTION by Supervisor Disterhaft, second by Supervisor Krings to amend the Road and Highway Ordinance Section 1 Part B.

Motion carried on a 3-0 voice vote.

Consider Request from Ormand Beach First Addition Developer to Fully Pave Roadway Before Reaching Percentage of Build out Provisions

Chairman Noe explained the developer revised his request from previous month and now wants pave the road completely, not just base course. This occurred in the Barony and it went well. Supervisor Disterhaft asked for confirmation that the developer would accept liability for any damage done during remainder of construction. Chairman Noe affirmed.

MOTION by Supervisor Krings, second by Supervisor Disterhaft to allow Ormand Beach developer to fully pave roadway before reaching percentage of buildout provisions.

Motion carried on a 3-0 voice vote.

Review Existing ATV/UTV Routes Ordinance

Supervisor Krings stated it was brought to his attention that it had been over a year since ordinance was created, some wanted a review and more routes created. No issues reported to him.

Resident Brad Ertmer commented he hopes to have to all town roads open, suggested the town “give it a shot” and attach a probationary period to it.

Chairman Noe shared he’s reluctant to open full road system because of the enforcement issues that would come with it; continue to get complaints about people riding where they shouldn’t be and neighbors not happy about it; would like to explore a plan to add some roads, but not all.

Supervisor Krings commented that some people asked about a trail to Utica

Chairman Noe suggested someone bring forth a proposal for route expansion for the board to consider.

No action taken at this time.

Repeal and Recreate Illicit Discharge and Connection Ordinance in Accordance with the Town of Omro Stormwater Quality Management Plan Update

MOTION by Supervisor Krings, second by Supervisor Disterhaft to repeal and recreate Illicit Discharge and Connection Ordinance.

Motion carried on a 3-0 voice vote.

Repeal and Recreate Construction Site Erosion and Sediment Control Ordinance in Accordance with the Town of Omro Stormwater Quality Management Plan Update

Resident Brian Seaman asked if construction on a residential property requires a sediment fence. Chairman Noe responded explaining any erosion control requirements applicable to the project would need to be adhered to; might not be a fence.

MOTION by Supervisor Krings, second by Supervisor Disterhaft to repeal and recreate Construction Site Erosion and Sediment Control Ordinance.

Motion carried on a 3-0 voice vote.

Repeal and Recreate Post-Construction Stormwater Management Ordinance in Accordance with the Town of Omro Stormwater Quality Management Plan Update

MOTION by Supervisor Krings, second by Supervisor Disterhaft to repeal and recreate Post-Construction Stormwater Management Ordinance.
Motion carried on a 3-0 voice vote.

Intergovernmental Agreement to Satisfy Eligibility for Recycling Consolidation Grant for 2022

Chairman Noe explained the agreement is necessary to retain eligibility for grant.

MOTION by Supervisor Disterhaft, second by Supervisor Krings to approve the Intergovernmental Agreement to Satisfy Eligibility for Recycling Consolidation Grant for 2022.
Motion carried on a 3-0 voice vote.

Ordinance 2021-8-2 to Adopt the Wisconsin Municipal Records Schedule

Clerk Woods explained the benefits of adopting the WMRS, primarily that it's a widely accepted state standard and gives more comprehensive guidance on record retention that the town's existing 2006 ordinance does not.

MOTION by Supervisor Krings, second by Supervisor Disterhaft to adopt the Wisconsin Municipal Records Schedule.
Motion carried on a 3-0 voice vote.

Revised Notice of Public Records

Clerk Woods explained this hasn't been updated since it was created in 2006 even though the ordinance allowed for edits "from time to time" without needing to amend the entire ordinance. Several pieces of information on the original are now outdated.

MOTION by Supervisor Disterhaft, second by Supervisor Krings to approve the revised Notice of Public Records.
Motion carried on a 3-0 voice vote.

Ordinance Codification Project Update

Chairman Noe shared the status of the project. General Code has provided a Disposition Report of the Town of Omro ordinances it has, requested confirmation and any updates before proceeding. Copy of report shared with rest of town board in case they have any feedback/input. Clerk Woods will assist moving forward.

Letter to County Regarding Potential Reduction in County Board Size

MOTION by Supervisor Disterhaft, second by Supervisor Krings to draft letter to County Board members opposing the downsizing of the board, citing concern for reduced level of rural representation as the primary reason.
Motion carried on a 3-0 voice vote.

Operator License Application for Tara Frohrib

MOTION by Supervisor Krings, second by Supervisor Disterhaft to approve with clean background check.
Motion carried on a 3-0 voice vote.

Budget Prep Discussion

Will tentatively plan to hold preliminary budget workshop on September 13, following the regular board meeting. Could potentially hold a special meeting if necessary.

Reports

Road Supervisor

- Most paving projects for this year have been taken care of.
- Need to determine how much budget remains. If budget allows in the fall will prioritize crack sealing and tree trimming.
- Supervisor Krings relayed that someone mentioned to him the shoulder drops off drastically on 9th Street. Will drive by and take a look.

Clerk

- Correspondence: County copied us on a Notice of Violation for expansion/replacement of a structure in a shoreland area without a permit.
- Shared information about the redistricting schedule; 80-day process instead of 180 days; county will usher the town through the process.
- Received DNR Grant for \$20,559.25. Noe: Closing out the grant following for Stormwater Management Plan Update.
- Shared law change alerts from Dept. of Revenue; full explanation of which will be available upon inquiry.
- Received and Open Records Request from Breakthru Beverage asking for detailed information on all of the town's liquor license holders. Fulfilled request the following day by emailing the town's Annual Liquor License Report filed with the D.O.R. earlier this summer.
- Sent Requests for Proposal to several different accounting firms in the area for a professional audit of the town's financial records for the year 2020, and possibly 2019, depending on cost.

Planning Commission Chair

- Did not meet in August.

Town Attorney

- Clarified that the town is not left with no zoning authority at all. It's not "County Zoning" but rather "Town/County Zoning" and is a cooperative process. That said, there are some cases where county has exclusive power over zoning decisions.
- Town Law Conference coming up.

Town Supervisors

- None at this time.

Town Chairman

- Sandhill Farms update - Continue to work through stormwater issues; engineers working together on it. Also working on Developers Agreement for final phase.
- Ormand Beach update - Significant progress cleaning up drainage. Met with developer last week to work with him on it.

Meeting Minutes

MOTION by Supervisor Disterhaft, second by Supervisor Krings to approve meeting minutes from July 19, 2021 regular town board meeting.

Motion carried on a 3-0 voice vote.

Treasurer's Report

Treasurer Jackson noted we received final tax settlement from county of approximately \$114,000.

Chairman Noe requested that ARPA funds be distinguished somehow in the report to reflect that those are funds we're not spending at this time.

MOTION by Supervisor Krings, second by Supervisor Disterhaft to approve Treasurer's report as presented.

Motion carried on a 3-0 voice vote.

Accounts Payable

MOTION by Supervisor Krings, second by Supervisor Disterhaft to approve accounts payable in the amount of \$85,023.38 for August.

Motion carried on a 3-0 voice vote.

Upcoming Workshops or Meeting Authorizations

WTA Town Law Conference October 1, being held virtually.

WTA Fall Workshops in September; Annual Convention coming up in October.

Resident Green Wagner interjected to voice a concern about a couple of properties on Reighmoor Road he felt needed to be dealt with in terms of curbside cleanliness.

Convene into closed session

MOTION by Supervisor Disterhaft, second by Supervisor Krings to into closed session at 7:20 p.m., pursuant to Wis. Stats. Sec. 19.85 (1)(g), to confer with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation related to (1) Ross/Wagner litigation and (2) open records charges against town.

Motion carried on a 3-0 roll call vote.

Return to Open Session

MOTION by Supervisor Disterhaft, second by Supervisor Krings to return reconvene in open session at 8:45 p.m.

Motion carried on a 3-0 roll call vote.

Agenda Items for Next Meeting

None mentioned.

Adjourn

MOTION by Supervisor Disterhaft, second by Supervisor Krings to adjourn at 8:49 p.m.

Motion carried on a 3-0 voice vote.

Submitted by
Dana Woods
Town Clerk

Approved by Town Board September 13, 2021