

**TOWN OF MAY
WASHINGTON COUNTY
OFFICIAL TOWN BOARD MINUTES
July 2, 2009**

The Board of Supervisors of the Town of May met at their regular monthly meeting on Thursday, July 2, 2009, at the May Town Hall. Those present included Bill Voedisch, Board Chairman; John Pazlar, Supervisor; John Adams, Supervisor; Peter Kluegel, Building Inspector; Dave Snyder, Town Attorney; Diane Hankee, Town Engineer; Linda Klein, Town Clerk; and residents of the Town of May. Absent: Cheryl Bennett, Town Treasurer. Chairman Voedisch called the board meeting to order at 7:00 pm.

Voedisch moved, seconded by Adams, to approve the minutes of the June 11, 2009, Town Board meeting as presented with handwritten edits from Adams. All approved.

Adams moved, seconded by Voedisch, to approve checks #15620 through 15650, including EFT transfer 709 to IRS. All approved.

Adams moved, seconded by Pazlar, to transfer \$500 from 201 Sewer Fund to the General Fund and to transfer \$10,000 from the 201 Sewer Fund to the 201 Sewer Replacement Fund. All approved.

Pazlar moved, seconded by Voedisch, to approve the Treasurer's report as presented. The report is attached to these minutes and serves as the official record. All approved.

Park Report

Ballpark Improvements

Park Chairman Bill Klein reported on a request to improve the ballfield through irrigation of the fields and updating of the well capacity. The VAA will provide the seeding, installation of the system, and startup of the system and fall blowout, voiding of the water, etc. Waterworks is the contractor, and he has provided irrigation at Liberty Development and the two parks in Stillwater. The time frame would be to ask the road crew to apply Roundup ASAP, dirt hauled in August, and irrigation ahead of seeding in September. In return, VAA only asks for first rights to the use of the field. Voedisch noted that park fees can only be used for upgrades, and upgrading the well system could come out of park fund dollars because it is specifically for the park. Snyder asked how long they are requesting first right of refusal. Klein suggested 3 years and he will negotiate. Voedisch moved, seconded by Adams, to approve the Marv Schroeder park improvement project, including the Town providing \$2970 for the upgrade of the well. All approved.

The board discussed the outhouse situation at the Town Park. Voedisch suggested adding an "Enhanced Access" porta-potty unit from On-Site Sanitation for the summer months for approximately \$800 to \$900 as a stopgap measure. Voedisch moved, seconded by Pazlar, to

approve the installation of an Enhanced Access unit with 2x a week service to the end of September. All approved.. Pazlar moved, seconded by Adams, to approve \$600 to Cates for replacing the skylights in the outhouse. All approved. The board discussed replacing the venting system and they will do more research before determining what to do about it.

Cates has suggested that the pavilion roof was not done correctly and it needs to be replaced. The board discussed the roof and determined more information is needed.

Planning Commission

Public Hearing

Tattoo Haven Small Business

Mark C. Chookiatsirichai has submitted an application for a conditional use permit to operate a small business on the property located at 14980 May Ave N. The applicant is interested in operating a tattoo parlor out of the existing home owned by Zachary David Gockenbach Cole. The parcel is 20 acres in size, is zoned RR, Rural Residential and is located within the Shoreland Management District. It contains frontage on May Avenue North to the east. The home and detached garage were recently constructed on a parcel that was subdivided from a larger parcel. According to the applicant, the name of the operation is to be "Tattoo Haven" and will be a discreet, appointment-only tattoo shop that follows national guidelines for health and safety. The business will be operated in the finished basement of the home.

The operator, Mr. Chookiatsiriachai, is not the property owner, nor is he related by blood, marriage, or adoption to the owner of the property, Mr. Zachary Cole. The applicant proposes to operate the business from noon to 6pm. The applicant is proposing one three (3) foot by ten (10) inch sign, to be set back twenty (20) feet from the street.

Planning Chair Arnason reported on the Planning Commission discussion and concluded that all the members were concerned about the applicant not being the property owner. He advised the board that the commission recommended denial of the application. The small business ownership requirement is not subject to variance, according the Town Attorney.

Voedisch moved, seconded by Adams, via Resolution 2009-07, with additional Findings of Fact, to deny the application for Small Business CUP for Tattoo Haven at 14980 May Avenue N, given that the applicant is not the owner of the property or properly related to the owner. On a roll call vote: Adams, yes; Voedisch, yes; Pazlar, yes. Motion passes.

Thomas Hoffer

CUP - WECS

Thomas Hoffer has submitted an application for a conditional use permit to install a Wind Energy Conversion System (WECS) on his property. The property is located at 13380 Lynch Road and is zoned RR, Rural Residential. Mr. Hoffer has been diligently working with the Township for the past two years on this project.

Section 604.02 of the Town Code requires a minimum lot size of 10 acres for the operation of a WECS. The subject site is 9.875 acres in area, but the applicant owns the adjacent 6.05 acre property to the north. To meet the 10-acre lot size requirement, the Town shall require the applicant to adjust the lot line abutting the two separate parcels in a manner that adds the needed 0.13 acres to the southern lot. This appears to be the most viable option, versus entirely combining the two lots together. The planner recommended that a revised Certificate of Survey and legal description be submitted to the Town for the adjusted parcels. The lot line adjustment and new legal descriptions shall be recorded with the County via two new deeds.

The recent Ordinance amendment has increased the maximum height of a WECS from 100 to 110 feet, which is measured from the base of the tower to the top of the rotor. The application materials propose the installation of a 110 foot total height WECS, which meets the new Ordinance requirement. However, drawings have not been submitted, showing the actual tower height. These shall be submitted prior to building permit approval to verify conformance with the Ordinance. As a condition of approval, the height of the WECS must comply with FAA Regulation Part 77 and/or MnDOT Rule 14, MCAR 1.3015.

The recent Ordinance amendment also revised the required setback. The setback requirement is that the base of a WECS must be no closer to any lot line than the height of the WECS. The proposed WECS location meets this requirement as it is proposed to be located approximately 400 feet from Lynch Road, 110 feet from the southern lot line, over 250 feet from the northern lot line, and over 700 feet from the rear lot line.

Voedisch moved, seconded by Pazlar, via Resolution 2009-08, with additional Findings of Fact and subject to the 16 conditions in the resolution, to approve the request for a Conditional Use Permit for Thomas Hoffer to erect a Wind Energy Conversion System (WECS) at his property on Lynch road. On a voice vote: Adams, yes; Pazlar, yes; Voedisch, yes. Motion passes. The applicant now needs a variance from the County to their 100' maximum height limitation.

Small Business Interim Uses

Arnason brought up the topic of Conditional Use Permit vs. an Interim Use Permit for small businesses. The CUP runs with the land, whereas the Interim Use Permit would sunset with sale of the property. He thinks it would be more protective of the Town to grant Interim Use Permits for small businesses, specifically.

Attorney Snyder advised that the trend has been to use the Interim Permit more, especially for businesses, that runs for a defined term and/or until the property is sold. He agreed with Arnason that this would be a good undertaking for the PC and board to evaluate what they want to consider as interim uses. He also suggested updating the criteria for Conditional Use Permits.

Engineering & Roads

Roads

The Town Engineer reported on several items. Sealcoating is still not complete, but she will get an update from the contractor. She discussed the proposed fee schedule and terms of engagement for their engineering firm.

Leonard Flooding Project During early spring, Mr. Leonard experiences significant flooding on his property; the water encroaches on his 201 lift station and consequently needs to be pumped from Leonard's site. When the lift station becomes saturated, the flood water is pumped into the 201 system. Voedisch suggested meeting with Pete Ganzel and C & B Excavating to develop a solution for the lift station problem. Regarding flooding, Leonard suggested drilling vertical holes so the water would percolate, but the engineer did not think that would solve the problem given the high water table. She suggested getting the watershed involved, because they will need to play a role, given the proximity to the lake.

Snyder advised that the board is not obligated to help the landowner fix his flooding problem. Voedisch suggested authorizing the engineer to spend some time helping to develop a solution. Pazlar stated that he does not believe the Town should have the financial liability for fixing this problem. Adams thinks the Town should protect the 201 system.

The first problem is finding a solution to the flooding of the 201 system, which would be raising the sides of the lift station to make it water tight. The board would authorize no more than 5 hours engineering to solve Leonard's flooding problem.

Old Business

201 Billing System

The board discussed the way the sewer payments are billed and what the policy should be for the future. Voedisch moved that all future billings state at the top of the bill the basis of the bill (seasonal or full time) and number of bedrooms for all future billings. All approved. Voedisch moved, seconded by Adams, to go back one year in repayment for wrong billings. Pazlar and Adams vote yes, Voedisch nay. The treasurer will notify Leonard that his rebate will be applied to his 2009 billing.

Wood Fired Boiler Ordinance

Chairman Voedisch brought forward a modified version of the outdoor wood boiler ordinance for review. He went over a variety of issues including stack height and setbacks. He tried to craft changes based upon how it fits with May Township and how it lays conditions on top of existing units. Pazlar stated that he has heard from many citizens that the nuisance ordinance is so broad as to be ineffectual. The Board discussed nuisances, and whether the language in the ordinance should address specific nuisances, or refer to the existing nuisance ordinance. Snyder advised that the standard nuisance ordinance is sufficient.

Three residents discussed the changes in the new ordinance, specifically that the adverse health effects were not addressed, and that the ordinance is not as restrictive as the original one. Attorney Snyder suggested that the public should be made aware of this ordinance upon passage, given that most people would just put in a boiler without asking for a permit. Adams and Pazlar were in favor of a 500' setback from a unit to the nearest neighbor's home, an increase over the 300' proposed by Voedisch. Adams moved, seconded by Pazlar, to approve the ordinance with the an amendment to change the distance from any neighboring home to 500 feet. On a roll call vote: Adams, yes; Pazlar, yes; Voedisch, nay. Motion and the ordinance is adopted.

New Business

Rydeen Manure Management Project - East Boot Lake

Pete Young of the Washington Conservation District gave a presentation on a proposed feedlot and manure management project for the Rydeen dairy farm on East Boot Lake, a project designed to keep cattle manure, and cattle, out of the lake so as to improve water quality. This presentation also serves as the "public hearing" required by the Mn PCA, which the Town had noticed in the newspaper of record. Mr Rydeen was also in attendance.

After the presentation and a few questions by the Board, Voedisch moved, seconded by Pazlar, to open the public hearing. Hearing no comments, Voedisch moved, seconded by Pazlar, to close the public hearing. The Town Board then approved the project, subject to a grading permit that would be held by the Town. The County would also hold a grading permit, as will the WD and the PCA. The Board did agree that the County will do the primary oversight of the project on our mutual behalf.

A set of project plans will be given to Engineer Hankee so she can fashion a Township grading permit for the project.

Minnesota State Aid Cuts

Treasurer Bennett reported that, due to State aid cuts, the Town will lose approximately \$11,000 in income that was previously used in budgeting. The board discussed the current financial picture and agreed that it may be necessary to hold an additional Town meeting in September to adjust the budget and levy for 2009. Bennett stated that the Town must certify the levy by September 15. She will report more detailed figures at the August meeting, at which point a decision will be made.

Hearing no further business, Adams moved, seconded by Pazlar, to adjourn. All approved.

ATTEST:

Linda Klein
Town Clerk

Respectfully submitted,
William K. Voedisch, Chairman

