

Rushford Town Board Minutes
Wednesday, April 5, 2017

The Town of Rushford April Board meeting was called to order by Chairman Thomas Egan followed by the Pledge of Allegiance. Roll call was taken with Thomas Egan, Jerry Schoonover, Pat Kafer, Kathryn Lewis & Peggy Hendricks present. (Pat Kafer was a few seconds late). Also present for all or part of the meeting: 22 additional persons per attendance record on file, though others were present who did not sign in.

Statement of Public Notice: Notice of this meeting and the Zoning/Planning committee meeting was posted on the town hall door, the corner of K & E in Eureka, the Waukau post office and the Town's web site. In addition, notice of election equipment public testing was published in the Oshkosh Northwestern.

Clerks Report & Minutes: *Motion by Kafer, 2nd by Schoonover, to approve the minutes as presented for the March 1, 2017 meeting. Motion carried.*

Treasurers Report was given by Kathryn Lewis. The balance at the end of March was \$198,416.19. The balance in the tax account was \$1,517.54 **Motion by Schoonover, 2nd by Kafer to approve the treasurer's report. Motion carried.** Kathryn read an email from the County Treasurer – Mary Krueger, pertaining to Towns using e-checks or credit cards. She explained the Point & Pay system which the County uses. The Board suggested asking other Townships if they use this and what their thoughts are. Kathy stated that the Town of Algoma is enrolled in the program and she will inquire information from other Townships and report during the May meeting.

Payment of invoices: Hendricks approved and submitted to the board the bills for April in the amount of \$27,390.84 from the general account for approval of payment. **Motion by Kafer, 2nd by Schoonover to pay the approved April 2017 bills plus checks for Piggly Wiggly, Rogges, and Festival Foods for supplies for the Unit WTA meeting along with the cost of LP from L & L from the general account. Motion carried.**

There have been 2 public request of open records from Day Property management for a list of property owners that own 3 units or more in the Township and from DataRole requesting copies of every permit data log/report dating back as many years as possible. Hendricks replied back to DataRole stating that the cost would be a minimum of \$100 and this would need to be prepaid before the records would be sent.

Public Input: Buster Domke, 3176 Quarry Drive, Omro, request the Board to act upon the zoning laws that they have and shut down the business that is across his house. It has made him sick for over 90 days. He has spent over 30 days in UW Madison. He has had a lot of treatments. It is an infection which is explained in his Doctors report. He would like the ordinances we have enforced, shut the business down and get it cleaned up. He feels there are a lot of sick people around the Town.

Jesse and Kelly Domke had a presentation which was shown at the zoning committee meeting where 2 board members were present – Jerry Schoonover and Patrick Kafer. Tom Egan stated if anyone would like to see the presentation that it could be shown after the meeting.

Mary Basel, Ripon WI wished to bring up another business that is zoned incorrectly in the Town, so she would like to have that checked out as well. She believes there is a distillery in the Town and she does not think it is on Industrial or Commercial zoned property.

Kelly Domke, 3036 Quarry Road, Omro, read a letter from Doctor Makim MD, Professor of Medicine, Mr. Domkes Doctor.

Jesse Domke, 3036 Quarry Road, Omro, went though past Town Board meeting and Zoning minutes from 2014. A cease and desist letter was sent by the Town Board in 2014 and nothing was followed though. The DNR surveyed the property 2 weeks after the meeting on March 16, 2014 and Mr. Domke states that they found several issues with the property – Blue Sky Gardens. He was not keeping his records & he was composting in areas he was not to be. Jesse read from past minutes a quote from Tom Egan. Mr. Egan answered that what he stated that night was correct. He apologized to his mother (Jesse's) afterwards for he was told the DNR was out there and so was the County Health nurse, but they just drove by. They did not stop and Mr. Egan did not know they did not stop. They just drove by to observe. The old zoning Committee was out at Blue Sky Gardens. They did not find anything wrong. The DNR approved the permit for Blue Sky gardens. It is thought by Domkes that the zoning needed to be changed. Tom Egan stated that he did not think the zoning needed to be changed.

There was much discussion on the cease and desist letter, the zoning of the property, if it is a solid waste facility, the health hazards of the composting, DNR violations, the bream, if he is composting garbage and monitoring temperatures as required by the DNR.

Melanie is the DNR contact for this business. She told Tom Egan yesterday that there was only 1 thing wrong out there right now and it is not an important point. Melanie told Jesse Domke that she refuses to answer any health concerns and that Blue Sky needs to adhere to the Towns ordinances. He has sent her pictures of violations. She told Jesse that the business is in violation of several different issues. Melanie stated to Jesse that this is being treated as a separate issue. Tom Egan does not understand why she won't come up to a meeting and everything has to go through her. Tom Egan asked if any of the Domkes has talked to the County. Carolyn Domke had talked to the County nurse who stated all was fine. In Carolyn's opinion, she is not a nurse. The nurse stated that there is no test, which there is. The compost can cause an infectious disease and the business has a permit to bring in 800 loads a day. She stated that Mr. Domke had many treatments and was cleared. He came home while the compost was being stirred. Mr. Domke had to go back for further treatments for it flared back up. It is an air-borne disease. They have had to move from their home and rent an apartment. She feels the zoning is all wrong.

Mary Basel asked why the cease and desist letter was not enforced. Tom Egan said he personally could not answer that. Jerry Schoonover stated at that time they were relying on the DNR and the County. The Board received information that all was fine. Dan Stokes stated that he was on the old zoning committee. He had called Tom Davies from the County Land and Water. Mr. Davies did not find anything wrong with Blue Sky Gardens. There were other County officials out there and they did not find anything wrong. Jesse said the County does not have anything to do with the composting – that is the DNR. The zoning regulations are the town's responsibility.

Pat Kafer stated that the Town has sought legal counsel and it is very possible that the zoning is legal. Tom Egan explained that the attorney was not at tonight's meeting for Attorney Blazel is the Towns attorney. He has a conflict of interest, so Attorney Sondalle will be looking this over. He has not had enough time as of tonight to go through all the reports.

Kelly Domke asked why the cease and desist letter from 2014 could not be enforced right now. The Town would like legal counsel on this before any action is taken, for there are ratifications on both sides. There is a concern that he was in compliance and legal counsel should have been consulted before the letter was sent. Kelly & Jesse are also concerned that neither their home or his parents home could be sold without disclosing the homes are by a health hazard.

Pat Kafer asked if the DNR told the Domkes this is a known health hazard, why did they give Blue Sky a permit.

Jesse Domke stated that the DNR will not answer any questions on health hazards.

There is disagreement when composting started. Mr. Domke said it started in 2014, but others said it had been going on years before.

Pat Kafer said he would like to wait to hear from legal counsel. There are questions if composting is considered solid waste, if it is a solid waste facility and if he is in compliance of zoning.

Dawn Henderson, Mr. Domkes daughter, feels that no one knows whose job it is pertaining zoning. She said that the zoning had to go to the Board and no one is enforcing anything. What happened to her dad could happen to anyone. She would like an answer.

Jesse Domke said this could fall under the public nuisance ordinance.

Pat Schoonover, 2575 Hwy 116, Omro, feels the Town should take action tonight.

Mary Basel spoke how infectious diseases are in a person's body but will not flare up until a person's body is compromised. She wants to know what happens to people who are raking up medical bills. Tom Egan said the Town is not paying for the bills. Tom Egan said the DNR should be telling the Town the truth. Maybe the representative from the DNR should come up. The County Health nurse said there was not a test. Tom will be taking the letter from the Doctor down to the County and have her call Dr. Macky. Carolyn Domke would like Tom Egan to talk to him also.

Discussion on Town Maintenance: The Board and the County will go on the Spring Road tour on April 18.

Old Business: Waukau Road Closures: Attorney Blazel received an email from Bruce Neeb, who is still awaiting an opinion from Legal Services. He hopes to get back to him soon. This will be adjourned until the May meeting.

Insurance Proposal: Michelle Strauss from The Horton Group would like to come to the May 3rd meeting to present the insurance proposal that she has prepared.

Ronald Harke, Berlin Boat Club, thanked the Town for all the support for the Fox River and the Eureka Lock Project. He is here tonight to ask for a yearlong burning permit. They will provide water pressure to control any burns, there will be no overnight camp fires and they will call the Winnebago County Dispatch before

burning. They left a map of the area with the lock site. **Motion by Schoonover, 2nd by Kafer to approve the year long burning permit for the Berlin Boat Club for the lock site. Motion carried.**

Mr. Harke provided an update of the locks, the history and the economic impact. He went through the BBC April report which highlighted the upgrades in Omro, Berlin and Eureka. Dave Peck, Commodore of BBC was also present and introduced himself.

Tom Egan went through the Agreement for Fire Fighting Service for a portion of the Town of Winneconne which will be serviced by Omro-Rushford-Omro Fire Department.

Zoning Report – Tom Jackson: The Zoning/Planning Committee had discussion on ATV/UTV routes in the Town. Presenter was Brandon Bonfiglio from Waushara County ATV association.

Motion by Kafer, 2nd by Lee to table this topic until next months meeting. Motion carried.

There was discussion on Compost Pile Complaint from Carolyn & Richard Domke. Presenters: Domke Family.

Tom Jackson did say that all the nursery's he saw online showed composting as part of their business.

Minutes from this meeting will be on the website.

Motion by Resop, 2nd by Bahn to add this to the Town Board agenda for further action. Possible zoning violations may include setbacks, public nuisance and need for conditional use permit based on activities occurring on residentially zoned parcel. Motion carried.

Additional weight restrictions for some roads were suggested to be discussed for next year. Zoning Administrator Jackson will suggest turnouts for emergency vehicles for residents who have driveways exceeding 500'.

Tom Jackson had talked to the County Commissioner for Highways about subdivision roads. The County suggests a 6 to 12 inch stone base with a 3" blacktop before the Town would take over the road. Kafer thought it should be a little more than 3". A minimum of 2' edge. Kafer said this will be discussed on the road tour.

Action from Board on Zoning Recommendations:

ATV/UTV Routes: Tom Egan asked Brandon Bonfiglio how the townships in Waushara Co feel about the routes. He said that we are the only Town Board meeting that is meeting on their assigned day. The other Towns have changed their meetings until a later date, so this is one of the first he has been at. Kafer went to the Redgranite meeting. He said there might be a problem with County K for it crosses a navigable waterway. They are looking for .17 miles of Hwy K. There are people who wanted roads added to the route way. Tom Egan asked what the other Townships were thinking. The Town of Marion probably no, the Town of Plainfield, Oasis, Coloma and City & Town of Wautoma probably yes and the Town of Aurora has a new chairman. Tom asked where they would park. Brandon said that is up to the Town Board, but there is the campground as long as they are camping, the park and possibly the mill. Most will probably access the route from their homes. Jerry Schoonover would like to hear comments from Sheriff Matz on this matter. He would also like to get more information out to the neighbors. It was suggested to have a Public Meeting or to have this on the agenda for the Annual meeting on April 20th.

Kafer thought if there was a route, it should be from Eureka to Eureka Lock Road to 37th to Stone School to S. Spring to N. Spring and then you could get to Borth. People who live on any of the adjoining roads could join that route by riding the road. There should be a public meeting for the people on the route to see what their concerns are. Kafer was told that the noise from the motor is not a problem, but the howling of the tires. He is curious to see what the people would want and would like to have more conversation with the attorney. Liability and speed is a concern.

A question was asked about the snowmobile ordinance in the Town of Rushford. There was one many years ago and Mr. Egan said every year someone from the club would come to ask permission to ride the roads to the trails, but no one has done that for a while. Hendricks will look for the Towns ordinance on snowmobiles.

Blue Sky Nursery – Richard Domke: Tom Egan stated that a lot of discussion had taken place earlier in the meeting. Tom Egan read a letter from Attorney Blazel which recommended that additional investigation should take place to determine if there are any violations and the best way to address them. There are a number of legal and factual issues that affect both the zoning and public health issues which the Town must investigate.

It was asked how long this would take. Tom Egan said it is impossible to give an exact time for it depends on Attorney Sondalle who is not present.

Motion by Kafer for the Town to do what was recommended by legal counsel. There was no second.

Jerry Schoonover said he agrees what Kafer said, but would like Pat to add to his motion to have Blue Sky Nursery to stop mixing all compost. He is disgusted by the DNR for he felt the Town was going by what the

