

Rushford Town Board Minutes
Wednesday, March 13, 2019

The Town of Rushford March 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, Patrick Kafer, Kathryn Lewis & Peggy Hendricks present. Also present for all or part of the meeting: 9 additional persons per attendance record on file, though others were present who did not sign in.

Statement of Public Notice: Notice of this meeting was posted on the Town hall door, the Waukau post office and the Towns website. In addition, notice of February election equipment testing was published in the Oshkosh Northwestern.

Clerks Report & Minutes: *Motion by Schoonover 2nd by Kafer, to approve the minutes from the February 6, 2019 board meeting. Motion carried.*

Treasurers Report was given by Kathryn Lewis. The balance at the end of February was \$108,030.25. The balance in the tax account was \$266,195.39. *Motion by Schoonover, 2nd by Kafer to approve the treasurer's report. Motion carried.*

Payment of invoices: Hendricks approved and submitted to the board the bills for March in the amount of \$93,442.21. *Motion by Kafer, 2nd by Schoonover to pay the bills for the month of March. Motion carried.*

Public Input: Pat Schoonover, 2575 Hwy 116, Omro, wanted to bring to the Towns attention that Oshkosh Truck vehicles go through Waukau and they have been using Mill Run which is a Town road and not built for the trucks. He feels the snow plowing is getting terrible. He wonders if we want Friends to continue to do our road maintenance. He would like this to be on the agenda next month. He wants it on the record that they charge \$60/man even when they go pick up tires. He does not know any general laborer who makes \$60/hour. He would like to see the contract with Friends, for he does not think the Town has one. Hendricks stated they did have a contract.

Jim Moore, 7505 Archery Dr, Waukau, stated that it is the first time he ever saw Fox widened and Archery winged. He had to shovel so the mailman could get to his mailbox.

Lonnie Jepson, 8046 Island Ave, Omro wanted to discuss the dilapidated houseboat that is parked on the South side of the channel in Delhi. His neighbors have a very nice family area facing the South which looks at the woods and the boat. Another neighbor who lives to the West, only sees the boat. He understands that the owners have the right to keep it and make repairs. Many people come down to visit and if they are going North on Island Ave, the first thing they encounter is the boat. He is concerned what others opinion is of the island when they see that boat. Personally, for him, when he walks to the community mailbox, he gets to wondering why the boat is still there. He would like to see the boat moved to the South and to the East corner of the current property line. It would be pretty much out of sight and they still would be able to work/repair the boat. An additional item is there is an additional platoon for the boat also out there. That should also be moved with the boat. It would be a good year to move the boat with the snow we have had. If they ever repair it, it could be relaunched.

Communication & Correspondence:

Hendricks reported that she received a call from Pastor Pete from the Eureka Church. They were wondering if the Town hall could be rented out every Sunday for about a year. She also received an email from Terri Wagoner with the same questions. The hall is rented out to the residents and some community groups are able to rent the hall for \$20 instead of \$50 if the hall is not rented out to a resident. If a resident would like the hall the same time a group would like it, the group would have to pay the \$50 or forfeit the rental for that date. The hall is already rented out many Sundays in the upcoming year. It was wondered if there might be any legal concerns renting the hall every Sunday for a church service. Attorney Blazel suggested that if this is our policy, the Town should stay with policy. There has been litigation around the Country on churches or people using a public facility for their cause, but there is nothing prohibiting the Town to rent the hall for religious activities. He will investigate it a little further to see if there is anything the Town should be aware of. Tom Egan asked what if a person who had the hall rented on a Sunday just rent it in the afternoon.

Hendricks stated that many people need the morning hours or even the night before for decorating for their event. Tom Egan feels you can not take the hall away from someone who already has it booked. Jim Moore suggested that maybe they should only rent it at a month at a time. Attorney Blazel said the Town should follow with their policy while he looks into this further.

Hendricks reported she received a public request from Pat Schoonover for the Town of Rushford's employees W-2 for 2018. He stated he did not want all the W-2's. Hendricks said she just followed the request. Committee members and poll workers are also employees of the Town. He feels that the Town is not allowed to charge for the request. Attorney Blazel stated that reasonable copy fees. This is also posted on the clerk's window. 25 cents are charged for each sheet. He feels that the clerk knew who's W-2's he wanted.

Hendricks went through an email she received from Wisconsin Department of Safety and Professional Services Department which explained the new commercial electrical administrative rules.

Hendricks read an email that explained the County Board Ordinance #104-012019 which authorizes the Winnebago Co Sheriff to declare a flood emergency and enact a slow/no wake zone throughout Winnebago County waterways.

The Town received a CD of the 2019 Winnebago County Emergency Response Plan (ERP)

Two thank you cards were received from the Family of Jane Kasten and the Bernie Egan family.

Town Zoning/County Zoning Report An email was received from the DNR issuing Gehrke Farms a Chapter 30 general permit for maintenance dredging in a previously dredged area in Pumpkin seed, Creek in the Town of Rushford.

Discussion of Resolution for County Zoning amendment to the Floodplain Zoning Code (Chapter 26)

Dean Kaderabek explained the reason the Town of Rushford received this is because of the Town of Rushford is in Winnebago County. This zoning map amendment request is a request for an amendment to the Sawyer Creek floodplain maps. Tom Egan said it does not affect our Township, but from Fisk up to the City of Oshkosh which is Sawyer Creek - the city would like to have control over this. Dean stated that with this amendment, there are people who are not in a floodplain, but will now become in a flood plain thus giving much stricter regulations to the homeowner.

Motion by Kafer, 2nd by Schoonover to disapprove the amendment resolution. The Boards findings is to disapprove this for it does not affect the Town of Rushford at this time and will affect rural people in the future and it does not agree with the Towns Adopted plan. Motion carried.

Tom Egan announced that he had sad news for the County and Township. Dean Kaderabek will be leaving the County, for he has a new opportunity and Winnebago and himself could not come to an agreement. He will be done as of this Friday. He is a resident of the Town of Rushford and will still be in the area. Hendricks stated that it has been a pleasure working with him and commented on the new GIS page for Winnebago County which he has been working on for some time. He will be missed, for he has done so much for the County and for the Town of Rushford. Dean has been with the County for 21 years. He reported on the revamped GIS website. It is much more user friendly and if anyone has questions on it, call the GIS office.

Old Business - Discussion on houseboat on Island Ave: Tom Egan said he received an email from Jana Secord who is very upset at Tom Jackson regarding the letter she received. The letter was sent to the residents who signed the petition that was received in February. The letter states that after conferring with the Town attorney and an investigation, it has been determined that the storage and condition of the boat does not violate the town's Public Nuisance ordinance - Section 3.12 (5), thus there will be no enforcement action taken. Attorney Blazel said he did not have anything to add. He worked closely with Tom Jackson drafting the letter. Our ordinance allows to keep one unregistered/unlicensed vehicle on your lot. Our junk ordinance does not apply to this either. It applies to vehicles, meaning more than one. If a ticket was issued and if it went to court, he does not think the Town could prove a violation of the ordinance. Tom Egan asked Attorney Blazel if he thought it would be alright to use Mr. Jepson's idea and ask the Schwab family if they would consider moving it closer to their shed. The Attorney said we could not force them to do that, but there

is nothing prohibiting the Town from sending a letter and suggesting moving the boat. Kafer feels that it would be very difficult to make everyone happy regardless if it is moved or not. Mr. Jepson thought it would make a difference, for it least it would not be front and center on the road. He feels most people will not even notice it then. He knows that some people want the boat to be removed, but he feels that is not going to happen. He feels the alternative of moving it to an off visible location would be a good idea. Kafer said we could send a letter asking if they would consider moving it. It is on their property and it is not in the Towns right away. ***Motion from Kafer, 2nd by Schoonover to send Ann Schwab asking her if she would work with the Town and go ahead and move the boat closer to their building – more out of sight.*** Tom Egan asked if there should be a date on it to have it moved. Hendricks thought it was not appropriate, for it is a request. Kafer thought it would be nice to inform the Town on their decision. Kafer said he was down there twice, and he did not think it was structurally bad as it was made out to be. It was mentioned of animals, which he did not see any proof of. There were more animals crossing the road to eat off the tree, whereas there was nothing by the boat. ***Motion carried.*** Lonnie Jepson requested a copy of the letter.

New Business – Discussion of ATV/UTV route ordinance: Tom Yancy was present with Lindsey Blaauw and Gary Schackow to discuss the Towns ATV/UTV ordinance and some potential adjustments to the ordinance. He thanked the board for approving the present ordinance. The route is connected to Lake Poygan and into/including the Village of Winneconne. Couple things have happened at the State level since the ordinance was passed. One of items was Assembly Act 193, which a lot of the Towns are taking advantage of. It allows previously any road that was designated as an ATV route which had signs on every road, it now allows a Town or municipality to designate all the roads under their control as an ATV/UTV routes. Instead of putting signs on every road, the Town would indicate a sign that all roads are routes. These would be posted at every entry in the Town, even if the road is a State or County highway. It also allows a sign to be posted where the route ends. This cuts down on the cost of signs and makes all Town roads legal to operate on and gives more residents the ability to get out to connect to the designated route. This would help the riders follow the arrows if they were going to Winneconne, etc by staying on the designated route. It opens things up to make it more useable for people. Wisconsin Act 87 allows a Town, City or Village to designate an ATV route on any road that is in their boundaries where the speed limit is posted at 35 mph or less regardless if the city, village or town has jurisdiction over the highway, but it may not authorize ATV or UTV operation on a highway that is part of an interstate and defense highways. The State or the County can not deny that if their roads are posted 35 mph or less. The Town would have to apply for a permit to put the signs in the right away, but they cannot deny the signs but can make requirements on the placement of the sign. In the Town of Rushford, it would include Eureka and Waukau. There is no cost to the Town for the signs. Tom Egan asked if anyone else was doing this at this time. In Winnebago County, the Village of Winneconne did all their roads. Other Towns in Winnebago County except for the Town of Black Wolf did all their roads, the Town of Bloomfield did all the roads except for one, Green Lake County – the Towns of Manchester, Kingston and the Village of Kingston has done all their roads. All of Marquette County is connected with designated routes. In Waupaca County, about half of the Towns, the Villages and the City of Weyauwega have done all their roads. The County Board of Waupaca gave the County roads to the municipality's in that County. Most of Waushara County is designated at this time like the Town of Rushford. Tom Egan asked if the Town decided to do this, would the Town have to go to the County Highway Commissioner. The answer is no with the new laws in place. A Town can cross County Roads and all County or State highways that in the town that have a speed limit of 35 mph or less, the Town can designate. You can exclude roads and it would not have to be in the ordinance – it would just have to be posted. Attorney Blazel said he is aware of the change in the law. Act 87 allows the Town to designate any highway with a speed limit of 35 mph or less and Act 193 simplifies the signage. Lindsey Blaauw stated that right now you can cross Hwy 21. If the Town followed the new State Acts, it would open up the roads. Kafer stated that in our ordinance, any Town resident can go down a non designated road to reach the designated route. Lindsey said this is true, but it would be great to open County Road K and the villages. Gary Schackow, 9265 Stone School Road, stated that right now he can not legally go to his son's house, but he would be able to if the Town changed their ordinance. Kafer said he thought in the present ordinance, he is able to travel to the route even if his road is not on the route. It was also stated that if the Town created a resolution to present to the County to use the County roads for a route, it is possible it would be approved. An example is using the County roads to get from Eureka to Waukau, Waukau Creek and going up to Eureka Dam. Attorney Blazel said basically the State Statue gives the Town more authority to designate ATV routes. Tom Yancy said that in our present ordinance that gives Town residents the right to

use a undesignated road to get to the route but not other persons does not follow State Statute. That is one of the reasons that Act 193 came about. The City of Berlin has this on a referendum on April 2 to see what their residents would like to see. Schoonover asked about the Town of Rushford's roads that were not posted with speed signs. Attorney Blazel said that in rural areas Town roads are 55 mph, but in Act 87, the 35 mph pertains only to County and State Roads. The Town can designate Town roads posted at 55 mph as a route. Kafer said he would be receptive in getting a connection from Eureka to Waukau, but he still would like designated routes as they have now. It was stated that all private roads would be posted as a NON designated route. Pat Schoonover asked if the Town opened all the roads and a resident did not want it on their road, who would be responsible for the signage. Yancy stated that they would put that sign up if it was in the Towns ordinance to have that road closed to the route. If fact, it would not have to be in the ordinance. The ordinance could say all Town roads are open for the route unless posted.

Jim Romme, 2560 Mill Run, Omro, asked if the vehicles have proper lighting, age limits, etc. The ordinance states that you have to be 16 or older, have a helmet and a safety course. Once you are 18, you do not need a helmet or eye protection. It was asked if there was an accident, how that would fall under the law. Jim Moore said his ATVs are under full coverage for insurance. Attorney Blazel said the Town is not liable unless there was a deliberate act of Town negligence, for example, a tree is down on the road and it was not removed. The Town has their usual obligations of maintaining the roads. Expanding the ATV ordinance does not increase the Towns liability. Tom Egan said it will be under advisement and will be on the agenda for April. Tom Yancy said that the hours and speed should be kept the same, for that is not in the State Statute. The suggested ordinance also includes that all State laws would apply, such as safety equipment, age requirements, headlights, etc. The State laws are not in the suggested ordinance, for they are State laws. Tom Egan suggested at next months meeting he would like to see a resolution to take to the County to make County Road K from Eureka to Waukau a route.

Discussion on Town hall maintenance: Hendricks inquired about a new projector for the Town hall. The remote shattered so it is not operative. Tom Egan suggested looking for a new remote. Hendricks thought a wifi projector would be more user friendly and not very expensive at this time. Kafer suggested contacting Larry Hildebrand on finding a new remote and the cost of a new wifi projector.

Discussion on Town Maintenance: Tom Egan has gotten complaints from the bussing companies, on the branches leaning over on Rushford Ave. Something should be done right now or right away in the spring. Tree trimmers were out for Alliant energy with no cost to the resident. The Board will go out and look at it. Tom Egan talked to John Growth on the road tour. He is open the first 2 weeks in April. The Board decided that April 11th would work for them. Tom Egan will schedule that.

County Report – Tom Egan: Heating expense for the Highway department – they are not using the gas from the landfill. Last year the total cost was \$14,681.29. Year to date is \$15,650.77 from WE energy. Instead of using salt and mixed sand, they will now be using clean course sand from Brown County. It cost \$472,000 to use the salt as they are now. If it is mixed with salt and sand, it is thought it would go down to \$181,000. The highway department is asking for 6,900,000 for County roads. Roads that will be helping the Town is Hwy K from Clairview Road to State Hwy 116 and CTY FF from State HWY 44 To State HWY 99. Parkview parking lot will be around \$400,000. They are talking about tearing down the Williams building, but the Board thinks it should go out for bids. They would like to make it a parking lot. It will only give you about 12 extra parking spots. The Judge has decided that for sex offender housing – it would go up into Wolf River. Pat Schoonover mentioned that in the Omro Herald it said that State Hwy 116 between Omro and Waukau would be redone. Tom does not know if that will happen, for that is the State project. It was not supposed to be done till 2020, but it was moved up to 2019. It will depend on the new governor.

Reports of Attended Meetings:

Spring Primary on February 19th There were 81 voters in the February election for Omro School Board. Fire Department meeting on February 20th - Jerry Schoonover reported on the membership, the past years fire runs & raising money for a new boat. Hendricks reported that there was a lot of talk on the SP 330 which is tied to the fire dues. The fire department will be having an audit and they would like to schedule a meeting after the audit is finished. Hendricks explained what the SP 330 consisted of.

Upcoming Meetings:

Spring Election on April 2

Wi Town Association Until meeting at the Town of Clayton at 6:30 on April 4th

Jerry Schoonover stated that he received a call that a resident in Waukau had a culvert that was completely frozen with ice. He was wondering if he had the County come and jet it out, who would pay for it. Tom Egan said if it was in the Towns right away, the Town would pay for it.

Motion by Kafer, 2nd by Schoonover to adjourn at 8:45. Motion carried.

Respectfully submitted by Peggy Hendricks

Books were audited.
