

## MINUTES

**TOWN OF YORKVILLE  
TOWN BOARD  
TOWN BOARD ROOM  
UNION GROVE MUNICIPAL CENTER  
MONDAY, APRIL 28, 2014**

### Call to Order

Town Board Chair Peter Hansen called the meeting to order at 6:00 p.m.

### Roll Call

The following Town Board members were present: Peter Hansen, Sherry Gruhn and Terrence McMahon. Also present were Johnny Green, Yorkville Stormwater District Chair Steve Nelson, Yorkville Stormwater District Commissioner Thomas Lauber, Law Enforcement Officer Terrence O'Brien, Attorney Tim Pruitt, Engineer Mark Madsen and Clerk-Treasurer Michael McKinney.

### Approval of Minutes

***Motion (McMahon, Gruhn) to approve the April 14, 2014 Town Board meeting minutes as submitted, Motion Carried (MC).***

### Other – Comments, questions and suggestions

Hansen requested that this agenda item be moved to the beginning of the meeting to permit a resident to address the Board before the meeting began. Johnny Green, 1131 55<sup>th</sup> Drive, registered a complaint with the Board regarding ongoing issues with commercial activity on a neighboring property, located at 1315 55<sup>th</sup> Drive. He noted that he made a similar complaint to the Town in early 2010 related to this property but added that the issue did not improve after that complaint was made. He added that he has tried to sell his house but feels that the commercial activity next door has made it impossible. He noted that his neighbor runs a lawn care and snow plowing business from a large pole barn on the property, adding that there is frequently vehicle traffic there early in the morning. He also noted that the pole barn is heated by burning some material, which creates a nuisance. Hansen informed Mr. Green that the Town would contact the Racine County Planning and Development Department regarding this issue and added that this matter should be addressed at a future Plan Commission meeting.

### Approval of Town Invoices

***Motion (Gruhn, McMahon) to approve Town invoices in the amount of \$9,053.05, MC.***

### Approval of Stormwater Invoices

Hansen noted that there were no stormwater invoices submitted to the Town Board for approval.

***No formal action was taken by the Town Board on this agenda item.***

## **New and Unfinished Business – Discussion and possible action on all of the following**

### **Reconsideration of the employment agreement between the Town of Yorkville and Terrence O'Brien for Law Enforcement Officer services approved on April 14, 2014**

***Motion (Hansen, Gruhn) to reconsider the employment agreement approved on April 14, 2014, between the Town of Yorkville and Terrence O'Brien for Law Enforcement Officer services, MC.***

Pruitt noted that the position of constable was abolished at a Town elector meeting in 2007. He added that the constable moved from the Town at the time and could no longer hold the position, as a constable must be a resident and cannot be appointed. He noted that the Town does have the option of contracting with an individual for law enforcement services but added that recent legislation requires that any municipality with personnel that exercise law enforcement duties, regardless of size, be classified as a law enforcement agency. He added that this classification would require that the Town adopt procedures for various issues, including pursuit and use of force, which go far beyond the scope of the Town's law enforcement needs. He noted that the new agreement would change the position to that of a code enforcement officer, which is not considered a law enforcement officer. He added that a code enforcement officer would not be able to make any arrests but would instead have to request assistance from the Racine County Sheriff's Department if such action were necessary.

O'Brien noted that he contacted the Wisconsin Law Enforcement Standards Board regarding this issue and added that this board requires training in pursuits and the use of deadly force for anyone seeking certification as a law enforcement officer. He added that he would like to renew his certification but would not want the authority to conduct high speed pursuits. He noted that this board also has procedures in place for filing complaints against law enforcement officers. He also noted that, as a code enforcement officer, he could not carry a firearm, serve a warrant issued by a municipal judge without assistance from the Racine County Sheriff's Department, or take a person into custody. Pruitt noted that he could research sample policies that the Town could adopt if they chose to become a law enforcement agency. The Board discussed contacting the Racine County Sheriff's Department to determine what assistance they would be willing to provide to a code enforcement officer. Pruitt noted that the Sheriff's Department is responsible for providing basic law enforcement services to the Town. O'Brien noted that he would respect the Town's decision regarding reclassification of this position but added that he may seek a second part-time position elsewhere to maintain his law enforcement certification.

***Motion (Hansen, Gruhn) to table the employment agreement approved on April 14, 2014, between the Town of Yorkville and Terrence O'Brien for Law Enforcement Officer services, MC.***

### **Employment agreement between the Town of Yorkville and Terrence O'Brien for Code Enforcement Officer services**

***Motion (Hansen, McMahon) to approve the employment agreement between the Town of Yorkville and Terrence O'Brien for Code Enforcement Officer services, MC.***

## **Removal of all references to the Constable in the Town of Yorkville Code of Ordinances**

Pruitt noted that he would draft an ordinance to remove these references from the Town's Code of Ordinances.

***Motion (McMahon, Gruhn) to authorize the Town Attorney to draft an ordinance removing all references to the Constable from the Town of Yorkville Code of Ordinances, MC.***

## **Authorization for the Yorkville Stormwater Utility District and/or the Town of Yorkville to exercise eminent domain authority to acquire the necessary property interests for the completion of maintenance of the East Branch of the Root River Canal**

Pruitt noted that this authorization would initiate the process of acquiring temporary or permanent easements along the East Branch of the Root River Canal, which would allow the Stormwater Utility to complete canal maintenance there. He added that the Town Engineer would establish a list of properties to pursue eminent domain action against once authorization is provided. Pruitt recommended that the Town add any properties to this list that may become an issue in the future. He noted that he would draft a resolution to begin the eminent domain process once authorization is provided. He provided a summary of the eminent domain process, which includes property owner notification, legal action and determination of fair compensation for the acquired easements. McMahon noted that legal fees are paid by the Stormwater Utility. Lauber noted that there have only been three or four holdouts throughout this entire process and added that he would prefer that action not be pursued against any cooperating property owners. Hansen felt that the Stormwater Utility should avoid pursuing action against more property owners than is absolutely necessary. Madsen questioned whether any property owners would be willing to donate an easement for the project. Pruitt recommended that the Town pursue permanent easements and added that any acquisition or legal costs could be assessed against property owners abutting the canal.

***Motion (McMahon, Hansen) to authorize the Town Attorney to draft a resolution approving the exercise of eminent domain authority to acquire the necessary property interests to complete maintenance of the East Branch of the Root River Canal, MC.***

## **Establishing an ordinance governing the replacement of driveway approaches in the Town of Yorkville's road right-of-way**

McMahon questioned whether this ordinance would apply to all properties or only to those within subdivisions. Madsen noted that past practice has been to replace any driveway approach in the right-of-way, regardless of its composition, with an asphalt approach at the Town's expense. He suggested that the Town could opt to replace a driveway approach with concrete, but recommended that the property owner pay any expenses above and beyond the cost of an asphalt approach. Pruitt suggested that the Town could classify any concrete driveway approach as an obstruction that should not be allowed and could require that any new driveway be composed of asphalt. Hansen suggested that the Town set a standard in its ordinances allowing for concrete driveway approaches in the right-of-way with the stipulation that the concrete approach be replaced by the Town, with the Town only covering the cost of installing an asphalt driveway approach. The Board recommended that the Town's subdivision ordinance also include a cross-reference to this standard.

***Motion (Gruhn, Hansen) to instruct the Town Attorney to draft an ordinance governing the replacement of driveway approaches within the Town of Yorkville's road right-of-way, which shall include the following language: that the Town will replace the existing approach with either an asphalt or concrete approach; that any replacement cost above and beyond that of installing an asphalt driveway approach shall be borne by the property owner; that this ordinance include a cross-reference to the Town's land division ordinances, MC.***

### **Clinical Affiliation Agreement between the Milwaukee School of Engineering and the Town of Yorkville to provide practicum experiences for students of the Milwaukee School of Engineering**

McKinney noted that this is the same agreement as was approved at last week's Sewer Commission meeting.

***Motion (McMahon, Gruhn) to approve the Clinical Affiliation Agreement between the Milwaukee School of Engineering and the Town of Yorkville to provide practicum experiences for students of the Milwaukee School of Engineering, MC.***

### **Quotes for chip seal coating and/or slurry sealing on Town roads in 2014**

#### **Quotes for crack filling on Town roads in 2014**

McMahon discussed the quote he received from Scott Construction for seal coating. He noted that Scott Construction recommended that Twin Waters Lane receive seal coating this year to avoid any further deterioration. The Board also discussed seal coating quotes provided by Scott Construction for 58<sup>th</sup> Road, including a quote for the section of 58<sup>th</sup> Road currently shared with Union Grove. McMahon suggested that the quote for 58<sup>th</sup> Road be revised to only include seal coating from 67<sup>th</sup> Drive to 59<sup>th</sup> Drive. He also recommended that the Board consider crack filling on 67<sup>th</sup> Drive. Hansen noted that any quote approved by the Board should take into consideration the potential cost of shouldering and crack filling to be done this year. McKinney noted that the Town has spent approximately \$15,000.00 of its \$100,000.00 2014 road maintenance budget.

***Motion (Hansen, Gruhn) to authorize Supervisor McMahon to seek new quotes for the following road maintenance work in 2014: chip seal coating and/or slurry sealing to not exceed \$40,000.00; crack filling to not exceed \$21,000.00, MC.***

### **Application for 2015 County Bridge Aids to the Racine County Public Works Department**

The Board discussed the application and noted that they did not plan to apply for aid in 2015.

***No formal action was taken by the Town Board on this agenda item.***

### **Expenditures for and/or scheduling of the Town's 2014 roadside mowing**

McKinney noted that the current roadside mowing contract with Two Ski Services expires at the end of 2014. He added that the contract provides for two annual mowing cycles at a total cost of \$19,500.00.

***Motion (McMahon, Gruhn) to move forward with two roadside mowing cycles in 2014 with Two Ski Services, at a total cost of \$19,500.00, MC.***

**Special Event Permit application submitted by Rory Esch for a Bronco Select Pig Roast at the Racine County Fairgrounds, 19805 Durand Avenue, from 3:00 p.m. to 11:00 p.m. on Saturday, May 17, 2014**

***Motion (Gruhn, McMahon) to approve the Special Event Permit application submitted by Rory Esch for a Bronco Select Pig Roast at the Racine County Fairgrounds, 19805 Durand Avenue, from 3:00 p.m. to 11:00 p.m. on Saturday, May 17, 2014, MC.***

**Application for a Temporary Class “B” License by Bronco Select to sell fermented malt beverages at the Activity Building on the Racine County Fairgrounds, 19805 Durand Avenue, on May 17, 2014**

***Motion (Gruhn, McMahon) to approve the application for a Temporary Class “B” License by Bronco Select to sell fermented malt beverages at the Activity Building on the Racine County Fairgrounds, 19805 Durand Avenue, on May 17, 2014, MC.***

**Application for a Temporary Operator’s License by Rory Esch for May 17, 2014**

***Motion (Gruhn, McMahon) to approve the application for a Temporary Operator’s License by Rory Esch for May 17, 2014, MC.***

**Application for a Temporary Operator’s License by Todd Hansen for May 17, 2014**

***Motion (Gruhn, McMahon) to approve the application for a Temporary Operator’s License by Todd Hansen for May 17, 2014, MC.***

**Application for a Temporary Operator’s License by Loren Painter for May 17, 2014**

***Motion (Gruhn, McMahon) to approve the application for a Temporary Operator’s License by Loren Painter for May 17, 2014, MC.***

**Rescheduling of the May 26, 2014 Town Board meeting**

McKinney noted that this meeting needs to be rescheduled, as it falls on Memorial Day.

***Motion (McMahon, Hansen) to reschedule the May 26, 2014 Town Board meeting to Wednesday, May 28, 2014, at 6:00 p.m., MC.***

## **Reports**

**Code Enforcement Officer’s Report:** O’Brien provided his report to the Board. He noted that he conducted a site inspection at 1315 55<sup>th</sup> Drive in response to a complaint regarding commercial activity on the property and added that he did not identify any major violations. He recommended that this complaint be forwarded to the Racine County Planning and Development Department for enforcement. The Board requested that McKinney send a letter to Racine County that outlines the complaint and requests that Racine County review whether the scope of the business on the property has exceeded that allowed by the conditional use

permit issued for the business in 2008. The Board requested that McKinney also send a letter regarding the complaint to the property owner to remind him of what activity is permitted on the property. O'Brien noted that he also visited the complainant's property, adding that the complainant has violations on his property related to the storage of unregistered vehicles and a trailer full of empty cans. He provided an update on the campers parked on the motel property at 3400 South Sylvania Avenue, noting that the campers are now in violation, as they have not been removed from the property in the last two weeks. Hansen noted that Racine County is monitoring this situation and added that the Wisconsin Department of Health Services will conduct a site visit there this week. O'Brien added that there are several unregistered vehicles on the property.

O'Brien noted that he conducted another site visit at 13826 Braun Road, adding that the site has been cleaned up and should be brought into compliance soon. Hansen noted that he received a complaint regarding furniture stored outside in a trailer on the commercial property at the northeast corner of West Frontage Road and 50<sup>th</sup> Road. He asked O'Brien to monitor the site to see if the trailer is removed. McMahon requested that O'Brien visit the salvage yard on West Frontage Road, as it appears that there are too many vehicles stored there. He also requested that O'Brien conduct site visits for ordinance violations at 15007 Two Mile Road and 2702 65<sup>th</sup> Drive. O'Brien noted that he has not been able to contact the property owner at 17806 Spring Street, but added that he plans to contact the attorney for the property owner. He informed the Board that the boats stored on the property at 1932 51<sup>st</sup> Drive have not been removed. He added that the property owner is scheduled to appear in municipal court on May 1 regarding this issue.

**Engineer's Report:** Madsen provided his report to the Board. He noted that the road reconstruction contracts for 50<sup>th</sup> Road and Braun Road are signed and added that Black Diamond Group is ready to move forward with the reconstruction work on these roads. He added that someone will contact the school bus company for the elementary school and high school to coordinate the road work with school bus routes.

**Clerk's Report:** McKinney provided his report to the Board. He noted that he was contacted by an establishment regarding their interest in applying for a license to permit the off-premises sale of liquor and wine. He added that this business would only be able to apply for a "Class B" liquor license, as they currently hold a Class "B" beer license. He also added that the Town has issued its quota of those licenses, but noted that one of those licensees does not have an establishment on the licensed property and has agreed in the past to surrender their license if another establishment requested it. McKinney noted that he is working with the Town Attorney to identify available options should the Board seek to issue that license to another applicant. McKinney reminded the Board that they need to schedule a special meeting to hold a closed session for discussion of issues related to Town retirement benefits. He added that he was contacted by a site plan applicant requesting that the Town review their proposal as soon as possible. He noted that the two items could be included on the same agenda. Pruitt noted that, while the Plan Commission and Town Board both typically act on site plan requests, the Town Board could act upon a request without Plan Commission review or approval.

***Motion (McMahon, Gruhn) to schedule a Town Board meeting on Tuesday, May 6, 2014, at 9:00 a.m., for consideration of a site plan application by Willkomm Development and for a closed session to discuss issues related to Town retirement benefits, MC.***

## **Other – Comments, questions and suggestions**

No comments, questions or suggestions were offered.

## **Adjournment**

***Motion (McMahon, Gruhn) to adjourn, MC.*** The meeting was adjourned at 7:35 p.m. The next regularly scheduled Town Board meeting is Monday, May 12, 2014, at 6:00 p.m.

Michael McKinney  
*Clerk-Treasurer*