

Credit River Township Meeting Minutes January 5, 2009

Call to Order

Chairman Leroy Schommer called the Meeting to order at 6:00 pm.

Members Present:

Chairman Leroy Schommer, Vice Chairman Bruce Nilsen, Supervisor Brent Lawrence, Supervisor Al Aspengren, Supervisor Tom Kraft

Others Present:

Township Clerk Jerry Maas, Township Treasurer Holly Batton, Township Engineer Shane Nelson, Township Attorney Bob Ruppe

Old Business

1) Present Awards to Winners of Photo Contest (6:01:10 pm)

Supervisor Brent Lawrence called upon residents Paul and Char Buck to present awards to the winners of the Township Photo Contest.

1st Place Winner was Neil Michels who received two rounds of golf at Legends Gold Club

2nd Place Winner was Kathy Barth who received a \$100 cash prize donated by the Credit River Citizens Advisory Group who conceived this idea.

3rd Place Winner was Craig Vanderah who received two rounds of golf at Heritage Links Golf Club

4th Place Winner was Lauren Bruha who received a \$75 gift certificate from Action Overhead Door.

5th Place Winner was Andy Dosdal who received a \$50 gift certificate from Tom Kraft of Credit River Metal Works

Supervisor Lawrence expressed appreciation to those who entered the contest as well as to the Burcks who worked hard to insure the projects success.

Engineer's Report

1) Utility Permit Reviews (6:07:25 pm)

Engineer Nelson noted that he has investigated the practices of other municipalities and found that most have an ordinance regulating the use of the road right of way. Each of these ordinances is very similar as to content.

Attorney Ruppe noted that he has prepared these types of ordinances in the past and would be able to prepare a similar document for the Township.

Supervisor Nilsen noted that he is aware of some developers who would support this in that they are responsible for the right of way completion in their developments.

Supervisor Nilsen asked about fees associated with these ordinances. Engineer Nelson indicated that there are typically fees and that these range from \$35 to \$275.

The Board asked Engineer Nelson to prepare some recommendations of the fee structure and to supply these to Attorney Ruppe.

2) Wetland Reviews (6:14:00 pm)

Engineer Nelson noted that he has spoken to Pete Beckius of the Scott Soil and Water Conservation District about roles and responsibilities as to this subject. They will provide technical assistance for review of these but will not provide the administration of the noticing

Supervisor Schommer noted that we seem to be required to do more and more of these.

Engineer Nelson asked how we might establish a fee structure?

Supervisor Schommer suggested that we look at what Savage charges and work with those fees.

Commissioner-Elect Tom Wolf (6:17:00 pm)

Chairman Schommer noted that newly elected County Commissioner Tom Wolf was on hand and invited him to offer a few comments.

Commissioner-Elect Wolf noted that he was scheduled to be sworn in on the following morning. He noted that he had recently met with Supervisor Aspengren and Supervisor Nilsen in relation to the Casey- Cress View road construction project as well as the County Road 68 turn-back issue. He asked Attorney Ruppe if he had anything further to add as respects this issue.

Attorney Ruppe indicated that the meeting on the Casey issue went well and it was his impression that while they are still exploring details, he feels the solution is being worked on. As far as the County Road 68 project was concerned, the Township has already indicated that they were agreeable to the concept in principle and he had with as far as he

Chairman Schommer asked if Commissioner had any thoughts about road turn-backs in general and if he had any idea of how many have been already been turned back to the townships.

Mr. Wolf was of the opinion that there had already been quite a number of these transactions over the years. It was his feeling that while this was a cost savings issue for the County, it has the effect of increasing costs for the townships.

Supervisor Aspengren asked about the attitude among the employees at the County with the recent cutbacks. Mr. Wolf noted that he's not had that much of an opportunity to meet with the employees as yet and couldn't directly answer the question. It was his opinion that they were able to absorb the first round with existing reserve funds, but that future cuts will almost certainly result in less people or a cutback in projects.

Treasurer Batton asked if Mr. Wolf felt there would be additional cost shifting to townships?

Mr. Wolf noted that some road turn-backs have already taken place but as far as other items are concerned, it is his feeling that everything is on the table for discussion. He mentioned that it is his belief that the County will be looking at placing gaming machines at Canterbury Race Track.

Minutes of Previous Meeting – December 15, 2008 (6:22:56 pm)

Chairman Schommer called upon Clerk Maas to review the minutes of the December 15th meeting and called for additions/corrections.

Supervisor Nilsen requested a change on page 1, under Old Business, item 1) add the word “not” heard anything in the first paragraph. Also in the fifth paragraph, change “decision” to “position”.

On page 2, fifth paragraph, correct “imitating” to “initiating”.

Also, page 2, seventh paragraph, change “at some point in the future” to “next year or on an annual basis”

Also, page 7, third paragraph of LOC status topic, add “residents of the Territory”.

Also page 10, second paragraph add “approximately” with regard to the arrearage of HOA.

Supervisor Kraft requested a change on page 2, first paragraph, changing “would” to “could possibly”.

Supervisor Aspengren asked that on page 1, the actual statute be incorporated into the wording of the discussion.

Supervisor Lawrence noted that on page 2, second paragraph remove the duplicate “requirements”

Supervisor Nilsen made a motion to accept the minutes with the changes. Supervisor Aspengren offered a second, all in favor, motion passed 5 – 0.

Resident Open Forum

Chairman Schommer asked if anyone had any comments for this portion of the meeting?

1. Use of Roads by Gravel Trucks (6:32:55 pm)

Resident Dave Cuthill asked with reference to discussions with Pearson Gravel, if any consideration is being given to require as a part of the contract that the gravel trucks using the pit be restricted to certain roads in the Township. He is suggesting this because of the issues we faced with the damage done by gravel trucks during the construction of County Road 21.

Chairman Schommer noted that the roads are public roads and that it would be difficult to enforce this type of a restriction.

Attorney Ruppe noted that we are engaged in Planning/Zoning discussions with the City of Savage with respect to Pearson and that what Mr. Cuthill is suggesting is more related to Conditional Use Permits.

Chairman Schommer also noted that most of the trucks using the pit are independent contractors and not necessarily employees of Pearson, further complicating the problem.

(Chairman Schommer called for a break in the Open Forum portion of the meeting to recognize the Scott County Sheriff's deputy in order to present the Sheriff's report)

Sheriff's Report (6:37:00 pm)

Deputy Dvorak presented the report for the month of December as well as the year-end summary.

He noted that in December, alarm calls at 17 were once again the largest category. In addition, vehicles in the ditch were significant and not surprising considering the time of the year.

For the year, there were 1367 calls in the Township with 14 DWI arrests. Interestingly enough, there are now a number of Internet Fraud complaints being filed.

Deputy Dvorak noted that there has been a number of fires related to gas stoves and suggested that the residents be sure to have these inspected regularly.

Resident Open Forum (Continued)

(Chairman Schommer called for any additional comments for Resident Open Forum)

2). Huntington Way Assessment Appeal (6:44:40 pm)

Jim Dalsin noted that a number of residents of Huntington Way are filing appeals to the recent assessments for the road construction project and wondered if any further discussions on this project are contemplated?

Chairman Schommer mentioned that as far as he was concerned, the decision had been made and nothing further as far as discussions is scheduled.

Attorney Ruppe noted that the Township Insurance Trust is now taking control of the court case and would be in contact with us shortly as to procedure. He further noted that mediation is always possible as the case moves forward.

3). Sewer Rates in the Territory (6:46:50 pm)

Resident Lucien Strong representing residents of The Territory, presented a proposal asking that the Board consider a rate reduction for the CSTS system in view of what appears to be a building reserve amount since the actual charges are considerably less than the budget forecast.

Supervisor Kraft noted that the Board is in the process of reviewing the 2008 charges and that he has asked the Treasurer to prepare an analysis.

Chairman Schommer suggested that a meeting with EcoCheck, the sewer operator, be arranged to discuss the budget in greater detail. Supervisor Aspengren and Supervisor Kraft will work on this project.

4). Hardship Deferrals (6:54:40 pm)

Supervisor Aspengren noted he has received one request for a hardship consideration related to the Whitewood road construction project and presented the documents submitted by the residents in question. He noted that three percent of their annual income is below the annual assessment cost and therefore they would qualify under the guidelines we discussed at the previous meeting.

Attorney Ruppe noted that his interpretation of the statute 435.193 provides that the applicant be 1) over 65, 2) retired by disability or 3) a member of National Guard on active duty. If they meet one of these criteria, they can be considered under a variety of tests for a hardship deferral.

Supervisor Aspengren noted that he had presented cases where other municipalities had in fact allowed deferrals without the applicant meeting one of the three criteria and noted he is in disagreement with the interpretation presented by Attorney Ruppe.

Treasurer Batton asked about the annual review provision that Supervisor Aspengren is suggesting? Would the property owner have to pay the amount in arrears at that time?

Attorney Ruppe noted that it would be according to the Board policy.

Supervisor Lawrence noted that it was his understanding that unless the applicant met one of the required criteria, we can't consider a hardship deferral? Attorney Ruppe concurred.

Supervisor Nilsen asked Treasurer Batton to summarize the current deferrals we have on the books. Treasurer Batton noted that we have four deferrals on record,

three are related to the Green Acres program and one is related to an un-improved parcel that will be collected when the property sells.

Attorney Ruppe noted that he would have no issue in suggesting that the Township authorize this hardship if he could find a legal basis for it. So far he has not been able to find any legal basis.

Supervisor Lawrence suggested that Attorney Ruppe formally do additional case law search on this topic to determine if the Township is legally in a position to grant this hardship.

Supervisor Aspengren made a motion to authorize Attorney Ruppe to spend a maximum of one hour on a case law search of this question. Supervisor Lawrence offered a second, motion passed 3 –2 (Schommer and Kraft opposed)

Clerk's Report

1) IRS Response to Road Assessment Deductions (7:28:10 pm)

Clerk Jerry Maas that he had an opportunity to review the documents presented by a resident of Birch Road and determined that this was in all probability what the IRS would say with regard to this matter. He noted that according to this document, road assessment projects are specifically not allowed as deductions unless a portion of the cost could be attributed to "maintenance" of the roadway. It was also noted that should this be the case, the billing to the property owner must clearly reflect this amount.

Attorney Ruppe cautioned the Board against offering tax advice and suggested that this is a matter for the individual property owners to discuss with their tax advisor. He further noted that the Township is under obligation to supply information, not create information.

Engineer Nelson mentioned that he had reviewed this question with principals in his firm and that it was not their experience to consider such projects as maintenance. He noted that the tax code specifically notes that in cases where there is benefit to individual property owners, that the costs are not deductible.

Resident Dave Cuthill noted that if at some point in time, the Township decides to cover the entire project cost, that the amount would in fact be considered general property taxes that are considered a normal deductible expense.

Treasurer's Report

1) Discuss Report to Met Council (7:36:21 pm)

Treasurer Batton presented a copy of a draft letter she is proposing to send to the Met Council to serve as our required midpoint report with respect to the loan we received to assist with our efforts to compile a Comprehensive Plan.

Treasurer Batton noted that she called the Met Council and discussed what was required with our representative, Tori Dupre. She noted that Ms. Dupree indicated that the loan was granted for two reasons, one to review our Comprehensive Plan 2030 for the County and 2) to help complete our Comprehensive Plan for the Incorporation process. Ms. Dupre noted that both issues needed to be addressed in our letter and asked how much had been spent to date. Ms. Dupre also forwarded this letter to Tom Caswell, our sector representative, and he was in agreement that this letter would suffice as our required report. Treasurer Batton indicated that she would need formal Board approval.

Supervisor Nilsen made a motion to approve the draft letter as presented. Supervisor Kraft offered a second, all in favor, motion carried 5 – 0.

2) Approve 2009 Budget (7:43:08 pm)

Treasurer Batton noted that she had presented the Board with a copy of the budget prior to the December 1st Levy meeting. She noted that since the levy has been changed an adjustment is required. She called attention to an extra \$29,000 that might be available in the General Fund for a variety of uses such land purchase or incorporation expenses.

Treasurer Batton further noted that the amount forecast for Building Permits might be a bit generous in view of the slow down in construction.

Treasurer Batton also noted that the Road and Bridge Fund was increased as a result of the approved levy. She noted that she has increased a line item for bituminous road improvements to \$ 137,680 to help pay for future road projects

Treasurer Batton pointed out that an additional \$49,000 might be realized for the Road and Bridge Fund as a result of tax receipts from the old assessment projects.

Treasurer Batton expressed a concern that because of the state financial situation, we might see reduced state funds such as the gas tax.

In summary, Treasurer Batton noted that she and the two supervisors assigned have carefully reviewed the proposed budget and are presenting it for approval. In that there have been two changes due to the revised levy amount, she suggested that the Board might want to take some additional time to do an additional review.

Resident Dave Cuthill asked Treasurer Batton when we might expect to see some cost shifts from other government agencies? Mrs. Batton indicated that she could not predict this but also called attention to Mr. Wolf's comments earlier in the evening that everything was on the table for consideration.

Supervisor Kraft agreed with Treasurer Batton that this proposed budget is simply a guideline and tool, and he is of the opinion that further review is not warranted.

Supervisor Nilsen made a motion to accept the budget as presented. Supervisor Kraft offered a second, motion passed 5 – 0.

3) County Road 75 Maintenance Payment (7:52:40 pm)

Treasurer Batton reported that we have received the \$23,300 payment for the second half of 2009 from the County. We did not receive the additional \$5000 payment in accordance with the recently approved turn-back agreement.

4) Urban Powers Resolution (7:53:00 pm)

Treasurer Batton reported that she had been contacted by County Auditor Cindy Geis regarding the Urban Powers Resolution recently passed by the Township. Ms. Geis strongly suggested that we record this document with the county.

The Board asked Clerk Maas to follow through.

5) Attorney Bill (7:54:08 pm)

Treasurer Batton reminded the Board that at the last meeting there was a discussion of the recent attorney bill on some items regarding the Cress project. She noted that she would need some direction as to the allocation of these charges.

Supervisor Nilsen suggested that he would review these charges and work with Attorney Ruppe and Treasurer Batton to reconcile these amounts.

6) Bonding Statement (7:55:40 pm)

Treasurer Batton noted that the Official Statement for the Bonding needed to be approved by January 6th.

Supervisor Aspengren noted that he had some issues with this document and wasn't comfortable that he fully understood some of the statements.

Treasurer Batton noted that we need this approved by 3:00 on January 6th in order to print and post it to their website. Consequently there wasn't a lot of time for additional explanation.

Supervisor Nilsen noted that the terms indicate that the bonds cannot be prepaid before February of 2017.

Deputy Treasurer Dave Cuthill suggested that perhaps a conference call would be in order to clarify some of the points that weren't clear. It was decided that Chairman Schommer and Supervisor Aspengren would come to the Town Hall in the morning to join in a conference call with Brenda Krueger at Springstad and Associates to answer any questions.

Supervisor Nilsen noted that we have contracted with our consultants to prepare this information and noting that they are bonded and insured, we ought to be comfortable with the document.

Attorney Ruppe noted that these agreements are usually standard and cautioned the Board to concern themselves with the terms of the agreement.

7) Upcoming Meetings (8:08:20 pm)

Treasurer Batton reviewed the upcoming meetings for Township Officials.

New Business

1) Upgrade Treasurer Computer (8:14:07 pm)

Supervisor Lawrence noted that the Treasurer's computer lacks sufficient RAM memory and is asking for Board approval to upgrade to 2 gigs for a cost under \$200.

Supervisor Schommer made a motion to authorize the expenditure of \$200 to upgrade the Treasurer's computer. Supervisor Nilsen offered a second, all in favor, motion passed 5 – 0.

2) Consider Resolution on Hazard Mitigation Plan (8:16:00 pm)

Clerk Maas noted that he had supplied the Board with copies of the program that Scott County is proposing to prepare a Hazard Mitigation Plan. They are asking for a resolution from the Township supporting this plan.

Supervisor Lawrence noted some of the elements of the plan and asked if we in the Township have any concerns regarding this issue.

Clerk Jerry Maas noted that a couple of years ago, there was an attempt made by the County to prepare this plan in conjunction with the local governmental units to get this task completed. He noted that the statement was made at that time that in the absence of such a written plan, the local governments would be subject to forfeiture of disaster assistance funds.

Clerk Maas suggested that perhaps the County would be looking for cost participation on the part of the Townships to complete this plan.

Supervisor Kraft will check on the possible costs and we will schedule this item for the next meeting.

3) Fredrickson and Byron Bill (8:22:00 pm)

Supervisor Nilsen reported that he has been in contact with Fredrickson and Byron on this matter. He indicated to them that the Township is not in favor of paying this bill and based on the informal response, he is of the opinion that they will not be expecting payment. Perhaps we might expect some negotiations for a partial payment.

4) Attorney Billing Practices (8:23:30 pm)

Supervisor Nilsen noted that he had a conversation with Attorney Ruppe about the Board's wishes as respects the billing for services that was discussed at the last meeting

5) Discussions with City of Savage (8:23:50 pm)

Supervisor Lawrence noted that we ought to follow-up on our discussions with the City of Savage on the MOU being prepared.

Supervisor Nilsen noted that he did contact Savage City Administrator Barry Stock and was told that they are waiting for Gerry Duffy, Pearson Gravel attorney to respond.

6) Wetland Conservation Training (8:24:40 pm)

Supervisor Kraft asked about the need for this training.

Engineer Nelson noted that they have personnel from their firm who attend these training sessions.

7) Bonding Statement (8:25:30 pm)

With respect to our previous discussions on this topic, Supervisor Nilsen asked if a formal motion would be necessary approving this document.

Attorney Ruppe suggested that this would be a good idea.

Supervisor Nilsen made a motion contingent on review by Chairman Schommer, and Supervisor Aspengren authorizing Chairman Schommer to sign this document granting permission for Springstad and Associates to post this on their website. Supervisor Lawrence offered a second, all in favor, motion passed 5 – 0.

8) Territory Escrow (8:30:00 pm)

Treasurer Batton noted that she was concerned as to who is in charge of this project. She mentioned a number of conversations she has had with several people and has not been able to make a determination. She noted that the escrow is in a negative position.

Chairman Schommer mentioned that he and Supervisor Nilsen had met recently with Tradition Development to discuss the SA group who are new owners. He noted that there is a potential problem as to how the lot purchases will coincide with the septic system.

Supervisor Nilsen expressed a concern that we don't know who owns what. It appears that several entities are involved at this time. He also expressed concern that if this project goes into foreclosure, our Developer Agreements are seriously impaired.

Supervisor Nilsen is hopeful that we will get a map showing new ownership in order that we might correlate this with the planned CSTS system design.

Chairman Schommer asked about calling the Letters of Credit. Attorney Ruppe indicated that he would strongly recommend that we draw on these when the 45-day window prior to expiration begins in early February.

Engineer Nelson noted that in his opinion, the Township is not at risk financially in that we have substantial cash sureties in the existing Letters of Credit that will more than adequately cover to work that needs to be done.

Supervisor Nilsen will attempt to arrange a meeting with Gary Laurent to get some answers on outstanding questions.

Review and Pay Bills (8:51:07 pm)

1/5/2009	4808	Art Johnson Trucking	December Road Maint	\$	12,171.21
1/5/2009	4809	Gallaghers	Winter Road Maint Dec 2008	\$	19,525.00
1/5/2009	4810	Private Underground	Utility Locates	\$	7.00
1/5/2009	4811	DB Services	Town Hall Plowing	\$	850.00
1/5/2009	4812	NW Associated Consultants	Dec Planning Zoning	\$	88.20
1/5/2009	4813	Abdo Eick & Meyers	Audit 2008	\$	2,575.00
1/5/2009	4814	William Jennings	Computer Training	\$	220.00
1/5/2009	4815	Scott County Treasurer	Special Assessment Setup	\$	548.00
1/5/2009	4816	Scott County Treasurer	TNT Expenses	\$	471.14
1/5/2009	4817	Mikes Septic Service	Septic Pumping	\$	1,000.00
1/5/2009	4818	Braun Intertec Corp	Whitewood / Hunting Testing	\$	3,417.13
1/5/2009	4819	Kraemer Mining	Rock Purchase	\$	81.88
1/5/2009	4820	Xcel Energy	St Francis Street Light	\$	12.71
1/5/2009	4821	CenterPoint Energy	Town Hall Gas	\$	147.75
1/5/2009	4822	Bryan Rock	Rock Purchase	\$	709.49
1/5/2009	4823	Scott Soil & Water Cons District	NPDES Inspections	\$	1,384.00
1/5/2009	4824	Matt Hoops	Mail Box Reimbursement	\$	50.00
1/5/2009	4825	Janelle Shearer	Mail Box Reimbursement	\$	50.00
1/5/2009	4826	Al Aspengren	Expense Reimbursement	\$	37.44
1/5/2009	4827	Holly Batton	Expense Reimbursement	\$	75.88
1/5/2009	4828	Tom Kraft	Expense Reimbursement	\$	35.10
1/5/2009	4829	Brent Lawrence	Expense Reimbursement	\$	8.19
1/5/2009	4830	Jerry Maas	Expense Reimbursement	\$	93.00
1/5/2009	4831	MVEC	Electricity	\$	3,350.16
1/5/2009	4832	Banyon Data Systems	Fund Accounting Software	\$	4,582.69
1/5/2009	4833	Al Aspengren	Services as Supervisor	\$	949.53
1/5/2009	4834	Holly Batton	Services as Treasurer	\$	2,858.08
1/5/2009	4835	Tom Kraft	Services as Supervisor	\$	900.41
1/5/2009	4836	Brent Lawrence	Services as Supervisor	\$	771.12
1/5/2009	4837	Jerald Maas	Services as Clerk	\$	2,605.66
1/5/2009	4838	Bruce Nilsen	Services as Supervisor	\$	881.94
1/5/2009	4839	Leroy Schommer	Services as Supervisor	\$	891.18

Adjourn

There being no further business before the Town Board, Supervisor Nilsen made a motion to adjourn, Supervisor Lawrence offered a second, all in favor, motion carried 5 - 0. The meeting adjourned at 9:20 pm.

Submitted By: (s/) Jerald R. Maas
Township Clerk
Credit River Township

Approved By: (s/) Leroy Schommer
Chairman Board of Supervisors
Credit River Township