

Minutes of Public Hearing on Road Right of Way

October 7, 2008

Chair Craig Gondeck called the meeting to order at 7pm and began with the Pledge of Allegiance. He notified all the members of the audience about an increase in break-ins in this part of the county. He asked everyone to know if their neighbor is gone and take in their garbage can if it is sitting out along the road. Criminals watch for the garbage cans sitting out to know if people are coming. Board members present were Supervisors Gondeck, Lloyd Erdmann, Ed Kacures Jr., Treasurer Eileen Saldana and Clerk Pat Spence. Audience members present were: B.J. Behrendt, Tara Sutherland, Hazel Durkin, Rob Schlichting, Elizabeth Holthaus, Janet Schlichting, Perna Roers, Maureen Graber, Joe Wollak, Bob Erickson, Chelle Benson, Paul Schwinghamjmer, Earl Harden, Jeff Hanson, Brian Erdmann, Robert McManus, Nancy Scott, and Brad McIntosh. The Chair invited Town Attorney Scott Hamak to give an overview of the reason for the Public Hearing which is to hear testimony on proposed Ordinance 4: An Ordinance Regulating Town Road Rights-of-Way. It is patterned after other townships' ordinances on road right of way. He highlighted each part of the ordinance and gave a summary. The Chair read the rules for the public hearing and asked for those to speak in favor.

Those speaking in favor included: (1) Perna Roers, 8555 Ivy Place, Rice: extremely in favor of this ordinance, because she feels it will help the neighborhoods. Sometimes the sheriff can't show up when there is an issue. (2) Bob Erickson, 1410 Roberta Drive, St. Cloud: He asked a question about the mailbox and signs section. He is in favor. He recommended adding notification to Gopher One before working in the road right of way. (3) Paul Schwinghammer asked about non-conforming mailboxes in Section 8. He did not speak for or against. (4) Maureen Graber, 8550 Lakewood Shores Rd, Rice: people who live on the roads need to know what the parameters of the roads are. She doesn't think people understand the size of the right of way. She thinks the board should post something on the website to explain this and give the purpose of it. She feels it is a safety issue to have things placed in the road right of way and not fair to citizens to have to pay for fixing things in the road right of way that are damaged by the snowplow. She is in favor. (5) Hazel Durkin, Ivy Place: in favor because she has called in complaints about speeding go-carts on the road and no one comes out. She is afraid someone is going to get hurt with the fast traffic. She thinks that this ordinance will make it safer. She agrees with what Perna said. (7) Bob McManus, 6565 Riverview Loop Rd: spoke in favor. He always thought there was an ordinance like this. He does lots of business in various parts of the state. Most places you can't park or store things on the road right of way because of safety. In his neighborhood, people are storing things on the road right of way for months. He is sorry that it became so controversial. (8) Don Landwehr sent an e-mail message for the record: Removing hazardous items from right of ways makes good sense. He was concerned this reasonable effort will be carried over to signs, and non-life threatening items (small fences, shrubs, etc.). I think a reasonable timer limit on the placement of signs in right of ways makes great sense, especially from an aesthetic perspective. I am comfortable the Supervisors will exercise reasonable judgment on this matter, like they have done in previous issues brought before them. Short term for-sale signs, open house signs, etc. seem appropriate to me, although I'd be the first one to tell you that signs left for extended periods of time ought to be removed. The Chair called three times for others to speak in favor. No one spoke.

The Chair then called for those who wished to speak in opposition to the ordinance. Those speaking in opposition included: (1) Bob Helland, 10305 Ferry Point Place: says that this ordinance goes way beyond the state law, not for these speed limits; he suggested looking at it a second time to make some changes. (2) Mary Isaacs & Dick Koll, 6605 Riverview Loop, sent an e-mail to be entered in the record. Her letter was read by the clerk: We are strongly opposed to such an ordinance that is being proposed. We drove around the township last week and observed numerous items in the right of way both on township, and county roads. Some of these items include, utility trailers, boat trailers, cars, boats, realtor signs (on heavy wood posts), and many, many trees. Where is the budget to remove all these trees and enforce the parking going to come from? If the township wants such an ordinance for safety reasons it must be all or nothing, parking or no parking. The 24 hour clause is no

safer than allowing parking anytime. We feel it is the responsibility of the Township board to represent all the people, and not let their personal preferences interfere. Furthermore we would like to file a formal complaint on Township Chairperson Craig Gondeck and ask for his resignation, for calling the police to our residence on three separate occasions, when we did nothing wrong or illegal. We feel it was very unprofessional and irresponsible of Mr. Gondeck, and if this ordinance passes we very strongly oppose Mr. Gondeck having the authority to write citations, and tow vehicles. The chair called three times for other who wished to speak in opposition. No one spoke. The Public Hearing was adjourned, and there was a five-minute recess.

Chair Craig Gondeck called the regular monthly meeting to order. A motion was made by Supervisor Gondeck and seconded by Supervisor Erdmann to approve the agenda with the changes that Traci Balder would not be able to attend and Ed Kacures would give the Rice Fire Board Meeting report. The motion passed. A motion was made by Supervisor Erdmann and seconded by Supervisor Gondeck to approve the minutes of the September meetings with one correction to the September 2 minutes to state that the payment for tree trimming would be \$65 per hour. The motion passed. A motion was made by Supervisor Gondeck and seconded by Supervisor Kacures to approve the Treasurer's Report, which was given by Treasurer Eileen Saldana. The motion passed.

Jeff Hanson, 8660 First Ave NE: requested to put a culvert across the town line road between Watab and Langola so that they can restore a wetland. It will help with erosion and pollution prevention. He has talked with neighboring property owners. He will also talk to the Langola Town Board. He showed the board a map of the property. Supervisor Erdmann asked about evidence of the natural water flow beyond the 1935 map. Bob Erickson said that the county and DNR will need to be notified. Jeff has already done this. Supervisor Erdmann felt that it is a Langola Township issue, but he appreciates Jeff letting the board know of his intentions. Bob suggested that Jeff come back to the township to show them what the final decision is. Supervisor Erdmann moved that they are not opposed to the plan, seconded by Supervisor Gondeck and passed.

Marty Reker, 7865 NE County Rd 55: He asked a question about driveway one going into Paradise Plat. He would like to run the first lot's driveway onto Lakewood Shores to shorten the driveway and save the trees. He would like to give the customer the choice of which way to run it: to Lakewood Shores or to Iten Court. Supervisor Erdmann said he has no problem with it, because it would not be a safety issue. He made a motion to approve; Supervisor Kacures said he sees no problem with it; Supervisor Gondeck seconded it. Motion passed.

Bob Helland, 10305 Ferry Point Place: He is requesting a variance because he has a mailbox that is solid concrete in the road right of way that has been there for 13 ½ years and no one has run into his mailbox. He was not aware when he built it that it was a problem. If it has to be moved, he asked to have Supervisor Erdmann move it, because he likes his work. Supervisor Erdmann said that he would have to abstain from discussion, because he does work for Mr. Helland. Supervisor Kacures said that the township would need to act on the Ordinance first. He said that a variance would not be appropriate, because this is a health and safety issue. Bob Erickson asked if a vehicle hit it, would the township have liability. Scott said that liability is for a court to decide. If there was an accident, it is likely that both the property owner and the township would be held responsible. Maureen Graber said that perhaps the state statute would address this, and she thinks the mailbox is dangerous. Scott said that the statute does not apply to Bob's mailbox because of the speed limit being 30mph on Ferry Point Road. Supervisor Erdmann referred to the state law with driveways spaced less than 300 feet apart for ¼ mile is automatically 30 mph. Supervisor Kacures wants to act on Ordinance 4 first. Brian Erdmann said that he agrees that the ordinance needs to be acted on first.

Supervisor Kacures talked about the Rice Fire Board meeting. He gave each board member a copy of the budget. They are looking at an increase of about \$10,000 for 2009 or 7.17%. They are looking at adding up to five new people, so there are increases in uniforms, etc. for them. Many questions were raised from the township representatives on the

Fire Board. They questioned why there had not been a meeting since last spring. Supervisor Kacures questioned maintenance on the pumper trucks, which hasn't been done yet this year. They plan to do a certified test during the month of October. The next meeting is in December and results of the pumper tests should be available then. The Rice City Council vote on the budget will come up at the December meeting. He continued that he has not had a response to his letters to the Mayor regarding the contract, and they are not interested in changing it. Supervisor Erdmann asked about how Rice does the budget and asked for an annual balance sheet so that the township knows where the funds are that come from Watab. The Clerk also suggested that he let them know about the Benton Telephone Foundation grants available for emergency equipment. Supervisor Gondeck said he would like to know what our township costs would increase before approving this. The attorney reviewed the formula for the contract. If the budget increases more than 3% over the actual costs, three of the board must approve. Supervisor Kacures will bring the amount back to the board. Supervisor Erdmann feels that 7% is reasonable. This will be on the January agenda. Supervisor Erdmann made a motion to ratify the preliminary budget; seconded by Supervisor Kacures; Supervisor Gondeck asked for information about what it will cost the township next year by the next meeting. Motion passed.

Presentation of the Bills: Bills totaling \$68,327.9. Supervisor Gondeck moved approval to pay the bills as presented with the exception of the bill for road repairs to Astech until final work is completed. Motion seconded by Supervisor Kacures and passed.

Supervisor Gondeck thanked the Clerk for the excellent way the Primary Election was run. The Clerk thanked the Election Judges.

207 people came through for Watab Clean Up Day. Chair Gondeck thanked Commissioner Wollak and Chelle Benson for their help in getting the SCORE grant. There was positive feedback from people who participated. Participation has greatly increased. Paul Schwinghammer said it helps us meet MS4 guidelines. Jason Chapman finished tree trimming, and road mowing was completed by Brian Erdmann.

Maureen Graber reported on the pond area. There is a wood chip path and an educational sign. Final cost was \$2,100; township cost was \$370. She thanked the donors and has written letters. She spent about 80 hours of volunteer work on this project. She asked for permission to order shrubs; it was given. Chair Gondeck thanked Maureen on behalf of the board and she received a round of applause for her excellent job.

Chelle Benson, Director of the Dept of Development, spoke about the land use permit for a property owner on Ivy Place. The house was built in compliance with all the proper setbacks. Nancy Scott, Building Official, addressed the building permit application. The property owner complied with all the land use permits and had the proper building permit. Perna Roers asked if the property is considered as a garage or a house. It is listed as a single-family dwelling on the permits. Perna asked about the erosion that is being caused. The property owner said that he has created a swale to help prevent erosion. Only one residential use is allowed per property without a conditional use permit. The Chair informed the board that he had let Geno Beniek know that the township would not participate in cost-sharing on ditch improvements on Sanbur Trail.

Jon Bogart: 5th Avenue report. Wetland delineation is required. Supervisor Erdmann asked Jon to call for more prices before proceeding. He made a motion to hire Independent Testing for the borings and hire the company giving the lowest price for the wetland delineation; the motion was seconded by Supervisor Gondeck and passed. The board discussed the crack filling project. They will evaluate the work in the spring. Bob Erickson presented some other options. Supervisor Erdmann moved up to \$2,500 additional funds to complete Isaac Road and fill the cracks. Gondeck seconded. Supervisor Kacures asked about the percentage of what was routed and what was blown. Bob said about 80% was

routed. Supervisor Kacures understood that we were only going to route areas that absolutely needed to be routed. He thinks that based on what he understood he thinks it was a waste of money to route this much of the cracks. He thinks the roads that were routed were ruined and that it was overkill. He was also under the impression that crack filling was needed to seal coat next year. Sealcoating needs to be done next year. He doesn't feel we should be experimenting with our roads. Supervisor Erdmann said that the question is which method is preferable. Supervisor Erdmann withdrew the motion and Supervisor Gondeck withdrew the second to the motion. The Clerk will be told by Bob Erickson when the check to Astech can be released.

Plat project: Supervisor Gondeck said there are 55 plats in the township. He would like authorization to have copies made of the plats. He obtained most of them from Benton County's website. Supervisor Kacures suggested that Supervisor Gondeck have a couple printed to see the quality of the reproduction when the plat is blown up. If they turn out, he has authority to get the reproductions completed. Motion seconded by Supervisor Erdmann. Passed.

Ordinance #4: Supervisor Kacures said that our purpose was to protect township property and provide safety. We should take pride in what the township looks like. He made the motion to adopt Ordinance No. 4 as printed. Brian Erdmann said that the Helland mailbox issue has been on the docket for many years. Supervisor Gondeck seconded the motion to approve the ordinance. The board talked about enforcing the ordinance evenly throughout the township. Supervisor Erdmann abstained because of his relationship with Bob Helland.

Supervisor Gondeck asked about MS4 inspections and if Paul Schwinghammer should be involved in the plat process. This should be added to the Developer Agreement and the plat manual. Supervisor Gondeck moved approval of this, seconded by Supervisor Erdmann and passed.

Supervisor Gondeck moved approval of Resolution 2008-9 in support of federal and state funding for town road sign replacement and compliance. It was seconded by Supervisor Kacures and passed.

It was noted that the new acoustical panels are a positive improvement.

Resolution 2008- 10 was introduced; it authorized Benton County Assessments to property taxes for unpaid bills. The motion was made by Supervisor Gondeck, seconded by Supervisor Erdmann, and passed authorizing the clerk to assess developers and others for unpaid bills.

Clerk Spence presented the General Election Judge recommendations: Head Judge—Donna Poganski; Associate Head Judge—Lucy Palmer; Judges—Clara Knettl, Mary Pryzborowski, Jim Hovda, Linda Addicott, Eileen Saldana, Sandy Reberg, Paul Schwinghammer, Jan Hovda and Pat Spence. A motion was made by Supervisor Gondeck, seconded by Supervisor Erdmann, and passed giving approval of election judges' roster. A motion was made by Supervisor Gondeck, seconded by Supervisor Kacures, and passed to pay for the election judge meals and maintain the \$10/hour pay..

A member of the audience asked about the way the road was fixed on Shoestring Loop. Allen Saldana will be asked to make repairs.

Tree trimming was completed today. There was one complaint. Supervisor Kacures asked if it would be beneficial to have a bi-yearly newsletter. He will check on cost; Clerk Spence will check on bulk mailing permit costs. Supervisor Kacures asked Chair Gondeck to check with Doug Boser on when we might have further information on the cost and feasibility of having a Watab Fire Department. He also inquired about the new Pirates Cove Restaurant. The

project is being delayed because of the economy. A motion was made by Supervisor Kacures to adjourn the meeting, seconded by Supervisor Gondeck and passed. The meeting adjourned at 10:30pm.

Respectfully submitted by Pat Spence