

REGULAR MEETING AS POSTED
BECKER COUNTY BOARD OF COMMISSIONERS
DATE: TUESDAY, June 5, 2018 at 8:15 a.m.
LOCATION: Board Room, Courthouse

Agenda/Minutes

1. Meeting was brought to order by Board Chair Skarie. Commissioners in attendance: Skarie, Knutson, Nelson, Grimsley, and Okeson; County Administrator, Jack Ingstad; and Minute Taker, Cindy Courneya.
2. Pledge of Allegiance.
3. It was moved and seconded to approve the agenda with the following addition: Add: Commissioners: Number 5: Emergency Management Training for Elected and Senior Officials – “Roles and Responsibilities in Disaster Situations” – Wednesday, June 20, 2018 – 6 – 8:30 p.m. at Shooting Star Casino Events Center, Mahanomen, MN. (Knutson, Okeson), carried.
4. It was moved and seconded to approve the minutes of May 15, 2018, with the requested change. (Knutson, Nelson), carried.

Commissioners

1. Open Forum:
 - a. Clarence Suvanto spoke in reference to Becker County’s fund balance, gravel tax, the Enbridge Pipeline, and township and county assessing.
 - b. Gerry Schram noted the excellent customer service he received recently at the Auditor-Treasurer’s office; for the assistance provided by Auditor-Treasurer, Mary Hendrickson and staff member, Jennifer Hoban, along with County Recorder, Patty Swenson.

He also recognized and thanked Commissioner Nelson for taking the lead relative to the State Auditor’s lawsuit, which ultimately should save the taxpayers money. He also referenced the West Lake Drive project.
 - c. Debra Ross was also present for observation only.
2. Reports and Correspondence: The Commissioners reported on the following meetings:
 - a. Commissioner Knutson: Recreational Advisory Committee (RAC), Prairie Lakes Municipal Solid Waste Authority (PLMSWA), Finance Committee meeting,

Sheriff's Committee, Economic Development Authority (EDA), Environmental Affairs Committee, and attended a Township Recycling Meeting.

- b. Commissioner Nelson: Sunnyside, Highway Committee, and also commented on the positive feedback he received from two other commissioners who recently attended the NACo Conference in Washington, D.C.
- c. Highway Engineer, Jim Olson, provided a brief construction update on the Lake Park Bridge Project.
- d. Commissioner Grimsley: Becker County Historical Society & Museum, Lake Agassiz Regional Library (LARL) Board, Sunnyside, Heartland Trail, Recreational Advisory Committee (RAC), and Transit Committee.
- e. Commissioner Skarie: Environmental Affairs Committee and Lakeland Mental Health (LMH).
- f. Commissioner Okeson: Becker County/Detroit Lakes Airport Commission, Jail Construction meeting, and Transit Committee.

3. Appointments:

- a. Notification has been received from the Buffalo-Red River Watershed District that Board Member, John Hanson's term is expiring on August 31, 2018. The position will be advertised, with the appointment to be considered at the Board of Commissioner's meeting on July 17th, 2018.

4. It was noted that the Becker County Board of Equalization meeting is scheduled for Tuesday, June 12th, 2018 beginning at 6:00 p.m. in the First Floor – Board Room of the Becker County Courthouse, Detroit Lakes, MN.

5. It was moved and seconded to approve any of the commissioners attendance at the upcoming Emergency Management training for Elected and Senior officials, "Roles and Responsibilities in Disaster Situations" on Wednesday, June 20, 2018, 6:00 p.m. – 8:30 p.m. at the Shooting Star Casino Events Center, Mahnomen, MN, with per diem and mileage reimbursement, as approved. (Skarie, Okeson), carried.

Finance Committee Minutes: Auditor-Treasurer: Mary Hendrickson presented:

1. It was moved and seconded to approve the Regular Claims, Auditor Warrants, and Additional Issues, as presented:

- a. Auditor's Warrants (Tuesday Bills):
 - i. 05/16/2018 in the amount of \$ 365,842.55
 - ii. 05/22/2018 in the amount of \$7,895,967.53
 - iii. 05/29/2018 in the amount of \$ 201,067.98for a total amount of \$8,462,878.06

- b. Additional Issues:
 - i. Adam Kumpala: \$42.95 credit card charge for gas (store was closed, no receipt provided);
 - ii. Steve Vilhauer: \$30.00 credit card charge for two meals (no itemized receipts provided).

Auditor-Treasurer: Mary Hendrickson presented:

- 1. Licenses & Permits:
 - a. It was moved and seconded to approve the Temporary 1-4 Day Liquor License for Detroit Mountain Recreation Area, Inc., for operations at Detroit Mountain Recreation Area on June 29th, 2018 in Erie Township. (Grimsley, Okeson), carried.
 - b. It was moved and seconded to approve the Temporary 1-4 Day Liquor License for Detroit Mountain Recreation Area, Inc., for operations at Detroit Mountain Recreation Area on July 7, 2018 in Erie Township. (Okeson, Grimsley), carried.
 - c. It was moved and seconded to approve the New On-Sale (Includes Sunday Sales) Liquor License (new owner) for Venture 55, LLC – Cormorant Inn & Suites – Cormorant Township (previously Cormorant Enterprises, Inc.). (Nelson, Knutson), carried.
 - d. It was moved and seconded to approve Resolution 06-18-1E, the Gambling Application for Exempt Permit to conduct a Raffle for the Humane Society of the Lakes on June 9, 2018, for operations at: Seven Sisters Spirits, 25275 South Melissa Drive, Detroit Lakes, MN in Lake View Township. (Okeson, Knutson), carried.
- 2. It was moved and seconded to accept the April 2018 Cash Comparison and Investment Summary, as presented. (Knutson, Nelson), carried.

Assessor: Abatements: Steve Carlson presented:

- 1. It was moved and seconded to approve the following abatements, as presented:
 - a. PIN #: 34.0015.000 in Two Inlets Township in the amount of -\$2,108.00 due to Incorrect Condition;
 - b. PIN #: 49.2538.210 in the City of Detroit Lakes in the amount of -\$8,412.00 due to Tax Court Stipulation;
 - c. PIN #: 49.2538.210 in the City of Detroit Lakes in the amount of -\$28,330.00, due to Tax Court Stipulation;
 - d. PIN #: 47.0019.203 in the City of Audubon in the amount of \$8,428.00 due to Exempt to Taxable;
 - e. PIN #: 13.0150.000 in Green Valley Township in the amount of -\$150.00 due to Homestead Correction;

- f. PIN #: 50.0234.211 in the City of Frazee in the amount of \$800.00 due to Land Split House added;
 - g. PIN #: 50.0234.206 in the City of Frazee in the amount of -\$814.00 due to Land Split House removed;
 - h. PIN #: 02.0318.000 in Audubon Township in the amount of \$270.00 due to Park Model added;
 - i. PIN #: 02.0319.000 in Audubon Township in the amount of -\$268.00 due to Park Model removed;
- With the total of the abatements at -\$30,584.00
(Knutson, Grimsley), carried.

County Attorney: County Attorney, Brian McDonald was present:

1. It was moved and seconded to approve Resolution 06-18-1B, to hire a full-time Legal Secretary position through the normal hiring process, due to a resignation. (Nelson, Grimsley), carried.

Sheriff: Chief Deputy Shane Richard presented:

1. It was moved and seconded to approve the purchase of a Type 2 Side-by-Side Ranger UTV and to accept the low quote from Bemidji Sports Centre in the amount of \$11,399.00. (Knutson, Okeson), carried.

Highway: Jim Olson presented:

1. Highway Engineer, Jim Olson, presented an overview of the 2017 Highway Annual Report, for the work ending December 31, 2017.
2. An update was provided and discussion was held in reference to the architectural and construction manager services for the new public works facility. Items for discussion included architectural services, fee rates and Oertel Architects updates; the results of the City of Detroit Lakes Public Works Facility solicitation for Architects; and Construction Management Services, fee rates, and advantages/disadvantages.

Following discussion, it was the overall consensus of the Board that they were comfortable with the current architect, Oertel Architects, and requested that a contract be brought forward to the Board for review and consideration.

Human Services: Denise Warren presented:

1. It was moved and seconded to approve Resolution 06-18-1A, to hire a full-time Social Worker position in the Child Protection Unit, due to a resignation, and if filling that position creates another Social Worker vacancy, to then fill that vacancy as well. (Grimsley, Knutson), carried.

2. It was moved and seconded to approve the Human Services claims for Community Health, Human Services, and Transit, as presented. (Grimsley, Okeson), carried.

Transit: Kevin Johnson presented:

1. It was moved and seconded to approve Resolution 06-18-1C, to authorize the purchase of a new Elkhart Transit bus and to accept the low quote of \$80,299.00 from North Central Bus, St. Cloud, MN; with 80% or \$64,239.20 paid with MnDOT Capital Grant funds and with Becker County's share of 20% at \$16,059.80. (Grimsley, Okeson), carried.

Planning & Zoning: Planning Commission Recommendations (May 8, 2018): Consulting Attorney for Becker County, Scott T. Anderson of Rupp, Anderson, Squires and Waldspurger of Minneapolis, MN; Becker County Planning and Zoning Administrator, Kyle Vareberg, and Becker County Attorney, Brian McDonald were present:

1. Request by Long Shore Development, LLC/The Strata Corporation, for a Conditional Use Permit (CUP) to allow for construction and operation of a sand and gravel pit, with associated processing of mined material near Long Lake in Becker County and request by the applicant to table the application:
 - a. Kyle Vareberg noted one item for consideration today, the recommendation from the Planning Commission meeting of May 8, 2018, with a motion made by the Planning Commission to direct staff and counsel to create findings consistent with the denial of the Strata Corporation's Conditional Use Permit (CUP) request.

A special Planning Commission meeting was scheduled for May 22, 2018 to adopt those findings and a motion carried to adopt said findings. In the meantime, a request to table the application was received from the applicant, the Strata Corporation.
 - b. Consulting Attorney, Scott T. Anderson, referenced the "Findings of Fact" included in the Board packet today proposed by the Planning Commission, along with their recommendation for denial. He also referenced the written request submitted by the Strata Corporation to table their application and reported that the Strata Corporation wanted to make some revisions to the project relative to the area to be mined, the depth of the mining, and the days of the operation. He also pointed out that the request was submitted after the hearing and record had been closed.
 - c. It was moved and seconded to concur with Planning and Zoning to recommend denying the Conditional Use Permit (CUP) by the Strata Corporation and to adopt those Findings of Fact that have been prepared. (Grimsley, Okeson),

Attorney Anderson proceeded to read the "Findings of Fact" dated May 22, 2018 (See Pages 6-12).

- d. Commissioner Nelson commented on the issue of Silica dust, reporting that the Highway Department had to purchase more equipment as a dust reducer, based on new OSHA requirements and noted similar concerns with this project.
- e. Commissioner Grimsley suspended the original motion to deny the Conditional Use Permit in order to address the tabling request and Commissioner Okeson concurred.
- f. Chair Skarie entertained a motion on tabling. It was moved and seconded to deny the request to table the request by the Strata Corporation for a Conditional Use Permit (CUP). (Grimsley, Nelson),

Commissioner Grimsley read the resolution to the Board, prepared and provided by Attorney Scott Anderson, entitled "Resolution Denying Strata Corporations' Request to Table Its Conditional Use Permit (CUP) Application", which was assigned as Resolution 06-18-1F.

Commissioner Grimsley verified that the original motion to deny the Conditional Use Permit was withdrawn, not suspended.

With no more discussion, Chair Skarie called for a vote for the motion to approve Resolution 06-18-1F, as presented; to deny the request by the Strata Corporation to table their request. Motion carried 4-1, with Commissioner Knutson opposed.

- g. With the previous motion withdrawn, Commissioner Grimsley made the motion to concur with the Planning Commission to deny the Conditional Use Permit (CUP) as submitted by the Strata Corporation, to allow for the development of a Sand and Gravel Pit mining and processing operation for the project located at 23677 West Long Lake Road, Detroit Lakes, MN; and to adopt the Findings of Facts as previously entered into record. (Grimsley, Okeson), motion carried unanimously.

The Findings, Report, and Recommendation report submitted by the Planning and Zoning Department was read, as noted above, and entered into the official minutes of the Board of Commissioner's meeting held on Tuesday, June 5, 2018, as presented below:

FINDINGS, REPORT AND RECOMMENDATION

1. By Application dated March 8, 2018 (the "Application"), Long Shore Development, LLC has requested a Conditional Use Permit ("CUP") to allow for construction and operation of a

sand and gravel pit, with associated processing of mined material, on approximately 115 acres of land located generally in the north 1/2 of Section 31, Township 139N, Range 41W in Becker County.

2. Chapter 8, Section 11 of the County Zoning Ordinance identifies the decisional criteria that apply to CUP requests. Subpart F of this Section indicates:

No conditional use shall be recommended by the County Planning Commission or granted by the Board of County Commissioners unless the Commission or the Board shall find that all of the following criteria are met:

1. **Affect on surrounding property.** That the conditional use will not harm the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish or impair property values within the immediate vicinity.
 2. **Affect on orderly, consistent development.** That establishing the conditional use will not impede the normal, orderly development and improvement of surrounding vacant property for uses predominant in the area.
 3. **Adequate facilities.** That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.
 4. **Adequate parking.** That adequate measures have been or will be taken to provide sufficient off-street parking and loading spaces to serve the proposed use.
 5. **Not a nuisance.** That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so none of these will constitute a nuisance, and to control lighted signs and other lights so that no disturbance to neighboring properties will result.
 6. **Additional criteria for shoreland areas.** In Shoreland areas, it shall be found that adequate measures have been or will be taken to assure that:
 - a. **Pollution.** Soil erosion or other possible pollution of public waters will be prevented, both during and after construction;
 - b. **View from public waters.** That the visibility of structures and other facilities as viewed from public waters will be limited;
 - c. **Adequate utilities.** That the site is adequate for water supply and on-site sewage treatment; and
 - d. **Watercraft.** That the types, uses, and number of watercrafts that the project will generate can be safely accommodated.
3. The Application came before the Planning Commission at its meeting on May 8, 2018. The Commission conducted the public hearing required by law, and took extensive testimony from the Applicant and interested parties. The Commission also received extensive written documentation and written testimony.

4. Based on review of the documentation submitted and the testimony provided, the Commission recommends to the County Board that it deny the CUP request for the following reasons:

a. The Applicant has failed to demonstrate that the proposed sand and gravel mine and operation would not harm the use and enjoyment of other properties in the immediate vicinity for the following reasons:

- 1) The proposed project is located very near many developed residential properties. Many residents offered testimony expressing concerns about the effect industrial mining activities would have on the enjoyment of their properties. These concerns were validated by those that offered testimony about impacts from the existing Rock Ridge mine, also operated by Strata, on nearby residential properties.
- 2) Several resorts are located within approximately 1/2 mile of the proposed project site. Resort owners expressed concerns relating to effects on tourism and their businesses given the proximity of the proposed project to Long Lake. Tourism is an integral part of the local economy. The City of Detroit Lakes recently imposed a lodging tax to raise funds for community betterment. Adverse impacts on tourism would negatively impact the community betterment effort.
- 3) Concordia College owns approximately 134 acres of land immediately east of the project site. The property was donated to the College for operation of a biological and environmental field station. Linda Brown, Vice President at Concordia College, testified the property contains lakeshore, wetlands, woodlands, and native prairie components. Dr. Brian Bishop, chair of the Concordia College Biology Department, testified that the College has restored much of the property to its virgin habitat, including habitat for pollinators. He testified the pollinator population has doubled. He testified the property is used by the College and local school district for environmental education and research. He testified that in his professional opinion the dust, noise, and other effects from the mining operation would adversely effect pollinators s, plants, wildlife, and migratory birds that utilize the restored areas.

- 4) Mike Ring, a local realtor with Counselor Realty, provided his opinion concerning the impact of the proposed project on property values and property sales in the immediate vicinity. Mr. Ring has been engaged in real estate in the area for 20 years. He testified he has sold many properties in the area of Long Lake. He currently has two listings of residential properties in the project area he said were being negatively affected by the proposed project. He testified that, in his opinion, the value of residential properties would be negatively affected near the project location. The record also contains references to studies on the negative impact of mining operations on values of residential properties. Strata provided a generalized report from an out-of-area appraiser with no specific experience in the immediate real estate marketplace. The Commission finds Mr. Ring's testimony more credible.

- 5) Several residents expressed concerns relating to the potential negative health effects of silica dust. Mike Herzog owns and operates a roofing business, and testified about the significant and developing OSHA standards that limit silica exposure to workers. Here, the project site is located upwind from many residential properties. While Strata in its application described fugitive dust control and mitigation measures it would undertake, fugitive dust cannot be completely controlled (as is evidenced by testimony from those downwind of the Rock Ridge Mine), and thus the mine is, simply in a bad location in terms of presenting a potential health risk. In addition, Dr. Robert Koshnick, a local physician, testified about silicosis and the negative health effects of excessive exposure to silica dust.

b. The Applicant has failed to establish that the sand and gravel mine would not impede the normal and orderly development and improvement of surrounding properties for the following reasons:

- 1) The proposed project site is located $\frac{1}{4}$ mile or less from the existing limits of the City of Detroit Lakes. Matt Brenk, Mayor of Detroit Lakes, testified concerning the City's position on the proposed project. Mayor Brenk indicated the City had just awarded a multimillion dollar contract to run City water and sewer services around Long Lake. Mayor Brenk testified the area in the immediate vicinity of the proposed project was urban, or about to become urban in character, and that a large mining operation did not fit

within the character. He testified the proposed project would impede the City's plans for development as reflected in the City's 2006 Long Lake Area Land Use Plan. Charles Ramstad, Detroit Lakes City Attorney, also testified on behalf of the City. Mr. Ramstad testified that the City ultimately intended to expand City limits in the area through annexation. Mr. Ramstad also testified that the City's plans for orderly growth into the area would be negatively impacted by the proposed project. The City also presented a letter dated April 5, 2018, that more fully discusses how the project would impede development in the area. The Commission finds the contents of the letter persuasive.

- 2) The County's Comprehensive Plan indicates that it is a land use goal and objective of the County to work with the City of Detroit Lakes to assure and encourage orderly growth of the City within the area outside the City limits but within planned growth areas. Granting a CUP for a mining operation within planned growth areas, which include the areas in the immediate vicinity of the proposed project, would be contrary to this goal and would impede orderly growth and development in the area.

c. The Applicant has failed to demonstrate there would be no offensive odor, fumes, noise, vibrations or other nuisances from the operation that could adversely affect neighboring properties for the following reasons:

- 1) A number of residents testified about existing adverse impacts on their properties from the Rock Ridge Mine. The Commission finds this testimony to be relevant and important and probative about effects that may result from the proposed project, particularly given it would be operated by the same mine operator. Residents testified that they did have negative experiences with fugitive dust. One resident located 3/4 miles from the Rock Ridge facility testified about noise from the operation, including noise of backing vehicles and rail car loading occurring during the night. Strata representative Bill Lafond testified Strata could not control or limit this activity, since federal regulations required loading within 24 hours of rail car delivery. Another resident who lives on the east side of Long Lake offered written testimony that he can hear and is impacted by rock crushing occurring at the Rock Ridge mine. It is reasonable to expect those same impacts would occur with the proposed project.

- 2) While there was some discussion of the months in which mining activity would occur, Strata could not agree that it would not mine and engage in mining activity during peak summer tourism months.

d. The Applicant has failed to demonstrate that the proposed project would not present a risk to nearby public waters. This finding is supported by the following information:

- 1) Strata proposes in its Application to mine into the water table. Bill Lafond specifically testified that Strata might mine 11 feet into the water table.
- 2) Planning Commissioner Robert Merritt is a licensed geologist (PG) and worked as a DNR Hydrologist for 32 years with particular expertise in hydrological matters and the effect of gravel mines on local hydrology. Mr. Merritt shared with the Commission his concerns and belief that the proposed project may negatively affect Long Lake by redirecting underground flows away from Long Lake.
- 3) A 2005 study from the DNR, co-authored by Planning Commissioner Merritt, supports the concern that Long Lake hydrology may be negatively affected by the proposed project.
- 4) Strata offered the opinion of Jason Kirwin, Strata's environmental consultant, that the proposed project will not negatively impact local hydrology. Mr. Kirwin is neither licensed as a PG (professional geologist) or PE (professional engineer). The Commission finds the concerns expressed by Planning Commissioner Merritt and other residents concerning potential impacts on Long Lake to be more persuasive.
- 5) Mr. Kirwin also cited as support for his opinion the fact the Rock Ridge mine did not adversely affect recharge of Long Lake. The Commission notes, however, that underground water flow from Rock Ridge is to the South/Southeast, away from Long Lake.
- 6) The City of Detroit Lakes' 2006 Long Lake Area Land Use Plan contemplates the extension of City utilities around Long Lake. The purpose of extension is the gradual elimination of septic systems,

which can adversely affect lake water quality. Impairment of this effort would negatively affect the effort to eliminate or reduce lake pollution.

5. This Report and Recommendation are provided per the requirements of Section 11 (D) of the County Zoning Ordinance.

Dated: May 22, 2018

By _____
Chairperson

Human Resources – Nancy Grabanski presented:

1. It was moved and seconded to Close the Session for Labor Negotiations. (Knutson, Grimsley), carried.
2. Labor Negotiations: Nancy Grabanski presented.
3. It was moved and seconded to Open back into Regular Session. (Nelson, Knutson), carried.
4. It was moved and seconded to accept and ratify the tentative agreements for the LELS Sheriff Supervisor Unit and for ASFCME Highway Unit and to authorize the Board Chair and/or County Administrator to sign said contracts. (Nelson, Okeson), carried.
5. It was moved and seconded to approve the same general increase to non-union employees as was approved for the settled union contracts, at 2.5 % for 2018 and 2019. (Okeson, Nelson), carried.
6. It was moved and seconded to approve Resolution 06-18-1D, to approve the modifications to the Personnel Policy Manual Section 13.2 for Sick Leave and Section 19.1 for Employee Recognition and Length of Service, as presented, due to updating language and practices. (Grimsley, Nelson), carried unanimously.

Being no further business, Board Chair Skarie adjourned the meeting.

/s/ Jack Ingstad
Jack Ingstad
County Administrator

/s/ Don Skarie
Don Skarie
Board Chair