

**CASTLE ROCK TOWNSHIP
BOARD OF SUPERVISORS REGULAR MEETING
January 11, 2016 @ 7:00 P.M.**

Approved

The regular monthly meeting of the Board of Supervisors of Castle Rock Township was convened at the Castle Rock Town Hall on Monday, January 11, 2016 at 7:00 p.m. Present were: Sandy Weber, Chair; Russ Zellmer, Vice Chair; Jeff Partington, Jon Juenke, and Dave Nicolai, Supervisors; Barbara Lang, Clerk; and Rhonda Rademacher, Treasurer. Also attending were Dean Johnson, Township Planner; Grant Jacobson, Township Engineer; Kaya Tarhan, Doug Sonnee, Mark Zweig, and Craig Braun.

Sandy Weber called the meeting to order at 7:00 p.m. and the Pledge of Allegiance was recited.

APPROVE AGENDA

Dave Nicolai made a motion and Jeff Partington seconded to approve the agenda. 5 ayes. Motion carried.

CONSENT AGENDA REVIEW/APPROVE

1. December 14, 2015 Board of Supervisors Meeting Minutes

Russ Zellmer made a motion and Jon Juenke seconded to approve the consent agenda. 5 ayes. Motion carried.

PUBLIC COMMENT - None

PLANNING COMMISSION UPDATE

On December 21, 2015 a series of Public Hearings were held, followed by the monthly Planning Commission meeting:

- Public Hearing #1: Interim Use Permit Application, SUNE MN Holdings, LLC for a community solar garden on approx. 75 acres of land owned by Leland Dilley, et al., located at 27280 Denmark Ave.
- Public Hearing #2: Interim Use Permit Application, Farmington Holdco, LLC for a solar photovoltaic project on approx. 35 acres of land owned by Stage Five Holdings, LLC at 3330 225th Street W (formerly listed as 3100 225th St W).

During the monthly Planning Commission meeting that followed the Hearings, both were recommended to proceed to the BOS to review for actual Interim Use Permits, with some conditions. Dean Johnson, Town Planner, will make the updates to be reviewed by the Town Attorney before the Board takes action.

Dave Nicolai excused himself during the Review/Approve discussions.

REVIEW / APPROVE

- Interim Use Permit Application, SUNE MN Holdings, LLC for a community solar garden on approx. 75 acres of land owned by Leland Dilley, et al., located at 27280 Denmark Ave.

Mark Zweig, representing SunEdison (dba SUNE MN Holdings, LLC) had an enlarged site layout drawing for this project. He indicated that in addition to their earlier project descriptions, they will be planting additional screen of dogwood along the south side of the project area, and Black Hills spruce will be planted on the northwest and southwest sides.

Sandy Weber asked about what type of ground cover will be planted. Mr. Zweig indicated the ground cover will be a type that does not grow over 18" in height.

Mr. Zweig indicated that a roads performance bond will be issued with Eureka and Castle Rock Townships to be in effect during the construction phase of the project. Russ Zellmer commented that the performance bonds need to be a condition to be met prior to any construction beginning.

Russ Zellmer made a motion and Jon Juenke seconded that the Interim Use Permit be approved with the condition that road performance bonds are in place prior to beginning of construction with both Eureka and Castle Rock Townships. 4 ayes, 1 abstain – Dave Nicolai. Motion carried.

- Interim Use Permit Application, Farmington Holdco, LLC for a solar photovoltaic project on approx. 35 acres of land owned by Stage Five Holdings, LLC at 3330 225th Street W (formerly listed as 3100 225th St W).

Kaya Tarhan, representing Farmington Holdco, requested that the Board of Supervisors would consider allowing them to post a bond or letter of credit for the required financial security required for decommissioning rather than the cash escrow payment the Township is requiring in the draft permit. They are also asking for consideration for this permit term to be at least 30 years.

Sandy Weber inquired about the groundcover they are planning to plant in the project area and wanted to know if they are hiring a separate contractor to plant it. They have indicated the plan is to plant pollinator-friendly vegetation. Her experience is that it takes at least three years for this type of vegetation to become established and self-sustaining. Mr. Tarhan's reply was that their current site layout has more than adequate setbacks from the floodplain areas. They most likely will be planting fast-growing grasses this spring to establish vegetation by the time construction begins on the site. The varieties of grasses will be more shade tolerant under the panel area and more sun tolerant between the rows and around the perimeter areas. Mrs. Weber asked who will maintain the vegetation year after year. Mr. Tarhan's understanding is that after the construction phase is complete the pollinators and low-height grasses and ground cover be established to minimize mowing and maintenance requirements. Mrs. Weber pointed out that pollinators normally are not to be mowed until September each year to aid in re-seeding. Mr. Tarhan indicated that part of their project plan contains a pollinator pledge and they are working with experts to come up with the best mix to establish the vegetation successfully.

Jeff Partington asked about the soil on this property, is it heavy? Dave Nicolai responded that it is not heavy soil, it is very sandy.

Jon Juenke stated that he strongly believes that both solar projects in the township need to be kept to the same length of term. Dave Nicolai stated that he wanted it on record that his lease with SolarStone is for 30 years. If the Township decides that the length of the permit is less than that, SolarStone will be required to reimburse him for the full 30 years but he would be free to rent out the farmland at the end of the term which is to his financial advantage. This is a decision that the township will have to make. Russ Zellmer commented that if the township only authorizes the 25 year term it does not mean that SolarStone can't come back and request an extension of the permit in the future. Mr. Tarhan stated that they continue to request consideration of a 30 year term because the financial institutions they are working with need the certainty of a 30 year term for this project. Jon Juenke inquired that if that is the case, why didn't SunEdison ask for a longer term? Mark Zweig responded that their lease with the landowner is only for 25 years plus decommission time. Their company uses a different financial model for their projects, which has worked well for them. Each company tends to have their own investors and financial plans. Kaya Tarhan indicated that SolarStone has different investors who have set the finances up for a longer term going into the project. Their experience has been models of 30 years for this type of a project. They prefer to ask for the 30 year term rather than agreeing to a shorter term and being required to ask for an extension at a later time.

Dean Johnson indicated that all Interim Use Permits are required to be date certain, which is different than how most Conditional Use Permits are set up. For this type of project, 27 years has been used as the term which includes a year for approval and construction, 25 years of operation, and one year for decommissioning. IUPs have no vested rights. This permit has been written up to be similar to others in the area and to match with information provided regarding life expectancy of the equipment being installed.

Jeff Partington commented that it sounds like the lease with the landowner was signed before knowing what the Township would approve for the term. Mr. Tarhan stated that he was surprised at the shorter term included in the draft IUP as his experience is that projects of this size have never been less than a 30 year term. Jon Juenke asked Mr. Johnson what the term was for projects in Empire Township. Mr. Johnson responded that they are for 25 years.

Russ Zellmer asked Grant Jacobsen if there are still concerns with the VRWJPO following the meetings that were held. Mr. Jacobsen responded that there are still issues of the setbacks for the floodplain area – 300 feet vs 150 feet. Grant does not agree with the VRWJPO approach. According to his study, the site is sandy soil and the proposed vegetation plan is more than adequate.

Dave Nicolai spoke in support of Mr. Jacobsen's expertise for some projects in the past, and cited specifically when the Golf Course was built near this area that Grant's recommendations proved to be correct even though there were other groups that provided different recommendations. Mr. Jacobsen then recommended that the Supervisors should refer to his correspondence that was written after he received the recommendations from the VRWJPO. He believes the most recent updates in the project plan are more than adequate. Dean Johnson also commented that the township is ultimately responsible to follow their ordinances and standards. The recommendations from the other groups are just that – recommendations.

Sandy Weber asked if the township needs to do anything about the written request from Mr. Holden about requiring an Environmental Impact Assessment (EIA). Dean Johnson responded that the correspondence received was not a valid petition with the required number of signatures, so the township is not required to take action on this. Mr. Holden was not present at the Public Hearings, and his comments were distributed to the Supervisors as the Clerk was instructed. Dave Nicolai commented that Craig Braun and Clyde Thompson attended the Public Hearings in order to get more information about the projects. Mr. Nicolai stated that he respects Mr. Holden's opinions, but as Mr. Johnson indicated, until we receive a formal petition there is nothing described in his e-mail that concludes this type of study is required. I want this entered into the formal record that this doesn't require a response from the township.

Sandy Weber stated that in the draft IUP under "Financial Security" it lists that annual cash deposits are to be made and held in escrow, as well as a letter of credit or cash escrow for road performance. She asked Mr. Johnson to expand on this. Dean Johnson indicated that the township attorney has recommended cash rather than a bond being posted. This is a policy question that the Board has to decide. The road performance bond is separate from the surety for the solar project. If the Board would agree to a bond being posted, the township attorney should review and approve the company that would hold the bond before it could be accepted. Mr. Zellmer stated that it would be much easier to stay with the 27-year term and cash escrow so both projects are consistent. Those who are currently in office will most likely not be around by the end of the term, so we need to be mindful in keeping it easy to track going forward.

Jeff Partington asked Mark Zweig if SunEdison would be interested with being offered a longer term to match the request of Farmington Holdco. Mr. Zweig indicated his company has everything set up to the terms that have already been agreed on and they do not need an extension of the original term. Kaya Tarhan indicated that their lease for the property lists the development period as an optional payment to the landowner, then an operation term of 30 years, then a six-month decommission term, which is why they are requesting that the IUP have a longer term. Jeff Partington stated that perhaps an acceptable compromise could be to extend the term, but require the cash escrow rather than a bond.

Dave Nicolai asked if they have gotten any clarification on using the Highway 3 entrance as access for construction. Mr. Tarhan replied that MNDOT will not allow that, and the construction access will have to be from 225th Street.

No further questions or discussion being heard, Chair Weber asked for a motion.

Russ Zellmer moved and Jeff Partington seconded that Section 6 for Financial Security stays as written, and the term listed in Section 8 Permit Term should be changed to December 31, 2047. 4 ayes, 1 abstain – Dave Nicolai. Motion carried.

As follow-up, Grant Jacobsen was reminded that he will need to determine the potential damage amount for road performance bonds before they are written up. Russ Zellmer indicated the township may need to have the township attorney decide if two parties can be named on any bond that might be issued. Mr. Johnson will prepare the final versions of the IUPs so they can be signed.

DAKOTA COUNTY SHERIFF UPDATE – Deputy Matt Lohmann was present. He stated that Castle Rock Township has been very quiet. There are a few cars that have been broken into, and he reminded everyone that they should always lock their car, even when it is in the garage. Jeff Partington asked what the rules are for someone to do target shooting on their property. Deputy Lohmann stated that they can shoot as long as they are 500 feet from a roadway or building. If there is a question when someone is shooting, you should always call the sheriff and they will investigate.

COMMITTEE REPORTS

- NCRWMO – Sandy Weber attended the last quarterly meeting of the group. It was decided that going forward, they will have meetings three times a year instead of quarterly. The annual reports are on file in the town hall office. Brad Becker is still in charge of the group.
- Supervisors were reminded that Annual Reports are due by mid-February.

UNFINISHED BUSINESS

- OAA with City of Farmington

Comments from the City of Farmington for the draft update were forwarded to the township attorney, Troy Gilchrist. Troy reviewed the areas of concern and added his comments to the document. Clerk was instructed to forward this version to the City of Farmington for their attorney to review. Once this has taken place, the next discussion meeting will be arranged.

- Joint Powers Agreement with Dakota County Sheriff

Clerk just received comments from the township attorney late this afternoon, so this item will be tabled to the February meeting. Clerk was instructed to notify the Sheriff's office of the delay.

NEW BUSINESS

- Approve Election judges for March 10 Township Elections

Dave Nicolai made a motion and Jon Juenke seconded to approve the election judge list presented by the Clerk for the March 8 township elections. 5 ayes. Motion carried.

- Set date for annual Budget and Audit Meeting in February.

Jeff Partington made a motion and Russ Zellmer seconded to hold the annual Audit and Budget meeting on February 16 at 6:30 pm. 5 ayes. Motion carried.

- Citizen Complaints – Sandy Weber reminded the Supervisors that everyone needs to be mindful of Open Meeting Laws. All township personnel needs to be able to work together and be respectful of each other's opinions. She also reminded everyone that if they receive a valid complaint that requires action, they are to refer residents to the township procedure for filling out a written complaint form, which is available on the website.

ROAD REPORT

- Road Committee Budget Meeting was held on December 2. Budget recommendations for 2016 were distributed to the Supervisors.
- Ditch area at corner of 275th and Danville - driveway has been removed and drainage re-established. Since the weather has held out, Mr. Henry has also seeded the affected area.
- Stop signs being installed by Dakota County at County Road 80 intersections on Denmark Ave the week of December 21. There was discussion about the Township installing any type of traffic control "notice" signs. The notice from the County indicated they would install temporary "traffic control change" signs which would remain in place for several weeks. Township will not take any further action at this time.

TREASURER'S REPORT

Invoice has been received from Dakota County for the new election equipment. Total of our share is \$5,238.55. There was discussion about paying it in three installments or paying the total. Clerk and Treasurer were instructed to check the notes from the 2015 budget, as this was discussed last year. If a portion was budgeted for 2015, the remaining balance should be included in the 2016 budget.

Receipts \$ 172,581.10

Current Investments \$ 904,216.54

REVIEW PAYROLL AND CLAIMS

Payroll: \$ 3,317.50 Claim # 8531 – 8539

Claims: \$ 24,844.96 Claim # 8540 - 8561

Total: \$ 28,162.46

CLERKS REPORT

- Mileage reimbursement rate for 2016 has dropped to \$0.54 per mile.
- Updated Development Rights maps for our township have been prepared by Dakota County. Clerk will be picking up the two new sets sometime later this month. These are provided at no charge.
- Filings for the Township Elections closes at 5 pm on Tuesday, January 12. Town Hall is required to be open from 1 to 5 pm that day.

Jeff Partington made a motion and Russ Zellmer seconded to adjourn the meeting. 5 ayes. Motion carried.

Meeting adjourned at 8:37 p.m.

Respectfully Submitted,
Barbara M. Lang, Clerk

Attest: Sandy Weber, Chair of Board of Supervisors