

Approved Minutes Emmet County Board of Supervisors
November 20, 2018
Regular Meeting 9:00 a.m.
Board Room, Courthouse

Present: Bev Juhl, Chair
John Pluth, Vice-Chair
Jeff Quastad
Roger Hash
Tim Schumacher

Absent:

Juhl, Chair, called the meeting to order with all Board Members present. Motion was made by Hash, seconded by Quastad, to approve the minutes from last week on November 13 and 14, also approving them for publication. All ayes, motion carried.

Emmet County Supervisor, Bev Juhl, submitted her resignation from the Board to be effective December 31, 2018. She stated in her letter that it has been a pleasure to serve Emmet County for 38 years.

On behalf of the Board, Schumacher stated we are sorry to hear that she is leaving us; she has been a great asset to this Board and Emmet County. Schumacher discussed the options of how the position might be filled, once it is vacant.

Davis-Oeth, Engineer, gave brief bridge updates. He stated the north bridge on N52 will have the guardrails put up the week after Thanksgiving and that is the last step before the bridge will be open.

Concerning the Neppel Hill Bridge, they are still working on backfilling, Becks will still have to do the stripping, and Engineer is unsure if they (Becks) will do this now or next spring. Without guardrails, Davis-Oeth stated for safety reasons, they will not fully open the bridge to full traffic this winter. It will be for emergency use only.

The road report was given, Davis-Oeth, stated with the weather we are battling the ice, we are trying to sand for traction and working every day on the bad ice patches on roads.

The Board signed the Winther Stave & Co LLP representation letter for the FY 2018 audit.

Bob Shaw & Julie Scheid gave a Discovery House update. Scheid stated we are here to thank you for your support. Ninety-one percent of our residents are from Iowa, four percent being from Emmet County. She stated that individual's average stay is two months. There seems to be an increasing need for our services. She stated word of mouth is huge, many community's agencies refer individuals to us. We are in the process of remodeling right now in a second house we have purchased, called the Daniel House. Shaw stated we have received comments that one of the negatives about purchasing a second house is if you are struggling with Discovery House why did you buy another house. People come there for help and we charge them \$50 a week at Discovery House. We encourage them to go out and get a job. We have a maximum stay of six months; they are feeling good about themselves, but getting out in the real world, getting behind in their payments individuals go back to their old habits. We bought the second house, we felt if we had three people in that house at \$350 each per month, it would make the payment and we have done that. With the remodeling, we will be able to add four more people in this house. Scheid said we now have money in the bank; we are paying our bills and doing well. She projected their budget this year at \$120,100. Emmet County is the fourth best donor. We would like to get at least what you have given us before, that being \$2,000. The Daniel House is a sober house and they have different requirements than the Discovery House. It is a 12-month lease, if they meet their lease, they can renew it.

Hash asked if there is an income level and Shaw and Scheid said no. Shaw said it may come to a hard choice of who do we accept into the Daniel House.

Juhl asked how many individuals you could house in the Discovery House. Scheid stated ten.

Quastad stated how do you control their actions in the Daniel House, Shaw stated it has to be drug & alcohol free.

Pluth stated that he likes the model that you use for your facilities.

Shaw stated he feels federal funding is not the answer, local funding is. Schumacher stated that it would be nice if your report/budget reflect the local and in-kind contributions. Juhl stated that their request of \$2,000, the same as last year, would be considered at budget time. Scheid thanked the Board for their time and their past support.

Arlen Tirevold sent the Board a request for a fireworks permit for 1536 470th Ave, for dates of November 23 or November 24, 2018, depending on the weather. It was moved by Schumacher, seconded by Pluth, to approve the permit for Tirevold and forward a copy to the Sheriff's office. All ayes, motion carried.

Kelly Smith, Manager of Skateland, came before the Board. She stated that she has had some air conditioner problems last year. She stated that the fairboard has been awesome to us in the last few years. The air conditioner and the floor have put a financial burden on us at this time. They had to replace an air conditioner. Three units sit on the ground. Quastad stated what is your agreement with the Fairboard. She stated she is the manager of Skateland and stated that she pays \$500 per month for the lease. She is responsible for the air conditioners and heating within the lease agreement. Schumacher stated we have ownership in the building. Juhl stated it is under contract right now with the fairboard and stated we should probably not get involved with the business. Smith stated that the fairboard have made improvements steadily. She stated that we have remodeled the inside and the fairboard helped pay for that also. Smith stated we are out of the building for about 7 weeks, during which time the fairboard uses the facility, this is part of the lease agreement. The southeast air conditioner has been replaced. Steve Schomaker, present at today's meeting and on the fairboard asked Smith to come to the fairboard meeting in December and they could maybe help her with this situation.

Roxanne Christensen, Emmet County Weed Commissioner, gave the Board her annual weed report. She asked the Board if they are happy with the ditches. She stated that she had done a lot of traveling this year, and I am happy with the ditches. Quastad's concern is that the weeds may have re-seeded themselves for next year. She has talked with Don Reffer and they did enforce the list of things the Board wanted them to do this year. Pluth stated that he did not get many complaints this year. Christensen stated that with all the rain, people had more to think about maybe than weeds. Pluth discussed that organic farming, using no spray or chemicals anymore that is going on in Palo Alto County right now. It was moved by Pluth, seconded by Schumacher, to sign the Weed Commissioner's report. All ayes, motion carried. Christensen's suggestion is that next year, they go with Don Reffer, B&W Control Specialists, again.

Rich Meyer, Attorney, came before the Board concerning an old gravel pit. The property is located in Section 13, Township 100, Range 32 in Lincoln Township. Attorney Meyer is helping probate the Lila Hovick estate. The Natural Heritage Foundation (IA DNR) is going to buy the land from the Hovicks and it will become a public hunting ground. Meyer received the abstract and it had not been continued for a long time. In 1916, a deed from William & Ida Hickman to Emmet County was given for gravel or other suitable materials with a disclaimer stating said premises would revert back to the said William S. Hickman his heirs or assigns, when grantee (County) herein has removed therefrom all gravel or suitable materials. Arvid Hovick is 69 years old and cannot remember anyone ever using this gravel pit. Meyer has talked with our Engineer's office, and they have no interest in this. What we propose to do is ask the Board for a Quit Claim Deed to transfer this property back to the Hovicks' and get the title cleaned up. We would like to close on this soon, so I will meet back with you next week, November 27, 2018, for a public hearing and to adopt the Resolution and sign the deed.

Roy Gage, Randy Colsrud, Mark Mitchell and other residents, representing the Emmet County Citizens Advocacy Group, Inc., came before the Board to ask further questions about the odor situations from Central Bi-Products. Also present were Emmet County Attorney, Doug Hansen and Emmet County Assessor, Barb Bohm.

Gage took the floor and says he feels compelled to keep doing this. Ten years ago, he bought a zoning book, with all the rules and regulations in zoning book about the odor situations. He visited with County Attorney Doug Hansen, yesterday and this rule is not being addressed at this time. I have heard one of the reasons being because the conditional use permit has odor wording in it, it relieves them from not following the zoning regulations on odor. I also reached out to Gary Taylor through the Extension office. Taylor stated he cannot take sides, but is someone we can listen to. Taylor stated that I cannot give legal advice, but the only way the Board of Adjustment can relax a zoning ordinance is through a variance process.

Hansen is of the opinion, that a variance and a conditional use permit are both variances. Zoning is very complicated and it is hard to enforce zoning. There are two different opinions out there on that issue. Gage stated I feel as a layman, when you are in these negotiations, if you can apply the other rule; you negotiate from a position that is not as strong as it could be. Maybe the Board could get outside legal counsel to do this. To me, it would be kind of a game changer. For that reason, I would suggest that you consider hiring outside counsel in this field (zoning), stating to counsel that we have a problem and need help to resolve it and you as Board's counsel, being an advocate for us. Gage lost a rental because of the odor issue. Another couple is holding up on building a retirement home in Estherville because of the odor issues. Hopefully, all

the improvements they are making, will resolve this. I would like to get the odor issue solved, so we have the peace of mind. I would ask in these negotiations, that the public have a 30-day comment period on this situation. I am sorry to keep bringing this up, but I feel compelled to do this.

Hansen stated that he did talk to Gage at length yesterday. As I understand, what is in the zoning ordinance had a specific standard regarding odors, and what is in the conditional use permit states that the company make all reasonable efforts to control odor. Hansen stated the language is so loose and many times, it is hard to determine where that odor is coming from; hog confinements, chicken laying facilities, manure in fields, waste treatment plants, rendering plant etc. Some parts of negotiations in the lawsuit we currently are in jointly is coming up with a standard that is scientifically viable. As far as an enforcement of language in the zoning ordinance, I do not see that any better than having a conditional use permit. Both are similar and the language is loose. I am afraid, if we cannot specifically prove where the odors are coming from and the wrong company gets the blame, that there are going to be some negotiations and we are going to lose the odor language in the zoning book. Hansen stated what happened over the summer, was with dead hogs out there not being processed. Part of Central Bi-Products' plan was that they were going to process hogs in a timely fashion and everything was going to be tarped. Two Supervisors went out there this summer and collected good evidence that he is using for this lawsuit. Gage stated that he called the Supervisors this summer, with a bad odor at ballgames and stated Pluth and others came to that ballgame. Hansen stated bottom line, we are working on something that is even going to be better.

Quastad asked Gage if he got his questions answered from last week, when Melanie Summers-Bauler, County Attorney Elect, could not answer, due to unfamiliarity of all issues with the case. He stated yes, Hansen answered his questions.

Hash, asked Hansen to explain why we go into closed session so the public could hear. Hansen stated it is a private conversation with their Attorney, without the whole world knowing about it. Once things have been agreed upon, the Board will have to come out of closed session and make a public statement of what they are going to decide upon for an Agreement. Gage asked if there could be a 30-day period that the public could comment on. Hansen stated that the Board does not immediately have to adopt anything coming out of closed session, but they could. Hash stated that a 30-day period might be a little long, as they want to wrap this up before the end of the year.

Mark Mitchell stated that I would think the citizens of the County should have a say.

Pluth stated the more opinions that you have, it complicates things much further. We are trying to settle as a group and we are trying to settle in your best interests.

Hansen stated one of the problems here folks, we are going to have another closed session. Hopefully, we will have an Agreement between two parties and then if we open it up to possibly change that agreement, the other party may not agree without further negotiations. Once the Agreement is made between the two parties, we cannot open it up to the public to change. Colstrud stated could a member from the advocate group sit in on the meetings. Hansen stated no. Hash stated that you the people vote us in as Supervisors into office and you have to trust our judgement.

A solution to the problem would have been 8 years ago. At the original meeting, not many attended, but the point being there was a chance for anyone in town to voice their opinion.

Here is where we are at today, everyone on this Board is doing what we can, we do want to take care of this issue. They are visible issues. We are making headway, but it is slow.

Hansen stated July 21, 2008; the original conditional use permit was signed. Hansen was at the meeting and the question was asked that night, what if we sign and we smell the facility and it was stated that we could shut them down. Hansen stated I as a lawyer, commented that night about statement made as to shutting them down, he stated that it is not written in the Conditional Use Permit. Hash stated that we know now what has happened and how it has affected our Town.

Gage stated that he believes everyone was and has been acting in the best interest of the County.

Mark Mitchell stated that there are individuals that can detect where the smell is exactly coming from. Mitchell has been fighting this odor issue for ten years and stated to the Board, how can we trust you now. Colstrud stated we are sitting here and hoping in another five years we are not still revisiting this issue.

Hansen stated that no matter what we do, from time to time, we are going to have odors that is the nature of that operation. Processing dead hogs and cooking them, there are going to be odors.

Pluth stated that the Company says that this summer, Central Bi-Products, admits they were out of compliance.

Gage asked the question if the facility breaks down in the future, if they cannot fix it, then could it be required to shut down. When something happens and the Company cannot enforce the odor, rather than limp around another two months, shut it down until it is fixed.

Tedd Gassman, State Representative, came before the Board, about the backfill on commercial property. "I do believe (my thinking) we are going to look at it again this year. I am telling you upfront, so you could have a chance to do something about this. One of the things in the whole process, that basically this was projected to start at \$150 million, reduced by \$25 million for 5 years and 1 year left for \$25 million to be used by some towns/counties that have not done as well as others cities or counties. Concerning windmills, we may be looking at that in future. We did drop property tax reduction, to the 2013 values, with no additional money coming for that. They will not get the additional 10% reduction. Gassman stated that reason why I am here is to let you know that there is probably going to be a change, about a 17% reduction in the coming 5 years for commercial property tax reduction. Just telling you to prepare for it to the best of your ability."

A motion was made by Quastad, seconded by Hash, to adjourn the meeting at 12:16 p.m. All ayes, motion carried.

Colleen Anderson, Assistant to the Auditor

Bev Juhl, Chair