

Committee Members in attendance: Eric J. Evenstad – Chairman, Kevin Larson and Roger Call.

Others in attendance: Susan Burkhamer, Zoning Administrator and Tim Hundt, River Valley News, Corporation Counsel Swayne joined the meeting at 9:00.

Evenstad brought the meeting to order at 8:40 a.m.

Proper public notice affirmed by Burkhamer.

There was no public for comment.

Larson moved to approve 12/18, 12/27 and 1/17 Minutes with one addition and one correction, second by Call with all in favor. Call moved to accept January minutes with additions and corrections, second by Larson with all in favor.

Under item #5, Burkhamer said she did not get confirmation if Corp Counsel Swayne would be in attendance, but they had been communicating by email and Swayne said a civil action through summons and complaint allows for pursuit of abatement. A citation still can lead to court if contested. If citations aren't contested you can get default judgment for fines, but not abatement. Burkhamer said she then asked regarding if there is citation without abatement, could a summons and complaint be filed.

Larson asked about the Hillsboro Sugden complaint. Burkhamer said it has not yet been addressed as Swayne wished to go directly for abatement, but Burkhamer did not have a case other than a maintenance violation.

Larson asked about process specific to Stafslie. Burkhamer responded that this case is still going forth and Swayne is negotiating with Jacob Menn, Stafslie's attorney. Burkhamer explained that there is a "high spot" on that property, but not large enough to accommodate the mobile home. DNR was contacted regarding this issue in reference to fill. Burkhamer explained the deed restriction that was questionable as to whether the county had standing in removal of the mobile home. If we do not have standing, can we bring in the DNR to join in the lawsuit? Burkhamer explained that if the septic system was removed as planned in 2010, this would be a non-issue because you cannot have a permanent structure without a sanitary system and a new sanitary system would not be allowed. Larson commented on the adjacent DNR lands and their involvement. Prior owner is claiming the county harmed him because he would not have sold the property if he could have put a home on it. Burkhamer said in conversation with the DNR they indicated if he adds fill to the lot, Stafslie would also have to redo the dam study. Discussion on condemnation with no answer. Evenstad indicated the desire for a well laid plan for citation vs. summons and complaint. Discussion on effect of a court order on the NFIP. Burkhamer said that FEMA has said once a case is referred to court, the NFIP obligation of the county is fulfilled. Burkhamer said her concern with summons and complaint was whether the county could recover the court and attorney fees in the event they prevail in a case.

Evenstad said he would like to have a decision, bullet points of our options, what the costs are likely from corporation counsel to present to the committee.

Swayne joined the meeting at 9:00. Burkhamer asked if we issue a citation without compliance, can we come back and write a summons and complaint. Swayne responded that the ordinance states that each day is a separate violation and therefore a second case would not be double jeopardy. However, there may be a limit of a statutory cap on fees recovered.

Evenstad expressed to Swayne his desire for bullet points comparing costs, appropriateness of each method, etc. Swayne said she can type this up with this and offered that perhaps it would be worthwhile for her or Burkhamer to reach out to other counties to see how they are handling these issues.

Swayne explained that with a citation, it can be paid or, if contested a court date may be set. Swayne reiterated that a citation does not accomplish abatement. Swayne expressed that we may wish to have a process where a couple of citations are issued before the summons and complaint in an attempt to gain compliance. Evenstad asked about the process if we are able to cite every day, but do not, do we lose the ability to re-cite. Larson asked the normal time line for a summons and complaint to be resolved. Swayne responded that it is usually around six months, but could vary if the offender wants to contest it, have a trial, require discovery, etc. The current case is awaiting response from Corp Counsel to Attorney Menn regarding the ability to place the mobile home elsewhere on the lot.

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Evenstad clarified that he would like to see the bullet points of what can and cannot be done under each scenario by the March meeting. He requested Burkhamer create a flow chart of cases pending to keep communications open.

Evenstad asked if it is different for a POWTS case than a NFIP case? Swayne asked if citations were appropriate for flood plain cases? Burkhamer said she was not sure of FEMA's attitude toward citations as they are interested in compliance under our ordinance. Burkhamer and Swayne agreed that all issues should be brought through her office as that is what the ordinance says. Discussion went on regarding the next meeting date and the need for commitment due to public hearings for two cell towers.

Larson questioned evidence available in the Hillsboro case. Burkhamer said she had no real evidence on the case except for the fact that he is not complying with the maintenance program. Burkhamer then described the process for obtaining a search warrant. Burkhamer said she had sent letters offering dye test, holding tank, Wisconsin Fund, etc. and has been ignored. Evenstad noted that this case demonstrates that the cases need to be addressed in a timely manner. Larson offered this is a good case to work through the process.

Burkhamer presented the details of another case of a property for sale and foreclosed by a bank. The conversation went on to the number and nature of violations identified that could be cited. Burkhamer said she is moving cautiously to avoid being overwhelmed and lose track of violations as they vary from failure to report maintenance, illegal tanks (no permit obtained), straight pipes and new issues that seem to arise on a daily basis.

Call offered that once the process is being followed and recognized by the public there should be less new problems.

Burkhamer presented the Work-Income report noting there were 22 work days with 0 days in field work. The department received one 1 Land Use permit application and two telecom tower applications. Two soil evaluation reports were filed and sixteen people visited the office.

Revenue totaled \$7,020 with expenses of \$ 10,028.92 reflecting a loss of \$3,008.92. Revenue was 70% of expenses.

Burkhamer presented the monthly in the amount of \$213.17. Motion by Larson, second by Call to approve the bills with all in favor.

Call noted a rear seal issue pointed out on the Sleepy Hollow bill. Evenstad suggested this be brought to the highway department for repair.

Under the Administrators Report Burkhamer said most items were already covered, but noted that on March 12 there would be two Bug Tassel WI FI Tower permit public hearings. Burkhamer recapped the Graff issue where the landowner was unhappy with her and they had reached out to Evenstad. Evenstad said he spoke to them once and will reach out again. He thought it might be a good idea to invite them to a meeting to discuss. Burkhamer felt that this might be an issue because her process in these cases was to handle one point at a time and when one is resolved, move on to another. It seems the landowners would like all issues to be presented at one time. This is difficult when the landowner does not understand the ordinance requirements and become overwhelmed when presented with multiple issues. Burkhamer described the Rusch case to explain how compliance can drag on for years. This case started in 2016 and even though steady progress is being made, the case has yet to be resolved.

Evenstad spoke to the difference of flooding between the riverine flooding (flash) and slow rise flooding of the Mississippi River.

Burkhamer said she continues to work on flood issues and noted that there are 15 outstanding land use permits that stretch back nearly a year. This is a situation where she is working to keep the fires out and these older permit requests are tied into the FEMA audit which slows down the process due to the research involved in addressing audit issues. It has become clear that an inspection MUST be done prior to permitting as well as after for compliance. There are a couple of these permits related to the August flood.

Working through the FEMA substantial damage cases (and software) has been quite slow. Burkhamer said she was working with Mark and Diane in working up damage estimation. Burkhamer said the substantial damage estimates relative to the August event involves construction expertise, and many functions that are not in her skill set.

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Burkhamer reported on the potential floodplain violation brought in by Evenstad on CTH P west of Bloomingdale and noted that they responded to her immediately and had just brought the trailer in as a hunting cabin and were unable to place it in the final planned location.

Evenstad asked about the outstanding projects Burkhamer is working on and asked about the possibility of utilizing temporary help. Burkhamer said she did recommend using temporary help and described the basic needs they could address. Just getting a process to bring the files in order would be extremely helpful. Burkhamer discussed how she planned to work with a replacement employee with them doing the "day-to-day" and her handling the FEMA audit in the two month cross over period. The prospects for a new employee was discussed.

The buy-out program was discussed. Burkhamer noted that there are discrepancies between the grant administrators regarding whether an illegal structure would be qualified for the buy-out.

Larson expressed concerns about the backlog of permits and work to be done on the audit. Burkhamer noted that the structures in the floodplain are finite (175 structures) and every flood issue being addressed is likely to be on the audit. That is principally how the audit is being addressed during this period. Burkhamer said she felt that a process was developing for the audit and once she can concentrate on that issue it will go relatively quickly.

Call noted that long term plans for the County departments was discussed at buildings and grounds and he had offered that the courthouse would be an appropriate location for the zoning office.

Evenstad expressed the need to quantify the amount of time the finish to the FEMA audit and flood work may take so that plans could be considered as to whether to hire a temporary worker to get up to speed.

The next meeting was confirmed for March 12, at 8:30 in the county board room.

Larson moved to adjourn, second by Call with all in favor.

Minutes recorded by Susan Burkhamer