

Traverse County Commission
Regular Board Meeting
October 17, 2017

The meeting was called to order by Commission Chair, Kevin Leininger. Other commissioners present were Dave Salberg, Tom Monson, Mark Gail, and Todd Johnson. The pledge was recited. Upon a motion by Monson and second by T. Johnson, the agenda was approved unanimously with the following amendments: approval for the Feedlot Annual Work Plan .

Larry Haukos, Highway Engineer- Work is complete on project SAP 078-700-008, Mill and Bituminous Overlay on MCSAH 100 (2nd Ave S, Wheaton), save for striping, which should be done this week, then it will be closed out. Haukos met with Soil and Water regarding the Buffer Strips. They felt that we were responsible for 4 areas to put in buffer strips, but they are joining the County ditch and it is on the landowner's side. There is one area where a landowner farmed into the right away, so the County will purchase the seed and Soil and Water has offered to do the work. Eagle Concrete will be fixing the Safe House at Rosebud RV park and the architect will be paying the costs. We also have \$9,000 left in the grant to be used for modifications to make it storm resistant. Asfeld drain is in progress, we need to stake it, Ferguson Brothers is going to do the boring and Big Stone Ag Services will do the tiling.

Dustin Kindelberger, Veterans Services Officer – Kindelberger provided a department update. Their office has been busy with new veterans coming to the County. New claims for VA benefits are being established, such as VA Healthcare, VA Home Loan, Service Connection/Pension, etc. Kindelberger attended the annual Fall Conference for Veterans Services to acquire his required CEUs for the year. He is now able to certify Veterans with hearing loss to receive CapTel Phones, which are phones that are provided for free to Veterans with hearing loss; the phone displays in text what the person on the other end of the phone is saying. The DAV Van has been busy. We gift volunteer drivers \$35 gift cards to Larson Oil for every trip they take, and sometimes drivers are out all day on trips to Fargo, St. Cloud, Minneapolis, etc. The \$35 is funded by the Wheaton American Legion. The Rainbow Rider has been averaging around 220 rides per month for Veterans and their dependents. These rides are paid for by the Minnesota Department of Veterans Affairs Grant that we receive annually. The Household Hazardous Waste pick up was held on September 15, 2017. It was a great turnout and popular with those who participated. The Safety Committee will be working on the County Safety Policy, and the next meeting will be in November.

Jamie Beyer, Landowner – Beyer appeared before the Board to request that they take the criminal prosecution enforcement option out of the draft Buffer Ordinance. The MN Board of Water & Soil Resources model presented three options: criminal prosecution only, administrative penalty orders only, or both criminal and administrative penalty orders. Traverse County has both in their current draft ordinance. Beyer expressed to the Board that because the buffer law is new there are too many gray areas, the violations are not clearly defined, and the violations to the buffer ordinance does not seem like it should be a misdemeanor. Having the criminal prosecution option in the ordinance increases stress for the

landowners, as well as the staff that must enforce it. Beyer came with a petition with 50 signatures of residents that are opposed to the use of criminal prosecution to enforce the Traverse County Buffer Ordinance. Leininger explained that Traverse County is in high compliance, but for those few landowners that refuse to be compliant and refuse to pay the administrative penalty orders we want to be able to have the option of criminal enforcement. He made it clear that it isn't his intention for anyone to go to jail, but he wants everyone to be compliant. Beyer explained that without the criminal enforcement the county could take those land owners to court. She also stated that the draft Buffer Ordinance seems to require that the County can use either the criminal prosecution or follow the administrative penalty orders, but not both. County Attorney Matt Franzese said that the provisions are not mutually exclusive, and that the Ordinance would be applied by first using the administrative penalty orders, then engaging in criminal prosecution if the administrative penalty orders were not resulting in compliance with the law. Franzese further stated that even if the criminal prosecution provision was left out of the Ordinance, since a violation of any provision of the Land Use Ordinance is already a prosecutable offense, we could still proceed with a criminal action if a land owner is not in compliance and has not paid their administrative penalty.

Allen Wold, Linda Vavra, Bois De Sioux Watershed District & Jeff Backer, House

Representative/Buffer ordinance – Rep. Backer gave the Board background on how the Buffer Law was developed. He then gave his concerns about the draft Buffer Ordinance and BWSR wanting changes to it. He said that constitutionally the County has the right to decide what is in any land use ordinance, not a State Agency, and we have given that right to BWSR by following their model. Another concern is that in the appeal process, the landowners should have the right to go to the courts and appeal, but our draft Ordinance says they need to go in front of BWSR for the appeal process. There was also never mention of criminal enforcement in the development of the Buffer Law. Backer's opinion is to either strictly follow statute by redoing our draft Buffer Ordinance, which he has offered his help to draft, or to do nothing and leave it up to BWSR for enforcement. Wold told the Board that he believes that BWSR has gone beyond statute, and that the Board needs to decide who to hold to a higher law, legislation or agency. Vavra then stated that the problem with BWSR is that the rules and regulations they are putting forth keep getting changed, that nothing is in black and white and is continually gray. The only thing that isn't changing is the statute, and that is why statute should be followed and not BWSR. Franzese pointed out that the statute says that a County, when implementing an administrative penalty order, must adopt a plan consistent with the plan adopted by the Board (BWSR). This takes away local control because they are defining consistent as being the same, not like or similar, so we are unable to define our own plan that is not exactly the same as BWSR's model, so we don't have a choice right now unless we want to fight BWSR. Wold suggested setting the administrative penalty order up to \$500 with no penalty schedule and drop the criminal procedures for enforcement.

Sara Gronfeld and Bruce Johnson, Soil and Water/Planning and Zoning – Johnson appeared to request approval of his Feedlot Annual Work Plan. Upon a motion by Salberg and second by Monson, the Plan was approved unanimously. Gronfeld informed the Board that Dennis Duffield has officially resigned his position on the Joint Planning Commission and Board of

Adjustment, and that they had interest expressed from James Kruger of Browns Valley to succeed him, and that there were no other letters of interest submitted. Gronfeld recommended that Kruger serve the remainder of Duffield’s term on those two boards. T. Johnson made the motion to appoint James Kruger to the Joint Planning Commission and Board of Adjustment, seconded by Monson, and approved unanimously. Franzese received a letter from BWSR in response to our draft Buffer Ordinance. There were three items that they pointed out needed to be corrected. Two were minor wording changes, but the last item was the administrative penalty order. We had decided that the second offense would be a weekly fine, but BWSR said it wasn’t consistent with their plan so they recommended that we change it back to daily, as their proposed ordinance stated. It was mentioned that the only local control the County has with the Buffer is measuring the ditch and setting the amount of the penalty. B. Johnson stated that they should follow the BWSR recommendations, as Soil and Water does not want to be doing enforcement forever, and that is why the criminal penalties are in the ordinance. Leininger would like the Board to think about what each member would like to do with the Buffer Ordinance and revisit the issue at a later meeting. A decision on any changes to the proposed Buffer Ordinance was tabled.

Lynn Siegel, Emergency Manager – Siegel provided a department update. In order to receive the 2017 State EMPG (Emergency Management Preparedness Grant) in the amount of \$16,272.00 she needs the Board’s approval accepting the grant. Siegel has done a couple of Pipeline Trainings, as we have a lot to do with the pipeline that comes from North Dakota. In November there is a Family Assistance Center Training that will be held at Camp Ripley, and there will be a Hoof & Mouth Disease Exercise coming in December. Siegel requested to put in a brighter light at Hall’s Landing, but since there is already a light there the Board was not interested in looking into this any further.

Kit Johnson, Auditor/Treasurer - Johnson provided a department update. The second half of residential property taxes were due on October 16. Browns Valley election judges were trained by Johnson on October 12 for their school district election. On October 25 there will be a public accuracy training on the voting equipment that is used in our election. Motor Vehicle is adjusting to the new State system that was rolled out in July, and there have been major problems with the new system, causing frustration with the staff and the public. He has been working on the Truth in Taxation statements, which should be out around November 15.

Lisa Siegel, County Coordinator- The Board minutes from October 3, 2017, were approved unanimously upon a motion by Salberg and second by Monson. The following bills were approved unanimously upon a motion by T. Johnson and second by Salberg:

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| CARDMEMBER SERVICE | \$3,833.90 |
| CENTRAL SPECIALTIES INC. | \$29,060.00 |
| ESRI | \$2,500.00 |
| LARSON OIL, INC. | \$16,083.15 |
| MARK SAND & GRAVEL DAKOTA CO | \$8,516.25 |
| TRUE NORTH STEEL | \$12,685.81 |

Per M.S. 375.12, the number of claims totaling \$2,000.00 or less were 68, amounting to \$30,849.95. The Insurance Committee met and the representative from each union and the majority of non-union members that sit on the committee voted to go with PEIP for 2018 and 2019. Justin Anderson wrote up a Memorandum of Understanding for all the unions to sign, plus the Board if they are in agreement. The Board was in agreement and it was signed. Marg Schmitz received approval to advertise for a replacement for Mary Fox, Financial Eligibility Worker, at the Social Services meeting this morning. Tim Everding, Recycling Building Attendant, is resigning. Approval was asked to advertise and fill this position along with increasing the hours from 12 to 15 hours per week, which the Board approved unanimously upon a motion by Monson second by Salberg. T. Johnson said that the Browns Valley Senior Citizens Center has not made a decision yet if they are going to reassemble for 2018, but if they do he would like the Board to consider giving an allocation of \$700.00, as they have in the past. Upon a motion by Monson and second by Gail, unanimous approval was given to accept a \$2,000.00 grant from DuPont (Pioneer) for a defibrillator in the squad car.

Tanya Brick and Kristi Simson, Browns Valley Ambulance Service & Jeff Backer, House Representative - T. Johnson explained that there are roughly 20 volunteers on the BV Ambulance Service. In 2015 they had a revenue shortfall of \$22,396.00, in 2016 they had a shortfall of \$14,972.00, and through September of 2017 their shortfall for the year is around \$12,000.00. Last time this was discussed, T. Johnson requested a minimum allocation of \$7,000. Brick asked the Board to reconsider the request to support the Browns Valley Ambulance Service financially, pointing out that Big Stone County had donated money because they understood how important this service is for the area, and that losing this service would be devastating to the community not just locally, but county-wide. Simson stated how important the Browns Valley Ambulance Service is and how important it is that it remains in service. She asked the Board to consider helping financially. Backer asked the Board to reconsider the request and to base it on need per ambulance service. Currently they receive money through the townships, fundraisers, Roberts County, Big Stone County, and reimbursement from insurance. T. Johnson made a motion to allocated \$7,000 to the City of Browns Valley and \$7,000 to the City of Wheaton to support their Ambulance Service. Salberg asked about Graceville and Breckenridge since they service a part of Traverse County. Leininger said he doesn't want the money going to the City it should go directly to the ambulance service. T. Johnson rescinded his motion and made a motion to allocate \$7,000 to Browns Valley Ambulance Service, \$7,000 to the Wheaton Ambulance Service, \$2,000 to the Graceville Ambulance Service and \$2,000 to the Breckenridge Ambulance Service for 2017 and revisited on an annual basis. The motion was seconded by Gail and approved unanimously.

Attested to by:

Lisa Siegel/County Coordinator

Kevin Leininger/Board Chair