



LEGAL AFFAIRS COMMITTEE MEETING – Thursday, August 14, 2014

The Legal Affairs Committee meeting was called to order by Chair Kevin Gobel, at 11:00 a.m. on Thursday, August 14, 2014 in room 308 of the Courthouse Annex.

Members Present: Kevin Gobel, Jerry Cade, Dennis Brault, Cade Cary and A. Richard Brose.

Others in attendance were Gregory M. Lunde, Tena Fredrickson, Herb Cornell, Rachel Hanson, Mark Erickson, and Herb Cornell

Affirmed proper public notice of meeting.

Review of the June 12, 2014 meeting minutes:

Motion by Brose/second by Cade to approve the minutes as written. All in favor. Motion carried.

Next was Review of vouchers and Corp. Counsel Budget status:

Motion by Cade/second by Brault to approve the vouchers/transfers. All in favor. Motion carried.

Next was Audience to Visitors: None

Next was Non-Metallic Mining Ordinance: Lunde noted that Mark Erickson, who was intending to speak with the committee on this topic, was delayed at a Land and Water meeting. Brault suggested they move out of order on the agenda in hopes Erickson could arrive before they adjourned; Gobel so moved.

Next was Johns Flaherty Discussion with Rachel Hanson: Hanson explained that the County had to seek outside counsel regarding Mississippi Sports and Rec as they were contesting an assessment and did not want to pay taxes based on that assessment. She stated that the county won the lawsuit, but there is now a \$6,170.71 bill that resulted from having obtained counsel for the litigation. Lunde noted that the bankruptcy court ruled 100% in the County's favor. The courts ordered that \$286,436.87 is due Vernon County by Mississippi Sports and Rec, but another battle has begun as now they are contesting the amount owed, claiming they owe roughly \$90,000 (before interest), and because they want to amortize the bankruptcy payment based on what they "think" they owe, not what they actually owe, going after the township for difference. Hanson also noted that the \$6,000 bill from Johns Flaherty is still accumulating fees due to the ongoing contention litigation from Mississippi Sports & Rec. Lunde stated that there is \$97,000 in a tax escrow account that the County expects to receive once all of this is finalized. Cade asked how they can pull in that kind of money to owe so much and Hanson stated the taxes at that location are over \$5,000/month. Gobel questioned how they are even in business (ie, retain a liquor license) if they are so far behind on payments and Hanson and Lunde both stated that they believed once an establishment enters bankruptcy court, all other entities are "put on hold", noting that the lawsuit notification is presumably what triggered the filing of bankruptcy in this matter.

Gobel inquired the reason for bringing this to the committee and Lunde stated that the amount of the litigation fees will consume nearly the entire outside counsel budget and therefore, permission was being requested to take it from the line item. Gobel stated this is a rare occurrence and as long as the Finance Committee understands this, it should be fine as it will need to be paid regardless which line item or budget it comes from. Lunde agreed, and stated he currently had \$6,778.00 left in his outside counsel budget. Hanson asked that Fredrickson prepare and submit the voucher for payment prior to the next finance meeting to avoid further interest fees.

Motion by Brose/second by Brault to approve the payment of the outside counsel fees from the Corporation Counsel Outside Counsel budget. Roll Call vote taken regarding same: Cade: yes, Brose: yes, Cary: yes, Brault: yes, Gobel: yes. All in favor. Motion carried.

Motion by Cade, Second by Brault to move back into order on the Agenda. All in favor. Motion carried.

Non-Metallic Mining Ordinance: Lunde stated this agenda item was brought up by Jim Servais at the last County Board meeting that he would like to have a frac sand mining ordinance looked into, and it was his thought to have Mark Erickson involved in the discussion of it as it falls within the non-metallic mining duties of the county.

Erickson stated that Vernon County's non-metallic mining reclamation ordinance is county-wide enforced, but towns do have the ability to adopt their own reclamation ordinance, but they have not done so, so the county does them all. He stated when someone wants to open a quarry or site, they fill out forms and draft their reclamation plans for the site; some being very detailed, and some not so much. The financial bond is currently \$4,000 base rate per acre of any undisturbed area; the same for any quarry or sand pit. Overall, Vernon County's quarry operations programs work fairly smoothly. Erickson stated that the reclamation ordinance doesn't apply to where one should or shouldn't go, but only to the reclaiming of the pit. Another loophole, is regarding the one acre size limit, whereby anything under the size limit doesn't have to be permitted. He stated however that he believes the ordinance is doing what it's supposed to do, which is to level the industry's playing field for all operators.

Gobel asked that if someone wanted to open a new frac sand mine, that it would initially be the township that would be involved, but once they wanted to close it, if it would then fall under the county ordinance, and Erickson stated the first thing would be to obtain a reclamation permit that would outline what would need to be done at the time of closure. He stated we do have some authority during the mining stages to ensure everything will match up with the end plan, and if not, they can be made to alter things before that point. He stated that any quarry over an acre requires a DNR storm water permit as well which helps with erosion and that kind of thing. Lunde stated there was an issue last year at a site and it was resolved by the DNR storm water plan.

Gobel asked, based on other counties current mining operations, if Vernon County was lacking the proper sand that mining operations are looking for as we haven't had too much interest in it and Erickson said in a way, yes; there are pockets of sand on the ridge tops, they are small, but they are there. It's the size that is the factor for which they aren't a target; also, the surrounding counties' pits aren't covered in 150feet of limestone, which is a deterrent here in Vernon County. Gobel asked if Erickson felt the County's ordinance was sufficient at this time and he stated for reclamation planning it is, but for land use planning, no. Lunde stated there are two ways to go, one being land use planning which requires comprehensive planning or two, go with licensing/permitting, police type powers, setting out all kinds of conditions and fees, but that doesn't prevent siting, it simply covers the added expense to the county of having a mine in its jurisdiction. Lunde stated that he agreed with Cade that from a legal standpoint of enforcing some of the problems associated with it, the county doesn't have the staff, time, or finances available to do it, and therefore feels the townships are who should be taking responsibility for this. Cade stated that townships need to realize this is coming down the line so they need to step up. Brault stated that the Viroqua Township is looking at passing an 18 page ordinance (copy of which is attached as presented) to prevent someone from coming in and doing a frac sand mine within the town of Viroqua. Erickson proposed the possibility of a reclamation plan/environmental health and safety ordinance combination.

Gobel asked the committee's thought on offering a 5 minute presentation at the next County Board meeting, to address the issue, noting the discussion of it at this committee and that it was decided not to proceed at this time. It was decided that Erickson would speak with the Board.

Next was Ordinance discussion: Lunde stated he sent an email to department heads and the response was that the ordinances the county has are old enough that they don't include things like digesters, so they should be updated to include such things. He stated that the state made minor changes to Farmland Preservation recently, so that just needs tweaking as that ordinance was just done not too long ago. Also, regarding Shore land/Wetland, the state has made some changes in the state laws which puts our ordinance out of compliance so that also needs tweaking to match the state. Lunde also noted a cemetery issue has again cropped up stating that a gentlemen called regarding having his wife buried on

a family farm, as he went as far as to survey lots, access roads, fenced it, everything, simply to have her buried there, but per the county ordinance, it isn't allowed; nor is a green burial or constructing a mausoleum. Lunde stated he has spoken with the Coroner, Janet Reed, about it and she agrees the ordinance needs revision as the original ordinance was written back in the mid 90's. Cary inquired as to what could have changed since the 90's and Lunde noted the need for 50 double lots and whether that really justifies a cemetery; also, "does it need to be fenced?", he believes it should. Cade stated it should have signage indicating burial grounds or something also. Lunde noted that Amish cemeteries are simply fenced off square areas with no headstones even. Lunde stated that Reed believes something should be done to the current ordinance to update it. Lunde stated he will discuss the matter with Reed further.

Next was Budget: Lunde pointed out the computer capital outlay line item will not be in the budget next year as the IT department will be taking over that matter, but there are some grant fees that we are supposed to get back as Michele, the county grant writer, has obtained grants for the Aging Department (for example), but Pat Peterson in the Aging Department claims it's in her budget and that's where it staying, however, it is \$15,000, which is supposed to go into the Corporation Counsel budget to cover the grant writers wages. Any administration fees on grants are supposed to cover that position's salary, and if it can't be proven she's making enough to cover her salary, her position with the county goes away. Lunde also noted that his department has doubled what was expected to get back in regards to revolving loan funds. Cade suggested all the received administrative fees generated go into a non-lapsing fund to cover off years and Lunde agreed that was a good idea. Brault stated that perhaps a letter should be go out to department heads reminding them of the agreement made when a grant writer was hired before they finalize their budgets. Gobel stated he and Cornell would get together with Peterson to discuss the matter and resolve it. Lunde stated he needed approval to submit his 2015 budget request even though he wanted to fine tune it.

Motion by Cade/second by Brault to approve the proposed budget and submit to Finance with some additional fine tuning. All in favor. Motion carried.

Next was Closed Session if adopted: Closed session not necessary.

Next was update of drafting committee Agendas: Lunde asked the committee if they had noticed a difference in how agendas are being drafted, and stated making everything more uniform and clear among departments is in everyone's best interest and the committees are doing a good job of making agendas more consistent.

Next was Robert Rules of Order: Lunde noted that regarding agendas, committee chairs are the ones that are ultimately responsible, and that he is not certain all committee chairs are aware of that fact.

Next was Committee member's reports/questions: Brault brought up County Board/committee meeting expenses and questioned who gets reimbursed for things like the donuts supplied at County Board meetings? Gobel stated the only committee meeting he's ever really seen food at was the Sheriff's committee, in which Sheriff Spears pays for. Cade stated the County shouldn't be liable for feeding committee members. Brose stated that \$5.00 per committee for donuts isn't too much.

Next was reports/updates: Lunde stated his office is caught up again on the items that were behind, and joked that the full moon has created some work for the office however in that there have been some pretty serious cases, noting one in particular that if the individual weren't in jail, they would be in Winnebago. He stated that the cases that are coming in now are so much more serious than what they used to be; in all age groups too, from 18 to 90 years old, and most are drug and/or alcohol related. Lunde also informed the committee that since the new bookkeeper/accountant has been at Vernon Manor, the County has collected on one of the biggest past due accounts that totaled roughly \$38,000. Finally, Lunde noted his departments' involvement in the recent Hillsboro meth lab case due to the property cleanup (health department) and elderly and juvenile parties involved.

Next meeting date: The committee agreed a meeting in September wasn't necessary, The next meeting was then set for October 9, 2014 at 11:00 a.m.

Motion by Cade/second by Brose to adjourn the meeting at 12:33 p.m. All in favor. Motion carried.

Minutes respectfully submitted by Tena M. Fredrickson, Corporation Counsel Administrative Assistant.