

**TOWN OF CEDARBURG
MEETING OF THE BOARD OF SUPERVISORS
January 3, 2018**

Present:

David Salvaggio, Chairman
Wayne Pipkorn, Supervisor, Seat 1
Bill Wattson, Supervisor, Seat 2 (via phone)
Gary Wickert, Supervisor Seat 3
Thomas Esser, Supervisor Seat 4

Tim Rhode, Administrator
Adam Monticelli, Director of Public Works
Brad Hoeft, Town Attorney
Eric Ryer, Assistant Administrator/Clerk
Charles Pretty, Treasurer

1. CALL TO ORDER/ROLL CALL/PLEDGE OF ALLEGIANCE

Chairman Salvaggio called the regular meeting to order at 7:00 pm. The meeting began with the pledge of allegiance.

2. ANNOUNCEMENTS:

None.

3. HEARING OF THE PEOPLE:

Jim Schmit of 1941 Ulao Parkway in Grafton suggested the Town Board look into allowing people to bow fish in Town waters. The Board directed Mr. Schmit to contact staff.

4. COMMUNICATIONS AND REQUESTS FOR HOLDING TANK AGREEMENTS AND OPERATOR LICENSES:

a. Discussion and possible motion regarding an operator license application as listed for the 2017-2018 license period*

Supervisor Pipkorn made a motion to approve the operator license application for Joanna Marie Farina for the 2017-2018 license period. Supervisor Esser seconded, and the motion passed unanimously.

5. CONSENT AGENDA: *The Consent Agenda contains routine items and will be enacted by one motion without separate discussion unless someone requests an item to be removed for separate consideration and vote.*

- a. Accepting November 15, 2017 Plan Commission Meeting Minutes**
- b. Approving December 6, 2017 Special Town Board: Budget Public Hearing Minutes**
- c. Approving December 6, 2017 Town Board Meeting Minutes**

Supervisor Wickert made a motion to approve the consent agenda. Supervisor Pipkorn seconded, and the motion passed unanimously.

6. TREASURER'S REPORT

a. Motion Accepting the December 2017 Treasurer's Report*

Treasurer Pretty presented the report to the Board. Supervisor Pipkorn then made a motion to accept the Treasurer's Report for December 2017. Supervisor Esser seconded, and the motion passed unanimously.

7. PRESENTATION OF BILLS/PURCHASE ORDER/PAYROLL/AWARDS

a. Presentation of Bills/Purchase Orders/Payroll/Awards for December 1, 2017 to December 31, 2017 (Check #'s 31990-32056, V1610-V1637 and manual checks as shown)*

Following brief discussion, Supervisor Esser made a motion to accept all bills as presented for review. Supervisor Wickert seconded, and the motion passed unanimously.

8. REPORTS TO BE RECEIVED/FILED (Non-action items)

a. Possible report regarding local nuisance/law enforcement issues (Administrator Tim Rhode)*

Constable Fitting was unable to attend. Administrator Rhode noted there were no active cases to report on.

b. Report on recreation program revenues and expenditures (Assistant Administrator/Clerk Eric Ryer)*

Asst. Administrator/Clerk Ryer stated there was limited activity, and that Little League registration is now open and we are beginning to accept sponsorships.

9. PUBLIC HEARINGS

a. Public hearing to take comment on Ordinance 2018-1 to rezone 43.55 acres of land with tax key # 030070600000 from A-2 Prime Agricultural to M-3 Quarrying District, and to rezone 22.60 acres of land with tax key # 030071000000 from A-1 Agricultural and C-1 Conservancy to M-3 Quarrying District [Petitioner: Dawson Trust, NW & SW ¼ Sec. 7]

The Dawson Trust has submitted a series of applications including a petition to rezone 43.55 acres (of the total 45.55 acre parcel) with tax key #03-007-06-000.00 located south of Pleasant Valley Road from A-2 to M-3, while leaving a depth of 208.80' of property adjacent to Pleasant Valley Road unchanged at A-2. They are also seeking to rezone 22.60 acres of property on the south parcel (25.6 acres total) abutting Cedar Creek from A-1 and C-1 to M-3 Quarrying; they would leave a buffer of 125' unchanged at A-1 and C-1.

Don Levy, representing Hans Dawson and Lannon Stone Products, explained they were before the Plan Commission seeking to extend the quarry east of Wausaukee Road into the Town of Cedarburg. He noted in order to do so, Wausaukee Road will need to be vacated, the properties will need to be rezoned, the Town Code will need to be amended to allow for berms with a slope of 1 (rise) to 3 (run) in the M-3 district, conditional use permits will need to be granted to operate the quarry and erect a berm, and they will need to obtain other necessary permitting through Ozaukee County. Attorney Levy provided the history of the quarry, and noted there are letters of support on file from various parties. He explained their immediate need is space to place the overburden as they expand the pit in the Town of Jackson; this would result in the creation of berm on lands in the Town of Cedarburg.

Attorney Levy wanted to address traffic, air quality, noise, groundwater issues, and vibration. He explained there will be no additional traffic as the quarry is an expansion of an already existing operation.

Hans Dawson of Lannon Stone Products then spoke, noting his grandfather started the quarry in 1970. He explained his family has five operations, with a family members living in each one of those host communities. He pointed out their efforts to support these communities. He reiterated the reasoning for the applications as described by Attorney Levy; those being constructing a berm and expanding the quarry in the future. He noted their products are used in road and construction projects. The Jackson quarry supports between 25-30 full-time jobs. He noted the limited number of quarries in the area, pointing out the Ozaukee County highway department purchases aggregate from their Lannon Stone quarry. He discussed the economic costs of trucking the product over large distances.

Hans Dawson next addressed common concerns associated with the quarry, noting there are federal, state, county and local regulations pertaining to quarries. He explained the Jackson

quarry has a low water table minimizing pumping. They are bonded for well replacement if neighboring wells are affected. Regarding air quality, he noted they have passive dust systems on the conveyor belts, have a water truck, and have driveways swept and washed. A vegetated berm on the property boundary will help knock down dust and help with noise. Regarding noise, a study they completed show the five closest homes should experience a noise level between crickets and conversational speech.

Supervisor Wickert noted many of the complaints received recently note the noise has become worse over time. Hans Dawson noted they have been moving overburden in the past year to create the pile in the southeastern corner of the Jackson property, which has resulted in more noise during that construction. He noted if the additional berm is approved, that would be the final berm constructed. He next addressed vibrations, demonstrating through their reports they avoid damaging levels of vibrations. He noted people will feel the vibrations, but their blasting falls within limits. He explained they have a voluntary call list to notify neighbors ahead of blasting.

Tim Hartely of 512 Cedar Creek Road, Cedarburg, said he has noticed increased noise due to the backup beepers on the trucks as the toe of the berm is being constructed. He said this is affecting his quality of life, and felt that as the quarry expands east many people will be upset.

Nathalie Schmidt of 640 Pleasant Valley Road, West Bend, noted they have replaced two wells on their property over the years without assistance from the quarry. She noted dust is a concern, and continuous noise. She questioned if additional operators will be added to the quarry if it expands, resulting in additional traffic. She also noted they feel the blasting each time.

Janet Montgomery of 11407 Cedar Creek Road spoke with concerns of noise and vibration that affect her and potentially the Hidden Valley subdivision to the south of her home.

Steve Marshall of 12042 Cedar Creek Road noted he moved to the area because of the peace and quiet. They noticed an increase in noise three years ago at the quarry. He finds the noise annoying and it affects their quality of life, making them sleep with the windows closed.

Rick Fox 9203 Sunny Ridge Lane noted he runs and bikes on Cedar Creek Road and Pleasant Valley Road. He felt the quarry expansion will create a pervasive low level noise that is not part of what one thinks of in a rural setting. He also questioned the siting of a quarry and berm next to Cedar Creek.

Bob Montgomery of 11407 Cedar Creek Road noted the quarry has been expanding eastward for years. He noted there are no quarries in Ozaukee County, and suggested that is because people do not want quarries infringing upon their private lives. He asked the Board keep this in mind.

Robert Dreblow of N44 W5496 Spring Street, Cedarburg, noted he is the retired Ozaukee County Highway Commissioner. He spoke in support of the proposed rezoning. He noted the Jackson quarry is the closest source of aggregate in the area. Costs would increase if rock needed to be trucked further. He noted there is a regional need for the products, and encouraged vacation of Wausaukee Road.

Andrew Schuetz of 12033 Pleasant Valley Road, West Bend, noted how the quarry has grown over time. He noted he replaced his well one time, and that Dale Dawson tried to buy out his land many times. He also noted the truck traffic is significant. He opposed the rezoning.

Jami Plunk of 1660 Summit Drive, Cedarburg, explained they moved to Cedarburg for the quiet, and that this expansion would effect that. She explained they can feel the blasting in their home, and had concerns about the safety of the truck traffic.

Don Brior of Cromwell Road in Germantown, an employee of Lannon Stone products, spoke favorably of the company. He noted Lannon Stone gives back to the community and sponsors field strips for local schools to the quarries.

Terry Skebba of 10326 Lawndale Drive, a former Town of Cedarburg Board member, urged the Board to approve the rezone so the Town can have some control over the quarry operations.

Rick Heard of 1288 Horns Corners Road spoke in support of the application.

Randy Vogel of 1894 Spring Valley in Jackson noted he is the Chairman of the Town of Jackson Plan Commission, and spoke in support of the application. He felt Lannon Stone has been an honorable and reputable company. He noted the operation is cleanly run, and noted their charitable work in the community. He also felt they are responsive to neighbor concerns. He noted they give directly to the Town of Jackson budget on a regular basis. He suggested once the berm is built, dust and dirt will be reduced. He also recommended the Town allow the quarry to expand so the Town of Cedarburg could have some control over the operation.

Jeff Kaczmariski of 1977 Elm Drive, Cedarburg, opposed the rezoning. He pointed out the existing Town berm ordinance allows for a slope of 1 (rise) to 6 (run). The proposed text amendment would allow a 1 (rise) to 3 (run) slope, by which he suggested they are trying to maximize the amount of waste being placed in the Town of Cedarburg. He pointed out Lannon Stone's stormwater prevention plan states a 1 to 4 slope is better than a 1 to 3 slope. He also cited noise concerns, and pointed out that the existing Lannon Stone quarry has enough stone to operate for many decades to come. He noted he is not asking to close the current operation, but rather maintain the existing farmland and atmosphere.

Dan Owens of 240 Royal Oak Court, Pewaukee, noted he is a foreman for Lannon Stone quarry. He noted the quarry has supported his family for three generations, and operates responsibly. He asked the Town protect this resource for future generations.

Mark Belknap of 1771 Granville Road, Cedarburg, noted he can hear the backup beepers on the trucks as well as the blasting. He requested the area seeking rezoning remain as open space. He explained that although the operation may be well run, quarrying by its nature makes noise and creates environmental impact. He suggested they find an alternate location. He noted the Cedar Creek area is environmentally sensitive, and an expansion will bring additional homes closer to the operation.

Jennifer Thomsen of 11422 Hidden Valley Drive, Cedarburg, noted they enjoy the atmosphere of their subdivision. They do feel the vibrations of the blasting, and do hear the noise of the equipment. She noted property values concerns if the quarry is to expand. She also noted environmental concerns including dust and effect on wells in the area.

Bob Hartwig of 3551 Country Aire Drive, Cedarburg, noted the need for aggregate in the area. He was a truck driver for the Ozaukee County Highway department and noted the aggregate is used for projects in the area. He suggested the berm would be a good thing to

address some concerns. He felt having the quarry nearer construction projects will help keep costs down.

Amanda VanZee of 1654 Summit Drive, Cedarburg, moved to the area recently and noted she wanted to hear both sides of the application. She sees the economic benefit of the project, but has concerns about the quarry expanding closer to their neighborhood.

Patrice Herbst of 2017 Washington Avenue, Cedarburg, noted they have lived in Cedarburg since the 1970s. After CTH NN expanded, they built a berm with a fence and landscaping, but that did not help reduce noise. She requested denial of the application. She noted the decision on this expansion will affect future generations.

Jack Henke of 10635 Foxcroft Drive, Cedarburg, spoke in support of the project.

Larne Proeber of 151 Winter Lane in Slinger noted he works for Payne and Dolan onsite at the Jackson Lannon Stone quarry. He noted they welcomed Payne and Dolan to the quarry when they moved from the Saukville location. He enjoys the tours of school kids at the plant. He spoke in support of the rezoning.

Pat Pretty of 10528 Pleasant Valley Road, Cedarburg, noted the noise has increased in the area over the past five years. He noted the increased truck traffic and possible speed violations of the truck drivers. He also noted safety concerns associated with trying to exercise on Pleasant Valley Road and CTH NN, and the wear and tear on the roads from the quarry trucks.

Virgil Dawson of 3044 Bark Lake Road, Richfield, noted he and his father found the Jackson quarry location back in 1969. He liked to hear concerns so they can address them. He noted he would prefer to have a location not near neighbors, but they must mine the mineral where it lies. He would like to preserve the minerals for future generations.

Mary Budiac of 1977 Elm Drive, Cedarburg, spoke in opposition to the rezone, citing concerns regarding noise, fly rock, and dust due to blasting, operations, and building of the berm.

Lori Pretty of 10528 Pleasant Valley Road, Cedarburg, had concerns regarding the trucks, traffic, and related high rate speed of the trucks.

Hans Dawson of Lannon Stone products noted that night operations have only occurred on two occasions as they were state projects requiring night construction. He also noted the area of the quarry was determined in 1970. He explained these applications will not affect the current state of trucking, noting he addresses trucking complaints with the drivers as they arise. The bulk of trucking that comes into the quarry is associated with other operators, with Lannon Stone having six trucks of their own. Truck frequency scales with active projects in the area. He did note they are looking to expand the size of the pit in the future, depending on the demand. He estimated a 20-30 year timeframe for expanding the quarry into the Town of Cedarburg, not counting the construction of the berm.

Richard Mett of 1815 Covered Bridge Road, Cedarburg, noted he has been in the Cedarburg area for 19 years, and has noticed the noise increasing over time. He had concerns regarding the water quality of Cedar Creek and potential impact of the expansion.

James Schmit of 1941 Ulao Parkway suggested revisiting the issue in future years to allow for additional study of the potential impacts of the expansion.

Sam Cox of 1560 Galaxy Court, Cedarburg, noted he has felt the vibrations and occasionally hears the quarry activity. He requested the Board consider the addresses of the people commenting at the meeting tonight. He suggested it will not get quieter if the quarry expands. He suggested the decision be delayed.

David Daniels of 11940 Cedar Creek Road, Cedarburg, spoke in opposition of the quarry expansion. He felt the home values in the area will be reduced.

With no further comment from the public, Supervisor Wickert moved to close the public hearing. Supervisor Esser seconded, and the motion passed unanimously.

b. Public hearing to take comment on Ordinance 2018-2 to amend Chapter 320: Zoning to require berms in the M-3 district be constructed with a slope that does not exceed one foot vertical to three feet horizontal

Attorney Hoeft clarified this is a text amendment application not particular to the quarry expansion, but rather an application to make a change to the Zoning Code in the M-3 quarrying district.

Supervisor Wickert moved to close the public hearing. Supervisor Pipkorn seconded, and the motion passed unanimously.

10. OLD BUSINESS

a. None

11. NEW BUSINESS

a. Discussion and possible motion on Ordinance 2018-1 to rezone 43.55 acres of land with tax key # 030070600000 from A-2 Prime Agricultural to M-3 Quarrying District, and to rezone 22.60 acres of land with tax key # 030071000000 from A-1 Agricultural and C-1 Conservancy to M-3 Quarrying District [Petitioner: Dawson Trust, NW & SW ¼ Sec. 7]*

This item continues from item #9a. Supervisor Wickert expressed concern seeing the Plan Commission did not make any findings regarding the application to pass along to the Town Board. He noted he has questions but no answers at this point. Attorney Hoeft clarified that the applicant has recently submitted a conditional use permit application to operate a quarry on the Town parcels. That application will appear on the January 17th Plan Commission agenda, which will include a public hearing. Attorney Hoeft noted past practice when there are rezone and conditional use permit applications being considered, that they be considered at the same meeting. He recommended all applications be considered by the Plan Commission at their January 17th meeting.

Supervisor Wickert noted a rezone protest has been filed with the Town, which needs to yet be reviewed. He explained if the petition is found to be valid, that will then require a favorable vote from 4 of 5 Town supervisors to approve the rezone instead of a simple majority. Attorney Hoeft confirmed that the protest was filed with the Town this afternoon, and he needs to review the protest to determine its validity. Supervisor Wickert reiterated he is not ready to vote on the rezone application since he doesn't have a Plan Commission recommendation. Attorney Hoeft noted the Board could table the Ordinance to give the Plan Commission an opportunity to make recommendations on the various applications.

Supervisor Esser then moved to table the Ordinance/rezone application. Supervisor Wattson seconded, and the motion passed unanimously.

b. Discussion and possible motion on Ordinance 2018-2 to amend Chapter 320: Zoning to require berms in the M-3 district be constructed with a slope that does not exceed one foot vertical to three feet horizontal*

Supervisor Esser noted the Plan Commission should review this item. He then moved to table the Ordinance. Supervisor Pipkorn seconded, and the motion passed unanimously.

Attorney Hoefft then explained the next meeting for the quarry related items will be the January 17th Plan Commission meeting. This agenda will include the conditional use permit and berm conditional use permit applications. He also noted the petition to vacate Wausaukee Road will be considered at a Joint meeting between the Town of Cedarburg and Jackson supervisors in mid-February.

12. CLOSED SESSION

a. The Town Board may go to closed session pursuant to:

- i. Wisconsin Statutes Sec. 19.85(1)(e) to “Deliberate or negotiate the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session,” including but not limited to the former Prochnow landfill property.**
- ii. Wisconsin Statutes Sec. 19.85(1)(g) to “Confer with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved,” including but not limited to a lawsuit against the Town filed by Eco-Site LLC and Scott R. and Patricia A. Akerlund concerning the property 4628 Cedar Creek Road, Town of Cedarburg, and including but not limited to, zoning and other Town Code violations concerning the property owned by Brian Beschta located at 1776 Horns Corners Road (and the adjacent parcel held in common ownership), tax parcel #s 030091001200 and 030091001300, Town of Cedarburg.**

At 9:25pm, Supervisor Esser made a motion to go into Closed Session per Wisconsin Statutes Sec. 19.85(1)(e) and Statutes Sec. 19.85(1)(g). The motion was seconded by Supervisor Pipkorn, and unanimously approved by roll call vote.

b. Reconvene to open session and the regular order of business

Supervisor Wickert made a motion that was seconded by Supervisor Wattson to reconvene to open session at 9:49 pm. The motion passed unanimously.

13. Discussion and possible motion related to closed session business*

None taken.

14. ADJOURNMENT

At 9:50 pm, Supervisor Wickert moved and Supervisor Wattson seconded a motion to adjourn. The motion was unanimously approved.

Respectfully Submitted,

Eric Ryer
Assistant Administrator/Clerk