

**TOWN BOARD MEETING FOR WATERFORD
APPROVED/OFFICIAL MINUTES FOR JUNE 8, 2015
5:30 PM AT TOWN HALL**

1. Town Board meeting was called to order at 5:30 PM by Chairman Hincz. Present: Supervisors Szeklinski, Alvey, Draskovich, Gauerke, Attorney Dubis and several residents of the Town (approximately 67).
 2. Chairman Hincz led the Pledge of Allegiance.
 3. Printed Minutes: Supervisor Szeklinski motioned to approve the Town Board meeting minutes dated May 11, 2015 & Special Town Board minutes dated May 11, 2015 as printed, seconded by Supervisor Szeklinski: 5-0. Motion carried.
 4. Treasurer Report/Payment of Claims- Supervisor Szeklinski read the Treasurer's report. Supervisor Alvey motioned to approve the claims as presented, seconded by Supervisor Draskovich: 5-0. Motion carried.
 5. Correspondence: Chairman Hincz spoke about the vacant Planning Commissioner seat and that he would like to appoint Risa Smith. Supervisor Alvey motioned to accept the appointment of Risa Smith to the Planning Commission, seconded by Supervisor Gauerke. Vote taken: 5-0. Motion carried.
 - Chairman Hincz read a letter from Julie Anderson dated June 2, 2015 regarding a comment made by Carol Hoppe at the June 1, 2015 Planning Commission meeting
 6. Committee Reports:
 - (a) Police Dept. Report- Chief Ditscheit reported zero auto thefts but identity thefts are up, mostly involving tax returns.
 - (b) Tichigan Vol. Fire Co. - Chief Wagner stated they now had the new defibrillators. Wagner spoke about the old Saltzman barn that burned down Sunday. Several surrounding fire companies were on hand to assist.
 - (c) WWMD- Representation not present. Chairman Hincz encouraged people to get involved with the WWMD.
 - (d) Park- Ken Hinz reported the upcoming events and that twelve picnic tables had been ordered.
 - (e) Road Dept. – Ken Hinz reported that the picnic table frames are in and work on the tables will start soon. Supervisor Szeklinski indicated that there were approx. 1100 people in attendance at the Lion's Picnic in the Park. Supervisor Draskovich thanked the Lions for all their hard work. Hinz also spoke about the need for the culvert access ordinance. Item to be on the July Town Board meeting.
 - (f) Town Planning Recommendations- Chairman Hincz started the discussion how the Waterford Post reporter had reported the Himebauch conditional use permit incorrectly and that the Town does not have the ability to control the paper and what they report.
 - Pier Permit, 6813 N Tichigan Rd. - Gary Bluemel represented the Anthony's. Szeklinski motioned to approve the pier, seconded by Alvey. Vote taken: 5-0. Motion carried.
 - Conditional Use Permit- Krupp, 7404 Northwest Hwy. - Request is to operate a therapeutic equine center. Gauerke motioned to approve the conditional use permit, seconded by Draskovich. Gauerke indicated that this approval did not include any proposed construction of a pole barn. Jennifer Pape, applicant, indicated she understood that. Vote taken: 5-0. Motion carried.
 - Conceptual Rezone- Senft, 28444 N. Lake Dr. - Board did not take action.
 - Conditional Use Permit- Himebauch, 33319 Hill Valley Rd.- Gauerke read the minutes from the June 1, 2015 Planning Commission meeting. Chairman Hincz noted that all the Town Board members were in attendance at the Planning Commission meeting. Hincz also noted that the action the board would be taking would strictly be on the conditional use and that the applicants would still need to apply for an extractive operations permit with the town which would require a public hearing. Randy Johnson, Johnson Sand & Gravel, addressed the depth of the pond. The bottom of the pond would be 795 with a water level of 808, making the pond 13'. Johnson addressed some of the concerns made at the planning commission meeting, one being the width of the road and trucks. He indicated that a quad axle truck is 8' at its widest.
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There would be 4'x6' signs at the exit telling drivers where to drive. Each driver would need to sign indicating that they understand the route. Chairman Hincz indicated that a petition was delivered to the clerk in support of the CUP. Chairman Hincz asked each board member to give their thoughts on the matter. Supervisor Draskovich noted that he had been to the site 2x, had spoken with Julie Anderson, Racine Co., and reviewed materials from 1998 to present. He expressed his concerns over County not requiring a bond/letter of credit for Maple Rd.; thinks that the pond should have clay liner at the bottom to protect against manure, nitrates, phosphorous; and concerns over the cuts in materials. He was not in favor of moving forward. Supervisor Alvey stated she had received several calls in opposition. She felt not enough precautions being taken and therefore, not in favor. Supervisor Gauerke gave an extensive background on this matter going back to 1998:

- 3/25/1998 Himebauchs request to build a riding stable, remove 22' of a hill, with all materials to remain on site
- 2/19/1999 Town of Waterford issued a 1-year permit, with renewals in 2000 and 2001
- 9/1/2001 Himebauchs submitted a revised plan calling for more extensive removal of materials (500,000 tons) mining below the water table, and creation of a 9.5 acre lake.
- 10/15/2001 Racine County approved the Conditional Use for the revised plan, contingent on Town approval.
- 1/14/2002 The Town of Waterford denied the conditional use permit.
- 6/10/2002 The Town of Waterford refused a request by the Himebauchs to reconsider its denial of the plan.
- Shortly after, a lawsuit was filed by the Himebauchs against the Town of Waterford.
- 1/25/2003 The Town of Waterford won the lawsuit. The Town was found to have acted within its powers, the Town acted according to law, there was rational basis for the Town's decision, and there was substantial evidence in the record to support the Town's decision.
- 2/7/2003 Waterford Post article regarding the lawsuit makes a reference to an interview with Racine County Assistant Corporation Council Matt McVey as saying that the court decision does not technically affect the second restoration plan. He added though that if the Town or the Himebauchs request the first restoration plan be reinstated that the RCPDC would need to examine that. He is then quoted as saying, "They are now unable to mine, so perhaps (the RCPDC) needs to amend the plan." The Town did request that the first restoration plan be reinstated, in fact, on
- 12/18/2003 The Town of Waterford adopted a resolution state that "The site restoration should follow the original restoration plan dated 6/24/1998 presented when intended usage was of a riding academy stable."
- 11/8/204 Town Board minutes Correspondence from Himebauch Farms requesting the Town Board reconsider the previously mentioned Resolution.
- 12/22/2004 Johnson Sand & Gravel presented a permit application calling for removal of 120,000 tons of material with no pond and a corresponding reclamation plan.
- 1/17/2005 Minutes from Racine County Economic Development and Land Use Plan Committee Meeting states "the applicants (Himebauchs) now have a final restoration plan calling for the removal of the hill."
- 1/24/2005 Letter from Racine County Planning & Development to Randy Johnson of Johnson Sand and Gravel "The Restoration Plan dated 12/9/2004 which eliminates the pond is a reasonable compromise between the pond and the horse barn."
- 2/7/2005 Town Planning Commission minutes Conditional Use Himebauch the clerk received a phone call requesting Himebauchs be removed from the agenda. Planning motioned to deny the conditional use.
- 2/14/2005 Town Board minutes "Langmesser noted that a letter was faxed to the Clerk from Schrober, Schrober & Mitchell (attorney for Johnson Sand & Gravel) requesting to be tabled. Due to time concerns, the Town Board made a dual motion to deny and table the request.
- 2/14/2005 Fax from Johnson's attorney "Within the next several weeks the Himebauchs can complete their efforts in order to provide all the relevant information to your board upon which your ultimate decision will be made."
- No additional information was provided. Now, 13 years later, instead of bringing back the compromise proposal which would have limited the proposed mine to 120,000 tons with no pond, the applicants have brought back the

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plan that was denied by the Town 13 years previously. In fact, this new proposal is even more extensive in its mining impact. The new plan calls for a 20% increase in mining (from 500,000 to 600,000 tons of material to be removed, and a 50% increase in the area proposed to be mined, from 16 to 24 acres. Thirteen years ago there was a great deal of opposition to this mining proposal, including a petition signed by 57 people in the neighborhood. The Town denied the proposal unanimously on 1/14/2002, we were sued by the applicants, and the Town won the lawsuit. The neighbors have been patiently waiting for the past 13 years for the site to be cleaned up and restored. Racine County had a \$35,000 restoration bond back in 2002 which they neglected to use to clean up the site. There was a very large crowd of citizens in opposition to this proposal at last week's planning commission meeting. I have received many phone calls and letters over the past several weeks, with all of the callers being strongly opposed to this mining proposal. The neighbors feel frustrated, angry and betrayed.

- I was told that Racine County took into consideration a lack of opposition at their meeting as a reason to approve this conditional use permit. Then, certainly at the Town level, we must take into consideration the level of opposition to this proposal at last week's planning commission meeting.
- A gravel pit should not be located on Town roads/rustic roads. They are not constructed to withstand the weight of tens of thousands of gravel trucks. Hill Valley Rd. had to be resurfaced with the small amount of truck traffic that occurred before 2002, and had to be patched near the pit entrance recently from trucks bringing in fill material.
- Randy Johnson of Johnson Sand & Gravel stated at last week's planning commission meeting that all truck traffic will be required to travel from a new pit entrance to be created on Maple Road north to Hwy 83. However Condition# 4 from Racine County dated 5/18/2015 states "An application for access from Maple Road shall be applied for to the Racine County Public Works office before a permit will be issued. If the access permit is approved, all truck traffic must enter/exit the property via Maple Road and truck traffic access from the Hill Valley entrance shall be prohibited." No mention is made in this condition that truck traffic would be required to travel north to Hwy 83, and no mention is made that truck traffic would be prohibited from travelling south on Maple Road to Hwy 20 or east on Hill Valley Road to Hwy 83.
- If all truck traffic is officially required by Racine County to be routed from Maple Rd. north the Hwy. 83. This is a dangerous intersection with hills and valleys north and south which limit sight distance. Maple Rd. is a rustic road, which according to the State DOT "should be a lightly traveled local access road, one which serves the adjacent property owners and those choosing to travel by auto bicycle, or hiking for purposes of recreational enjoyment of its rustic features." Maple Rd. is also posted as a Class B road which limits loads to 50% of their capacity.
- I am disappointed that Racine County did not research their own records more thoroughly and present the compromise proposal from 2004-2005 that would have limited the project to removing 120,000 tons of material with no pond. A 1/24/2005 letter from Julie Anderson to Randy Johnson called this "a reasonable compromise between the pond and horse barn."
- During the past 17 years, the Town of Waterford has never approved a conditional use for this site except to remove 22 feet of a hill for a horse operation.
- Finally, let us not forget as elected officials we are elected to represent and serve the people.

Supervisor Szeklinski concurred with the other board statements, concerns and reasons in not approving the conditional use permit.

Supervisor Gauerke motioned to deny the conditional use permit because 1) I was in attendance at the Planning Board Meeting of June 1st, 2015. I heard the comments in favor and against. I incorporate all those comments as stated in the minutes and tape of that meeting into this motion and I incorporate all comments made at this Town Board meeting in this Motion, Specifically, I move to deny the Conditional Use Permit because:

- 1) Truck traffic in the area from hauling back and forth will cause an adverse effect on the rural roads; will likely cause danger to pedestrians and their pets and animals;

- 2) There may be an adverse effect towards the water and ponds in the affected areas;
- 3) The tax base and land values of all homes in the particular area are likely to be significantly reduced;
- 4) There will be dust and debris constantly and it has been estimated that there may be in and out of the facility 100 truck entries a day on certain days;
- 5) The property was never intended to be used as an extractive operation. It was initially submitted as a horse riding/boarding facility with only temporary and secondary extractive uses which were to cease approximately 10-15 years ago;
- 6) The prior history of non-compliance by the applicants and/or their predecessors is disturbing. The site was to have been restored years ago and due to the applicant's and the County's inaction in seeing to this being accomplished, I have doubts that the project will be completed as promised;
- 7) There has been no application for a town extractive operations permit; Supervisor Draskovich added the following 3 reasons which Supervisor Gauerke incorporated into his motion:
- 8) Potential of a pond/wetland on the east side of the property towards Maple Rd.;
- 9) Change in the reclamation plan going back to the approved plan going back to June 24, 1998;
- 10) Racine County not requiring a letter of credit or bond for Maple Rd.; Supervisor Gauerke further added to his motion the following:
- 11) The 10'-15' setback variance granted by Racine County is in conflict with the town's extractive operation ordinance, and the neighboring property owner is in opposition to the 10'-15' setback
- 12) Supervisor Gauerke further added to his motion: Specifically, if it's determined that any one condition imposed by the Township is deemed beyond the authority of the Town to impose, the Town Board nevertheless intends that the remaining conditions remain in effect, seconded by Draskovich.

Chairman Hincz asked for those in favor of the CUP to come forward. The following residents spoke in favor and wanted the site to be restored. Some felt that the noise would be minimal and the Himebauch's would make the area beautiful:

1. Chad Henderson, 34321 Hill Valley Rd.
2. Rick Siemers, 4716 Maple Rd.
3. Andrew Gniotczynski, 34806 Hill Valley Rd.
4. Mike Pieczynski, 35420 Hill Valley Rd.
5. Ken Soens, 34920 Hill Valley Rd.
6. Randy Vosberg, 5118 Honey Creek Rd.
7. John Radi, 33800 High Dr.
8. Chuck Gorn, 5538 Honey Creek Rd.

Several members of the audience were in opposition to the conditional use. Matt Weiss, 33402 Sumerta Ct. had researched the effects of a gravel pit and found that 14.5% of home values decrease if there is a gravel pit within a one mile radius. He further spoke about how the trucks would create a dangerous intersection and the site to stop needed, feeling the trucks could not accomplish this as readily as a car. Weiss also indicated that if they were fracking for sand that this would impose health concerns.

Vote taken: 5-0. Motion to deny based on concerns noted carried.

7. Old Business:

- a) Discussion and possible action re: Ordinance Relating to Public & Chronic Nuisance- Board discussed that if the police dept. comes across an issue in regards to this ordinance that Chief will report to the Town Board. Supervisor Szeklinski motioned to approve the ordinance, seconded by Supervisor Gauerke. Vote taken: 5-0. Motion carried.
- b) Annual Liquor License Applications- Supervisor Draskovich motioned to approve the Class B licenses and their subsequent licenses for: Captain Missy's, Hilltop(DBA The Crowe's Nest), Rivermoor, What About Linda's,

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Tichigan Lake Lions Club, White Fox Den II, The Cruise and Sam's Diner, seconded by Supervisor Alvey. Vote taken: 5-0 Motion carried. Supervisor Szeklinski motioned to approve the Class A licenses and their subsequent licenses for: Tichigan Lake Mobil, Greeley's Country Store, and Tichigan Beer Depot, seconded by Supervisor Draskovich. Vote taken: 5-0. Motion carried.

8. New Business:

- a) Discussion and possible action re: Ordinance pertaining to speed limits- Supervisor Szeklinski motioned to approve the ordinance, seconded by Supervisor Gauerke. Vote taken: 5-0. Motion carried.

Supervisor Szeklinski motioned to adjourn the meeting at 6:55 PM, seconded by Supervisor Gauerke: 5-0. Motion carried.

Respectfully submitted,

Tina Mayer, Town Clerk