

**VERMILION TOWNSHIP BOARD OF TRUSTEES*****Record of Proceedings  
Minutes to Regular Meeting Held 7/7/21***

Meeting was called to order at 7:30 p.m. by Chairman Ronald L. Dickel.

Pledge of Allegiance.

Present: Ronald L. Dickel, Trustee; Carl E. Hill, Trustee; Charles T. Trinter, Trustee; Brenda J. Zsebik, Fiscal Officer; Robert Baker, Building Official/Zoning Inspector; Frank R. Triana, Vermilion Township Fire Chief; Tina L. Karres, Township Secretary.

MOTION BY C. Trinter, second by C. Hill to approve minutes to regular meeting held 6/16/21 and dispense with the reading of the minutes. Roll Call – C. Hill, yes; R. Dickel, yes; C. Trinter, yes; Motion Carried.

MOTION BY C. Hill, second by C. Trinter to accept the Treasurer's Report and Financial Packet dated 7/1/21. Roll Call – C. Hill, yes; R. Dickel, yes; C. Trinter, yes; Motion Carried.

MOTION BY C. Trinter, second by R. Dickel to approve and pay warrants 25283 through 25299 and payment vouchers 308-2021, 309-2021, 310-2021, 311-2021, 312-2021, 313-2021, 314-2021, 315-2021, 316-2021, 317-2021, 318-2021, 319-2021, 320-2021, 321-2021, 322-2021, 323-2021, 324-2021, 325-2021, 327-2021, 328-2021, 329-2021, 330-2021, 331-2021, 333-2021, 334-2021, 335-2021. Warrants and payment vouchers totaled \$31,119.07. Roll Call – C. Hill, yes; R. Dickel, yes; C. Trinter, yes; Motion Carried.

**AUDIENCE PARTICIPATION:**

Mr. Mike Ashar, resident, was in attendance to represent Mr. Brian Novotny regarding the notice of violation for his fence. Mr. Ashar explained the violation refers to code on fencing between commercial and residential properties. Mr. Ashar discussed Section 22.181 and felt that Mr. Novotny's barrier fence met the performance requirements of this section, but the methods were in question especially the word "may" which was interpreted as not mandatory. He stated that it was permissive rather than restrictive so Mr. Novotny using the stacked pallets, according to the language, was totally compliant with the code requirement. Mr. Ashar, in conclusion, asked that Mr. Novotny's notice of violation be dismissed declaring he was in compliance with the requirements of this code. Mr. Baker, Building Official/Zoning Inspector, stated he took over the job in March for Mr. Kurtz. In December of 2016, Mr. Novotny applied for numerous variances which were approved conditionally upon putting up a fence and putting the required parking spaces in. That variance expired within 1 year. Mr. Novotny agreed to do this. On March 25, 2017, plans were submitted to Mark Wagner, which is the plan examiner for commercial properties, for conditional approval for an occupancy permit upon completion. The project is still not completed. On April 11, 2017, Mr. Novotny applied to the township for the business. On January 24, 2018, Mr. Kurtz former Building Official/Zoning Administrator sent a violation letter referencing too many signs on the property. On May 19, 2018, he received a high grass maintenance letter. On January 9, 2020, Mr. Kurtz sent a letter out stating "no fence" violation meaning a fence had still not been put up. On February 18, 2020, Mr. Novotny applied for a variance, not to put up a fence which on March 27, 2020, the Board of Zoning Appeals voted to deny the request because he agreed to put up a fence originally. On May 4, 2020, Mr. Kurtz noted there was still no fence up. On May 6, 2021, a high grass letter was sent. On June 24, 2021, he was served by a processing service, that he had twenty (20) days to appeal in which he did not appeal

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and that has since expired. Today, on July 7, 2021, there is a cease-and-desist order being served on his business. First, there is no certificate of occupancy permit because the job was not finished, no fence was erected, improper amount of parking spaces, and variance expired. A copy was given to Mr. Novotny and the Board. Mr. Baker explained the Board of Building Standards allows for different types of construction. As stated in the last meeting, for the safety of the township, Mr. Baker explained if Mr. Novotny would like to use stacked pallets as a commercial fence, which is nonconforming, an architectural drawing is needed along with a structural engineer's report stating it is safe to have a pallet fence. The pallet fence is not connected to the ground, it is just stacked. Mr. Baker explained fences usually have posts and holes that are drilled and then inspected. Last, is certification from the pallet manufacturer stating their product (pallets) are approved for use as a fence. A lot of pallets have insecticide on them, and you have no idea where they are coming from. The pallets themselves are used materials. Pictures were presented of Mr. Novotny's pallets which showed used, peeling paint materials. The Ohio Basic Building Codes 114.3.3 states, "The use of used materials and products which meet the requirements of this code for new materials and products is permitted. Used products and materials shall not be reused unless approved by the building official." Mr. Baker explained that he was hired to do a job and he will not approve used, peeling paint pallets next to a residential property. Mr. Novotny's business currently is in violation of not having an acceptable fence up, the variances that were applied for are expired, he does not have the correct amount of parking spaces, and he does not have an occupancy permit to run the business. Therefore, the business is shut down until Mr. Novotny decides what he would like to do. Mr. Novotny had twenty days to appeal from the time he was served by the processor, but he did not appeal it. Mr. Ashar replied that he addressed the one notice of violation, and that the other items were being seen for the first time assembled so they need to have a chance to respond to these items. The argument lies with the one notice of violation regarding the fence and stated Mr. Novotny has complied with that specific code revision. Trustee Dickel replied that Mr. Baker was the Building Official/Zoning Inspector, and he has made his decision to not approve the pallet fence. Mr. Ashar stated the Board could override the Building Official/Zoning Inspector in this case and asked for a vote since the notice was sent by that body. Trustee Dickel asked for comments from the Board. Trustee Hill stated they were in the wrong venue since Board of Zoning Appeals (BZA) set the standard and they were above the Board. He said they would need to take it to the BZA Board and then back to the Board of Trustees. Mr. Baker reminded Trustee Hill the time has expired to appeal it with the BZA. The BZA made a decision and Mr. Baker stated he is responsible for the enforcement of that decision. Mr. Ashar added he felt the shut down was unfair, and Mr. Novotny had no time to respond to the action. The Board responded they were not trying to be unfair to Mr. Novotny, but he has had three years to comply. Mr. Novotny stated there was correspondence on May 14, 2021, in response to the violation and the Building Official/Zoning Inspector did not communicate back or set up a meeting. Mr. Baker clarified it was within 20 days after being served by the processor in which Mr. Novotny would not sign for. Mr. Novotny stated the previous Zoning Inspector had no problems with what he has done. Trustee Dickel stated they had a letter from the previous Building Official/Zoning Administrator that the violations listed on the letter needed action and Mr. Novotny's business was listed on the letter for having outstanding violations. A copy of this letter listing violations will be given to Mr. Novotny and Mr. Baker agreed to wait until the end of the week for any action allowing for a meeting with Mr. Novotny to discuss the violation.

Mr. Kenn Baughman commented that it is within the Boards authority to be the approval authority above the Building Official/Zoning Inspector if the Board disagrees with him or don't disagree with him. They can override the decision. He explained there would be a lot of upset people if Mr. Novotny would not open and asked the Board to take a step back and maybe give it a thirty day wait period to comply.

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Mr. Meyer located at 6 Ridsen Road was in attendance to report a safety concern regarding a tree that was uprooted and is leaning towards his property and also other trees in the road right of way leaning with limbs overhanging. He asked the Board if they could inspect the trees. The Board will inspect the trees and call a tree service to take care of the problem.

Mrs. Angela Baron, 11906 Lake Road, asked about a noise ordinance in response to her neighbors shooting guns frequently, riding motorcycles and four wheelers through the yard. The Erie County Sheriff Department was called, and it was stated there was no report. The Zoning Inspector will follow-up with the concern.

SPEAKERS:

None present.

CORRESPONDENCE:

No correspondence.

BUILDING OFFICIAL/ZONING INSPECTOR:

Building Official/Zoning Inspector, Robert Baker, reported for June the Zoning Department issued 7 zoning permits (\$1,309.50) and 1 lot split (\$25.00) with a total fee collection of \$1,334.50; the Building Department issued 18 permits with a total fee collection of \$5,447.50 and total valuation of work being done at \$1,062,094.75.

VERMILION TOWNSHIP FIRE DEPARTMENT:

Chief F. Triana's report: Fire Runs between 6/1/21 – 6/30/21. EMS – 70; MVC – 2 (w/injury); Open/Controlled Burn – 3; Barn Fire – 1 (M/A Berlin Hgts.); Rubbish Fire – 1; Alarm Activation – 3; Fire in Wall – 1; YTD: 394 Runs.

Sutphen Corporation was on station June 18, 2021, taking truck inventory for necessary filters and will return in July to complete PMs of the fire apparatus.

O.E. Meyers was also on station and picked up the cascade system bottles (4) which are due for Hydrostatic Testing. This will take approximately two (2) weeks and then they will return the bottles. Bottles have been tested and are back in service.

The primer valve on 822 was rebuilt by Sutphen Corporation Monday, June 28, 2021. The service tech advised the Chief that the auxillary pump primer is not functioning and he will get a price to repair or replace. During the PM's the Chief asked that they pay particular attention to 821's primer as well.

Members would like to have the road crew bring over the small dump truck and clippers to trim up the outside of the building if there are no objections.

Fire reports for June are complete and have been submitted to the State.

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On July 18, 2021, the firefighters will host a car wash here on station and the time is from 11:00 a.m. to 2:00 p.m.

NORTHERN OHIO RURAL WATER REPRESENTATIVE:

None present.

OLD BUSINESS:

Mr. Baker reported the nonconforming certificate that was issued to Wild Waves, Inc. was upheld by the Board of Zoning Appeals. Mr. Baker corrected an inaccuracy that was printed in the Vermilion Photojournal regarding a statement that the township prosecutor gave legal advice to the Board of Zoning Appeals which they did not. They did not receive any legal advice regarding Wild Waves, Inc. The only input they received from the Assistant Prosecutor, Susan Brown, was how to hold a meeting. The BZA are good, hard working people who care about the township. Mr. Baker thanked them for their hard work and a job well done. The only legal advice given was for the Building Official/Zoning Inspector to make a decision on Wild Waves, Inc. The decision to issue a nonconforming certificate in section 6.3 of the Vermilion Township Zoning Resolution. In essence, Mr. and Mrs. Nuhn had the burden of proof to meet which they met in regard to a nonconforming certificate. They did not need a variance or a conditional use permit or a nonconforming certificate.

Trustee Hill received application from the Historical Society to get Cuddeback Cemetery on Historical Registry. If approved to be on the registry, cemetery grants can be applied for.

Trustee Dickel reported there was a leak in the roof on bay 4 and the contractor 1<sup>st</sup> Choice Roofing Company was contacted for repair.

NEW BUSINESS:

Mr. Baker reported a complaint was received from a township resident in regard to electrical issues. Further inspection of records revealed over 24 electrical inspections that were conducted by former Building Official, Mr. Kurtz, which he was not licensed to do. This is what was discovered on the initial look. Mr. Baker will be issuing a letter notice to the newspaper which applies to any resident that had an electrical inspection personally done by the former Building Official, Mr. Kurtz, they need to call the township so work can be properly re-inspected. Mr. Baker was also contacted by law enforcement about the former Building Official, Mr. Kurtz in regard to working 4 jobs while he was the Building Official at the township. All information will be given to law enforcement so they can follow-up with their investigation.

Fiscal Officer Zsebik reported on memo dated June 23, 2021 from John D. Farschman, P.E., P.S., Office of Erie County Engineer, regarding the Salt Bid for 2022 Calendar Year asking if the township desires to be included in the overall bid for rock salt. Mrs. Zsebik asked for a motion to request zero tons since the township participates in ODOT. Reply must be received by July 16, 2021.

MOTION BY R. Dickel, second by C. Hill requesting zero (0) tons to be purchased through the county for the 2022 season. Roll Call – C. Hill, yes; R. Dickel, yes; C. Trinter, yes; Motion Carried. The township purchases salt under the state purchasing program.

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Mrs. Zsebik, Fiscal Officer requested a motion to set up the 2022 Budget Hearing to be held on Wednesday, July 21, 2021 at 7:45 a.m.

MOTION BY R. Dickel, second by C. Trinter to hold a Public Hearing for the 2022 Budget on Wednesday, July 21, 2021 at 7:45 a.m. Roll Call – C. Hill, yes; R. Dickel, yes; C. Trinter, yes; Motion Carried.

Trustee Dickel received estimate to replace boot on roof of township building from 1<sup>st</sup> Choice Roofing Company at a cost of \$450.00 for an estimate of 4-man hours of labor.

MOTION BY R. Dickel, second by C. Trinter authorizing to replace boot on roof of township building from 1<sup>st</sup> Choice Roofing Company at a cost of \$450.00 for an estimate of 4-man hours of labor. Roll Call – C. Hill, yes; R. Dickel, yes; C. Trinter, yes; Motion Carried.

Trustee Dickel discussed sidewalk repair by GetGo on State Road.

Discussion regarding Mr. Novotny's appeal date. After discussion, Mr. Novotny stated the fence issue had already been resolved. The Board gave letter with documented violations from previous Building Official to Mr. Novotny. Mr. Novotny asked how he was able to operate for 5 years with violations and stated he should have been notified much sooner. The Building Official stated the fence issue has not been resolved and he is handling the violations how they should have been handled. Mr. Ashar stated if the township has ignored pressing the issues for that long, it begins to approach being a waiver. Mr. Novotny stated every violation that was taken care of in the past, no one ever sent a letter stating your violation has been corrected, the inspectors just came out and said everything was fine, so he assumed everything was fine. Mr. Baker explained why the fence needs to be safe, what he needs to do to obtain approval to use a pallet fence, and/or the option of putting up a regular fence. Mr. Ashar requested the Board to consider allowing time for both parties to discuss and review the case.

MOTION BY C. Trinter, second by R. Dickel authorizing to propose a thirty (30) day cooling off period stopping the cease-and-desist order for 30 days. Trustee Dickel asked if they would meet with Mr. Baker to resolve the issue. Both parties agreed to meet. Mr. Baker reminded the Board he was representing both residents of the township and is fine with allowing the 30 days to resolve all variance issues. Roll Call – C. Hill, yes; R. Dickel, yes; C. Trinter, yes; Motion Carried.

MOTION BY: R. Dickel, second by C. Trinter to adjourn the regular meeting at 8:39 p.m. with no further business to discuss. Roll Call – C. Hill, yes; R. Dickel, yes; C. Trinter, yes; Motion Carried.

*Ronald Z. Dickel*

Trustee

*Carl Hill*

Trustee

*Charles T. Trinter*

Trustee

*Vina J. Karres*

Township Secretary