

MINUTES
Village of Iola Special Board and Zoning Committee Joint Meeting
December 21st, 2022

The meeting was called to order by President Jennifer Schustek at 5:30 and opening meeting statements was read by President Schustek.

Roll Call was taken by clerk Betty Aanstad. Trustee Present: Jennifer Schustek, Dave Harper, Jim Rasmussen, Pamela Parks, Missy Fenn, Rick Meyers Mark McCoy, Mark Sether, Chuck Fritz, Larry Flowers, Ed Staal, Legal Attorney Bruce Meager. Excused Absence: Mike Devine Others Present: Ryan Brown, Waupaca County Zoning, Holly Neumann, Hayden Nelson, Donna Mummery, Annie Ording, Sheri Miller, Steve Steiber, Ali Johnson, Doreen Craker, Janine Beauchaine, Tary Trepasso, Joe Opperman, Laura Scott, Greg Ambrosious, Betsy Grant, Barbara Johnson, Ricky Ertl, Linda Driver, Sandy Bostwick, Sara Mendoza, Luke Reinke, Jackie Wendlandt, Bill Wendlandt, Travis Blasi, Brian Kaston, Kari Esbenser, Russ Butkiewickz

The Pledge of Allegiance was led by President Schustek with a moment of silence following the Pledge of Allegiance.

Roberta Walls from the Wisconsin Department of Natural Resources, Non-Metallic Mining Coordinator was called into the meeting by telephone by Clerk Aanstad. President Schustek made the introductions. President Schustek asked that we talk about the current ordinance the Village of Iola has on the books regarding Non-Metallic mining. Ryan Brown explained how it works regarding regulations once an application is received. If the regulations are in the process of being changed and an application is received. The regulations can move forward with the changes and be adopted, however once an application is received the regulations on the books are the ones that must be followed, not the new regulations. Ryan explained that Faulks has agreed to follow Waupaca County ordinance, which has more provisions and are stricter than the ordinance the Village of Iola currently has on the books. Waupaca County's ordinance is above and beyond which the Village of Iola currently has on the books. President Schustek asked Ryan Brown "After this is completed and the village needs to adjust some things for non-metallic mining, can we still move forward with changes. Ryan stated, that yes, we should continue to move forward with changes. He said any new applications the village would receive, and the new changes are in place would apply to if they were on the books.

President Schustek asked Ryan about the NR135 Reclamation Plan. She asked if the village could utilize the County's NR135 Reclamation Plan. Ryan stated "Yes". He also explained there are some options and Roberta is the statewide expert when it comes to reclamation. He explained NR135 is the government's administrative code to reference Non-Metallic Mining. Ryan stated Roberta will go into more detail when it comes to the mechanics of NR135 and how the village would need to handle the enforcement of it.

Roberta was brought into the conversation by Ryan, who asked Roberta to elaborate on terms or options of what the village would need to do to be in compliance with NR135.

Roberta characterized how a city/village/town can come in as a regulatory authority and interplays with the County level. She explained state statute 295 is the statute that requires all counties

to be a regulatory authority for administering a reclamation permit program for all non-metallic mines within there county. A city/village/town may also adopt an ordinance, what that does is takes the authority that would be at the county level and gives it to the city/town/village. The County would cover everything outside of the village boundaries and the ordinance would cover what is within the village boundaries.

In reference to the Village of Iola Chapter 183, the village will need to meet the same requirements as the county and follow the state procedures and methods in administering a reclamation permit within the village boundaries. She said there is not a lot of distinction between the two, in some cases there may be an advantage for the villages to allow the county to administer it. In many instances a village will allow the county to do that work. When the DNR provides the oversight, they would provide technical assistance to administer the program according to what the NR 135 requirements would be. The village would also be subject to an audit by the DNR to review the effectiveness of the program, ensure that we are administering it in a no more or no less restrictive fashion than what the code requires. And the program is running in a balanced physical manner.

After making those statements, Roberta touched on the Village of Iola's ordinance 183. Below are three options the village will need to pick from regarding bringing the Village of Iola code up to current NR135 standards.

Option 1: Elect to become a "regulatory authority" and use the municipality that implements NR135 and enforces zoning.

Option 2: Opt out of becoming a regulatory authority and remove all references in the Village Code of Ordinances to Chapter 295 of the Wisconsin Statutes and retain the zoning portion of the Ordinance.

Option 3: Fully rescind the existing Ordinance and then decide whether or not to become a regulatory authority for the purposes of reclamation.

President Schustek verified with Ryan from the County that if the village chooses option 3, the County will take over the village's reclamation program at this time and it would give the village time to update the current ordinance. Ryan explained how the reclamation program would work and how the County handles NR135 reclamation processes at this time. The County has a contract set up with East Central Regional Planning. They have everything deferred over to them to handle all the County NR135 reclamation plans. They also handle the NR135 for five other counties. They handle the process and auditing. If the Village would move under the County program East Central Regional Planning would handle everything.

Ryan explained the difference between Zoning and reclamation. Zoning cannot be retroactive with the regulations. Reclamation NR135 needs to be cleared up on how it is going to be handled in the village. Trustee Harper asked who pays, Ryan stated that the program is self-sustaining.

Roberta touched on how to set up a program if the village would take on the NR135 Reclamation program. She stated time and costs for set up in the beginning would be the big things. Ryan stated that the County would help.

Ed Staal asked if County taxpayer funds are used to fund this at the County level. Ryan stated, "no taxpayer money is used to fund the NR135 Reclamation".

Larry Flower's asked Ryan and Roberta if the village gives up the NR135 Reclamation to the County, will the Village have any input in the Reclamation regarding how the landscape would go back. Roberta said there is a public process that the Village could have input in the Reclamation Plan. Roberta stated a Reclamation plan has to be compatible with what is within the village.

Ryan stated the County will not have anything to do with the Zoning. The village will maintain its zoning. The Conditional Use program will be done by the Village.

Mark Sether asked Ryan if there are any other situations like this in the County/Township and City or Village. Ryan stated they currently do not have anything like this in the county regarding a NR135. Roberta said statewide they have about 28 municipalities that opt into the program to administer. They do it for various reasons, some like to keep a close eye on what is going on. Village of Hobart is the closest to the area that is a regulatory municipality. Ryan asked Roberta to clarify if the municipalities are unto themselves or refer back to the County. She stated unto themselves.

Dave Harper asked Ryan about the time frame. Ryan stated that each time a conditional use is in front of them they each have their own dynamics. Some go quickly, others go very slowly. Ryan said the Town of Scandinavia has asked for an extension which has been granted.

Ryan explained how the procedure works, recommendations go to the Town Board then they go back to the County and back to the Town Board. He said there could be additional meetings, and in this case, he feels it is going to be slow and may take another three to four months.

President Schustek stated that she felt the village is going to take its time. Jim Rasmussen said that from what he has read, the mine will start in the Town of Scandinavia, because of that, the Village would not need to approve it at this time. It may take years before it would get to the Village of Lola portion. Ryan agreed; however, he said what they are trying to do is keep everything consistent. With Conditional Use permits. By doing that both parties have a common set of rules and would be easier for everyone.

Jim stated in otherwards there are three basic scenarios:

1. Village approves it, Town of Scandinavia and County approve it.
2. Village rejects it, Town of Scandinavia and County approve it.
3. Village rejects it, Town of Scandinavia and County reject it.

Larry Flower's asked if we could place a moratorium on any additional mines. Ryan referred it to legal counsel for the Village. Legal Counsel Bruce Meagher and Ryan both stated because of case law the village could not put a moratorium on non-metallic mining.

Mark Sether asked Ryan if it would be in the best interest of the Village to move forward on Roberta's suggestions regarding the NR135. Ryan stated yes, we need to move forward with that.

Ryan stated in the end, it comes down to if the village wants to be in charge of NR135 or if the village would like the county to be in charge of it.

Jim said if we opted out and let the county take over. What would that allow us to do regarding the Conditional Use permit. Ryan said the NR135, and Conditional Use permit are two separate things. The village would have full control of the Conditional Use permit and Zoning.

Ryan explained why you would want to make sure you get financial insurance; in case the operator decides to take off and abandon the mine. Then the village would need to take care of it. Ryan said normally when that happens the operator would file bankruptcy. He said you want to normally have a letter of credit and not a bond.

President Schustek invited Ryan Brown to stay for closed session.

Larry moved that the village go into closed session. Jim seconded going into closed session. Motion carried.

Closed Session:

President Schustek announced at 6:15 p.m. the meeting was in Closed Session.

A discussion was had regarding the options that Roberta stated and Jennifer asked that everyone understood them. Attorney Meagher was asked to write up Roberta's recommendations and it would be read at the January 9th, 2023, Board Meeting.

It was discussed what directions the village should go, and everyone felt that at this time the village take no action on anything and wait to see which direction the Town of Scandinavia is going to go after they host their public hearing on January 4th, 2023.

Ed Staal made a motion to move out of closed session and back into Open Session. Larry Flower's seconded the motion. Motion carried.

President Schustek announced the meeting has been adjourned out of Closed Session and back into Open Session.

Ed Staal made a motion to adjourn the meeting in Open Session. Mark McCoy seconded the motion. Motion carried.

President Schustek announced at 6:35 p.m. the meeting was adjourned.

Submitted by Betty Aanstad, village clerk.