

## MINUTES OF THE COMMITTEE OF THE WHOLE MEETING OF MAY 12, 2010

### Call to Order

President Fischer called the Committee of the Whole meeting to order at 6:00 p.m.

### Roll Call

PRESENT: President Fischer, Trustee Elrick, Trustee Frassetto, Trustee Hietpas, Trustee Mahlik, Trustee Van Deurzen, Trustee Verstegen

ALSO PRESENT: C. Kell, D. Haug, E. Misselt, J. Moes, T. Flick, R. Van Gheem, V. Schneider

### Public Appearance for Items not on the Agenda

None

### Public Informational Meeting – New Street Connecting W. Lincoln Avenue to W. Main St.

Dennis Buschke, McMahan Associates, reviewed the proposed design of a 300 foot street connecting W. Lincoln Ave. to Main Street. The street design shows a 24 foot width on the W. Lincoln end and a wider section on the north end that includes a left and right turn lane on to Main Street and a lane coming in. The street will be constructed in concrete and the goal is to bid the project along with another project in the Village to get a better price for the construction. Mr. Buschke also reviewed the proposed landscaping plans that he worked on with T. Flick that calls for three - 2 inch Honey Locust trees, five – 2 inch Shamrock Linden trees, and 8 arbor vitae bushes along with mulch and grass. Molly Houlihan, 329 W. Main Street, asked if the landscaping plan was firm as she was informed that she would be consulted on the landscaping and no one from the Village had contacted her and this is the first she has seen the plan. Mr. Buschke explained that the purpose of this meeting was to accept comments from the residents. Trustee Mahlik questioned the buffer of trees and when they will actually reach maturity to create a buffer. T. Flick explained that at maturity, which under the right conditions would be 25 plus years, the locust trees would be 45 feet tall and the Shamrock would be 40 feet tall and he further explained why trees larger than 5 inches in diameter are not recommended, as the tree will likely be lost within 5 to 8 years because of the shock of transplanting. T. Flick stated the trees are not meant to provide a solid wall and the arbor vitas would reach 10 feet tall and 8 feet wide in approximately 10 years under the right growing conditions. Mr. Buschke stated the street is going to be constructed 2 to 3 feet lower than the existing ground so there will not be a berm but a gentle slope up to the existing property. T. Flick explained that the Parks and Forestry Department will be responsible for maintaining the mulch and grass in this area because the Village is responsible for creating this unique terrace area. Molly Houlihan stated that her preference would be a brick wall or a fence and this landscaping would be her third choice and she does not want to be responsible for maintenance and she asked that the Board consider another option for privacy such as a wall. Molly Houlihan asked that if the proposal goes through for the landscaping she would like it in writing that the Village will spray for weeds and maintain the property. Trustee Mahlik thought the original agreement was for a wall. Molly Houlihan asked that the record show that if a wall is constructed she wants it to go from her back lot line to the south end of her house. C. Kell asked the Board to consider separating the landscape concept plan from the road design so a decision can be made on the street or the Village will not make the required timelines based on the Developer's Agreement. Mr. Buschke stated that if it isn't a problem with the Village, he could provide a CAD design of the road and landscaping as requested by Trustee Mahlik. Trustee Mahlik also expressed his beliefs on criteria the Developer had to meet before the Village moves forward with putting in the road. C. Kell did not agree that the Developer had to meet any criteria before the road goes in. Trustee Hietpas asked about the status of the Developer's finances and requested that copies of the Developers Agreements be provided to the Board. Amanda Larson, 319 W. Main Street, asked about the status of the Developer's project as Mr. Van Dyn Hoven has a contingent offer to purchase on her home and she asked if she should be looking for a new home or not. Mr. Buschke stated he could comment that the street project comes within 2 to 3 feet of the sidewalk that goes along side her house. C. Kell stated that the preliminary plan with Mr. Van Dyn Hoven is that there will be a simultaneous closing between the property the Village is buying and the

property Mr. Van Dyn Hoven is purchasing from Mrs. Larson and this won't move forward until the street design is approved. Mr. Buschke confirmed that handicap detectable warning fields on all sidewalk crossings. Mr. Buschke assured Ms. Houlihan that he along with village staff will meet with her and the other property owner to discuss the landscaping options. Ms. Houlihan also questioned who was responsible for addressing street lighting, utilities, and sidewalks. Mr. Buschke stated there will be sidewalk on the east side only and there would be no utilities on the street except for on intersection of W. Lincoln. Ms. Houlihan also asked if she can propose not being assessed for 50 years and she asked the Board to vote on that and asked for her issues to be put on a future agenda. Discussion continued. C. Kell stated that the Village Attorney will advise this Board that they cannot contractually obligate a future Board.

**Presentation by Bill Rollins of Aquatica Design – Pool Study**

T. Flick stated that due to some health issues of the consultant, he didn't receive the presentation documents in time to review them for tonight's meeting and he asked the Board to table the presentation until the next Committee of the Whole meeting.

*Moved by Trustee Frassetto, seconded by Trustee Elrick to Table the Pool Study Presentation by Aquatic Design.*

Ayes 7, Nay 0 – Motion Carried Unanimously

**Review/Possible Action – Sidewalk Café Permit – Seth's Coffee**

Trustee Frassetto commented that she liked the plan and the furniture selection being proposed and she hopes it will increase the foot traffic downtown. Trustee Verstegen agreed and she commented on the plan proposed by Public Works that showed six tables on the Grand Avenue side and no tables on Main Street. Seth Lenz stated he would like to be approved for the maximum number of six tables but he would probably start with three table sets. R. Van Gheem stated that the plan prepared by Public Works followed Village ordinance and the State does not allow for tables to be placed along Main Street in the right-of-way.

*Moved by Trustee Frassetto, seconded by Trustee Van Deurzen to Approve the Sidewalk Café Permit for Seth Lenz based on the Design Plan submitted by the Department of Public Works.*

Ayes 7, Nay 0 – Motion Carried Unanimously

**Review/Possible Action – Verizon Wireless – Site Plan – Construction of Equipment Shelter/Antenna Modifications – 1505 E. Elm Dr.**

J. Moes stated that because this structure is located in the Industrial Park, the Board needs to review and approve the site plan. J. Moes stated that staff has reviewed the site plan and approval is being recommended subject to the property owners replacing the dead trees and shrubs with similar live trees and shrubs.

*Moved by Trustee Verstegen, seconded by Trustee Elrick to Approve the Site Plan for Verizon Wireless at 1505 E. Elm Dr., subject to the property owners replacing the dead trees and shrubs with similar live trees and shrubs.*

Ayes 7, Nay 0 – Motion Carried Unanimously

**Discussion/Possible Action – Design of Washington Street Reconstruction Project**

C. Kell reviewed the memos showing the cost estimates that were presented to the Board tonight. The plan for the concrete street has a bottom line to the general taxpayer of \$58,134.99. The plan that incorporates Mr. Hartwig's proposal of putting in asphalt from the tracks to Paradise Dr. and includes concrete from the railroad tracks to Main Street, asphalt at the intersection from Paradise Dr. to Hwy. OO with turning lanes, concrete north of Hwy. OO with turning lanes, and concrete to the Dutch Harbor entrance and the cost to the general taxpayer of \$100,535. Laurie Verhagen, 226 Paradise Dr., asked where sidewalk was going to be placed and staff responded that sidewalk would be placed only on the east side of Washington St. Richard Williamson, Paradise Dr., asked the Board to consider the residents on Paradise Drive and commented that a concrete street should be put in and the property owners should be assessed. Laurie Verhagen asked about giving consideration for access to the sidewalk so they do not

have to walk over the grass to get to the sidewalk. R. Van Gheem stated the best option for pedestrians is to cross at the intersection. Laurie Verhagen commented that it is dangerous to cross at the Hwy. OO intersection. Trustee Van Deurzen stated he agreed with the recommendation to replace the curb, narrow the street and he wants to see all property owners assessed for the project. Melissa Heiting, 1101 W. North Avenue, asked how much of her parking is going to be taken out. R. Van Gheem stated that nothing will be taken from the private property but the Village will not allow parking on the terrace area and the current parking spaces will be lost because of the widening of the intersection. Laverne Vanden Berg, 1014 W. North Avenue, commented on the hardship the assessment for a concrete street will cause for her. Luke Van Handel, commented on behalf of Laverne Vanden Berg, that he would like to see asphalt considered for the north side of Cty. OO. C. Kell explained why asphalt is being proposed for the area south of Hwy. OO which is because of a possible future expansion of the Nestle plant and that is not the case for the area north of Hwy. OO. C. Kell noted that an asphalt street will have more maintenance cost than a concrete street and the Board should consider that the general taxpayers should not pay more than \$58,500, so the Board may want to consider assessing Nestle and the other property owners south of Hwy. OO. Mr. Hartwig stated he will meet with Mr. Kell to review the numbers and he commented that an important part of the equation is how the bids come in. Sara Eslinger, 1005 Washington Street, stated she would like to see the road constructed in asphalt instead of concrete. Further discussion took place. Trustee Elrick requested that staff provide an estimate of the maintenance costs of asphalt versus concrete for the next fifteen years. Trustee Frassetto asked Mr. Hartwig if he would be comfortable putting his contribution amount in writing once he and Mr. Kell meet to discuss the project costs, so the Board has something to move forward with. Mr. Hartwig indicated he would be willing to put the amount in writing.

*Moved by Trustee Verstegen, seconded by Trustee Van Deurzen to table action on this agenda item until next week's meeting.*

Ayes 7, Nay 0 – Motion Carried Unanimously

#### **Discussion/Possible Action – Design of New Street Connecting W. Lincoln Ave. to W. Main St.**

Trustee Verstegen suggested that the landscaping be separated out from the street design at this time due to the concerns about the landscaping and the need to move forward with the street design. Molly Houlihan again requested that her concerns be put on a future agenda.

*Moved by Trustee Frassetto, seconded by Trustee Hietpas to table the new street project until the details of the landscaping plan or the separation of the landscaping plan from the street can be worked out as well as until the Board has an opportunity to review the developer's agreement that was presented to the Board and the signed agreement so they can be informed before they make a decision.*

Further Discussion: Trustee Verstegen stated she would like to see the street design go forward at this time and the landscaping plan can be approved at a later date after staff and the two neighbors work on it. Trustee Hietpas stated he believes the two taxpayers would lose negotiating power by separating out the items as the Village is under a timeline now and if the street design is decided on then the landscaping could be pushed off. Trustee Elrick stated it is the Board's job to see that staff and McMahons follow up to get the landscaping plan worked out so that it doesn't get postponed and he apologized to Molly for not getting together with her to go over the plan but he did not see the plan until he received his packet last Saturday. Trustee Mahlik stated he still wants to see what Dutch Boyz is bringing to the table before they move forward. Staff and Mr. Buschke informed Trustee Frassetto that they could meet with the residents prior to next week so it could be put back on the agenda next week. C. Kell commented on the different options such as a wall or fence and noted each option has a different cost and the Board will have to make that decision. Trustee Mahlik gave further comments that the Developer has to meet certain requirements before the road is constructed. Molly Houlihan again stated that she wants her questions all ironed out before any dirt is turned. Further discussion took place.

Vote on the Motion – Ayes 4, Nay 3 (Elrick, Van Deurzen, Verstegen) – Motion Carried

**Discussion/Possible Action – Complaint Regarding Bushes in the Right-of-Way at 182 Grant St.**

Trustee Frassetto suggested rewording the current ordinance to take out the word “shall” and insert the word “may” as this will allow for Mr. Flick and his staff to use their discretion and this change would just be for the ordinance for the woody materials. T. Flick stated that in regards to this property, and based on the Chief’s assumption of no safety concerns, his opinion is to not take any action towards the property at this time. Trustee Van Deurzen commented on the speed of traffic on Bluff Avenue and asked if a stop sign could be installed. R. Van Gheem stated stop signs are not used to control speed. Chief Misselt commented on using common sense and stated he agreed with the recommendation to change the word in the ordinance to “may”. Laurie Hansen commented on the bushes being removed and the safety of the children and agreed a stop sign should be put on Bluff Avenue. Ms. Berken commented on the bushes suffering wind damage and being maintained at a reasonable height and she stated there is not a safety issue. Further discussion took place.

*Moved by Trustee Frassetto, seconded by Trustee Mahlik to direct staff to amend the ordinance to change the word “shall” to “may” and bring the amendment back to the Board for possible action.*

Further Discussion: Michael Stouffer, Bluff Ave., commented on the issue of the speed of traffic on Bluff Ave. C. Kell asked if the ordinance should incorporate something about staff’s reviewing and approving. Chief Misselt stated staff will work together on the wording and bring a proposed amendment back to the Board for consideration. Trustee Verstegen stated she will vote against the motion because she believes that when the word “shall” is used it gives the staff direction on how to proceed.

Vote on the Motion: Ayes 6, Nay 1 (Verstegen) – Motion Carried

*Moved by Trustee Frassetto, seconded by Trustee Elrick to take a five minute recess.*

Ayes 7, Nay 0 – Motion Carried Unanimously

President Fischer called the meeting back to order at 8:17 p.m. All Board members were present.

**Discussion/Possible Action – Private Lateral Replacement Policy/Private Lateral Sanitary Lateral (prequel)**

Trustee Elrick thanked resident Gabe Konopka for the email and his research on the issue and he believes that the property owners being responsible from the main to the house is adequate. R. Van Gheem reviewed the process as proposed in the IFC for homeowners electing to use the Village’s contractor and for those that elect to hire their own contractor. Trustee Elrick stated he had met with staff and asked D. Haug to provide the handout to the Board tonight that showed the Village’s payment for the month of April for treatment of wastewater. Trustee Elrick proposed that residents are notified when the main on their street is being reconstructed and those that say yes to having their laterals replaced by the Village contractor at that time would then have an option of having the Village finance the project or the homeowner could pay the charge within 90 days of billing and if they elect to pay within 90 days then they would receive a 10% credit up to \$250. Interest would be charge to those that finance it through the Village. D. Haug explained the hardship financing instances and the general assessment policy with the interest rate being between 4 to 5 percent. Trustee Elrick stated the proposal is being made to encourage residents to replace the laterals so the Village’s I & I is reduced sooner and the Village will eventually be paying less to HOV for treatment of wastewater. Further discussion took place. C. Kell stated he would recommend changing the prepayment time to 60 days instead of 90 days to be consistent with the Village’s current policy. Trustee Elrick stated this only addresses those areas that will be having utility work done in the street and he is not sure how to address the issue of those residents that have already had the work done in their street.

*Moved by Trustee Elrick, seconded by Trustee Mahlik to create a private lateral replacement policy for reconstruction projects whereby property owners who elect to have the project completed by the Village’s contractor and pay within 60 days will receive a 10% discount up to \$250.00 and if the property owner puts it out to Village financing they will be charged an interest rate to be determined and to incorporate the recommendations made in the Public Works Director’s IFC on the topic.*

Further Discussion: Trustee Van Deurzen asked if the form sent to the property owners can inform them of this information and also inform the property owner that the contractor offers only a one-year warranty. R. Van Gheem commented that the property owners will be informed of this but the Village may still be

asked to correct homeowners' problems. Trustee Verstegen stated she agreed with Trustee Elrick's recommendation but wanted confirmation that it included the items in the IFC including the lead water service recommendation. R. Van Gheem confirmed that staff will write up the policy according to the motion and the recommendations made in the IFC.

Vote on the Motion: Ayes 7, Nay 0 – Motion Carried

Private Lateral Sanitary Lateral (prequel)

R. Van Gheem stated the property owners suffer from many of the same issues but the difference here is that the Village already assisted by getting the lateral to the property line. Trustee Elrick suggested having the Village facilitate the replacement process but require payment within 60 days as it will help the entire Village reduce the I & I sooner. Discussion took place. Trustee Frassetto suggested that Public Works include more information in the letter to the property owners. R. Van Gheem noted that bids for trenchless and for excavation would be necessary. C. Kell stated a benefit for the Village to bid out for the work is the Village would then be aware of the performance of the contractors. D. Haug stated under the current policy only seven residents have qualified as hardship cases and the Village paid the contractor and financed the contract amount for the property owner. Trustee Elrick suggested discussing this issue at the next Committee of the Whole motion so the numbers and processes can be reviewed further as it is different than the previous situation for lateral replacements.

*Moved by Trustee Elrick, seconded by Trustee Mahlik to table the private lateral sanitary prequel discussion until a future Committee of the Whole meeting.*

Further Discussion: R. Van Gheem stated he will put together an IFC with costs and processes and financing options, including providing an alternate bid for lead water lateral replacements.

Ayes 7, Nay 0 – Motion Carried Unanimously

### **Review/Possible Action – Block Party Permit – Taylor St. between Charles St. and Lincoln Ave.**

Chief Misselt stated he is recommending approval with the exception that the end time is changed to 11 p.m. instead of 12 p.m.

*Moved by Trustee Verstegen, seconded by Trustee Frassetto to Approve the Block Party Permit for Taylor Street between Charles St. and Lincoln Ave. for May 22, 2010 from 3 p.m. to 11 p.m.*

Ayes 7, Nay 0 – Motion Carried Unanimously

### **Committee/Commission Appointments**

President Fischer stated he is recommending that Trustee Mahlik be appointed to the Plan Commission, Trustee Hietpas be appointed to the Library Board, Trustee Frassetto be appointed to the Sexual Offender Residency Board, and Trustee Elrick be appointed to the CDA.

*Moved by Trustee Elrick, seconded by Trustee Frassetto to Approve the Committee/Commission Appointments as recommended by the Village President.*

Ayes 7, Nay 0 – Motion Carried Unanimously

### **Appointment of President Pro Tem**

President Fischer stated he is recommending the appointment of Trustee Elrick as President Pro Tem.

*Moved by Trustee Verstegen, seconded by Trustee Frassetto to Appoint Trustee Elrick as President Pro Tem.*

Ayes 7, Nay 0 – Motion Carried Unanimously

### **Discussion/Public Listening Sessions**

Trustee Frassetto stated she envisions the listening sessions as an opportunity for residents to voice their concerns and then the Board can place the concerns on future agendas for discussion. C. Kell suggested that the first Committee of the Whole meeting in June be cancelled and the listening session be scheduled for that night and then if the Board needs to meet to conduct business they can meet the 5<sup>th</sup> Wednesday. Trustee Frassetto asked to have a notice put on the website, and an ad put in the *Times/Villager* and she would like to place signs in businesses in the Village and she would take care of placing the signs.

*Moved by Trustee Elrick, seconded by Trustee Frassetto to schedule the first Public Listening Session for Wednesday, June 9, 2010 and authorize signs to be put up.*

Further Discussion: C. Kell suggested the Board discuss how they want the meeting to proceed because if we start answering questions or get into debates over issues brought up, the meeting will get off course

quickly. President Fischer stated it is just to listen to the residents' concerns. Trustee Elrick stated he sees it being addressed like items for future agendas. Staff confirmed with Trustee Frassetto that the listening session would be held in the Community Room at Village Hall.

Vote on the Motion: Ayes 7, Nay 0 – Motion Carried Unanimously

**Unfinished Business**

Trustee Frassetto recognized Chief Misselt and his staff for conducting a successful rodeo and open house and she wished the Chief Happy Police Officer's Week.

C. Kell handed out the signed Developers Agreement and asked the Board to read it carefully as there is no connection between the street and Mr. Van Dyn Hoven's responsibilities.

T. Flick stated that the DNR has informed him that they will be conducting the Gypsy Moth spraying this upcoming weekend. T. Flick stated he had also misspoken about a property earlier in the meeting that he referred to as Village property and the property he referenced is not Village property.

**Items for Future Agenda**

Trustee Hietpas asked that the following items be put on a future agenda:

The Attorney's opinion on use of closed sessions

Update on the Dutch Boyz Development

Requests by Molly Houlihan concerning not be assessed for 50 years, for not being responsible for utility costs, no sidewalk on the west side, and not being required to perform maintenance on the terrace area of the new street and having these items in writing.

Trustee Hietpas also asked staff to provide him with a copy of a map that shows all land owned by the Village. Trustee Versteegen asked that all trustees be provided a copy of the map.

T. Flick confirmed that he will be contacting the property owners concerned with the landscaping on the new street to schedule a meeting with them and McMahons to discuss the landscaping options.

Trustee Mahlik stated there seems to be confusion on what was heard during the street vacation meeting and it may not be in the Developers agreement but it was clearly discussed. C. Kell stated that the developer's requirements for submitting required plans for approval are in the conditional use zoning but there are no specific timelines and they aren't connected to the issue of the Village building the new street and vacating W. Lincoln Ave. Trustee Frassetto stated she also wanted to see the Developers Agreement that went to the Board before the minor corrections were made.

**Adjournment**

*Moved by Trustee Elrick, seconded by Trustee Mahlik to Adjourn the Committee of the Whole meeting at 9:32 p.m.*

Ayes 7, Nay 0 – Motion Carried Unanimously

**VILLAGE OF LITTLE CHUTE**

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By: Charles Fischer, Village President

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Attest: Vicki Schneider, Village Clerk