

MINUTES OF THE REGULAR BOARD MEETING OF FEBRUARY 15, 2012

The Regular Board meeting was called to order at 6:00 p.m. by Michael Vanden Berg, Village President

Invocation

Pledge Allegiance to the Flag

President Vanden Berg led members in the reciting of the Pledge of Allegiance.

Roll call of Trustees

PRESENT: Michael Vanden Berg, President

Bob Berken, Trustee

Tammy Frassetto, Trustee

James Hietpas, Trustee

Dan Mahlik, Trustee

Bill Peerenboom, Trustee

EXCUSED: Skip Smith, Trustee

Roll Call of Officers and Department Heads

PRESENT: Charles Kell, Village Administrator

Tom Flick, Director of Parks, Recreation, and Forestry

Teri Matheny, Finance Director

Jim Moes, Community Development Director

Erik Misselt, Police Chief

Roy Van Gheem, Public Works Director

Charles Koehler, Village Attorney

Vicki Schneider, Village Clerk

OTHERS PRESENT: Interested Citizens, and Media Reps

Public Appearance for Items Not on the Agenda

Larry Van Lankvelt, 627 W. Main St., commented on an article that was in the *Times-Villager* regarding last week's Board meeting, stating he agreed with the comments made by Trustee Peerenboom on not replacing the Engineering Technician position and he also commented on the Building Inspector being able to handle the work.

Approval of Minutes

Regular Board Meeting Minutes – February 1, 2012

Committee of the Whole Minutes – February 8, 2012

Moved by Trustee Frassetto, seconded by Trustee Mahlik to approve the Regular Board Minutes of February 1, 2012 and the Committee of the Whole Minutes of February 8, 2012 as presented.

Ayes 6, Nays 0-Motion Carried

Report of Other Minutes-Other Informational Items

None

Ordinance:

Rezoning Lots 13-17 of the Village North Subdivision from RC – Residential Conventional Single-Family District to RT – Residential Two-Family District

Moved by Trustee Frassetto, seconded by Trustee Mahlik to Adopt Ordinance No. 3, Series of 2012 Approving the Rezoning of Lots 13 – 17 of the Village North Subdivision from RC – Residential Conventional Single-Family District to RT – Residential Two-Family District as presented.

Further Discussion: Trustee Peerenboom stated at the Plan Commission meeting he voted against this because he thinks that this will decrease the value of the lots to the rear of these properties and he thinks they should all be zoned single-family and it would be a much better development. Trustee Berken asked what the reason was for changing these lots to duplexes. J. Moes stated the change was proposed to match what has been developed from Hwy. 00 all the way along Buchanan to this subdivision with duplexes and commercial properties and Buchanan will become a major traffic route.

Vote on the Motion:

Ayes 5, Nay 1 (Peerenboom) – Motion Carried

Resolutions:**a) CSM – Greater Fox Cities Habitat for Humanity**

J. Moes stated that the resolution is worded incorrectly as when it was drafted it was anticipated that the Plan Commission would recommend approval of the CSM and the Commission actually voted to recommend denial of the CSM so the resolution needs to be reworded to reflect the Plan Commission's recommendation. J. Moes stated the reason the Plan Commission voted to deny the CSM was because technically the CSM doesn't meet all of the requirements under the Village Code but he believes this CSM does meet the intention of the Code. J. Moes stated that when the Code was amended in 1999 to allow lots that were platted before 1950 to be built upon at a 50 ft. width instead of the required 70 ft. width and they were to be less than 7,500 sq. ft. and this lot exceeds 7,500 sq. ft., like many other lots in the Village. C. Kell stated that staff felt that making a non-conforming lot larger as is done in this CSM is a positive proposal and the reason they are sized the way they are is because of the soil conditions in areas of the lots and staff doesn't feel that adding frontage to a 50 ft. lot is a negative aspect. Trustee Frassetto stated she supports this CSM as it adds affordable housing to the community and these lots are a challenge for development and the homes would enhance the property. John Weyenberg, President and Director of Habitat for Humanity, stated he encouraged the Board to support the lots as shown on the CSM and their intention is to build two affordable homes on the property and because of the soil conditions these are the best positions for the homes. Mr. Weyenberg stated they could go forward without the CSM but it would make it more challenging to build on the corner lot and their feeling is taking a 50 ft. lot and making it larger enhances the property for the Village and it provides for a suitable and affordable home. Trustee Peerenboom stated that the Plan Commission voted 5 to 1 to recommend denial of the CSM to the Village Board and his feeling is the reason for that is by replatting and creating the CSM they need to conform to the Village standards and those standards are they need to have a 70 ft. lot. Trustee Peerenboom further stated his concern as a member of the Plan Commission and the Board is if it is decided that because this is a great cause they don't need to follow our requirements, then where is the line drawn on when the ordinances are enforced or not enforced and he feels it is the duty of the Plan Commission and the Village Board to uphold the Village's ordinances and the lots are buildable as they are and it is his duty to make sure the CSM meets the Village Codes and this map does not. Discussion continued on the issues. Trustee Berken stated his properties were also platted at 50 ft. and he was told that if he wanted to change the width of his lots he would need to have a new survey done and they would have to be 70 ft. and if this organization is able to change to 58 ft. then he should be able to make his lots whatever width he wants and he could see others asking to do the same as a precedent will have been set. J. Moes stated the Village Board has the authority to approve surveys and lot plats that are non-conforming but it takes a 2/3 vote of the Board. J. Moes stated when he spoke to Mr. Berken about his lots it was prior to 1999 and based on the Code at that time, it did not allow for subdividing lots at a 50 ft. width and Mr. Berken divided his own 5 lots at 50 ft. widths and those lots were deeper than 120 ft. and he divided them and sold them to relatives. Mr. Berken disagreed with Mr. Moes.

Moved by Trustee Frassetto Adopt Resolution No. 5, Series of 2012 Approving the CSM for Greater Fox Cities Habitat for Humanity.

Further Discussion: Trustee Mahlik asked if someone came to the Board and asked to build on a 50 ft. lot what would be done and J. Moes stated that past Boards have approved non-conforming lots on a 2/3 votes and he noted numerous lots in the Village where this occurred. J. Moes stated he recommends correcting the resolution to reflect that the Plan Commission did not recommend approval of the CSM. C. Kell stated that some of the lots in the past that were approved by the Plan Commission and the Village Board were brand new parcels and they were not lots that were preexisting so he doesn't see precedence being an issue as it has been done numerous times. Trustee Frassetto stated that she would argue that the soil conditions of these lots are enough justification to allow the 58 ft. lot. Attorney Koehler commented that if the ordinance says that you are not supposed to create a lot under 70 ft., in this situation you are not creating a non-conforming lot because you already have a non-conforming lot. J. Moes clarified that if you own adjoining lots that are less than 70 ft. they are treated as one lot but if all three of these lots were

individually owned, an owner of one lot would be allowed to sell the 8 ft. to the other owner without creating a survey. Mr. Weyenberg stated that they can build their first house on lots 8 and 9 and at the time that property is sold, the 8 ft. can be sold for the other lot and they were just trying to be upfront on this as they felt the CSM was the best use of the property. J. Moes stated that what Mr. Weyenberg just stated would technically be in violation if the lots are sold as he stated, as that is in fact platting them. Trustee Mahlik stated he would second the motion as the Board has approved lots with non-confirming widths in the past and that includes a previous built Habitat for Humanity home and because it needs a 2/3 vote to split lots he feels that checks and balances are in place to stop something that isn't wanted.

Trustee Mahlik seconded Trustee Frassetto's motion to approve the CSM for Habitat for Humanity.

Vote on the Motion:

Ayes 3, Nays 3(Berken, Hietpas, Peerenboom) – Motion Failed

b) CSM – Zero Lot Line – James Steeno – 2012/2014 Kelly Street

J. Moes stated the Plan Commission's recommendation was to approve the CSM.

Moved by Trustee Frassetto, seconded by Trustee Berken to Adopt Resolution No. 5, Series of 2012 Approving the CSM for a Zero Lot Line for 2012/2014 Kelly Street.

Ayes 6, Nays 0 – Motion Carried

Review and Action on Site Plan – Leon Biesterveld – 2220 Bohm Drive

J. Moes stated the Site Plan meets all of the Village's requirements and the recommendation is to approve.

Moved by Trustee Berken, seconded by Trustee Peerenboom to Approve the Site Plan for Leon Biesterveld for 2220 Bohm Drive as presented.

Ayes 5, Nays 0, Abstained 1(Vanden Berg) – Motion Carried

Action on Insurance Claim Denial filed by Walgreens Co. for Excessive Assessment

Moved by Trustee Peerenboom, seconded by Trustee Berken to Deny the Claim filed by Walgreens Company for Excessive Assessment.

Ayes 6, Nays 0 – Motion Carried

Action to Accept Offer to Purchase of Village Owned Property at 319 W. Main Street

J. Moes stated that the Village's counteroffer to accept the full price offer with the Village agreeing to pay \$2,000 towards closing costs was accepted by the buyer and a resolution will be presented to the Board at a future meeting for formal approval.

Moved by Trustee Frassetto, seconded by Trustee Peerenboom to Accept the Offer to Purchase of 319 W. Main Street at the amount of \$92,900 with the Village paying \$2,000 towards the closing costs.

Further Discussion: Trustee Mahlik asked if the inspection had been done and if so how it went. J. Moes stated the inspection had been completed but he has not yet received the inspection report but the report will likely be presented to him before the Board takes action approving the resolution for the sale of the property.

Vote on the Motion:

Nays 6, Nays 0 – Motion Carried

Discussion/Action – Procedures for Sale of Lots in Village North Subdivision

C. Kell stated he wrote the procedures based on what he has done in the past for similar projects, a review of procedures from another community that is currently doing this and it was also based on comments from staff and the minimum prices for the lots was recommended by the assessor. Rachel Van Wychen, 1015 Manor Place, commented on the process and those that have been calling a number of times on these lots and she is concerned that they will be paying a substantially higher amount than might be necessary if others submit sealed bids on the lots than if a first-come, first-served process is used. Ms. Van Wychen also questioned how the Village is going to decide on accepting or rejecting offers and approving those that are most advantageous to the Village. C. Kell stated that in regards to first-come, first-serve, people have been calling about these lots before the project was in a position to market and he believes that to be fair, sealed offers should be taken. C. Kell stated the Village's objective is to generate as much revenue as it

can from this subdivision and the minimum prices that have been set, for the most part, just cover the costs of what the Village invested. C. Kell stated that it isn't known how the offers are going to be structured as far as conditions that are submitted in the bids so the Village needs to have the right to accept or reject the offers. C. Kell further stated that this allows for bidders to bid on more than one lot in case they don't get their first choice of lots. C. Kell stated that because there are so few buildable lots available in the Village, initially it is expected that there is going to be a robust market for these lots and after the initial round, these procedures could be reviewed and adjusted. Discussion took place. Attorney Koehler recommended that the Village provide preprinted offer to purchase forms whereby the Village inserts requirements such as the required amount of earnest money and other terms required by the Village. Attorney Koehler stated that private developers also are free to accept or reject any offers and he commented on the most likely conditions are bids in cash and bids that include subject to financing. C. Kell noted that the bid open will be public and the offers will be presented to the Board in open session. Rachel Van Wychen asked if consideration would be given to possibly having the bidding process take place like a silent auction. President Vanden Berg stated the process isn't proposed that way but it could be considered. C. Kell stated that the problem with that suggestion is not knowing what the contingencies may be. Trustee Mahlik suggested the silent auction bidding process could be limited to cash only buyers. Discussion took place on the silent auction type bidding process. T. Matheny suggested that the number of bids received on a lot be noticed prior to the bid opening and this would allow for a potential purchaser to increase their bid if there were numerous offers on a lot. Attorney Koehler stated that what T. Matheny suggested is very similar to the way sales by private brokers work. Attorney Koehler suggested that the offer to purchase forms include a date to give the Board time to evaluate offers and the form should state that once the offer is signed by the bidder it is irrevocable. Sara Pingel, 1004 Rolling Meadows Dr., stated that the condition that construction must commence within 12 months of closing may scare off buyers that have to sell their current residence and she asked the Board to consider that and maybe the time could be extended. Trustee Peerenboom commented that the procedures state that the proposed pricing is the minimum the Village would accept and offers less than that would be rejected and he is also concerned that if it is made known how many lots have no bids, then it is likely that only a minimum bid would be received on those lots. Trustee Peerenboom also stated that he agreed with Ms. Pingel and he feels 18 months is more realistic. President Vanden Berg stated that is in the covenants that they have 18 months to build the home. Discussion continued. Staff noted that the covenants will be available with the bid sheets and they will also be posted on the Village's website.

Moved by Trustee Frassetto, seconded by Trustee Mahlik to Approve the Procedures for the Sale of Lots in the Village North Subdivision as presented by staff.

Ayes 6, Nays 0 – Motion Carried

Discussion/Action – 2012 Debt Refunding Plan

T. Matheny stated Ehlers and Associates had notified her that the current bond rates in the market are substantially more favorable and she reviewed the proposal to consider refunding 2003 and 2005 General Obligation Bonds and the 2006 General Obligation Note. T. Matheny stated the request before the Board is to allow Ehlers and the Village to do the preparatory work to move forward with preparing for a potential bond sale. T. Matheny stated that staff is also looking at 2013 projects and the possibility of rolling any new debt for 2013 into this refinancing and if staff decides to go forward with that approach it would be brought to the Board for authorization.

Moved by Trustee Mahlik, seconded by Trustee Peerenboom to Approve going forward with the 2012 Debt Refinancing Plan.

Further Discussion: Trustee Peerenboom asked about insurance cost savings and sales from the W. Lincoln properties going into the general fund. T. Matheny stated that the insurance is proceeding as projected and the sales of the properties will go to the general fund but they don't cover the costs incurred and the first real opportunity to build up the General Fund will be with Village North but there are development costs associated with Village North and she will be proposing to take a loan from the State Trust Fund after the initial round of lot sales and the loan would pay for what is left of development costs at that point in time. T. Matheny noted that the 2012 budget did not reflect a need for real estate sales for

operations either for the utilities or the General Fund. C. Kell noted that the Hwy. 96 Reconstruction State/Municipal Agreement will be presented to the Board next week and that agreement has a commitment of dollars for the Village for next year and those dollars could be incorporated into this refunding.

Vote on the Motion:

Ayes 6, Nays 0 – Motion Carried

Update on Roundabout Concept for Depot St/Vandenbroek St/Main St. Intersection

C. Kell stated that during the preparation of the Downtown Street Plan that was conducted by McMahon, a possible roundabout was looked at and it wasn't included in the Plan as it was determined it wasn't a viable option. C. Kell stated that the roundabout standards are very complicated and a roundabout in this intersection couldn't meet the State standards and it was felt that with it being a State Highway the State would not approve a roundabout for this intersection. C. Kell stated that the intersection also did not qualify for traffic control and a roundabout is an alternative to signals for traffic control. No action was taken.

Action on Special Event Permit Application – Larry's Piggly Wiggly Pig to Pig Walk on May 5, 2012

Moved by Trustee Frassetto, seconded by Trustee Berken to Approve the Special Event Permit for Larry's Piggly Wiggly Pig to Pig Walk on May 5, 2012.

Ayes 6, Nays 0 – Motion Carried

Operator's Licenses:

Oscar A. Sandoval	3510 N Juanita Lane	Appleton	El Jaripero
Brian L. Van Lankveldt	400 Kadinger Way	Little Chute	LC Baseball Club
Shawn M. Weyenberg	1937 W. Main St.	Appleton	Hawks Nest

Moved by Trustee Frassetto, seconded by Trustee Mahlik to Approve the Operator's Licenses as presented.

Ayes 6, Nays 0 – Motion Carried

Department and Officers Progress Reports

Chief Misselt – no report. T. Matheny reported that the Village had received notice that they received the GFOA Certificate of Excellence in Financial Reporting Award for the 2010 CAFR and she provided Board members with a copy of the certificate and she noted that this is the seventh year in a row the Village has received this award and it is the accomplishment of the previous Finance Director, Dale Haug and the Finance Dept. staff. T. Matheny also reported that tax collection has been finalized and she reported on the collection statistics and she stated that BLC will be added as a collection agent for taxes for next year.

T. Matheny reported on a change for collection of delinquent personal property taxes and if they are not collected the Village will have to absorb the loss and currently notices are being sent out and there is approximately \$18,000 in delinquency and if the taxes are not paid, she may be working with Attorney Koehler to take some of these to collection. T. Matheny also reported that the PSC is opening an investigation into the payment in lieu of taxes for all water/electric utilities in municipalities and the concern of the PSC is increases in rates which may be driven by PILOT. T. Matheny reported that she will be attending a seminar on public finance. C. Kell reported that he has received comments and suggestions from Department Heads on the Employee Manual and he needs to review this information and once he has completed the review he will be bringing it to the Board for review at a future meeting. C. Kell reported that he met with representatives of Mr. Hartwig and the Windmill group and it was a positive meeting regarding the Village Hall renovation project and he will bring further details to the Board once he has a direct meeting with Mr. Hartwig. C. Kell stated that the Kaukauna School Board has requested that he attend their meeting on February 27 to discuss the rational for the petition on the request for changing the school district boundaries for the Village North Subdivision. C. Kell reported that there is approval for some type of project on W. Lincoln Avenue but he cannot provide further details until he receives a letter on this possible development. C. Kell reported that he met with Evergreen Development this week and he is trying to find some alternatives that would benefit the Developer and the Village to jump-start the project. C. Kell reported that next week several items will be presented to the Board for approval concerning Poly-Flex and the WOW properties and this includes the Developer's Agreement with Poly-Flex. C. Kell reported that he

has a preliminary lease negotiated with T-Mobile for a cell tower installation on the Stephen St. Water Tower and that will bring in \$1,100 per month in revenue. The agreement has a few details to be worked out and it is going to be presented to the Water Commission next week for their approval and it will be presented to the Board in the next few weeks. C. Kell recommended not holding a meeting on February 29th as it is a 5th Wednesday but if the Board wants to hold a meeting they will need to instruct staff on what should be prepared for the agenda. Staff stated that there are still some private utility installations that need to be resolved on the Polk Pond lots. Trustee Hietpas requested a report on the accrued costs to date for the Village on the Evergreen Development. J. Moes reported that the fire damage repairs for the property on W. Lincoln Avenue, that the Village has an accepted offer to purchase on, have been completed. T. Flick reported that the Summer/Fall program books should be mailed to residents by March 1 and he provided an update on the Pedestrian Bridge project. R. Van Gheem – no report. V. Schneider stated her office is preparing for next week's election and it has been challenging with all the changes to the Election laws. V. Schneider reported that the Public Test of the voting equipment was held and everything checked out fine and she did extensive training with the Election Workers and they are ready for next week's election. V. Schneider stated the new requirements for voters are they will need to remember to bring Photo ID to be presented at the polls and they will also be required to sign the poll book. Attorney Koehler – no report.

Disbursement List

Moved by Trustee Peerenboom, seconded by Trustee Mahlik to Approve the Vouchers and Authorize the Finance Director to pay all vendors.

Further Discussion: Trustee Hietpas asked to see more detail from the bills from Attorney Koehler and he asked if he could get actual copies of the bills sent to the Village. Attorney Koehler stated he could provide copies of the bills and they have been submitting separated bills on litigation. Staff and Attorney Koehler reviewed the bills from Herrling Clark that were listed on the bills list. Trustee Frassetto asked what was purchased from the Apples ITunes store and C. Kell replied that it was a browser app that was needed for his phone so he could get into certain programs and the Village's website and he pointed out the cost was only \$3.14.

Vote on the Motion:

Ayes 6, Nays 0 – Motion Carried

Call for Unfinished Business

None

Items for Future Agendas

None

Adjournment

Moved by Trustee Mahlik, seconded by Trustee Berken to Adjourn the Regular Board meeting at 7:19 p.m.

Ayes 6, Nays 0 - Motion Carried

VILLAGE OF LITTLE CHUTE

By: _____

Attest: _____
Vicki Schneider, Village Clerk

Michael R. Vanden Berg, Village President