

## **MINUTES OF THE COMMITTEE OF THE WHOLE MEETING OF FEBRUARY 22, 2012**

### **Call to Order**

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

### **Roll Call**

PRESENT: President Vanden Berg, Trustee Berken, Trustee Frassetto, Trustee Hietpas, Trustee Mahlik, Trustee Peerenboom, Trustee Smith

ALSO PRESENT: C. Kell, T. Matheny, J. Moes, T. Flick, R. Van Gheem, J. Elrick, V. Schneider  
Mike Simon – McMahon & Associates, Interested Citizens and Media Reps

### **Public Appearance for Items not on the Agenda**

None

### **Draw Village Trustee Candidates Names for Ballot Placement for April 3, 2012 Spring Election**

Candidates' names were drawn in the following ballot placement order:

- |                       |                    |                     |
|-----------------------|--------------------|---------------------|
| 1. Tammy Frassetto    | 2. Brian Joosten   | 3. John Elrick      |
| 4. Larry Van Lankvelt | 5. Jessica Schultz | 6. James W. Hietpas |

### **Review and Approval of Development Agreement with Poly-Flex Inc. & LC Poly, LLC**

C. Kell reviewed the agreement noting it was drafted with two parties, Poly-Flex Inc. which is the company and LC Poly, LLC which is the company that is initially going to own the land and building and they will be leasing it to Poly-Flex and both of these parties are committed to the agreement. The agreement provides a minimum tax payment guarantee to the Village. C. Kell also reviewed the Guaranty of Obligations Development Agreement. C. Kell stated that the Attorney for Poly-Flex Inc./LC Poly, LLC is still reviewing the agreements and C. Kell recommended that the Village Board approve the agreements and if there is anything substantial that changes, he will bring it back to the Board. C. Kell noted that the proposed plans for company were presented to the Board but they are not on the agenda for formal adoption at this meeting but he asked Board members to review the plan to see if they have any issues with it and it will be put on a future agenda for a formal motion to approve. Discussion took place on the agreements and site plan. J. Moes noted that the proposed parking is adequate for the two shifts that will be operating at the site. Trustee Peerenboom expressed concern with security of the three storage silos and staff stated they are within the height restriction but fencing is not required. C. Kell stated the Village Code will be checked for the security requirements regarding the storage silos. President Vanden Berg questioned why the purchase price is an exception of the personal guarantee. C. Kell stated he is not sure why the Village Attorney wrote the agreement this way but it is the intent that the purchase price is to be guaranteed and he will verify this language with Attorney Koehler. C. Kell stated that from what he understands, Poly-Flex, Inc./LC Poly, LLC are acceptable to the agreements. C. Kell stated he would like to have approval of the agreements tonight as if they are not approved it could hang up the whole project because of increased prices for steel for the building if the order for the steel isn't confirmed by Keller by March 1<sup>st</sup>. President Vanden Berg suggested approving the agreements contingent upon Attorney Koehler reviewing the exception issue with the personal guarantee. Trustee Peerenboom commented on his concerns with assets being available to payback the Village for the land and he would like to have the Attorney give his opinion on the reason for the exception language before the agreement is approved. Trustee Frassetto stated that she has the same concerns with holding only the new company responsible for the \$325,000. Trustee Smith stated he is comfortable in confirming what the assets are of LC Poly, LLC. C. Kell also noted that the Village will have a first mortgage lien on this property and WOW has recently indicated that they want the right to repurchase this property if the project doesn't move forward so if the project does fall apart, the Village will not be left holding this property. C. Kell stated that if the Village's Attorney finds some type of weakness with the agreements, it will be brought back to the Board but he is aware that Attorney Koehler drafted this agreement in a manner to protect the Village. Trustee Hietpas stated he was not in favor of approving the agreement at this time until it is reviewed by Attorney Koehler.

as there have been other development agreements in place in the past that did not pan out. Trustee Smith stated he would agree with approving the agreements tonight contingent upon Attorney Koehler being comfortable that the agreement is adequate.

*Moved by Trustee Smith, seconded by Trustee Mahlik to Approve the Developer's Agreement and the Guarantee of Obligation with Poly-Flex, Inc. and LC Poly, LLC contingent upon the Village Administrator talking with Attorney Koehler about the responsibility for the payment if they default and also question why LC Poly, LC is not being included in the personal guarantee and the guarantee for the building.*

Further Discussion: Trustee Peerenboom stated that since the agreements will probably not come back before the Board, he would be more comfortable if the motion also included “with the Village President’s approval” so the Board has some representation in hearing Attorney Koehler’s explanation for the language in the Guarantee of Obligation Agreement.

*Trustee Smith asked to amend the motion to include “President Vanden Berg’s approval of the final documents. Amendment seconded by Trustee Mahlik.*

President Vanden Berg questioned the changes that are likely coming from Poly-Flex and does the Board want Mr. Kell’s to have flexibility to deal with that and Mr. Kell stated he would run any changes by the Village President. Trustee Peerenboom stated that if any changes to the agreements are still not finalized in two weeks, he would like to have the agreements brought back to the Board but if the issues are settled before that he is fine with letting others look at it and moving it ahead.

Vote on the Motion and Amendment: Ayes 5, Nays 2 (Frassetto, Hietpas) - Motion Carried

### **Review and Adoption of Resolution Authorizing the Sale of Industrial Park Property to Poly-Flex Inc. & LC Poly, LLC**

Trustee Smith asked if this resolution goes hand-in-hand with the other agreements and nothing would be officially done until the agreements are approved. C. Kell stated this resolution authorizes the staff to move forward with the sale of the land.

*Moved by Trustee Peerenboom, seconded by Trustee Smith to Adopt Resolution No. 6, Series of 2012 Authorizing the Sale of Industrial Park Property to Poly-Flex Inc. & LC Poly, LLC.*

Ayes 6, Nays 1(Frassetto) – Motion Carried

### **Review and Adoption of Resolution Authorizing the Purchase of Industrial Park Land from WOW Logistics Company**

*Moved by Trustee Mahlik, seconded by Trustee Smith to Adopt Resolution No. 7, Series of 2012 Authorizing the Purchase of Industrial Park Land from WOW Logistics Company.*

Ayes 6, Nays 1(Frassetto) - Motion Carried

### **Review and Approval of State/Municipal Agreement for Main Street (Hwy. 96) Reconstruction**

R. Van Gheem stated this project agreement supersedes the agreement that was approved for this project in 2006 and the agreement is based upon the design concept approved by the Village Board in the past and any major changes that would be made to this project will likely change this agreement. Trustee Peerenboom asked about the cost of the Community Sensitive Design element and the Village potentially spending up to an additional \$64,000 and from what he has heard at previous meetings, he doesn’t believe the Board has any intention of coming near that number and he asked if the Board was committing to that amount if they approve the agreement. R. Van Gheem stated the Village is not committed to spending the additional amount but the amount was kept in the agreement as the Board has discussed improving the frontage of the commercial area but if improvements are only trees, benches, planters that amount will not be needed. R. Van Gheem stated the contract shows the estimated Village contribution at \$649,330 but there are options available for the Village to reduce their costs.

Trustee Peerenboom commented on parking being removed on the street and the effect it will have on Village Limits Supper Club and he would like to see if anything could be done to help this business not lose parking areas. Trustee Peerenboom also asked if the Village is locked in to everything that was presented last Thursday at the DOT informational meeting as far as the turn lanes onto Sanitorium Rd. and would changing the markings for these lanes be a major change or could the design presented in May be considered. R. Van Gheem reminded the Board that the Sanitorium Rd. project is taking place this year and it was designed this way based on the direct response from the business owners on this corner.

R. Van Gheem stated the State had designed the intersection this way because of the turning radius for truck traffic. R. Van Gheem stated just changing paint markings on the road would not be a major change. Mike Simon explained the transition of Main St. from a 46 ft. width east of Sanitorium to a 40 ft. width to the west and the street has to be tapered to match the wider street. Trustee Frassetto stated that the tapering is what concerns her as that is why the Village Limits will lose some parking stalls. Staff explained why the tapering and left turn lanes are required and standard to meet the DOT guidelines. Trustee Peerenboom asked if there was another acceptable option available for the west side approach and to shorten the transition. R. Van Gheem and Mike Simon stated they are not aware of any other option. Paul Hartjes, Village Limits Supper Club, questioned the need to design lanes for trucks when Sanitorium Rd. is not a truck route. R. Van Gheem agreed that Sanitorium Rd. is not a truck route but the businesses have the right to have trucks get to their facilities. Mr. Hartjes also stated that his driveway on Sanitorium Rd. has been a drive-up - driveway/parking lot for the last 50 years and he doesn't know why it has to be changed into one or two driveway approaches. R. Van Gheem stated the configuration of the parking lot as it currently is does not meet the Village Code and the Village would like to make it safer but staff will work with the property owner once the design of the street is finished to see what can be done with the driveways. Discussion continued on the proposed design of Sanitorium Rd. and Main St. Trustee Smith commented that what the Board wants to see is the least impact as possible for all the businesses that depend on street parking. Trustee Peerenboom stated he believes something can be done on Sanitorium Rd. that will not affect the planned street width. R. Van Gheem stated that parking would not be allowed all the way up to the corner but options would be to have two lanes with parking or change the tapering to push the cars to north to keep a few parking stalls. Mr. Hartjes asked if his driveway could be kept wide open. Trustee Peerenboom stated he would like to address the issues of Mr. Hartjes' driveway on a separate agenda so Mr. Hartjes can speak on the issue and staff can be given direction on what the Board is thinking and Board members agreed with this recommendation. R. Van Gheem stated that staff will meet with Mr. Hartjes to look at some options for his driveway under the assumption that the Village Ordinances are to be followed and sketches would be drawn up to present to the Board at a future meeting. Trustee Peerenboom stated he would not even make that assumption until the Board has a meeting and discusses it as he thinks that is going to be part of the discussion. Joe Evers, 1508 E. Main St., commented on the expense of purchasing right-of-way and the bike lanes. R. Van Gheem explained the issues with the bike lanes and noted that even if there were not any bike lanes the street width and cost would be the same and he also explained that the wider terraces are needed to help fix the steep driveways and to improve the terraces. Mr. Evers also asked about the costs of the project and R. Van Gheem stated that the highest cost for the property owners would be the flat rate of \$104 to \$140 a foot but he expects it could be substantially lower but that will not be known until the project is completed. Mr. Evers also questioned why everyone in town doesn't pay for the bike lanes. R. Van Gheem stated the bike lanes costs are covered by State and Federal funds and he noted again that the street width would be the same with or without the bike lanes. John Igoe, 2400 E. Main St. commented on his concerns with taking property for right-of-way, losing parking, the negative effect on businesses, the drop in value of commercial properties, and the huge costs to the property owners. R. Van Gheem stated that the State is handling all property acquisitions and those issues need to be discussed with the State and the Village's intent is to try to beautify this corridor of the Village and they are not trying to do any harm to anyone.

Staff noted that the cost to the Village for sidewalk replacement is capped at \$125,000. Trustee Berken questioned the width of the street going in to Kaukauna and Mike Simon stated it would be a 40 ft. width entering into Kaukauna. Discussion also took place on the 6ft. terrace width. R. Van Gheem stated that this agreement is the Village's commitment to pay the stated costs towards the project. C. Kell stated minor changes such as road markings could be looked at but the State is currently working at property acquisitions and if the Village tries at this point to make any major changes the project could be lost as the major decisions for this project are already locked in.

*Moved by Trustee Mahlik, seconded by Trustee Smith to Approve the State/Municipal Agreement for the Main Street (Hwy. 96) Reconstruction Project as presented.*

Ayes 6, Nays 1(Frassetto) – Motion Carried

### **Review of No Parking for Street Sweeping Ordinance**

R. Van Gheem reviewed the proposed ordinance amendment that addresses the issue of enforcing no parking for street sweeping so the Village meets the DNR requirements for storm water management.

R. Van Gheem stated the recommended proposal is to perform street sweeping between the hours of 5 a.m. and 3 p.m. and if the Department deems no parking is required to sweep the streets, no parking signs would be put up the day before in the area to be swept. R. Van Gheem stated this proposal is less invasive than proposals that had been presented in the past. Gabe Konopka, 102 E. McKinley Ave., commented that he has been following this issue and he commended R. Van Gheem and Jeff Elrick for coming up with a good solution to meet the storm water management requirements and perform the street sweeping.

President Vanden Berg stated he also agreed with the proposal. Trustee Peerenboom asked if the proposed amendment wording could specify that the parking restriction is for the purpose of street sweeping to meet the storm water requirements so the Director of Public Works isn't just given the power to limit parking at any time or place he see fit. R. Van Gheem stated they could include that language and bring back in ordinance format for adoption at the next Board meeting.

### **Unfinished Business**

C. Kell stated the bid advertisements for the Buchanan St. and Sanitorium Rd. reconstruction projects needs to be placed by March 7<sup>th</sup> in order to get the projects moving and constructed this year so the construction is finished by the end of the year. C. Kell stated the Board has not yet taken up the petition from residents' on Buchanan Street and he asked the Board what they wanted to do with this issue.

R. Van Gheem noted that the Board has made the decisions for these projects and design is being completed but if the Board is planning to make any changes, staff needs to know. R. Van Gheem pointed out that the Board made their decisions on the design of these streets after the public informational meeting on these projects was held. President Vanden Berg and Trustee Frassetto felt that the petition should be addressed. Trustee Mahlik disagreed. Trustee Peerenboom stated he doesn't know what could be brought before the Board that the Board hasn't previously heard as the Board has heard the public input and they have made their decision. C. Kell pointed out that the petition asked for the road width to be increased and for it to be reconstructed in asphalt instead of concrete. Trustee Smith suggested that a letter be sent to the petitioners to inform them the Village Board made their decision on the street and they are not really any changes that can be made at this time as the design has been started. Trustee Peerenboom pointed out that the two issues brought up in the petition were discussed at length by the Board and it was decided that the proposed width was the correct decision for the road width because of the issues with terraces and the Village has a concrete street policy. Trustee Peerenboom stated he agreed with Trustee Smith and a letter should be sent thanking the residents for their input but the issues were discussed and the decisions were made and it is too late to make changes. R. Van Gheem stated that a preliminary assessment hearing still has to be held on the projects and the design plans will be available for the public to review at this meeting.

The majority of trustees agreed to proceed as planned for the Buchanan St. project and send out a letter to the petitioners. R. Van Gheem stated staff will meet with the owners of Village Limits to sketch up possible options to address their parking issues and the options will be brought to the Board at the next Committee of the Whole meeting.

### **Items for Future Agenda**

Trustee Berken asked for a future agenda item to discuss the issue with the terrace trees on the west side of Buchanan Street. Trustee Hietpas asked that staff provide the Board with the accrued costs for the French Rd./Evergreen Development and he asked T. Flick to provide the documents he has concerning Heesakker Park and the Heesakker family agreement. Trustee Peerenboom requested that the Village Limits parking discussion be on the agenda for the next Committee of the Whole meeting.

Trustee Smith stated when the new Board is in place in April, he would like an update on the issues/projects that the Village is dealing with and he would also like to discuss guidelines for the role of the Village Trustees and Village President. Paul Hartjes asked if on a future agenda the Village would be discussing rerouting signs for businesses during the reconstruction project and R. Van Gheem responded that signage issues will be discussed at the preconstruction meetings and in the past the Village has done some signage for rerouting traffic to get to the businesses location. J. Moes stated he will need an appointment recommendation for the Library Board on the next Regular Board agenda.

### **Adjournment**

*Moved by Trustee Mahlik, seconded by Trustee Smith to Adjourn the Committee of the Whole meeting at 7:42 p.m.*

Ayes 7, Nays 0 – Motion Carried Unanimously

## **VILLAGE OF LITTLE CHUTE**

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By: Michael R. Vanden Berg, Village President

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Attest: Vicki Schneider, Village Clerk