

# MINUTES OF THE COMMITTEE OF THE WHOLE MEETING OF DECEMBER 12, 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 Peerenboom, Trustee Smith, Trustee Van Lankvelt

ALSO PRESENT: C. Kell, J. Moes, T. Matheny, T. Flick, R. Van Gheem, V. Schneider

Interested Citizens, Media Reps

## Public Appearance for Items not on the Agenda

None

*Moved by Trustee Berken, seconded by Trustee Frassetto to enter into the public hearing.*

Ayes 7, Nays 0 – Motion Carried Unanimously

## Public Hearing – Zoning Change Request Filed by Irene Hietpas – CSM 5150, Lots 1 & 2 – RC – Residential Single-Family District to RT – Residential Two-Family District

J. Moes stated that these are two-vacant lots that are currently zoned single-family and they are owned by Irene Hietpas and she has petitioned to have the lots zoned two-family. J. Moes stated that the Kaukauna Mayor and Clerk and Little Chute property owners within 100 feet of this parcel had been notified of the hearing. Carol Neff, 1718 Rosehill Rd., presented a petition that was signed by 27 property owners that live adjacent to or near this lot and the petitioners oppose the rezoning. Mrs. Neff also provided a copy of the covenants for the Wildenberg Estate lots and she stated that the covenants state that all lots shall be used for residential single-family purposes only. Irene Hietpas, 1002 W. Ann St. Kaukauna, stated that the covenants are for the Wildenberg Estates and these lots are not part of the Wildenberg Estates and they do not apply. Mrs. Hietpas commented on the 27 signatures of the people that don't want the rezoning and she stated she doesn't want to make anyone mad but she doesn't see anything wrong with rezoning the lots so duplexes could be built as that would bring in tax money for the Village. Mrs. Hietpas further stated that the builder would be renting to people that would pay the rent and the builder wouldn't want to have people rent that wouldn't take care of the place. J. Moes stated the lot was originally lot 20 of Wildenberg Estates and he would assume the covenants apply to it and the lot was divided in 2005. Mrs. Neff commented on lot 18, 19, and 21 being part of the Wildenberg Estates and she believes Lot 20 was also a part of the Wildenberg Estates. Mrs. Hietpas stated she owned the property since 2002 and she has been trying to sell it as two single-family lots and only two contractors were interested in buying the lots and they wanted to put up duplexes. J. Moes stated that no other duplexes abutted this property. Mrs. Hietpas commented that at the Planning Commission meeting it was brought up that the Village could zone all the lots along this section of Rosehill Road as two-family. Stuart Neff, 1718 Rosehill Rd., commented that the residents on the two lots to the south of them also signed the petition because they were concerned all of the lots would be zoned two-family and they don't want to see that happen. Cindy Hietpas, 628 Alyssa St., stated that her property is lot 14 on the CSM and she has lived there two years and purchased the home with the understanding that only single family residences could be built behind her property. Cindy Hietpas further commented that she knows where Irene is coming from with people not interested in buying the lots and she asked if the Village could assist with doing something to have the industrial properties across the street from Irene's property cleaned up because it is not a pretty site. Cindy Hietpas stated that there are three piles of fill that are full of weeds and there is also a fence that is falling down and if the Village could do something that might help Irene with selling the property.

*Moved by Trustee Smith, seconded by Trustee Van Lankvelt to exit the public hearing.*

Ayes 7, Nays 0 – Motion Carried Unanimously

President Vanden Berg stated that the rezoning would be put on a future agenda for action. J. Moes stated it would likely be on next week's agenda or the first meeting in January and he informed the residents that the agenda would be posted on the Village's website and at the Village Hall.

### **Discussion – Gazebos and Accessory Structures**

Kurt Schleicher, 1318 Biscayne Dr., commented on the pictures he emailed to the Board concerning the portable gazebo that was placed on a neighbor's deck that was 3 feet of the ground and it wasn't anchored down. Mr. Schleicher stated he brought this to the attention of the Village in June as he was concerned it would become a problem and then six months later there was the big windstorm that picked up the gazebo and threw it into the duplex. Mr. Schleicher further commented that he and his neighbor were concerned that if the wind did pick up the gazebo, it could end up damaging a white vinyl fence that they had recently put up. Mr. Schleicher commented that these gazebos are to be anchored at ground level and they are concerned as this is a public safety issue and property damage issue and if the Village would put something in writing they could then enforce requirements on these temporary structures. Cheryl Schleicher stated that they want to get this discussion going with the Board for awareness and to see if something could be put in writing for enforcement and she commented that the top of these structures are to be taken down if there is wind and they should be secured to the ground according to manufactures instructions.

Mrs. Schleicher also commented that there are a lot of kids in the neighborhood and her concern is with safety. Mrs. Schleicher stated that they have tried to talk to the renters and the owner about the situation. Michael Stouffer, 714 Bluff Ave., commented on the State's Building Code and the Village creating a standard that the Building Inspector can enforce. C. Kell brought up an experience with a trampoline in his neighborhood being taken by the wind and ending up in Van Lieshout Park and he commented that this issue doesn't only apply to gazebos but also to other temporary accessory structures. Discussion took place between the Board members, staff, the Schleicher's, and with comments made by Mr. Stouffer, concerning options and issues with regulating and permitting gazebos and accessory structures. Trustee Frassetto stated that she had asked for this to be an agenda item for discussion and she agrees that the best option is to have Mr. Moes write an annual article for the Village Newsletter educating the residents on these structures and the need to secure them, removing parts that could become projectiles, as well as additional information and if there are more problems in the future then they can revisit the issue and take it a step further. Board members indicated agreement with the recommendation. J. Moes stated he would place an article in the Village's spring newsletter.

### **Review/Discussion – CSM – Shade Today 1401 W. Evergreen Drive**

J. Moes stated that the owners of Shade Today would like to divide one lot into four lots and this is along the future extension of Fullview Dr. and they wish to sell Lot 2 to a technical company that would construct an office. J. Moes stated he and the Public Works Director discussed the installation of sewer and water and the extension of the street and the Public Works Director then put together a Subdivision Development Agreement and the agreement was provided to the Board for review. J. Moes thanked R. Van Gheem for working hard with the owners to get a Development Agreement that would cover the Village's needs. J. Moes stated that if everything goes well with the owner's sales documents, a resolution to approve the CSM would be presented to the Board next week. J. Moes stated the Plan Commission did review the CSM and recommended approval but they wanted to see the boundaries of the road adjusted to give more separation from the buildings. President Vanden Berg stated there was concern raised at the Plan Commission meeting because the existing buildings don't meet the 40 foot setback requirements. J. Moes stated that the reason for not meeting the setback requirements is because these buildings were constructed when these lots were still in the town but other than that there were not any other concerns expressed by the Plan Commission. Discussion took place on options that are being looked at for the road and placement of the utilities and it was noted that Dave Schmalz from McMahon is still working on this issue with the road and setbacks but the CSM would not change much. C. Kell stated that the next step will be for staff to meet with the perspective buyer of Lot 2 and his attorney because they are not knowledgeable about the future assessments and the street and staff will meet with them before this is brought back to the Board.

### **Discussion/Possible Action – Van Lieshout Park Playground Fundraising**

T. Flick commented on the number of people that have contacted him wanting to do something to help with the replacement of the playground equipment at Van Lieshout Park that was recently destroyed due to vandalism. T. Flick reviewed the proposal from Little Chute resident Amy Kolo to take charge in an effort to raise \$100,000 for the addition of pour in place surfacing and the replacement of the 2-5 year old playground equipment. T. Flick noted that the pour in place surfacing would create the first ADA accessible playground in the Village and a fully accessible ADA playground is required by 2015 to comply with Federal ADA laws. T. Flick stated that the 5-12 year old playground equipment would be replaced using insurance funds and he expect to clear between \$32,000 to \$35,000 from the insurance payment. T. Flick stated that the request is to allow the Village to accept the donations directly so they can be a tax deductible donation. T. Flick stated that whatever money is raised it will enhance what we have and the playground will not be made any bigger and if the fundraising falls short there is the option to only do half of the playground with the pour in place surfacing. T. Flick stated he does not view this fundraising as dictating what they will replace in order to have a park with a playground but it is driving to create the Village's first fully ADA accessible playground. T. Flick also stated that they hope to have the playground equipment replaced in early June. T. Matheny commented that her concern is that there are three identified fundraising campaigns where we are potentially asking taxpayers to contribute. T. Matheny also commented on the five-year plan and potentially removing the Doyle Park resurfacing from the plan; on consideration of the level of commitment the Board wants from the citizens for this project; and on how does the project go forward if we don't have the money by June. T. Flick stated the Parks Department has no intention of being the lead in the fundraising or assisting with the soliciting or collection and they would only assist with the depositing of the funds. Discussion took place. Trustee Peerenboom suggesting having a discussion with Ms. Kolo about the possibility of using the funds for ADA purposes in any village park and he also suggested that the financial transactions be conducted so there are several transactions and not hundreds so staff doesn't have to spend a lot of time dealing with the transactions. T. Flick stated that the funds would channel through the Parks Department and then they would be sent to the Finance Dept. for deposit.

Michael Stouffer, 714 Bluff Ave., stated he would offer to help Ms. Kolo establish a 501(c)(3) if the Village wanted to go that route and he asked if that would simplify things for the Finance Director. T. Matheny stated that as it is proposed they would just be receipting checks and assigning an account number and a 501(c)(3) would be better suited for long term fundraising. Trustee Smith stated that they didn't want to create a 501(c)(3) as it is unrealistic and costly for a short term project and he is fully in favor of the proposal for the fundraising. J. Moes stated it takes a long time to create a 501(c)(3). Trustee Peerenboom stated he agrees with Trustee Smith and let them move ahead and raise some money.

*Moved by Trustee Frassetto, seconded by Trustee Berken to approve creating a separate Special Revenue Fund for donations made for the replacement of playground equipment and the addition of pour in place surfacing at Van Lieshout Park. Ayes 7, Nays 0 – Motion Carried Unanimously*

### **Review/Discussion/Possible Action – Main Street Utility Project**

R. Van Gheem reviewed the proposed schedule for the Main Street utility project noting that this did not include the assessment hearings for concrete as the DOT will not be opening concrete bids until March 12 and an assessment hearing on the concrete would be needed after that date. R. Van Gheem also reviewed the proposed schedule that the State has for the storm sewer laterals and concrete paving. R. Van Gheem stated that the utility rate structure is such that the mains and the water services up to the curb boxes are included in the rates and the sidewalk is included in the project so the major impact for the utility assessments is the private sanitary laterals and storm sewer laterals. The proposed schedule consists of an informational meeting on the utilities on January 9 at 5:30 p.m. before the Board meeting and the assessment hearing for the utilities would be held on January 23 at 5:30 p.m. before the Board meeting.

Bids would be opened on January 17 and the contract is scheduled to be awarded on February 6. Discussion took place. Board members agreed with the schedule as proposed and requested that the letters that are going out to the residents informing them of the meetings make note that these meetings are for utilities only and not concrete. R. Van Gheem also provided the Board with pictures of signage and a curb that the DOT will be installing on T-intersections on Main Street where there are not crosswalks. R. Van Gheem stated they informed the DOT that they do not want these but they are being required by Federal regulations and they will require additional maintenance for the Village and he doesn't believe that the public is going to welcome them. Discussion took place.

### **Unfinished Business**

President Vanden Berg stated that Board members had a copy of a resolution on their desks that formally approves the sale of the land on W. Elm Drive to Premier Elm Drive Little Chute, LLC. President Vanden Berg stated that the Village Board had previously approved this land sale but a formal resolution was never adopted and one is needed for the title company for the closing on this property that is taking place on either Friday or Monday and Attorney Koehler recommended adopting this resolution under Unfinished Business.

*Moved by Trustee Smith, seconded by Trustee Van Lankvelt to Adopt Resolution No. 43, Series of 2012 authorizing the sale of real estate located at Elm Drive to Premier Elm Drive Little Chute, LLC.*

Ayes 7, Nays 0 – Motion Carried Unanimously

### **Items for Future Agenda**

Trustee Peerenboom stated that he has had business owners on the East end of Main Street ask if they will have access to their businesses during all times during the construction. R. Van Gheem stated that it depends on where they are located as some businesses will have access from side streets and during the Village's utility construction it will be open to local traffic and during the concrete paving there will be times where they will have to close sections down and not allow traffic but one side of the street will likely be open. J. Moes stated that a resolution approving the CSM for Shade Today and the rezoning ordinance would be on next week's agenda. Trustee Van Lankvelt commented that he was asked by an individual to express to the Police Department and the Board a message of thankfulness to the Department as the individual had to call 911 three times and the Police always responded promptly and were courteous and very professional. Trustee Van Lankvelt stated he will stop by the Police Dept. and share this message with the Chief. Trustee Peerenboom questioned whether Mrs. Hietpas may want to withdraw the rezoning request and J. Moes responded that the process should be followed through with by the Board by either approving or denying the rezoning ordinance but Mrs. Hietpas does have a right to withdraw the rezoning request. C. Kell provided Board members and staff with a revised copy of the Employee Handbook based on decisions that the Board had made and this will be on next week's agenda for review and possible action to adopt. C. Kell stated he will be meeting with Dept. Heads on Tuesday about the Employee Manual and he will also be scheduling a meeting with all employees on Tuesday afternoon to highlight the changes.

President Vanden Berg noted that legal counsel will not be present for item (b) and no action would be taken following the closed session.

The Village Administrator, J. Moes and Village Clerk were present for closed session item (a).

*Moved by Trustee Frassetto, seconded by Trustee Van Lankvelt to enter into closed session. (7:48pm)*

**Closed Session:**

- a) 19.85(1)(e) Wis. Stats. Deliberations or negotiations on the purchase of public properties, investing of public funds or conducting other specific public business when competitive or bargaining reasons require a closed session. *Offer to Purchase of Lot 8 – Village North Subdivision*
- b) 19.85(1)(c) Consideration of Employment, Promotion, or Performance Evaluation Data of any Public Employee of the Village of Little Chute and 19.85 (g) Conferring with Legal Counsel for the Village, legal counsel rendering oral or written advice concerning strategy to be adopted by the Village Board with respect to litigation in which the Village is now or is likely to be involved. *Discussion of a personnel contract matter*

*Moved by Trustee Peerenboom, seconded by Trustee Berken to exit closed session and return to open session. (9:06 p.m.)* Ayes 7, Nays 0 – Motion Carried Unanimously

**Return to Open Session**

No action taken.

**Adjourn**

*Moved by Trustee Peerenboom, seconded by Trustee Berken to Adjourn the Committee of the Whole meeting at 9:06 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