

MINUTES OF THE REGULAR BOARD MEETING OF APRIL 20, 2011

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
Skip Smith, Trustee

Roll Call of Officers and Department Heads

PRESENT: Charles Kell, Village Administrator
Dale Haug, Finance Director
Eric Misselt, Police Chief
Jim Moes, Community Development Director
Tom Flick, Director of Parks, Recreation, and Forestry
Roy Van Gheem, Director of Public Works
Vicki Schneider, Village Clerk
Charles Koehler, Village Attorney

ALSO PRESENT: Media reps and interested citizens

Public Appearance for Items Not on the Agenda

None

Moved by Trustee Frassetto, seconded by Trustee Smith to enter into the Public Hearing on Proposed Special Assessments/Hookup Fees for the Ebbens Pond Project – Phase A.

Ayes 7, Nay 0 – Motion Carried Unanimously

Public Hearing – Proposed Special Assessments/Hookup Fees – Ebbens Pond Project – Phase A

R. Van Gheem explained the Ebbens Pond Phase A completed project and the project costs and how the assessments/hookup fees are being allocated for the project. No comments were made by the public.

Moved by Trustee Peerenboom, seconded by Trustee Frassetto to close the public hearing.

Ayes 7, Nay 0 – Motion Carried Unanimously

Moved by Trustee Frassetto, seconded by Trustee Mahlik to enter into the Public Hearing on the Proposed Special Assessments/Hookup Fees for Concrete Street Paving, New Storm Sewer, New Sanitary Sewer on Kelbe Drive and Holland Rd.

Ayes 7, Nay 0 – Motion Carried

Public Hearing – Proposed Special Assessments/Hookup Fees – Concrete Street Paving, New Storm Sewer, New Sanitary Sewer – Kelbe Drive and Holland Road

Patrick Skalecki, P.E., Graef, explained the 2011 Roadway and Utility Projects for Kelbe Drive and Holland Road and he explained the costs noting that they are currently estimates based on the estimated cost of the work utilizing the low bidder unit prices and bid items. The final assessment costs will be determined once the project is completed for the storm sewer, sanitary sewer, and sanitary laterals and concrete aprons. The concrete paving assessment rates will be \$125.66 per lin. ft. for the commercial properties per the Village's concrete paving assessment policy. R. Van Gheem noted that the properties that

are located outside the Village would be assigned hookup fees that would not be payable to the Village until such time that the properties are annexed into the Village. R. Van Gheem explained the Village's special assessment collection policy. Jim Schuh, Evergreen Drive, commented on problems with water and flooding in the ditches on Evergreen Drive and R. Van Gheem instructed Mr. Schuh to contact the Public Works Dept. offices. Randy Miller, 2204 Kelbe Dr., questioned the concrete rate because the bids came in lower and R. Van Gheem stated the concrete rates are a flat rate and the assessments will not exceed the rates that are set and normally the entire Village picks up about 30% of the concrete costs.

Moved by Trustee Peerenboom, seconded by Trustee Smith to close the Public Hearing.

Ayes 7, Nay 0 – Motion Carried Unanimously

Approval of Minutes

Regular Board Meeting Minutes –April 6, 2011

Committee of the Whole Meeting Minutes – April 13, 2011

Moved by Trustee Frassetto, seconded by Trustee Hietpas to approve the Regular Board Minutes of April 6, 2011 and the Committee of the Whole Minutes of April 13, 2011 as presented.

Ayes 7, Nay 0-Motion Carried Unanimously

Report of Other Minutes-Other Informational Items

None

Ordinance:

Recodify the Municipal Code of the Village of Little Chute

Moved by Trustee Peerenboom, seconded by Trustee Mahlik to Adopt Ordinance No. 8, Series of 2011 Recodifying the Municipal Code of the Village of Little Chute.

Ayes 7, Nay 0 – Motion Carried Unanimously

Resolutions:

a) Resolution Proclaiming Arbor Day in the Village of Little Chute, Outagamie County, Wisconsin

Moved by Trustee Frassetto, seconded by Trustee Berken to Adopt Resolution No. 11, Series of 2011 Proclaiming Arbor Day in the Village of Little Chute.

Ayes 7, Nay 0 – Motion Carried Unanimously

b) Reconsider/Possible Action on Non-Union Retirement Benefits/Wage Issue Resolution -

Adjustment of Non-Represented Employee Salaries Related to the Proposed State of Wisconsin Budget Repair Bill

C. Kell stated that the Kimberly Village Board took the issue up this past Monday and they still desire to work with Little Chute to address this issue and they have agreed that something should be done at the 2.9% level based on the settlement agreed of the union contract. C. Kell stated that the resolution addresses treating all the employees equally under the proposed State budget whether they are in unions or not in unions. C. Kell stated that Kimberly did not officially vote on this resolution and they are suggesting a joint meeting with Little Chute to discuss the issue. Discussion took place. Sara Eslinger, 1005 Washington St., commented on the current economy and people not receiving raises and people should be thankful they have a job. Trustee Frassetto commented that with the budget uncertainties she would like the Village to retain the savings it will realize from the employees paying towards their retirement. Trustee Mahlik stated he is not opposed to the 2.9% bonus because the money was budgeted and there is still a savings to the Village and he felt a decision should be made. Trustee Smith suggested meeting with Kimberly before making a decision. Trustee Peerenboom stated he agrees a decision should be made and he agrees with Trustee Frassetto and he doesn't believe there will ever be equity between

the union and non-union and he does not support the resolution. Trustee Hietpas commented that the Administrator put a lot of time and effort into doing Department Head reviews and he would like to utilize that going forward in terms of a pay for performance plan.

Moved by Trustee Frassetto, seconded by Trustee Hietpas to Not Approve a Resolution Adjusting the Non-Represented Employee Salaries.

Ayes 6, Nay 1(Mahlik) – Motion Carried

Review/Approval of State Municipal Project Agreement for the Mill Street (Canal) Bridge Project

Moved by Trustee Frassetto, seconded by Trustee Smith to Approve the State Municipal Project Agreement for the Mill Street Bridge Project as presented.

Ayes 7, Nay 0 – Motion Carried Unanimously

Review/Approval of Civilian Clerical Staff Reorganization of the Fox Valley Metro Police Dept.

Chief Misselt stated that Option #2 for the reorganization plan was approved by both the Kimberly and Combined Locks Boards.

Moved by Trustee Frassetto, seconded by Trustee Berken to Approve Option #2 for the Clerical Staff Reorganization for the Fox Valley Metro Police Department which establishes the staffing at three full-time and one part-time (30 hours) position.

Ayes 7, Nay 0 – Motion Carried Unanimously

Discussion/Possible Action on Establishing a Fee for Access to the Village Yard Waste Drop Off Site

R. Van Gheem reviewed the Department's recommendation to establish a fee of \$20 per FOB per year for access to the yard waste disposal site. R. Van Gheem stated the real goal is to have residents recycle clippings back onto their lawns. Discussion took place. Comments were taken from audience members Gabe Konopka, 102 E. McKinley; Jan Cook, 428 Vanden Broek St.; Michael Stouffer, 714 Bluff Ave., and Jim Moes, 1422 Miami Circle, regarding the yard waste drop off site, the fee for access, and pickup of yard waste and leaves. R. Van Gheem stated that fall leaf pickup with the leaf vacuum will continue. Trustee Peerenboom stated he doesn't see why the Village would continue to pick up yard waste bags when that seems like the most costly option and he would prefer to see the drop off site open during the spring cleanup. Trustee Frassetto suggested that the curbside pickup of yard waste could be done on a call in basis like brush pickup is done. Trustee Mahlik agreed with Trustee Frassetto. R. Van Gheem noted that the Board had decided they wanted to continue with curb side pickup at this time and the program can be evaluated at the end of the year and changes could be made to the program. Trustee Peerenboom stated he wants everyone in the Village to use this program so he doesn't want to charge them \$20 and he would be in favor of the program at \$5 a year as the Village will save money if we can get rid of the bag pickup in a year. Discussion continued. Trustee Frassetto commented that the agenda item is to establish a fee. Ken Eslinger, 1005 Washington St., suggested that the Village use a camera at the site instead of issuing FOBS and establishing a fee as the residents are already paying taxes. R. Van Gheem stated that idea was discussed and explained why it was decided to use the FOB system instead.

Moved by Trustee Hietpas, seconded by Trustee Frassetto to approve establishing an initial \$20 fee per FOB for the first year for access to the yard waste disposal site and a \$5 renewal fee thereafter.

Ayes 6, Nay 1(Peerboom) – Motion Carried

Discussion/Direction to Staff on Notice of Order to Cut Down Hedges in the Right-of-Way along Bluff Avenue – Issued to Robert & Kathryn Berken - 182 Grant Street

Trustee Berken asked to be excused from his Board seat to the general audience at this time. President Vanden Berg stated he would abstain from voting on this matter because of some prior representation.

T. Flick provided a brief history stating originally the issue came up as a complaint to the Metro Police about a visibility hazard at the intersection and the Metro Police determined that there was not a visibility hazard at this intersection. The complaint then moved on to his department because the hedges did not comply with current ordinance regarding woody materials in the right-of-way at a certain height and the Village Board then amended the ordinance to allow woody material but it had to be maintained at three-feet or less. A notice of order was then issued to the Berken's and last fall the Board approved staying the order until May 1st and he is now looking for direction on enforcing the ordinance or whatever options the Board decides. C. Kell commented that the Board took up an ordinance change on August 18 of last year that would allow for a four-foot height on non-urban roads and that was rejected on a 4-3 vote. R. Van Gheem stated that Bluff Ave. is not in the five year plan for receiving curb and gutter. Trustee Frassetto stated she would like to revisit the proposed ordinance change and Trustee Mahlik agreed. Trustee Peerenboom questioned bringing up an ordinance that was already defeated and he also wanted to know if the Board was acting on the appeal. C. Kell stated that the Board needs to act on the order and the ordinance could be brought back. Lori Kappell, 823 Bluff Ave., commented on the safety issue of the intersection and the number of children in the neighborhood. Bob Berken, 182 Grant St., stated that the snow banks this year were the same height as the hedges and the snow was never removed by the Village because it was a hazard and the bushes are basically the same height as they were when the Police Chief observed them last year and determined they were not a hazard and he tries to keep them trimmed at the same height. Staff explained the history of the revisions of the ordinance. Bob Berken stated that the hedges have been in this location since the mid-1970's and there are other violations within a few blocks of the Berken property. Lori Kappell stated she never wanted the hedges removed and she has suggested solutions such as changing the direction of the yield signs or installing "slow children at play signs" and these suggestions have been denied and she supports the three foot height regulation. Kate Berken, 182 Grant St., commented that when the hedges were planted there wasn't an ordinance definition of terrace area and the span between their hedges and the road is wider than any span in the downtown. Mrs. Berken further commented that when you are at the corner by her property you can look to the right and see a post that is 150 feet away from the corner so she doesn't see where there is an obstructed view and she thinks the issue has been blown way out of proportion because of the current dynamics of the neighborhood and she would like to have her hedges grandfathered in and she believes the neighbors are just mad. Mark Gloudemans, 707 Sanitorium Rd., stated he heard about this issue starting last October and it has taken up way too much of the Board's time and there are many other problems going on and he suggested the Board make a decision on this issue tonight. Trustee Frassetto stated she agreed and she thinks the best solution is to revisit the ordinance amending the height to four feet.

Moved by Trustee Frassetto, seconded by Trustee Mahlik to stay the order for two weeks.

Further Discussion: President Vanden Berg recognized Lori Kappell and she asked about the standards for planting terrace trees near intersections and T. Flick stated the recommended distance from an intersection is 60 feet. Attorney Koehler stated that since this is a new board and a new term he believes that the ordinance can be brought back in its original form. Staff stated that the ordinance change does not need to go through the Planning Commission as it is not a zoning issue. Lori Kappell asked if the Public Works Director could check out the formula for the driving site and stopping site distance requirements and R. Van Gheem stated if he was directed by the Board to do so. President Vanden Berg clarified that the motion is to stay the order for two weeks to give the Board time to review the proposed ordinance amendment at next week's meeting and then put the ordinance on the next Regular Board meeting for action if the Attorney gives the green light to do so.

Vote on the Motion: Ayes 5, Nay 0, Abstained 1(Vandenbergs), Excused 1 (Berken) - Motion Carried Trustee Berken returned to his seat on the Board at this time.

Action on Extraterritorial Plat Review – Hickory Estates

J. Moes stated that despite the fact that the plat does not comply completely with village codes; staff is recommending approval of the plat as presented and the Village's ordinance does allow for direct approval

by the Village Board so it is not necessary that the plat is reviewed by the Plan Commission. J. Moes stated that if the property would be annexed to the Village at some point the objections would not be significant to the Village.

Moved by Trustee Peerenboom, seconded by Trustee Berken to Approve the Plat for Hickory Estates as presented based on staff's approval contingent upon payment of the required review fees.
 Ayes 7, Nay 0 – Motion Carried Unanimously

Action on Washington Street Parking and Bike Lane Changes

In response to Trustee's questions on the cost of removing the bike lane markings, R. Van Gheem estimated between \$2,000 and \$4,000 but this hasn't been done in the past so these are just his best guess estimates. Dan Heiting, 1101 W. North Avenue, stated that allowing parking from Paradise Dr. to the railroad tracks doesn't cut it for him as he used to have on street parking for his business on both sides of Washington St. and he used to have more parking in his parking lot before the reconstruction project that cost him 9 to 10 parking spots so he would like to petition for a variance to park all the way to the curb again and on top of that he has a \$10,000 special assessment bill and it is hurting his business on Friday and Saturday nights because of the lack of parking. Mr. Heiting further commented that in the future the Village should be more concerned on how putting bike lanes on streets might hurt the small businesses. R. Van Gheem stated the bike lanes had nothing to do with the parking situation at the business and it had to do with the non-conforming parking on the terrace and there is no variance for that. Mr. Heiting stated that he is appealing to the Village Board. Trustee Frassetto stated she wants to hear Mr. Heiting's concerns but that should be a separate agenda item.

Moved by Trustee Frassetto to remove the painted bike lanes on the west side of Washington Street that defines the bike lanes and have it redone allowing for parking north of the Eslinger property up to Paradise Dr. where allowed and the costs associated with it.

Lori Verhagen, 226 Paradise Dr., asked if parking would be on both sides and Trustee Frassetto stated that there is only enough street width to allow for bike lanes with parking on one side. Sara Eslinger asked who was footing the bill and President Vanden Berg stated that he believes the intent was the Village will pay for the cost. President Vanden Berg asked Trustee Frassetto to restate the motion.

Moved by Trustee Frassetto, seconded by Trustee Hietpas to remove the painted bike lanes on the west side of Washington St. north of the Eslinger property to Paradise Dr. and have them repainted to allow a parking lane where appropriate as determined by the Public Works Department and to approve the associated costs.

Further Discussion: Trustee Peerenboom stated he isn't sure that anything other than one alternative has been looked at and he doesn't understand bike route, bike path, bike lane and why can't we just take the bike lane signs down and make it a bike route with parking permitted during certain hours but he doesn't know if that is a viable alternative. Trustee Frassetto stated that all the options were looked at. Trustee Peerenboom asked if this was then the cheapest alternative to fix the problem and put parking on Washington St. because the people involved said the parking location will not benefit them. Trustee Frassetto stated that the opinions she received from the neighborhood is that this would help alleviate some of the parking concerns and it may not be the most cost effective way but she believes it is the most practical. Trustee Berken commented that the bike lanes end on Hwy. OO and he asked where they went after Washington St. and staff informed him that they will connect with paths on Hwy. OO and Holland Rd. and the current bike lanes support all of the neighborhoods north of Hwy. OO. T. Flick asked the Board to review the Village's Pedestrian and Bike Plan because the bike lanes link up to major trail systems that include the Applecreek Trail and the Paper Trail that will loop 42 miles around the Fox Cities. T. Flick commented that this is not just Little Chute being proactive but it is an initiative of the entire Fox Valley and he also noted that Grand Chute just increased their hotel room tax to support building these amenities and facilities. Chuck Marko, 1020 Washington St., stated there should not be designated bike lanes at this time until all the bike trail routes are in place. Kate Berken commented that non-direct routes should be considered whenever possible. T. Flick commented that the professional company WE Bike surveyed the

Village and took into account the least impact on the Village as a whole when making their recommendations for where the bike paths should go to connect to the trail systems. Sara Eslinger stated she checked with Kaukauna and they opted out of putting in bike lanes. Trustee Smith asked the President to get back on track with the agenda item as most of this has been hashed out before.

Vote on the Motion:

Ayes 6, Nay 1(Peerenboom) – Motion Carried

Action on Special Event Permit – Kermis Festival – September 10, 2011

Trustee Frassetto stated she would abstain from voting on the special event permit as she is the Chair of this year's Kermis Festival.

Moved by Trustee Hietpas, seconded by Trustee Peerenboom to Approve the Special Event Permit for the Kermis Dutch Festival on September 10, 2011.

Ayes 6, Nay 0, Abstained 1(Frassetto) – Motion Carried

Operators License:

Sean M. Beky	308 W. Kimberly Ave.	Kimberly	Express
Ronald J. Collard	3302 Rambling Rose Dr.	Appleton	Walgreens
Chris Edward Konetzke	729 Ida St.	Menasha	Hawk's Nest

Moved by Trustee Frassetto, seconded by Trustee Smith to Approve the Operators' Licenses as listed on the agenda.

Ayes 7, Nay 0 – Motion Carried Unanimously

Department and Officers Progress Reports

Chief Misselt handed out a written update on the status of implementing the merger and he noted that the selection of an architect to develop the design plan for the department renovations should be completed in a week or so and each Village Administrator will be submitting a funding plan to their Boards for funding of the renovation and technology expenditures. Chief Misselt also reported that the collective bargaining agreements with the two bargaining units are underway and a merged agreement will be brought back to each of the Boards for approval and they are currently advertising for the clerical position for replacement of Mary Peterson. D. Haug reported that the external audit process is intense but it is going well. C. Kell reported on an issue with the Open Range Communications lease and informed the Board that Attorney Koehler has sent a letter to Open Range demanding payment of the \$16,500 owed to the Village or risk the canceling of the lease. C. Kell reported that he has asked the Public Works Dept. to extend the spring pickup of yard waste another week due to the recent snow and a notice of such was put on the Village's website and in the *Times/Villager*. T. Flick stated that the brush chipper would also be going out an extended week. C. Kell reported on Heartland Business Systems expansion plans and he also reported on the foreclosure process of the 5th Quarter and the possibility of the Village not being repaid the \$66,000 owed to the revolving loan fund and Attorney Koehler is working on this and he has filed paperwork with the bankruptcy court. Attorney Koehler commented that when the loan was made the bank required that the Village subordinate its loan to the first \$650,000 so depending on what the property will sell for at a Sheriff's sale will determine whether the Village will get any money. C. Kell provided copies of resolutions approved by the Outagamie County Board that agreed to the funding agreement for Holland Road and the Town of Vandenbroek has also agreed to it and the County has also petitioned for the annexation of the landfill property that is part of the agreement so the Village should be in good shape for moving forward with the Holland Road improvements. C. Kell reported that in regard to the severe weather a number of people that live in the mobile home parks had contacted him and are concerned that they do not have any storm facilities available and in the past there was a shelter available at the Police Department and at Village Hall but now they are not manned in the evenings or weekends and he did ask the Police to look at the issue. C. Kell stated that the Public Works staff did provide assistance to Kaukauna for storm cleanup and if there is FEMA funding made available, the Village could potentially be reimbursed for their assistance. J. Moes stated that he continues to work on the 2011 property assessments and he and

the Clerk are also working with the County on the redistricting project. J. Moes also reported that the Library Board has adopted new bylaws and the Village will now need to appoint an additional citizen representative to the Library Board. J. Moes reported that he is working with Keller Structures on an addition to the Building Services building and he expects to bring that site plan forward to the Board for approval in the next few weeks. T. Flick stated the Department recently completed cleanup of the downtown parking lots and this Friday a project with Nestle will be taking place for an Earth Day Celebration that consists of planting trees at Legion Park and the Cub Scouts will also be planting a tree at Van Lieshout Park to celebrate Earth Day. T. Flick stated that with assistance from the Public Works Department they have been interviewing engineering consultants for the Pedestrian Bridge and Trail and the candidates are very qualified for the job. R. Van Gheem reported that work is beginning on the secured yard waste site and he also commented on how the wet weather has wreaked havoc on the Village's infrastructure. R. Van Gheem reported that the bid tab for the Holland Road, Kelbe and Moasis Drive projects will be presented to the Board for award on May 4th. R. Van Gheem reported on numerous watermain breaks that had taken place on Franklin Street and other projects the Village is working on. V. Schneider reported that in relation to the Franklin St. water main breaks, two claims were filed by individuals that damaged their cars when trying to turn around on the street where construction was going on to fix the water main breaks. V. Schneider also reported that there will be an official Statewide recount for the Justice of the Supreme Court contest and she and the Village's Chief Inspectors will be assisting the County with the recount process. Attorney Koehler reported that because the Board would be considered in a new session now, the proposed ordinance concerning the height of the woody materials would be considered a renewable motion rather than reconsideration, so the ordinance is able to be taken up again by this Board.

Disbursement List

Moved by Trustee Frassetto, seconded by Trustee Peerenboom to Approve the Vouchers as presented and Authorize the Finance Director to draw from the Respective Funds.

Ayes 7, Nay 0 – Motion Carried Unanimously

Call for Unfinished Business

None

Items for Future Agendas

Trustee Frassetto asked to have the proposed ordinance amendment concerning the height of the hedges put on next week's agenda with possible approval at the following meeting and the stay of order for the Berken property put on the agenda in two weeks. Chief Misselt stated he would like to bring the Department's organization chart forward at a future meeting for approval. Trustee Berken stated he would like the parking issue at the Heiting Place put on next week's agenda for discussion. D. Haug asked to bring an item to the Board that is not related to the nonrep compensation adjustment but it has to do with an effort to determine if the employee contribution would be a pre-tax deduction and Board members agreed to put the item on next week's agenda for discussion.

Moved by Trustee Frassetto, seconded by Trustee Smith to Enter into Closed Session. (8:56 p.m.)

Ayes 7, Nay 0- Motion Carried Unanimously

Staff members and the Village Clerk were excused from the meeting at this time.

Closed Session:

1) 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. Purchase of Property for Downtown Redevelopment

Moved by Trustee Peerenboom, seconded by Trustee Frassetto to Exit Closed Session and Return to Open Session. (9:25 p.m.)

Ayes 7, Nay 0 – Motion Carried Unanimously

Return to Open Session – No action taken

Adjournment

Moved by Trustee Peerenboom, seconded by Trustee Mahlik to Adjourn the Regular Board meeting at 9:25 p.m.

Ayes 7, Nay 0 - Motion Carried Unanimously

VILLAGE OF LITTLE CHUTE

By: _____
Michael R. Vanden Berg, Village President

Attest: Vicki Schneider, Village Clerk