

## MINUTES OF THE COMMITTEE OF THE WHOLE MEETING OF APRIL 27, 2011

### 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. Flick, D. Haug, R. Van Gheem, J. Moes, J. Elrick, V. Schneider

### Public Appearance for Items not on the Agenda

Ron Miller, Miller Masonry, asked for a future agenda item for the Little Chute Downtown Program related to the building project at Baker's Outlet and American Family and his question is about how the general contractor and construction manager were chosen because John Elrick, a trustee and committee member is the General Contractor and Construction Manager of the project. Mr. Miller asked if bids were let for others or for subcontractors. Trustee Mahlik stated he doesn't know what the concern is as it is an independent person of a private project and they can hire who they want as it is not a public project and it is not a discussion for the Board as it is irrelevant. President Vanden Berg stated there may be some confusion if it was a public or private project. Mr. Miller stated he understood that the Village provided grant money which is the taxpayers' money. C. Kell explained that there is a Village loan that will be extended to the owner of the building through the façade renovation program and the design is eligible for the loan once the design is approved by the Design Review Board and there is no Village involvement in the hiring of the contractor and the Village has nothing to say about that. C. Kell stated the loan is capped at \$30,000 in this case because it is two facades. C. Kell stated the funding is available for any commercial districts within the Village and they would be handled the same way. Mr. Miller questioned the duty of loyalty of a trustee with John Elrick being involved. Trustee Frassetto stated that Mr. Elrick recused himself from the vote and discussion and that is reflected in the meeting minutes. Mr. Miller stated he believes the issue warrants being brought up at a meeting. Trustee Hietpas stated in his opinion it wouldn't hurt to bring it up to discuss if people are getting some type of financial benefit from the Village that they include a bid process. Trustee Mahlik commented on the program in Appleton where ADI gave money to Appleton Business owners for façade renovations and he doesn't believe they were told that they had to bid out the projects. President Vanden Berg suggested that it could be brought up under Items for Future Agendas if the Board wants an agenda item to discuss the issue.

*Moved by Trustee Frassetto, seconded by Trustee Berken to enter the Public Hearing on the Street Vacation and Discontinuance of a Portion of Grant Street.*

Ayes 7, Nay 0 – Motion Carried Unanimously

### Hearing – Street Vacation and Discontinuance of a Portion of Grant Street

J. Moes explained that Lot 7 and Lot 57 are owned by the Village and this is an unimproved area that was dedicated for street that is half of the right-of-way and it is for the future detention pond and the Village wants to turn it into one CSM. J. Moes stated it does not affect the people on the east and west side of Grant Street from entering their garages as the street vacation boundary stops at the property line. J. Moes stated that the Plan Commission reviewed the proposed vacation and approved it and it will be presented to the Board for formal approval as a resolution at a future meeting.

*Moved by Trustee Frassetto, seconded by Trustee Smith to Exit the Public Hearing*

Ayes 7, Nay 0 – Motion Carried Unanimously

### **Discussion/Possible Action – Parking Situation at the Heiting Place**

R. Van Gheem asked what the goal is and President Vanden Berg stated he understood that it was to see if there was a way to get additional parking spots. Mr. Heiting stated he would like to withdraw his request for a variance as after he reviewed the area with Trustee Berken he decided it wouldn't be worth his expense to get rid of the eight-foot grass terrace as he wouldn't be picking up that many parking spots. Mr. Heiting stated he is now asking the Village to consider redoing the grass terrace area that is torn up and put in some stakes for each of the parking spots to prevent his customers from driving on the grass and he would like the stakes placed one foot from the blacktop. Discussion took place. T. Flick stated that the Village has 30 to 40 concrete curb parking barriers that were removed from Doyle Park and he does not see a future need for them and he does not have a problem if the Board wants to donate nine of them to Mr. Heiting.

*Moved by Trustee Frassetto, seconded by Trustee Mahlik to authorize the Public Works Dept. to reseed the area as appropriate and authorize the Parks and Recreation Dept. to donate the concrete parking blocks to the Heiting Place.*

Further Discussion: President Vanden Berg asked how the concrete parking blocks would get to the site. T. Flick stated that the Park and Recreation Department will deliver them and place them a foot or two from the edge of the blacktop.

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

Trustee Berken was excused from the Board to the audience at this time.

### **Review/Discussion – Amending Village Code Section 40-66 Terrace Areas**

Kate Berken, 182 Grant St., commented that she has looked at old ordinances and the very first ordinance having to do with terraces was created in 1973 which is more than likely a full year after their hedges were planted and the next ordinance wasn't until 1979 and that ordinance basically created regulations for terraces but it stated that objects that were already in the terrace could be approved and she believes that her hedges would have been approved and grandfathered in at the time. Ms. Berken said that the ordinance in 2003 stated that plants in the terrace area had to be maintained and the next ordinance was not until 2009 which she believes was after the first complaint about their hedges and it put them in violation. Ms. Berken further stated that her hedges are currently eight feet away from the road and her hedge is further away than most properties sidewalk and terrace combined and she feels that she was more than likely grandfathered in 1979 and again in 2003 and she is asking that the hedges be grandfathered in.

Lori Kappell, 823 Bluff Ave., commented that she doesn't believe the distance from the road is the problem but it is the height and if she wants to put up a fence it is only allowed to be 42 inches high and she was told she could not have a tree planted in the terrace because there is no curb and gutter. Lori Kappell stated she would like the issue taken care of as far as fairness and safety and she provided further comments on her safety concerns and her request for signs and stated she can agree with the height being no more than three feet. Trustee Berken stated he checked with the Village of Kimberly and they don't allow anything but basically everything in the Village has curb and gutter and the City of Kaukauna told him that when they enacted their ordinance they looked at the areas in town that did not meet the ordinance requirements and they were grandfathered in if there wasn't a safety issue. A lengthy discussion took place on the current ordinance and the proposed ordinance amendment presented that allows for plantings that are greater than 25 feet from an intersecting street right-of-way or driveway opening on a Village Street without curb, gutter, and sidewalk that are to be maintained at a height of no more than 48 inches. Trustee Peerenboom expressed concern for picking an arbitrary number of 48 inches because of one property.

President Vanden Berg stated the Board needs to look at the ordinance at how it pertains to the entire Village. Trustee Frassetto stated it is her opinion that the Village stay at a 48 inch height restriction and include the recommendation to specifically discuss the preexisting bushes in the terraces. Trustee Smith stated he would like to see that an ordinance amendment has a footage limit put in so they don't end up being planted 10 or 12 inches from the road and he doesn't want to see anything about grandfathering in as the intent is safety. Trustee Peerenboom stated that since he doesn't agree with the language in the proposed ordinance amendment, he will submit to staff his suggestion to be included with next week's agenda packets. Trustee Peerenboom stated that the language will basically deal with plantings complying with traffic visibility and safety.

#### **Review/Discussion – Amending Village Code Section 26-70 – Parking Prohibited During Certain Periods – Street Sweeping**

R. Van Gheem reviewed the proposal to amend the Village Code to prohibit parking during certain periods for street sweeping and the recommendation is to not allow parking on the street between the hours of 2:00 a.m. and 6:00 a.m. the day after recycling is collected on that street. R. Van Gheem and Jeff Elrick further explained that by adopting this ordinance amendment it will help with the DNR requirements of the Village's MS4 permit's objective to reduce suspended solids by 40% by 2013 and after looking at other options this was one of the most cost effective and it would have the least impact on the residents. Trustee Hietpas expressed concern about the number of vehicles that may be parked on the road overnight during the summer. Staff explained that the intent is to do the street sweeping during the day as they currently do but by having this ordinance in place it would allow them to sweep any areas that they couldn't get done during the day. Staff stated the public will be educated and the goal isn't to ticket anyone and the Public Works Dept. will also work with the Police if there would be any issues. Discussion continued. Trustees Peerenboom and Frassetto suggested that it might be easier for residents if the no parking timeframe was the night the recycling is put out instead of when it is brought in. Staff will make the change to the ordinance and bring it back at a future meeting for approval.

#### **Discussion/Possible Action – Resolution – Implementing Village Pick-up of Employee Retirement Contributions Pursuant to IRC §414(h)(2)**

D. Haug stated that the word pick-up does not mean that it is an employer cost but it IRS language and it means who will make the deposit of the contribution and that is the employer and there are not any costs to the employer. D. Haug explained the proposal to authorize employee WRS contributions as a pre-tax payroll deduction and noted that a survey was sent out to employees asking if they preferred a pre-tax or post-tax contribution and 20 surveys were returned and 13 of them preferred the pre-tax option. D. Haug noted that it is the employer's decision and it will either be one way or the other for employees.

*Moved by Trustee Frassetto, seconded by Trustee Mahlik to Adopt Resolution No. 12, Series of 2011 Implementing Village Pick-up of Employee Retirement Contribution Pursuant to IRC §414(h)(2).*

Ayes 7, Nay 0 – Motion Carried Unanimously

#### **Review/Discussion – Budget Adjustment – Insurance Claim for Van Lieshout Park Roof Damage**

D. Haug reviewed the budget adjustment to approve the use of \$5,000 from the Insurance Claims Reserve Fund to cover the insurance deductible for the expenditure. Board members agreed to put the item on next week's agenda for action.

## Unfinished Business

Trustee Peerenboom asked which department could address Mrs. Kappell's traffic safety concerns and Ms. Kappell stated she did take her concerns and suggestions for signs to the Police Chief and he determined that the signs were not warranted. Trustee Peerenboom stated he will provide staff with his suggestion for an amendment to the terrace ordinance and staff stated they can present options and President Vanden Berg stated his goal is to get the issue resolved next week. C. Kell reported that he believes the operator of the 5<sup>th</sup> Quarter is in negotiations with the bank to purchase the property. J. Moes reported that any day up and to the date of the sheriff's sale it is open to negotiations for the sale of the property and the sheriff's sale can be amended. C. Kell stated there will be an agenda item to discuss the 5<sup>th</sup> Quarter next week in closed session with the Village Attorney as the issue is the Village can withhold the liquor license if the business owes any fees or funds to the Village. C. Kell stated that at the Board's request the condition of the Van Dyn Hoven properties were checked and a letter was sent to Mr. Van Dyn Hoven regarding the two properties discussed and Mr. Van Dyn Hoven has informed him that he would begin work on the properties tomorrow but it is not determined on how far he is going to go with the house as he may be tearing it down but he will be cleaning up the corner lot.

## Items for Future Agenda

Board members agreed with T. Flick's request to have on next week's agenda a short presentation from the DNR to present the Village an Arbor Day plaque. C. Kell reported that the bid tabs for the street utility projects were originally scheduled to be on next week's agenda but the Public Works Director is not going to be available for next week's meeting and he would like him available as there are some issues that have come up and there may be some people that want to speak to the Board about those bids so the bid award will be held off until the following week. Sara Eslinger, 1005 Washington St., stated she would like it put on the agenda in two weeks discussion of some major repair work that needs to be done to streets and parking lots in the Village and she will email pictures to the Trustees. President Vanden Berg stated at a future meeting he would like to discuss how the Board meetings are conducted with suggestions from trustees and staff on processes and procedures to make the Board meetings as efficient and effective as possible. Board members agreed to arrive early at next week's meeting for pictures. Trustee Peerenboom asked if the Board wanted a future agenda item to discuss the questions raised by Mr. Miller. Trustee Hietpas stated he thought it should be brought up for discussion. Trustee Mahlik stated his opinion is no as it is an individual decision on who someone wants to hire as it is private property and it is their prerogative to hire who they want. Trustee Smith stated he does not have a problem with talking about it. Trustee Peerenboom stated he would like to see it on the agenda if for nothing else to get it out there to see how the program does work. C. Kell asked for clarity if it is just the one program or is it all the programs that involve Village grants/loans. President Vanden Berg stated the issue will go on a future agenda for discussion and the agenda item should be broad enough to discuss other programs.

## Adjournment

*Moved by Trustee Frassetto, seconded by Trustee Mahlik to Adjourn the Committee of the Whole meeting at 7:32 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