

## MINUTES OF THE COMMITTEE OF THE WHOLE MEETING OF JUNE 8, 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, D. Haug, R. Van Gheem, E. J. Moes T. Flick, V. Schneider

Nick Vande Hey and Mike Simon of McMahon Associates, Outagamie County Supervisor Don De Groot, Jerry Van Dyn Hoven and Attorney Frassetto, Media Reps and Concerned Citizens

### Public Appearance for Items not on the Agenda

Jerry Van Dyn Hoven expressed congratulations to the Cheese Festival committee for putting on a phenomenal event and he also commented on an idea to create a compassion wall on the brick wall located on his property that was previously the Moped shop/Domino's pizza parcel.

### Discussion/Possible Action – Trustee Hietpas’ Request for Rezoning Consideration – W. Lincoln Avenue Parcels

*Moved by Trustee Mahlik to rezone the parcels from CB back to residential.*

J. Moes stated that specific lot numbers are needed. Board members reviewed the map of the parcels in question that was provided to them. Trustee Hietpas stated that his understanding was that if the project didn't go through, then everything would go back and he believes Lots 9 & 27 should be rezoned back to single family. Trustee Smith questioned ever saying that they would go back as once they are rezoned they stay rezoned and he also wanted to know what the motivation is for switching them back. Trustee Mahlik stated that they were conditional and if the property is not being developed there is no need for them to remain commercial as it is residential area and they should go back to residential as they were for many years. Trustee Hietpas stated this is a great opportunity for the Village to do the right thing and uphold their word. J. Moes explained that the procedure is for the Village Board to pass by majority a motion specifically asking the Plan Commission to review and recommend a zoning change and then after the Plan Commission makes a recommendation it would have to go through a public hearing before the Board before action would be taken by the Board. Trustee Smith stated residential property abuts commercial property throughout the Village and he doesn't know what will be gained by changing back the zoning. Nedd Schommer, 411 W. Lincoln Ave., commented that verbal promises were made by Trustee Smith and other board members and it means keeping their promises. Trustee Smith disagreed stating he did not make that promise. Attorney Frassetto stated that he represents the property owner and there was an agreement that if there wasn't a development the conditional use properties would revert back which did happen and he stated this is a planning issue and the parcels are adjacent to commercial properties and that was the reason that was given for the actual rezoning and that it was also included in the TID. Attorney Frassetto further stated that the moped property by itself is not a viable commercial property and relies on the rezoning in order to market the property and his client has already razed the moped shop and one of the residential properties so reverting it to residential creates an issue that the Board may want to discuss with legal counsel. Trustee Frassetto stated the Board has maximum flexibility in reviewing and determining what happens with that property and for purposes of commercial development in that area they urge that the matter, as staff has recommended, remain as commercial zoning.

*Trustee Mahlik stated he would like to restate his motion that this goes back to the Planning Commission to revert Lot 9 and Lot 27 from Commercial Business to Residential.*

Trustee Smith again asked what would changes if they are changed back to residential and staff stated that they can still have single family residential homes in the commercial zoning. Trustee Smith stated he does

not see any advantage to changing it and he commented that something is going to go on this property and it needed to be rezoned for this. Nedd Schommer commented that things were done based on what the Developer said he was going to do and it should be put back the way it was because the project didn't happen.

*Trustee Hietpas seconded Trustee Mahilk's motion.*

Further Discussion: Attorney Frassetto stated the parcel will be developed as commercial and there have been discussions with other third parties that are interested in developing the corner and he again commented on the flexibility the Board has and from a planning and legal standpoint he doesn't understand why the corner would be down zoned and that area has to be commercial business to be viable. Discussion continued on the legal issues, benefits and deficits of changing the zoning, the comprehensive plan, the Planning Commission's and Board's role in the rezoning. J. Moes confirmed that the correct addresses are 306 W. Lincoln which is Lot 9 and 312 W. Lincoln which is Lot 27. Trustee Peerenboom stated he supports sending it back to the Plan Commission as he believes the Board did not vote on the recommendation of the Plan Commission. President Vanden Berg stated at this point he has trouble voting in support of the motion as he has very little information and he doesn't take lightly sending something of this nature back to the Plan Commission and he would like to investigate it further before voting on it.

Vote on the Motion:

Ayes 5, Nays 2 – (Vanden Berg, Smith)

Board members agreed the rezoning issue will be placed on the agenda of the July 11 Plan Commission meeting.

**Discussion/Possible Action – Rescinding Resolution No. 6, Series of 2011 – A Resolution Conditionally Vacating a Portion of W. Lincoln Avenue**

Trustee Hietpas stated it was his understanding of the lawsuit filed against the Village concerning the vacation that if the project wasn't going to be completed the vacation would be rescinded and the project has failed and it isn't going to be considered. Attorney Frassetto stated he recalled that the lawsuit was about the right of the Village to conditionally vacate the street and the court agreed the Village has the right to do that and the Village has all the flexibility based on the status of the road vacation and he disagrees with Trustee Hietpas in his characterization on the judge's decision that if the Dutch Boyz project didn't take place that it was an automatic rescission of the street vacation. Attorney Frassetto commented on discussion he had with the Highway Commissioner regarding safety at the intersection and the owner of the parcels adjacent to the street requests that the street vacation not be rescinded.

Don De Groot, 407 Kadinger Way, County Supervisor Dist. 18, Member of the Highway and Solid Waste Committee, spoke stating he had received an email from Al Geurts, Outagamie County Highway Commissioner, questioning the rescinding of this resolution. Mr. De Groot stated that this issue came before their committee because the Village had requested it be reviewed and they did discuss the concerns the Village had with safety at that intersection and he is here to listen to understand what the Board wants to do with the corner. Mr. De Groot also commented on the history of the road. Trustee Mahlik commented on the County not doing anything up until this point and he commented that the Village would be the one paying for the road. Discussion continued on the issue and comments were made about safety and traffic issues. C. Kell stated that the Board had decided that this was a good proposal for the Village regardless of the Dutch Boyz project because of the traffic issues and that is why there isn't a condition in the resolution because the feeling was that even if there wasn't a development it would make sense to vacate that road in the future and have an alternate safer access for the residents that live in that area. C. Kell stated that proposals that have surfaced since the Dutch Boyz project have all included the idea of the street being vacated. C. Kell further stated that he believes this is a good proposal for the community, it doesn't endanger the neighborhood in any way, nor does it impact property values or value of the homes but it offers flexibility to offer alternate access. Trustees Frassetto and Mahlik commented on safety not

being a concern prior to this. John Elrick, 501 Appletree Lane, commented that he recalls the issue of safety was brought up by the residents. Trustee Hietpas commented that if Dutch Boyz wouldn't have been considering the project the road would never had been considered for vacation and the Board needs to honor their word. Trustee Berken commented on why this was not considered when the road was redone and the bridge was rebuilt and it didn't seem like there was a safety issue then. C. Kell commented on the increase in development and traffic. Trustee Smith stated in regard to the issue of honor and integrity he wants to clarify for the record that he isn't stupid enough to vote to rezone property thinking it can revert back and he commented that the only way the street can be vacated is if a new road is put in and he doesn't understand why it should be changed. Trustee Mahlik stated it was done for the project and the project isn't happening and it should revert back. Discussion continued on the issues.

*Moved by Trustee Hietpas, seconded by Trustee Mahlik that due to the fact that the Dutch Boyz Development has failed he would like to rescind Resolution No. 6, Series of 2010 Conditionally Vacating a Portion of West Lincoln Avenue due to the fact that the new road may never go in.*

Further Discussion: J. Moes suggested that Attorney Koehler may need to be consulted because a resolution may be needed for this instead of making a simple action motion. Trustee Smith commented that he wants to wait for the Attorney as he wants to ask him some questions and he also asked what the legalities are when three board members are tied to the street and he asked if any one looked this up concerning their votes. Trustee Mahlik stated this has nothing to do with it and they were voted in by the people of Little Chute and to insinuate that they shouldn't be able to vote is wrong. Trustee Smith stated that he wants to talk to the Attorney. President Vanden Berg suggested that Trustee Hietpas amend his motion to state that a resolution to rescind the street vacation resolution be presented at the next meeting so they follow the proper procedures to undo a resolution. C. Kell commented that he doesn't believe that Attorney Koehler will advise board members on personal ethics. Trustee Smith stated another question he has if this goes through if it is going to subject the Village to a future lawsuit.

*Trustee Hietpas withdrew his motion contingent that it be placed on next week's agenda as a resolution with Attorney Koehler present. Trustee Mahlik withdrew his second.*

#### **Discussion/Possible Action – Preliminary Design for Rosehill Road and Holland Road**

R. Van Gheem reviewed the preliminary designs as previously agreed upon by the Board. Rosehill Road between Wisconsin Ave. and Main Street is designed with a variable width of 36-38 ft. face to face, two 6-foot bike lanes with no parking on either side and sidewalk remaining on both sides. Rosehill Road from Main to Hwy. 00 will typically be 40 feet face to face, 5 foot bike lanes on both sides, parking on the east side, sidewalk on the west side will remain in place, there will be raised medians at the railroad crossing, and the flashing signals and crossing gates at the railroad will need to be relocated. Trustee Peerenboom asked if there was any financial gain or loss if the bike lane designation was removed as his concern is with Rosehill Bar losing parking on the street and he has a problem with designating bike lanes and eliminating parking when bikes are only used half the year and less than half of the day. Discussion took place on the Village's Adopted Pedestrian and Bike plan and bike lanes and bike routes. Trustee Frassetto commented that the owners of Rosehill Bar are aware of the plan and this new design with one parking on one side was acceptable to the Rosehill Bar owners. R. Van Gheem noted that there wasn't any funding for bike lanes on Rosehill Road. T. Flick stated that it makes sense to him to put in bike lanes from Main St. to Hwy. 00 and a signed route would be acceptable from Lincoln Ave./Riverside Dr. to Main St. to get cyclists from our future river trail to the Paper Trail as the signed route wouldn't affect the residents. Discussion continued on the issue of bike lanes/routes and parking. Trustee Berken and Trustee Smith also expressed concern with eliminating parking between Wisconsin Ave. and Rosehill Rd. Trustee Frassetto and staff commented on this route being one of the major bike trail links in the Village. The Holland Road design was not discussed.

*Moved by Trustee Frassetto, seconded by Trustee Mahlik to approve the preliminary design for Rosehill Road and Holland Road as presented.*

Further Discussion: Trustee Berken commented that people are asking why every time the Village reconstructs a road they put in bike lanes and other communities do not and they comment on the Hwy. 96 bike lane that ends when you get to Little Chute and he further stated that people say they don't come to meetings because the Board doesn't listen. Gabe Konopka, 102 E. McKinley, stated he disagreed as he has been coming to Board meetings for several years and Board members do listen to the residents and he has witnessed the Board making exceptions. Trustee Frassetto stated she has viewed the area in questions numerous times and there isn't a lot of area to park on the street now and there seems to be sufficient parking area in the majority of the residents' driveways. R. Van Gheem stated they are not putting bike lanes on every street but the streets that are being done as of late are addressing the major routes planned for bike lanes. Trustee Mahlik commented that Kurt from Rosehill Bar agreed with the plan and biking is being encouraged and safety issues need to be looked at and the long term effect is that the bike lanes will be used more. T. Flick commented that in a good quarter of the Valley, communities are building multi-use trails and Appleton has just recently approved an estimated 25 miles of bike lanes throughout the city and Little Chute is being proactive as of lately in providing for bike lanes. R. Van Gheem stated that the next step would be to hold a public hearing on the preliminary designs.

Vote on the Motion:

Ayes 5, Nays 2 (Berken, Peerenboom) - Motion Carried

### **Discussion – 2011 Fund Balance Transfer for Police Merger and Budget Adjustment – Fox Valley Metro Merger**

D. Haug stated that the consolidation agreement included a commitment to perform safety center remodeling and technology upgrades and he reviewed how the Village's share would be funded with the budget transfer of \$110,470 for remodeling of the Safety Center with partner contributions for merger expenditures in the amount of \$106,564. Board members agreed to place this item on next week's agenda for action.

### **Review/Discussion – Fox Cities Incorporated Communities Local Utility Rates/Tax Comparison**

C. Kell briefly reviewed the study of the seven communities surveyed that showed the overall rank for the Village has dropped to seventh in 2011 from the 5<sup>th</sup> position it held in 2007 and 2010, of the seven communities surveyed. C. Kell stated that in 2011 the Village has the overall lowest costs in taxes and fees and this is a result of the Board and staff working hard at keeping costs in check and even with the proposed utility rate increases and bonding, the Village's position will likely remain in the 7<sup>th</sup> position for overall costs. C. Kell noted that this comparison chart and an article addressing it will be in the summer newsletter. Discussion took place on HOVMSD costs and the Board expressed interest in touring the HOVMSD plant. R. Van Gheem will try to set up a tour of the plant for the Board members.

### **Discussion – Sanitary Sewer Fee Review/Recommend Increase in Billing Rate**

D. Haug reviewed the proposal to increase the sanitary sewer fee to \$7.50 per 1,000 gallons based on the need to meet HOVMSC regional treatment costs and pay annual debt service. The fixed charge is recommended to remain at \$3.00. D. Haug noted that the fee increase is being proposed to go into effect July 1, 2011. Discussion took place on the proposal and other alternatives. Board members agreed to put the rate increase as recommended on next week's agenda for action.

### **Discussion – 2011 Debt Financing for Projects**

Staff reviewed the revised debt package noting the revised amount would amount to \$1.30 per \$1,000 in equalized value in a net tax rate increase for debt which is down from the original illustration which was in the \$2.40 range. Staff also noted that a flexible alternative was identified for Village Hall remodeling financing and the proposed timing of the debt package was also presented. Discussion took place. Board members agreed to staff presenting resolutions for the bonding as presented at next week's meeting.

### **Discussion/Possible Action – Initiate Phase IV of the Private Lateral Replacement Program for Completion during the summer of 2011**

R. Van Gheem reviewed the proposal to initiate a fourth phase of lateral replacements this year because of the contractors' competitive costs which could prove beneficial to property owners and the contractor's ability to take on an estimated 30 more replacement projects this year and because of the need to continue moving forward with reducing I/I to the sanitary flows. Trustees expressed concerning with mandating those in Phase IV to have the work done this year because of the short notice and they would rather see it offered as an option. Discussion took place on sending letters to those that are scheduled for Phase IV and V notifying them that their residences have defective laterals and offering them the opportunity to have the work done by the Village's contractor this year and the first 30 that respond will be added to this year's contract or more if the contractor allows for it. R. Van Gheem stated that a letter and information on sanitary lateral replacements could be sent to the property owners informing them it is voluntary this year to have this year's contractor do the work but in the future it will be mandated to be replaced.

*Moved by Trustee Peerenboom, seconded by Trustee Frassetto, to send informational letters to the property owners shown in Figure 3, including Phases IV and V, informing them that the option is available for the lateral rehab in 2011 and also informing them of the planned action in the future that they will be required to comply with replacing their laterals.*

Ayes 7, Nays 0 – Motion Carried Unanimously

### **Unfinished Business**

Trustee Frassetto asked about the status of the hiring process for replacement of the Finance Director as she doesn't want to see a large gap in time between Dale's retirement and bringing in a new person and Administrator Kell stated he is reviewing job descriptions and information Dale has provided on the position and he plans to place an ad with the GFOA, the League, and Village Administrator/Manager publications, and the Village's website. President Vanden Berg stated the process of the Boards involvement in the hiring will have to be discussed at a future meeting.

### **Items for Future Agenda**

The following items will be on next week's agenda: Resolution on Rescinding W. Lincoln Street Vacation Resolution, FVMPD budget transfer, Sanitary Sewer Fee approval, Debt Financing Resolution.

### **Adjournment**

*Moved by Trustee Frassetto, seconded by Trustee Hietpas to Adjourn the Committee of the Whole meeting at 8:59 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