

MINUTES OF THE REGULAR BOARD MEETING OF JULY 6, 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

Erik Misselt, Police Chief

Jim Moes, Community Development Director

Tom Flick, Director of Parks, Recreation, and Forestry

Beth Carpenter, Library Director

Vicki Schneider, Village Clerk

Charles Koehler, Village Attorney

EXCUSED: Roy Van Gheem, Director of Public Works

ALSO PRESENT: Nick Vande Hey of McMahon Associates, media reps and interested citizens

Public Appearance for Items Not on the Agenda

John and Linda Schuh, 612 Grant Street and Tyler Grant, 817 Charles Street, addressed the Board requesting that the portion of Grant Street that they reside on not be reconstructed in concrete, curb, gutter and sidewalk as there are only three homes on this street.

Moved by Trustee Frassetto, seconded by Trustee Smith to Enter into the Public Hearing.

Ayes 7, Nays 0 – Motion Carried Unanimously

Public Hearing – Amending Zoning Code Article IX Division 4 – Wind Energy Systems – Sections 44-364 Special Use Permits, 44-365 Procedure, and 44-366 Specific Requirements

J. Moes stated that this ordinance had previously been presented to the Board and this relates to the wind energy system that is being requested by the School District. J. Moes reported that a public hearing on the conditional use for the wind energy system for the High School will be held at the Planning Commission meeting on Monday, July 11, 2011. No other public comments were made.

Moved by Trustee Peerenboom, seconded by Trustee Mahlik to Exit the Public Hearing.

Ayes 7, Nays 0 – Motion Carried Unanimously

Approval of Minutes

Regular Board Meeting Minutes – June 15, 2011

Committee of the Whole Meeting Minutes – June 22, 2011

Moved by Trustee Berken, seconded by Trustee Peerenboom to approve the Regular Board Minutes of June 15, 2011 and the Committee of the Whole Minutes of June 22, 2011 as presented.

Ayes 7, Nays 0-Motion Carried Unanimously

Report of Other Minutes-Other Informational Items

Minutes of the Design Review Board Meeting of April 27, 2011

Minutes of the Plan Commission Meeting of May 9, 2011

Report of Other Minutes- Other Informational Item Continued:

Minutes of the Library Board Meeting of May 17, 2011

Minutes of the Water Commission Meeting of May 17, 2011

Notes of the Public Information Meeting on June 22, 2011

Board members noted receipt of the informational items.

Ordinances:

a) Annexation Ordinance Part of Outagamie County Landfill

Moved by Trustee Frassetto, seconded by Trustee Mahlik to Adopt Ordinance No. 10, Series of 2011 Annexing Territory from the Town of Vandenbroek as presented.

Ayes 7, Nay 0 – Motion Carried Unanimously

b) Amending Chapter 44 of the Zoning Code, Article IX Division 4 Wind Energy Systems, Section 364 Special Use Permits, Section 365 Procedure and Section 366 Specific Requirements

Moved by Trustee Frassetto, seconded by Trustee Mahlik to Adopt Ordinance No. 11, Series of 2011 Amending Chapter 44 of the Zoning Code, Article IX Division 4 Wind Energy Systems, Section 364 Special Use Permits, Section 365 – Procedure and Section 366 Specific Requirements as presented.

Ayes 7, Nays 0 – Motion Carried Unanimously

c) Amending Chapter 40 Streets, Sidewalks, and Other Public Places – Article III Sidewalk Construction, Maintenance, and Repair, Section 66 Terrace Area (a) Definition and Article VI Trees and Shrubs, Section 148 Definitions of the Village of Little Chute Municipal Code

Moved by Trustee Mahlik, seconded by Trustee Frassetto to Adopt Ordinance No. 12, Series of 2011 Amending Village of Little Chute Municipal Code Chapter 40 Streets, Sidewalks, and Other Public Places, Article III Sidewalk Construction, Maintenance, and Repair, Section 66 Terrace Area (a) Definition and Article VI Trees and Shrubs, Section 148 Definitions as presented.

Ayes 6, Nays 1 (Berken) – Motion Carried

d) Amending Chapter 26 Motor Vehicles and Traffic, Article III Parking Regulations, Section 65 – (a)(3) Stopping or Parking Prohibited in Certain Specified Areas of the Village of Little Chute Municipal Code

Moved by Trustee Frassetto, seconded by Trustee Mahlik to Adopt Ordinance No. 13, Series of 2011 Amending Village of Little Chute Municipal Code Chapter 26 Motor Vehicles and Traffic, Article III Parking Regulations, Section 65(a)(3) Stopping or Parking Prohibited in Certain Specified Areas as presented.

Further Discussion: Trustee Peerenboom stated he was concerned with this ordinance as this would affect a few residents in the older sections of the Village that don't have long driveways and they can't fit a vehicle in the driveway when the garage door is closed . C. Kell stated that this ordinance creates a definition for terrace consistent with the last ordinance that was adopted and there are already code regulations in place that stipulate that vehicles cannot hang over sidewalks or overhang street right-of-way so this ordinance does not change anything on where people can and cannot park but it merely defines terrace to make it consistent throughout the code.

Vote on the Motion:

Ayes 7, Nays 0 – Motion Carried Unanimously

Action to Reconsider Ordinance Amending Chapter 40 Streets, Sidewalks and Other Public Places, Article III Sidewalk Construction, Maintenance and Repair Section 40-66 Terrace Area of the Village of Little Chute Municipal Code

Moved by Trustee Peerenboom, seconded by Trustee Hietpas to Reconsider what was Ordinance No. 9 further defined as the "Kell Version".

Trustee Smith asked for clarification on the motion and Trustee Peerenboom stated he would like to reconsider the proposed ordinance that was defeated at a previous meeting which was specifically called the "Kell Version".

Vote on the Motion:

Ayes 7, Nays 0 – Motion Carried Unanimously

Discussion/Possible Action on Ordinance Amending Chapter 40 Streets, Sidewalks and Other Public Places, Article III Sidewalk Construction, Maintenance and Repair Section 40-66 Terrace Area of the Village of Little Chute Municipal Code

Moved by Trustee Peerenboom, seconded by Trustee Mahlik to Adopt Ordinance No. 14, Series of 2011 Amending Chapter 40 Streets, Sidewalks and Other Public Places, Article III Sidewalk Construction, Maintenance and Repair Section 40-66 Terrace Area of the Village of Little Chute Municipal Code with the following amendment, strike three feet and insert "two and one half feet above the center line grade of the street".

Further Discussion: C. Kell stated staff can support the proposed amendment. Kate Berken, 182 Grant St., questioned what the ordinance was exactly stating and does it include the 15 feet from the current ordinance because it is conflicting with that ordinance and there are areas where sidewalk is right up to the road.

Trustee Peerenboom stated the ordinance states it is 25 feet from the intersecting street right-of-way so it would be 25 feet from the edge of the property line away from the street. Kate Berken further commented on the ordinance being conflicting. C. Kell stated that the 15-foot vision clearance triangle requirement is in the zoning ordinance and that is a requirement that the property owner has to maintain vegetation below a certain height on their private property and the 25-foot provision at street intersections and at driveways is a 25-foot triangle and keeps the height below 2 1/2 feet in the street right-of-way which is village property.

C. Kell stated that if the property owner doesn't maintain the height restriction then the Village can clear it so there is good vision at those intersections. C. Kell stated that as with other ordinance issues, compliance with this ordinance will be dealt with on a complaint basis or if the Police Dept. or Public Works determines there is a safety issue. Kate Berken stated that if it is going to be changed it needs to be enforced village wide and not enforced by complaint only. Discussion continued.

Vote on the Motion:

Ayes 6, Nays 1 (Berken) – Motion Carried

Action on Outdoor Alcohol Beverage Permit Application filed by The Factor Inn, LLC for the 5th Quarter

Chief Misselt reported that there have not been any general complaints regarding the outdoor area and the complaints that were registered had to do with outdoor music events at the establishment. Chief Misselt stated that he had reviewed the application and has had discussions with the applicant and the applicant knows that if issues do come up with this outdoor area, the Police Dept. has the authority to shut down the area.

Moved by Trustee Frassetto, seconded by Trustee Mahlik to Approve the Outdoor Alcohol Beverage Permit for The Factor Inn, LLC for the 5th Quarter as presented.

Further Discussion: Trustee Peerenboom asked if these were allowed at all bar and grill type establishments and Chief Misselt stated the outdoor areas are allowed with restrictions and in this instance the outdoor area was part of the Class B license and was in existence prior to passing the outdoor permit ordinance and there are provisions in the ordinance related to proximity to residential areas and with this particular case it is clear that this is not an issue because of where they are located. Chief Misselt stated some businesses are restricted from doing this because of their geographical location and the amount of land they have available.

Vote on the Motion:

Ayes 7, Nays 0 – Motion Carried Unanimously

Action on Insurance Claim

Trustee Mahlik stated he recommends going along with the recommendation of the Village's insurance company to deny the claim. Jerry Sherwood, 322 E. Main St., stated that when Jackson Street was rebuilt the sidewalk was moved from the east side of the street to the west side and his drain tile was sliced. Mr. Sherwood further stated a new catch basin was installed and his drain tile was connected to that. Mr. Sherwood commented that the reason for the time element was he didn't really have a problem until there was significant rainfall, and then there was a backup into his basement. Mr. Sherwood stated that the Village hired the subcontractors and the Village should make him whole and the Village should subrogate with the contractors. D. Haug stated it is normally staff's position that the Village Board follows the recommendation of the Village's insurance company as the Village then retains the right for them to represent the Village. J. Sherwood commented that the Village's insurance company denied because of a 120 day notice requirement and he explained why he didn't file within 120 days and he commented on Scott Lamers and Mike Janssen being aware of the problem. Attorney Koehler stated he could not give legal advice to Mr. Sherwood on the procedure that he should follow to further pursue a claim and he agrees with the comments that the Finance Director made on following the insurance company's recommendations. Attorney Koehler emphasized that the cut of the line was not done by the Village and it was work that was done by an independent contractor and he agrees with the Village's insurance company that the Village is not responsible for any contractor error. Mr. Sherwood stated that the Village should be responsible and pay him in whole and they should then go after the contractor.

Moved by Trustee Mahlik, seconded by Trustee Smith to Accept the Recommendation of the Village's Insurance Company and Deny the Claim Filed by Jerry Sherwood.

Ayes 6, Nays 1(Frassetto) – Motion Carried

Action on Site Plan for Heartland Business Systems

J. Moes stated staff has reviewed the site plan and approval is being recommended.

Moved by Trustee Mahlik, seconded by Trustee Smith to Approve the Site Plan for Heartland Business Systems as presented.

Further Discussion: Trustee Peerenboom asked if the plan met all of the Village's drainage requirements and J. Moes responded that it did meet all Village requirements.

Ayes 7, Nays 0 – Motion Carried Unanimously

Discussion/Possible Action on Request to Hold Liquor License for Country Inn & Suites

Clerk Schneider stated the receiver has indicated they do not have a timeframe of when or if Mae Corporation will get the business back. Trustee Mahlik commented that others may be interested in this license and holding it for the hotel may not be the best option. C. Kell pointed out that the receivership is not interested in the license and the question is do we want to hold it for Mae Corporation or not. Discussion took place.

Moved by Trustee Mahlik, seconded by Trustee Peerenboom to Deny the Request to Hold the Liquor License for Mae Corporation.

Further Discussion: President Vanden Berg questioned when the 90 day timeframe of non-use of the license is triggered and the Clerk confirmed that the timeframe begins at the time the license is issued.

Vote on the Motion:

Ayes 7, Nay 0 – Motion Carried Unanimously

Discussion/Possible Action on Design of the Polk Pond, Polk Street, and Grant Street

Nick Vande Hey, McMahon Associates, reviewed the project layout and stated the watershed area serviced by Polk Pond will be less of a service area than originally discussed because of the amount of land that is used for creating the four residential lots. Mr. Vande Hey stated the project plan also consists of installing concrete paving on Polk and Grant Street and constructing new storm sewers on Polk St, Grant St. and Charles St. to the pond and a storm sewer from the pond back to Buchanan Street. Sidewalk is being planned for both sides of Polk Street and in the cul-de-sac and the Board will need to provide direction to

staff if sidewalk should be constructed on Grant St. Discussion took place. Mr. and Mrs. Schuh and Mr. Grant again asked the Board to deviate from the concrete paving policy and not install concrete on Grant St. because there are only three homes on the street. Mr. Vande Hey stated he is comfortable with the feasibility of the project as it is planned and the Village Board can make the determination on the Grant St. paving and they are moving forward at this time with the bidding for the pond and utilities projects.

Moved by Trustee Frassetto, seconded by Trustee Berken to Approve the Project Layout Proposal as Presented with the Modification that Grant Street Pavement be changed to Asphalt without Curb, Gutter and Sidewalk.

Further Discussion: Trustee Peerenboom stated he has a problem with not reserving the four lots as it may be short sighted and he doesn't like to give up any available land that may be used for storm water management needs. J. Moes stated that the school district did attend the public hearing on the pond and they are strongly in favor of creating more residential lots in the Village. President Vanden Berg asked if the lots should be held for a period of time to see what the future brings. Mr. Vande Hey stated it is always cheaper to do the project at one time and if the Board is thinking of selling the lots as part of the project the laterals will be stubbed to those lots. Mr. Vande Hey stated that from an engineering standpoint he supports the plan being presented today. C. Kell stated that the bid package has already been put out for the pond and the utility work and that was all done on what the Board had previously approved for the pond and those issues are decided but what the Board is being asked for tonight regards the designs for the streets and once the Board agrees with a proposed design a public hearing on the street projects will be held with the property owners. Trustee Berken commented that in the past the Village has deviated from the concrete street policy. Discussion continued. Mrs. Schuh commented on the issue of safety and not having sidewalks lead towards the pond and Mr. Schuh stated that a dead end sign at the end of the road would be beneficial as cars come down that dead end street and run into the field. Trustee Smith asked if drainage could be achieved with a black top street and Mr. Vande Hey stated he didn't specifically look at this but based on the road as it is now and there not being an issue with drainage according to the landowners, going from gravel to asphalt probably matter that much.

Vote on the Motion:

Ayes 7, Nays 0 – Motion Carried Unanimously

Appoint Citizen Member to Joint Library Board

President Vanden Berg stated he is recommending that Lori Vanderloop be appointed as a citizen member of the Joint Library Board.

Moved by Trustee Frassetto, seconded by Trustee Peerenboom to Approve the Appointment of Lori Vanderloop to the Joint Library Board.

Ayes 7, Nays 0 – Motion Carried Unanimously

Operators License:

Tiffany L. Breit	132 N. Story St.	Appleton	Walgreens
Nicholas J. Derks	N2657 Cty. N	Freedom	Super 41 Shell
Judith P. Dunn	N8257 French Rd.	Seymour	Moasis
Candy L. Erdman	727 Manitowoc St.	Menasha	Walgreens
Jessica J. Evers	114 S. Willow St.	Kimberly	Gentlemen Jacks
Paula L. Heckert	306 W. Main St.	Little Chute	Main Event & Steakhouse
Rebecca J. Hooyman	2617 Nature View Ct.	Kaukauna	The Hawk's Nest
Lydia M. Kirk	W2776 Cty Rd. KK	Appleton	Moasis
Amanda B. Krznarich	4216 Woodridge Dr.	Appleton	Walgreens
Robert L. Linders Jr.	1700 Kelly Rd. #6	Little Chute	Super 41 Shell
Cynthia A. Mikulski	908 E Northwood Dr.	Appleton	Pop In Again
Matthew A. Mossberger	715 Sanders Rd. #2	Kaukauna	Walgreens
Patricia A. Mullins	1436 Glenview Ln.	Little Chute	Hawks Nest
Shirley M. Otto	3145 N. Rankin St.	Appleton	Walgreens

Operator's Licenses Continued:

Troy M. Rustad	826 E. Appletree Ln.	Appleton	Walgreens
Amy L. Santiago	232 S. Maple St.	Kimberly	Walgreens
Tim J. Schell	153 E 3 rd St. #1	Kaukauna	Super 41 Shell
Maxine A.M. Smith	412 W. Division St.	Kaukauna	Pop In Again
Sara M. Vande Hey	412 E. Lincoln Ave.	Little Chute	Walgreens
Noreen M. Vaubel	724 Sue St.	Little Chute	Pop In Again
Jason J. Vogl	713 S Railroad St. #9	Kimberly	Express

Moved by Trustee Frassetto, seconded by Trustee Smith to approve the operator's license as listed on the agenda.

Ayes 7, Nays 0 – Motion Carried Unanimously

Department and Officers Progress Reports

Chief Misselt reported that the merger became effective on July 1st and it is going well and the Department is operating smoothly. Chief Misselt noted that they are currently working out the technology issues and wiring issues at the Safety Center. Chief Misselt also reported that Lt. Hufschmid may be leaving the Department to become a full-time instructor at FVTC. Chief Misselt reported that he will be bringing forward at future meetings a number of proposed ordinance amendments. D. Haug reported that he and the Administrator will be having a conference call with Moodys which is the rating agency for the Village's bonding for borrowing and they expect the Village's rating to remain status quo. D. Haug also reported that he had distributed the 2010 CAFR to Board members and a presentation by the Village's auditing firm on the CAFR will take place at next week's meeting. C. Kell commented on the publications that he has advertised in for the Finance Director's position noting that the deadline is next Friday and he stated in the next few weeks he would like to have a discussion with the Board to determine their involvement with the hiring process. C. Kell provided an update on the process of selecting a consultant for the Mill St. Bridge project. C. Kell reported on an issue of surveying and marking Grant St., south of Bluff Avenue and he dealt with the issue by having the right-of-way surveyed and the street sign at the end of the road was moved to the exact right-of-way line at the south end of the road and exactly in the middle of the right-of-way. C. Kell stated that based on the Board's support of the bonding issue for the potential remodeling of Village Hall there is renewed interest on a possible private donation to the project. J. Moes stated that at next week's Plan Commission meeting they will be reviewing a replat of a subdivision outside of the Village and that will also come to the Village Board next week for action. J. Moes reported that the Design Review Board has approved designs for the Jet's Pizza Building and their signage. T. Flick reported that with this being 4th of July week, youth and adult sports are not going on and pool hours are reduced so staff is sprucing up downtown parking lots and areas in the Village as well as the Heesakker Trail. T. Flick reported on the number of Ash trees that have been removed and he also informed the Board that another large baseball tournament will be playing at Legion Park next week. B. Carpenter provided copies of an abbreviated annual report, a library brochure, and information on the used book sale taking place in August. B. Carpenter also commented on the success and usefulness of the summer library/reading programs. B. Carpenter also reported that the library received a grant to install an ADA compliant electronic door at each library location and the door at the Civic Center has been installed and this will benefit not only the library but voters and those attending events in the Civic Center. V. Schneider reported that the Election being held in the Village next Tuesday is for voters in the Village residing in State Senate District #2 and noted that voters will be asked for their photo id and they will also be required to sign the poll book. Attorney Koehler – no report. Chief Misselt stated that the Department has hired Sandy Hanson to fill the vacant telecommunicator position.

Disbursement List

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

Ayes 7, Nays 0 – Motion Carried

Call for Unfinished Business

None

Items for Future Agendas

T. Flick stated the Jaycees have requested to appear before the Board to present a concept for a park improvement project and Board members agreed to have the Jaycees present this information at next week's Board meeting.

Moved by Trustee Smith, seconded by Trustee Mahlik to Enter into Closed Session. (7:45 p.m.)

Ayes 7, Nays 0 – Motion Carried Unanimously

Closed Session: 19.85 (g) Wis. Stats. – 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. Settlement Agreement with Chris Vemuri Regarding Village Revolving Loan Fund for the 5th Quarter

Moved by Trustee Peerenboom, seconded by Trustee Frassetto to Exit Closed Session and Return to Open Session. (8:05 p.m.)

Ayes 7, Nays 0 – Motion Carried Unanimously

Return to Open Session – Possible Action on Closed Session Item

Moved by Trustee Peerenboom, seconded by Trustee Smith to Approve the Settlement Agreement with Chris Vemuri for the Village Revolving Loan Fund for the 5th Quarter.

Ayes 7, Nays 0 – Motion Carried Unanimously

Adjournment

Moved by Trustee Smith, seconded by Trustee Mahlik to Adjourn the Regular Board meeting at 8:06 p.m.

Ayes 7, Nays 0 - Motion Carried Unanimously

VILLAGE OF LITTLE CHUTE

By: _____
Michael R. Vanden Berg, Village President

Attest: Vicki Schneider, Village Clerk