

MINUTES OF THE REGULAR BOARD MEETING OF JUNE 16, 2010

The Regular Board meeting was called to order at 6:00 p.m. by Charles Fischer, Village President.

Invocation

President Pro Tem Elrick called for a moment of silence.

Pledge Allegiance to the Flag

President Pro Tem Elrick led members in the reciting of the Pledge of Allegiance.

Roll call of Trustees

PRESENT: John Elrick, President Pro Tem
Tammy Frassetto Trustee
James Hietpas, Trustee
Dan Mahlik, Trustee
Don Van Deurzen, Trustee
Janet Verstegen, Trustee

EXCUSED: Charles Fischer, Village President

Roll Call of Officers and Department Heads

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

Public Appearance for Items Not on the Agenda

Laurie Hansen, 823 Bluff Ave., stated that she wanted to bring this issue up at the listening session but she forgot and she requested that all departments keep records of any and all complaints that come in. She stated important information would be date, time, nature of complaint, involved parties, even if they want to remain anonymous as the name can be blocked out, and a record of the action taken for every call and that even an anonymous phone call of a complaint should be recorded and the accused party should be made aware of the complaint. J. Moes explained how his department handles complaints about code violations and explained why names are not given of the person making the complaint. Chief Misselt explained the Police Department's procedures and stated that there are rules in regards to divulging information about the party making the complaint and they are constrained by those rules. Ms. Hansen noted that the name of the complaining party could be blocked out and she thinks a good record keeping system would be nice. Chief Misselt stated that open record requests are available now. R. Van Gheem informed the Board on how complaints are handled within his department. Staff explained how informal complaints are handled compared to formal complaints and ordinance violations.

Approval of Minutes

Regular Board Meeting Minutes – June 2, 2010

Moved by Trustee Verstegen, seconded by Trustee Van Deurzen to approve the Regular Board Minutes of June 2, 2010 as presented.

Ayes 6, Nay 0-Motion Carried

Report of Other Minutes-Other Informational Items

Fox Valley Metro Police Dept. Activity Report – April 2010

Police School Liaison Monthly Report – April – June 2010

Village Board Listening Session – June 9, 2010

Board members noted receipt of the above items.

Ordinances

Amending Village Code of Ordinances, Chapter 40 – Streets, Sidewalks and Other Public Places –

Article VII – Street Use Permits – Section 40-177 Purpose and Procedure

Moved by Trustee Frassetto, seconded by Trustee Verstegen to Adopt Ordinance No. 8, Series of 2010

Amending Village Code of Ordinances, Chapter 40 – Streets, Sidewalks and Other Public Places –

Article VII – Street Use Permits – Section 40-177 Purpose and Procedure.

Ayes 6, Nay 0-Motion Carried

Repeal and Recreate Village Code of Ordinances Chapter 2 Administration Article III Village Board – Section 2-63 Smoking Prohibited in Board Chambers and Chapter 10 – Business and Licensing Regulations, Article II - Smoking Prohibited In Dining Area of Restaurants And In Retail Establishments – Sections 10-19 through 10-28

Chief Misselt stated that the ordinance puts the Village in compliance with the State law that goes into effect on July 5th and this ordinance further defines enclosed place. Attorney Koehler recommended that a modification be made to the definition language to state “a fixed or retractable divider” and to remove “garage” from preceding the word door. Chief Misselt agreed, stating he intended for that language to be in the ordinance presented tonight.

Moved by Trustee Frassetto, seconded by Trustee Van Deurzen to Adopt Ordinance No. 9, Series of 2010

Repeal and Recreate Village Code of Ordinances Chapter 2 Administration Article III Village

Board – Section 2-63 Smoking Prohibited in Board Chambers and Chapter 10 – Business and

Licensing Regulations, Article II - Smoking Prohibited In Dining Area of Restaurants And In Retail

Establishments – Sections 10-19 through 10-28, including the language modifications to the definition of enclosed spaces as recommended by the Village Attorney.

Ayes 6, Nay 0-Motion Carried

Amending Chapter 40 – Streets, Sidewalks and Other Public Places – Article III – Sidewalk Construction, Maintenance and Repair – Section 40-66 Terrace Area

Trustee Verstegen commented on it being hard to administer the ordinance with the word “may” and it seems to put a burden on staff and she likes the language with the word “shall” and she is not for shrubs in the terrace. T. Flick explained how the ordinance is currently enforced which is by complaint only. President Pro Tem Elrick stated he also agrees with keeping the language as it is, using the word “shall”. Trustee Mahlik disagreed stating the ordinance is not being enforced with the current wording “shall” because they are not being cut unless someone complains and as long as it is subjective, the word “may” should be used in the ordinance. R. Van Gheem stated the change will cost the Village more money. T. Flick stated this is a complaint driven issue and property owners that had been notified to remove materials have always complied with the order but the property owners on Bluff Avenue did not want to remove the bushes from the terrace area and the previous Boards have allowed the bushes to stay. T. Flick explained that if staff is going to have to pick and choose on what should stay and what shouldn’t stay from resident to resident then some are going to be happy and some are not. Discussion continued. President Pro Tem Elrick stated that he understand that if the language in the ordinance remains as it currently is and states “shall”, then the property owner on Bluff Ave. will receive an order to remove the bushes and if the property owner does not comply, then the Village will remove the bushes and bill the property owner.

Moved by Trustee Mahlik, seconded by Trustee Frassetto to Adopt Ordinance No. 10, Series of 2010 Amending Chapter 40 – Streets, Sidewalks and Other Public Places – Article III – Sidewalk Construction, Maintenance and Repair – Section 40-66 Terrace Area.

Ayes 4, Nay 2 (Elrick, Verstegen) – Motion Carried

Request by Seth Lenz, Seth's Coffee, for Consideration of Umbrellas for Sidewalk Café and Request to the Village to Make Request to the DOT to Allow for the Sidewalk Café Table Placement in Front of Coffee Shop on the Right-of Way Adjacent to Main Street

Trustee Verstegen requested that the agenda items of the request for umbrellas and the request to the DOT be discussed separately. Seth Lenz presented the Board with a handout of suggested revisions to the sidewalk café plan that also showed pictures of a proposed umbrella for the tables. Mr. Lenz stated that because he is not allowed to have tables in the front, he would like to be allowed umbrellas for the tables on the side. Mr. Lenz stated the tables on the side no longer receive any shade from the trees since the branches were recently cut. Mr. Lenz suggested that the size of the umbrellas be limited and that no logos or text are allowed except for the Businesses logo and name and also that maybe a general color scheme such as a Dutch color theme could be implemented. Mr. Lenz stated he would not place umbrellas on all the tables. Trustee Frassetto commented that the Board should work with the property owner as he has done a great job in drawing people downtown and it is a step in the right direction and she suggested that staff be directed to take a look at the property owner's suggestion and to get input from other property owners. Discussion took place. Trustee Frassetto suggested that staff take a look at revising the ordinance and Board members indicated agreement with staff revising the ordinance. Attorney Koehler commented on making such use a conditional use. Chuck Kell stated he had talked to a DOT representative from the Green Bay office and the representative stated that personally he would say no to putting tables on the State right-of-way but because the Village is the maintaining authority of Main Street, the DOT would consider a request to allow furniture on State right-of-way if it came from the Village Board. C. Kell stated that in addition the DOT Representative suggested that the State would require Mr. Lenz, or any other owner making the same request, to lease the right-of-way as a means to take the DOT out of any liability. C. Kell stated that in the past, other DOT representatives told the Village that furniture and awnings would not be allowed in the State right-of-way but this particular individual at the DOT, who is listed as the contact for permits to do things in State right-of-way, stated they will consider it but he is not guaranteeing they will approve it. Trustee Frassetto stated her opinion is to work with the property owner on this and for the benefit of future development in the Village. R. Van Gheem noted the indemnification issues and reminded the Board that there are very few areas on Main Street that will be wide enough to allow for outdoor seating areas. Discussion continued. Trustee Mahlik stated for future growth he would like to get the ball rolling and the process with the State should be started. Attorney Koehler commented on the Village taking on extra liability that may not be covered by the Village's insurance company and he suggested that staff check with the Village's insurance company. President Pro Tem Elrick also agreed pursuing discussions with the State on the request for outdoor furniture for the entire business district. Seth Lenz stated he is not asking for placement of tables on the bumpouts and he believes he has enough room next to the building. R. Van Gheem disagreed, stating there is not the required space as the five feet clearance cannot be along the curb nor can it be on private property.

Moved by Trustee Frassetto, seconded by Trustee Hietpas to direct the appropriate staff to follow through with contacting people in the DOT to see how the Village can best work towards allowing property owners to have outdoor furniture on the State right-of-way as well as looking at allowing umbrellas on the furniture on private and public property on sidewalks.

Ayes 6, Nay 0 – Motion Carried

Set Public Hearing Date – Rezoning Request for Langedyke Property Located at 1032 Washington Street, Request to Rezone from RC – Residential Single-family District to ID – Industrial District

Moved by Trustee Verstegen, seconded by Trustee Van Deurzen to Set a Public Hearing for July 14, 2010 at 6 p.m. for the Rezoning Request of 1032 Washington Street.

Ayes 6, Nay 0-Motion Carried

Action on 2010/2011 Liquor License Renewal Applications

Clerk Schneider stated that Gentlemen Jack's has paid their delinquent property taxes so it is being recommend that the license for Gentlemen Jack's be approved along with the others as listed with the exception being Dwyer's Food Mart as the delinquent taxes for that property have not yet been paid.

Moved by Trustee Verstegen, seconded by Trustee Van Deurzen to approve the liquor license renewal applications for the 2010/2011 licensing year for the establishments listed that are current with all payments due the Village including the Country Inn & Suites and authorize the Clerk to issue the licenses except the license for Pine Street shall not be issued until the Building Inspector approves an inspection of the premises and at this time withhold granting the license for Dwyer's Food Mart and this license can be presented to the Board at the June 23 Committee of the Whole meeting on the condition that their outstanding taxes are paid by that date.

Ayes 6, Nay 0 – Motion Carried

Operator's Licenses:

Richard G. Berken	713 N Jefferson St.	Little Chute	Valley Liquor
Kris Ann Breit	2728 E Wisconsin Ave.	Appleton	Rose Hill Tavern
Brittany Ann Diedrick	4314 Rosin Rd.	De Pere	Super 41 Shell
Karen A. Hermus	N2017 Cty. Rd. N	Appleton	Up The Hill
Christopher J. Hietpas	1824 Vandenbroek Rd.	Little Chute	LC Softball Club
Philip A. Kappell	N7984 Creekside Dr.	Sherwood	Express
Kimberly Ann Norvell	724 N. Cambridge Dr.	Appleton	Up The Hill
Julie S Poburka	1542 E.Meadow Grove Blvd.	Appleton	Simon's Cheese
Lora A. Rode	950 Skyview Ave.	Little Chute	5 th Quarter
Trudy J. Stoeger	1035 Skyview Ave.	Little Chute	Up The Hill
Laura L. Taylor	1437 Windmar Dr.	Neenah	Walgreens
Travis J. Vander Loop	W2241 Lau Rd.	Freedom	Valley Liquor

Moved by Trustee Frassetto, seconded by Trustee Verstegen to Approve the Operator's Licenses as Listed on the Agenda.

Ayes 6, Nay 0 – Motion Carried

Department and Officers Progress Reports:

Chief Misselt reported that the Department had applied for a COPs grant as they were contacted and asked to update their application to receive consideration for this year as there is a new round of funding available and the new grant application is for one officer. Chief stated that the criteria is to keep the officer employed for four years with the grant paying for the first three years and the Department paying for the 4th year. Chief stated that if the grant is approved it will be brought back to the Board to determine if they would accept the grant. Chief Misselt also reminded the Board that at a future meeting he will be bringing forward an electric vehicle ordinance for consideration. D. Haug stated that COPs stands for Community Oriented Police Services and it is a Federal grant program. D. Haug noted that he is currently reviewing the first draft of the 2009 audit. C. Kell reported that the Kermis has been expanded as a two day event that will go to midnight Friday night and 10 p.m. on Saturday night and the Committee never discussed this with the Board before moving forward and the change will cost the Village additional dollars. C. Kell reminded the Board that they approved exempting the Kermis from Village charges and the cost for this year's event will likely be double due to overtime costs. T. Flick stated he is currently working on the Kermis Special Event permit for Legion Park and it will be brought to the Board for action. C. Kell updated the Board on an issue with the Mill Street Bridge stating that the consultant working on the concept plans and the grant application for the Bridge has been told by the DOT that they cannot be the same company that designs the bridge. C. Kell stated that next week he will be bringing in a small staffing reorganization proposal to consider and hopefully approve.

C. Kell informed the Board of a pending lawsuit by a citizen that allegedly fell and injured herself on a Village sidewalk last year and the party never filed a claim with the Village and the Village was just recently notified of the lawsuit. C. Kell stated he has been working on three major manufacturing expansion projects in the Village. J. Moes reported he has filed the TID assessment reporting with the State and he is continuing to work on property assessments. T. Flick reported that baseball and softball tournaments will be taking place in the Village this weekend and next weekend. T. Flick reported that the pitching wall at Legion Park is going to be painted by the Little Chute Arts Club this summer and he will present the mural to the Board for review before the project begins. T. Flick also reported on the recent vandalism that had taken place in the parks and noted the Police Dept. is assisting with patrols at the park. R. Van Gheem reported that in addition to the normal tasks, the Department is concentrating on street repairs. R. Van Gheem stated the assessment hearing on

July 7th is scheduled for the Washington Street projects and he asked the Board if they also wanted to hold the hearing for the sidewalk rehab project assessments at the same time. Board members agreed to hold both assessment hearings on July 7th and the assessment hearings will be held in the Community Room and the Board will then move to the Board Room for the Regular Meeting. V. Schneider reported that the newsletter had been provided to the printer and the Village is now printing 1,500 copies instead of 5,000 and the email version of the newsletter will be distributed next week.

Disbursement List

Trustee Frassetto questioned if the Village should be looking at putting the engineering costs in-house and can the Village benefit by creating an in-house position instead of contracting with McMahon. Staff stated it would involve a long discussion. President Pro Tem Elrick suggested any further discussion on the issue should be put on a future agenda.

Moved by Trustee Hietpas, seconded by Trustee Van Deurzen to Approve the Disbursement List as Presented.

Ayes 6, Nay 0 – Motion Carried

Items for Future Agenda

Trustee Mahlik asked to have an update on the Dutch Boyz Development added to a future agenda.

Call for Unfinished Business

None

Moved by Trustee Van Deurzen, seconded by Trustee Frassetto to Enter into Closed Session.(7:47p.m.)

Ayes 6, Nay 0 – Motion Carried

Closed Session:

1) Appeal to Operator's License Denial – Nick Bricco

2) Consideration of employment, promotion, compensation or performance evaluation data of any public employee of the Village of Little Chute. 19.85(1)(c), Wis. Stats. - Contract/Final Offer for Little Chute Village Employees Union Local 130-C, AFSCME, AFL-CIO

Moved by Trustee Verstegen, seconded by Trustee Van Deurzen to Exit Closed Session and Return to Open Session. (8:24 p.m.)

Ayes 6, Nay 0 – Motion Carried

Return to Open Session – Possible Action on Closed Session Item

No action was taken on Closed Session items. Mr. Bricco was informed that the status of his Operator's License application remains denied.

Adjournment

Moved by Trustee Van Deurzen, seconded by Trustee Verstegen to Adjourn the Regular Board meeting at 8:26 p.m.

Ayes 6, Nay 0 – Motion Carried

VILLAGE OF LITTLE CHUTE

By: _____
John Elrick, President Pro Tem

Attest: Vicki Schneider, Village Clerk