

MINUTES OF THE REGULAR BOARD MEETING OF OCTOBER 20, 2010

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

Invocation

President Fischer called for a moment of silence.

Pledge Allegiance to the Flag

President Fischer led members in the reciting of the Pledge of Allegiance.

Roll call of Trustees

PRESENT: Charles Fischer, President
Tammy Frassetto Trustee
James Hietpas, Trustee
Dan Mahlik, Trustee
Don Van Deurzen, Trustee
Janet Verstegen, Trustee

EXCUSED: John Elrick, Trustee

Roll Call of Officers and Department Heads

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

Public Appearance for Items Not on the Agenda

None

Approval of Minutes

Regular Board Meeting Minutes – October 6, 2010

Moved by Trustee Frassetto, seconded by Trustee Hietpas to approve the Regular Board Minutes of October 6, 2010 as presented.

Ayes 6, Nay 0-Motion Carried

Report of Other Minutes-Other Informational Items

Plan Commission Meeting Minutes – September 13, 2010

Joint Review Board – Resolution No. 2, Series of 2010 – Amendment #1 to TID #4

Quarterly Budget Report

Quarterly Investment Summary

Board noted receipt of items.

Ordinance:

Amending Village Code Section 2-1-8 Municipal Board of Absentee Ballot Canvassers

Moved by Trustee Verstegen, seconded by Trustee Frassetto to Adopt Ordinance No. 18, Series of 2010 Amending Section 2-1-8 Municipal Board of Absentee Ballot Canvassers.

Ayes 6, Nay 0 – Motion Carried

Resolutions:

CSM – Wisconsin Wealth Management – Spirit Court – Parcel# 260 400201

Moved by Trustee Verstegen, seconded by Trustee Van Deurzen to Adopt Resolution No. 26, Series of 2010 Approving the CSM for Wealth Management – Spirit Court – Parcel #260 400201.

Ayes 6, Nay 0 – Motion Carried

Final Special Assessment Resolution – Sidewalk Rehabilitation

Moved by Trustee Frassetto, seconded by Trustee Verstegen to Adopt Resolution No. 27, Series of 2010 Final Special Assessment Resolution – Sidewalk Rehabilitation.

Ayes 6, Nay 0 – Motion Carried

Action on Class B Liquor License Application – Landreman’s Family Restaurant

Trustee Frassetto stated she had spoken with Mrs. Landreman and she understands that they want to add to their menu and possibly in the future, open an additional room within the building for a bar area. Trustee Frassetto stated that she understands the recommendations of the Administrator and importance of bringing new businesses into the Village but she also recognizes taking care of the businesses that have stayed with the Village and maintained their businesses during these economic times. Trustee Verstegen suggested adopting the criteria that the Administrator recommended. Chief Misselt stated he would recommend restricting the license to the inside of the restaurant and not the outdoor deck area. Discussion took place. Trustee Verstegen commented that the license was obtained when the Village purchased Snaggleteooths and she believes the Board said at that time that they would want to use the license for a business either in the downtown or in the north side gateway area, that would bring significant new revenue to the Village.

Moved by Trustee Verstegen, seconded by Trustee Mahlik to deny the issuance of the Class B Liquor License to Landreman’s Family Restaurant based on the criteria listed in the Administrator’s IFC and adopt these criteria to be applicable to all future liquor license applications until such time that the Village Board determines that the criteria is no longer reasonable as legitimate considerations in the process of reviewing applications for Class B Liquor Licenses in the Village of Little Chute.

Further Discussion: Trustee Van Deurzen questioned if the motion means that the Liquor License has to remain for a downtown business. Trustee Verstegen stated the motion means as listed in the criteria the two areas that are identified and that will significantly add to TID #3 or redevelopment of downtown. Trustee Van Deurzen stated he would like to vote on the motion but not on the criteria issue as he would like to discuss that separately. President Fischer stated that he agreed that the Board should evaluate the criteria separately.

Trustee Verstegen requested to amend the motion. President Fischer agreed.

Moved by Trustee Verstegen, seconded by Trustee Mahlik to amend the motion to just state, deny the Class B Liquor License Application for Landremans’ Family Restaurant.

Further Discussion: Trustee Frassetto requested that the Board recognize Mr. Landreman. Mr. Landreman stated that he was under the understanding that the Village would want to keep business in the Village and they all need help right now and with that in mind, every business is being pushed to the brink and every possible thing he can get to help his business stay here he needs, whether the Board wants to believe that or not, so there might be another vacant restaurant if they don’t get this as he doesn’t know where they will wind up going. Mr. Landreman stated he was also told that the Village wanted to save this license to bring in a micro brewery or something similar to that and he wanted to know if it is possible to switch licenses and they could give up their beer license but he doesn’t if that is a possibility and again, if the Board say no, we get slapped in the face because we have been here 15 years, we are supporting the community and you are looking for something else, something at the end of the rainbow and he feels that is not respectful of the current businesses in the Village. Trustee Frassetto stated that she agrees with Mr. Landreman and the Board needs to support the members of the community that have chose to stay here with their business. President Fischer stated he agrees that we need to support our current businesses but he also agrees with the other comments that it is important for the Village to have an available liquor license.

Vote on the Amending the Motion:

Ayes 5, Nay 1(Frassetto) – Motion Carried

Vote on the Motion to Deny the Class B Liquor License

Ayes 5, Nay 1 (Frassetto) – Motion Carried

Discussion/Possible Action on Appeal of Notice Order filed by Robert Berken – Regarding Hedges in the Right of Way

President Fischer stated that right now the ordinance states three feet and if the Board doesn’t want it at three feet, then the ordinance needs to be changed and also there is not a neighbor agreement on the issue.

Attorney Koehler stated that the order appears to be consistent with the ordinance and he doesn't see anything in the ordinance that allows for a variance. Attorney Koehler commented that the concept of a variance is found in zoning ordinance and this particular ordinance is found in Chapter 40 which deals with streets, sidewalks and public areas and includes rules that apply to terraces, which are a matter of Village property and in the Village's authority to control, and there is no clause for exceptions, variances, allowances or variations of any sort. Attorney Koehler stated he agreed that the ordinance would need to be changed if a different height wanted to be used and he cautioned on granting individual isolated exceptions. Trustee Van Deurzen commented that ordinances are there for a reason and he stated that it is too bad the neighbors over this issue took up so much of the Board's time and he stated he supports our current ordinance and he wouldn't change it for one person. Trustee Mahlik stated he disagreed from the stand point of the ordinance and things are meant to be changed if an ordinance is wrong and he supports increasing it to four or four and a half feet which is safe and he would be willing to vote on an ordinance change. Trustee Frassetto stated she sees both sides of the issue and the current height of the bushes at four feet is a decent height for the bushes so she is not opposed to revisiting the ordinance. Trustee Verstegen stated that this is Village property and it was discussed and an ordinance proposing a higher height did not pass and it seems to her that the ordinance should not be revisited and Mr. Berken should just cooperate as it is our property and we could go in and take the whole thing down and we would be totally within our rights. Additional discussion took place.

Moved by Trustee Frassetto to amend Village Ordinance Section 40-66(b) allowing the maximum hedge to be four feet in height versus three feet in height.

President Fischer asked for Attorney Koehler's opinion as the Board had a vote on this three or four months ago and does someone in the majority have to bring up the reconsideration. Attorney Koehler stated from his recollection of the vote, he thinks that the motion to reconsider the vote has to be made by someone in the majority. Trustee Frassetto stated that she believed she was in the majority of that vote. C. Kell stated that the ordinance is not an agenda item and he believes the ordinance would have to be brought back for a vote and he is also opposed to the current motion as it would allow four foot high shrubs in all situations throughout the Village and he believes the Public Works Director would have a lot to say about allowing four foot high shrubs in urbanized terraces. Trustee Mahlik suggested voting on what was proposed by the Administrator the first time. Attorney Koehler stated that the Administrator is correct in that the ordinance is not on the agenda this evening and it would be out of order to vote on amending the ordinance.

Trustee Frassetto withdrew her motion.

Moved by Trustee Verstegen to deny action on this appeal as an appeal is not consistent with our ordinance as there isn't an appeal to this order as it is not a zoning code violation.

Attorney Koehler stated that the order could still be appealed and his comments earlier meant that a variance should not be granted under the zoning code but if there were other facts or circumstances that the Board felt justified overruling the order other than a variance under zoning, that could be considered but he doesn't see any exception in the ordinance to the 30 inch height and that is why he suggested if an ordinance change is being proposed that should be put on a future agenda, but the Board has the right to either grant or deny the appeal of the order.

Trustee Verstegen requested to withdraw the motion and rephrase it.

Moved by Trustee Verstegen, seconded by Trustee Van Deurzen to deny the appeal of the Notice of Order filed by Robert Berken regarding hedges in the right-of-way.

J. Moes asked the Attorney if it would be proper for the Board to stay the order for a set period of time if they wish to do so. Attorney Koehler responded that the Board could vote on the appeal and then stay the order for a period of time until it is determined if there is going to be further ordinance action. Attorney Koehler stated that action on the appeal and the stay of order could be handled with one motion or two separate motions.

Vote on the Motion:

Ayes 3, Nay 3(Frassetto, Mahlik, Hietpas)- Motion Failed

Attorney Koehler stated that the appeal remains in place.

Moved by President Fischer to stay the order until spring.

President Fischer recognized Mr. Berken. Mr. Berken asked if he brings in a list of 30 residences that are in direct violation, will 30 people get a notice that they have to remove their stump that is in the terrace way?

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T. Flick stated that if they are in violation, typically he will make contact first by phone before issuing a notice of order but first he would have to confirm that they are in violation. Mr. Berken stated he could get a list to Mr. Flick. Mr. Flick stated that first property lines would need to be confirmed and what is in the property line. Mr. Berken stated he will give Mr. Flick a lot of work because he will do it and he further stated that when his neighbors are in direct violation of the camper code because of having people live in their camper in their driveway, which they did this summer and he never called, next summer when they pull their camper out he will call the Police Department and the same thing with parking. President Fischer informed Mr. Berken that he needed to stay on subject. T. Flick stated if they are provided with complaints they will follow up in the proper manner. President Fischer stated if the ordered is stayed he would expect any other orders to be stayed on any other complaints until there is a resolution. C. Kell stated that when this all evolves, there may be 30 more cases on the agenda and that is why the Board needs to agree on what the ordinance is and enforce it. Attorney Koehler suggested that the Board consider picking an arbitrary date so there is some certainty in the motion and the motion could be made to stay the order until that date or until the Board takes a vote as to whether or not to amend the ordinance.

President Fischer restated his motion to stay the order until May 1, 2010 or until such time that the Board takes action to amend the current ordinance, seconded by Trustee Frassetto.

Ayes 4, Nay 2 (Van Deurzen, Verstegen) – Motion Carried

Action to Close Heesakker Park – November 29 through December 19, 2010

Moved by Trustee Van Deurzen, seconded by Trustee Frassetto to Approve Closing Heesakker Park from November 29 through December 19, 2010.

Ayes 6, Nay 0 – Motion Carried

Action on Parade Permit – Little Chute Kiwanis Christmas Parade – November 29, 2010

Moved by Trustee Frassetto, seconded by Trustee Mahlik to Approve the Special Event Parade Permit for the Little Chute Kiwanis Christmas Parade on November 29, 2010.

Ayes 6, Nay 0 – Motion Carried

Discussion on 2011 Budget

D. Haug reviewed the revised summary sheet and noted that the proposed levy increase had been reduced due to some changes that were pointed out last week and due to discussions with the Water Commission concerning the rate case study and public fire protection charges. T. Flick provided an overview of the Parks, Recreation, Aquatics, Forestry, Youth Football, and the Community Band budgets and he noted the budgets remained flat or were reduced and he commented on the reductions that were made. No changes were proposed for the budgets reviewed by T. Flick. D. Haug reviewed the Beautification budget and Trustee Verstegen noted that no money for this budget had come from the tax levy and all of money provided has been from donations. D. Haug reviewed the budget of other financial sources and uses and he noted that one reason for the levy reduction is the increased payment from the Water Utility to the Village’s general fund. D. Haug reviewed the Debt Service Funds and the Value Growth and Debt Ratio charts. D. Haug also commented on the Village’s Financial Policies and Guidelines handout and noted that these policies had been adopted by the Board to provide guidance on how to approach debt and what it should be used for and what the limit should be. D. Haug also reviewed the budgets of other special revenue funds which included the budget for the Community Development Authority. D. Haug stated that next week’s budget discussion will focus on the Public Works Dept. budget, the utility budgets, and a summary of the Capital Improvement projects.

Operators Licenses:

Gail A. Behnke	2221 N Ballard Rd. #8	Appleton	Dwyer’s Food Mart
Nicole M. Halverson	2145 W Roselawn Dr.	Appleton	The Pump House
Tricia A. Harlow	638 Taylor St.	Little Chute	Pop In
Lisa A. Janssen	1380 Wildenberg Dr.	Kaukauna	Rose Hill
Becky L. Marquardt	1413 Buchanan St.	Little Chute	Van Zeelands

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Operator's Licenses Con't.

Amanda J. Trembley	1623 N. Summit St.	Appleton	Express
Diane S. Trentlage	1101 Bens Way	Kaukauna	Hollander
Steven A Zack	201 ½ W. 9 th St.	Kaukauna	Weenie's Still

Moved by Trustee Frassetto, seconded by Trustee Mahlik, to approve Operator's License as presented.
 Ayes 6, Nay 0-Motion Carried

Department and Officers Progress Reports

Chief Misselt reported that Kimberly passed the abatement ordinance and Combined Locks is also looking at adopting a similar ordinance and the ordinance will be presented to the Board by Officer Steeber at the November 10th Committee of the Whole meeting. Chief Misselt provided an update on the merger discussions with Combined Locks and he stated the Board will be kept updated on the status of the merger discussions. D. Haug noted that a revised Quarterly Investment report had been distributed along with a document on the Village's Financial Policies and Guidelines that had been adopted by the Village Board in 2007. D. Haug stated that the Financial Polices document will be brought back to the Board at a future meeting for review and discussion. D. Haug also noted that the Dept. is working on a water rate increase application that will be submitted to the PSC. C. Kell stated that he had met with the DOT regarding the Main Street project and the DOT has indicated strong cost sharing support for storm water which will allow the Village to reduce its overall costs on the DeBruin pond project proposal. C. Kell explained why there will likely be some timing issues because of the DOT's contribution and it will have to be further discussed and decided if it is possible to do all the work in 2012. C. Kell stated another issue with DOT funding regards new federal legislation called Complete Streets and it requires that bike and pedestrian facilities are incorporated into projects funded with federal dollars and the DOT is telling the Village that bike lanes will have to be incorporated on both sides of Main Street. C. Kell stated the issues on these projects will be brought to the Board for decisions. C. Kell informed the Board that he will be attending a legal session on social media networking. C. Kell reported that the DOT had contacted him to inform him that the Village has received approval for funding in 2011 and 2012 for the Mill Street Bridge and with the stewardship funding for the pedestrian bridge and the trail system, the Village will have a showcase trail system along the river when the projects are completed. J. Moes reported that one of the lots in the CSM that was approved tonight is going to be for a motorsports dealer and additionally an ambulance sales company is looking to locate on Fullview Drive and he and the Administrator will be meeting tomorrow with a builder and realtor regarding the plastics manufacturing company possibly locating in the Village's Industrial Park. T. Flick informed the Board that 33 permits had been approved and issued for the two deer hunts and the hunters will be allowed two deer each. T. Flick also stated that the Virginia Graham Baker federally mandated pool project had been completed and now the State will need to inspect and give it final approval. T. Flick also informed the Board of other projects that had been completed and noted that the grass infield project at Van Lieshout Park is currently underway and that project has been funded in conjunction with the Baseball Club and Cheesefest. T. Flick also stated that lighting improvement project at DP1 had begun and the terrace tree planting program has also started. J. Elrick informed the Board that tentatively Hwy. OO between Buchanan Street and Taylor Street will be closed the first week in November for the Buchanan Pond storm water project and the Department is also busy with leaf pickup. V. Schneider stated that the office is busy with absentee voters and she also clarified that currently the beer license issued to Landreman's Restaurant allows them to serve beer to customers on their outdoor patio. Attorney Koehler – no report.

Disbursement List

Trustee Frassetto questioned if the Village gives wedding gifts and staff responded that is a practice of the Fire Department to buy wedding gifts for firefighters and their children and the amount of the gift equals \$2.00 per firefighter. Trustee Mahlik asked if he could get a report of all costs associated to McMahan that were a part of the Van Dyn Hoven development street design work.

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

Ayes 6, Nay 0 – Motion Carried Unanimously

Call for Unfinished Business

Trustee Van Deurzen stated that he was bothered about the comment Trustee Mahlik made about only two people complaining about Mr. Berken’s bushes and he doesn’t feel the Board should go by how many people complain as in many instances the issue will only affect the neighbors and the Board has to be careful on how it states that as it shouldn’t matter if it is only one person or one hundred. Trustee Mahlik commented that he understood what Trustee Van Deurzen was saying but in this case it seemed to be precipitated by a neighborhood feud and if you take the feud out of it, he agrees 100 percent because everyone should have right to say something.

Items for Future Agenda

Trustee Verstegen requested that the criteria for granting liquor licenses be put on a future agenda for discussion and possible action. J. Moes suggested that the Board might want to put on a future agenda an action item to reconsider the previous action regarding the amendment to ordinance 40-66. President Fischer suggested waiting until after the budget discussions are completed and the budget is approved and Board members agreed.

Moved by Trustee Mahlik, seconded by Trustee Verstegen to Enter into Closed Session. (8:08 p.m.)

Ayes 6, Nay 0 – Motion Carried

(The Clerk and Department Heads were excused from the meeting at this time.)

Closed Session: 19.85(1)(c), Wis. Stats - Personnel Consideration of employment, promotion, compensation or performance evaluation data of any public employee of the Village of Little Chute – Village Administrator and Local 130c AFSCME AFL-CIO

Moved by Trustee Van Deurzen, seconded by Trustee Mahlik to Exit Closed Session and Return to Open Session. (9:10 p.m.)

Ayes 6, Nay 0 – Motion Carried

Return to Open Session – Possible Action on Closed Session Items

No action taken.

Adjournment

Moved by Trustee Van Deurzen, seconded by Trustee Mahlik to Adjourn the Regular Board meeting at 9:10 p.m.

Ayes 6, Nay 0-Motion Carried Unanimously

VILLAGE OF LITTLE CHUTE

By: _____
Charles Fischer, Village President

Attest: Vicki Schneider, Village Clerk