

VILLAGE OF OCONOMOWOC LAKE

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OCONOMOWOC LAKE VILLAGE BOARD MEETING MINUTES OF MONDAY, November 16, 2009, Unofficial until approved by the Village Board. Approved as written (X) or with corrections () on 12/21/2009.

The regular monthly meeting of the Board of Trustees of the Village of Oconomowoc Lake was held on November 16, 2009, immediately following a public hearing, commencing at 7:33 p.m., at the Village Hall, 35328 W. Pabst Road, Oconomowoc, Wisconsin. Legal requirements for notification as required by law have been met. Roll was taken following the Pledge of Allegiance with the following in attendance:

Mr. Kneiser/President – absent
Messrs., Bickler, Birbaum, Falstad, Fischer, Owens, and Shult /Trustees – present
Ms. Schlieve/ Clerk-Treasurer – present
Mr. Wiemer/Police Chief-Administrator – present
Mr. Macy/Attorney –present

ATTENDANCE

Craig Ewald (Ewald Automotive), Ed Johnson

MINUTES

Motion (Fischer/Falstad) to approve, as printed, the minutes of the October 19, 2009 Village Board meeting, Carried Unanimously.

PUBLIC COMMENT

Motion (Birbaum/Falstad) to open the meeting to public comment on agenda items, Carried Unanimously.

Mr. Ed Johnson stated that he supported the request of Ewald Automotive for a Conditional Use Permit.

Motion (Birbaum/Owens) to close the meeting to public comment, Carried Unanimously.

PRESIDENT

Mr. Kneiser stated that later in the meeting the Board of Trustees would convene into executive closed session by roll call vote, pursuant to section 19.85(1)(g), Wisconsin State Statutes, “conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved”, regarding the litigation on the property located at 36016 South Beach Road, owned by Patrick and Jana Eilers. Participating in the executive closed session will be the Village Board, Village Attorney, Village Administrator, and Village Clerk-Treasurer.

PLAN COMMISSION

Discussion/action regarding the recommendation of the Plan Commission for approval of the request of Ewald Kia DBA Ewald Real Estate 36883 LLC for a Conditional Use Permit for the property located at 36883 E. Wisconsin Avenue in the Business District of the Village of Oconomowoc Lake (formerly known as Pepino’s of Oconomowoc), for the purpose of vehicle display.

A motion (Owens/Shult) was made to approve the request of Ewald Kia DBA Ewald Real Estate 36883 LLC for a Conditional Use Permit (CUP) for the property located at 36883 E. Wisconsin Avenue, for the purpose of vehicle display, and said CUP would be for a one-year period.

Trustees discussed the request made at the public hearing by Mr. Craig Ewald to allow vehicles to be parked behind the existing building on the property. The parking would only be for times of emergency, such as the need to plow snow on the Ewald Chrysler and Ewald Chevrolet lots. Trustees agreed that vehicles could be parked behind the building, for emergency purposes, no more than five times per year, between the hours of 3:00 a.m. and 9:00 p.m.

Motion (Fischer/Birbaum) to amend the original motion in order to allow parking at the rear of the existing building located at 36883 E. Wisconsin Avenue, for emergency purposes only, no more than five times per year, and only between the hours of 3:00 a.m. and 9:00 p.m., Carried Unanimously.

A vote on the amended motion, Carried Unanimously.

Discussion/action regarding the Plan Commission zoning amendment petition to amend the current Village Zoning Code (Chapter 17) regarding an ordinance to repeal and re-create the definition of "structure" and the regulations of retaining walls within the Village of Oconomowoc Lake Zoning Code.

A motion (Fischer/Bickler) was made to amend the current Village Zoning Code (Chapter 17) regarding an ordinance to repeal and re-create the definition of "structure" and the regulations of retaining walls within the Village of Oconomowoc Lake Zoning Code. A copy of the proposal is attached to these minutes as Exhibit A.

Mr. Birbaum expressed his concerns regarding the prohibition of the installation of in-ground swimming pools between the main residence and the water. He further commented that if the purpose of the prohibition was to prevent additional structures typically included around pools from being built, then those structures should be regulated. Mr. Birbaum noted that he had voted against this ordinance at the Plan Commission meeting on November 2, 2009. Discussion followed.

Motion (Birbaum/Shult) to amend the original motion by striking number 17 "Swimming pools and ponds", under "Specific examples of structures shall include but are not limited to", and the entire paragraph which begins "Swimming pools and ponds", which is the second paragraph following "Structures shall not include", Carried Unanimously.

A vote on the amended motion, Carried Unanimously.

Discussion/action regarding the Plan Commission zoning amendment petition to amend the current Village Zoning Code (Chapter 17) regarding an ordinance to repeal and re-create the definition of "Structure, Original" within the Village of Oconomowoc Lake Zoning Code.

A copy of this proposal is attached to these minutes as Exhibit B. Motion (Fischer/Birbaum) to amend the current Village Zoning Code (Chapter 17) regarding an ordinance to repeal and re-create the definition of "Structure, Original" within the Village of Oconomowoc Lake Zoning Code, Carried Unanimously.

ATTORNEY

Discussion/action regarding 2009 Wisconsin Act 40, Wind Energy Systems, per correspondence from Mr. Macy dated October 26, 2009.

Mr. Macy explained that the Wind Energy Systems Act places the permitting of those systems under the authority of the Public Safety Commission (PSC). The PSC will be writing the rules. No action needed. The Board directed the clerk to check with the PSC on a monthly basis to check the status of the proposed rulemaking and to keep the Board informed for possible Village input.

Discussion/action regarding public records and open meetings issues, use of e-mail when conducting governmental business, and City of Venice, Florida litigation, per correspondence from Mr. Macy dated November 10, 2009.

Mr. Macy advised that his office has provided this information for municipalities so that they can be cautious in their use of e-mail and following the rules in regard to public records and open meetings issues. The laws regarding public records are continuing to evolve, especially pertaining to new technology. Staff was directed to notify all Village committees or boards to make them aware of the rules.

TREASURER

Checks

Motion (Bickler/Birbaum) to approve check nos. 37141 through 37205 for regular monthly payments, and all electronic transfers, *Carried Unanimously*.

FINANCE

Discussion regarding monthly operating statement for November.

Mr. Fischer reviewed the monthly operating statement.

Preliminary review of the 2010 Village budget.

Mr. Kneiser noted that the public hearing on the 2010 Village budget will be held on November 30, 2009. The discussion this evening gives the Trustees an opportunity to review and possibly make some changes to the proposed budget. Mr. Fischer reviewed the preliminary 2010 Village budget. He noted several points about the budget, with possibilities that could aid the Village in handling issues raised by the state mandated levy cap and continuing increases in insurances and other expenses. He noted that the fireworks display has been removed from the budget, with the plan to raise the funds from residents' donations. The police officers will receive their 3.5% raise, per the union contract. The proposed budget gives the office staff a 1% raise, and the police chief and department of public works fulltime employee will not receive a raise. Mr. Fischer noted that even with cut-backs, the Village will be operating with an \$81,960 deficit for 2010. Some possibilities to offset the deficit would include charging residents for the driveway snow plowing, billing separately for garbage service instead of including it in the budget, and raising the tax levy to 7.73%, which would lower the deficit by half. If the tax levy is raised above the 3% state mandated cap, the Village will lose the state shared revenue of approximately \$8,700. Trustees indicated that they would be in favor of the 7.73% tax levy, with the understanding that the finance committee would do some extensive planning in early 2010 to plan for the 2011 budget, with residents' input as to how best to lower the tax levy and what services should be maintained.

ADMINISTRATOR

Discussion/action regarding a Resolution of Approval of the 2010 Budget for the Lake Country Municipal Court.

Mr. Wiemer explained the 2010 budget for the Lake Country Municipal Court. Motion (Bickler/Shult) to adopt a Resolution of Approval for the 2010 Budget for the Lake Country Municipal Court, *Carried Unanimously*.

Discussion/action regarding a Successor Agreement for the Operation of the Lake Country Municipal Court.

Mr. Wiemer explained that the Successor Agreement for the Operation of the Lake Country Municipal Court was originally written in 1988. There have been many operational changes since then; therefore, this agreement reflects the actual operation of the Court. Motion (Birbaum/Bickler) to approve the Successor Agreement for the Operation of the Lake Country Municipal Court, *Carried Unanimously*.

Discussion/action regarding an amendment to Ordinance 106, "To Create and Establish a Municipal Court".

Mr. Wiemer stated that this ordinance is needed in order to establish the Municipal Court. Motion (Falstad/Owens) to adopt an amendment to Ordinance 106, "To Create and Establish a Municipal Court", *Carried Unanimously.*

Discussion/action regarding an ordinance for the regulation of dogs, per correspondence from Mr. Macy dated November 12, 2009.

Mr. Wiemer reviewed the first draft of "An Ordinance to Repeal Section 11.06 of Ordinance Number 99 and to Create Chapter 14 of the Village of Oconomowoc Village Ordinances Regarding the Regulation and Licensing of Dogs." Trustees requested that the following items be included in the ordinance.

- A section regarding removal of dog feces when off the owner's property
- Rules regarding the removal of animal feces on owner's property and proper disposal of the feces
- Prohibition or siting regulation of kennels
- Handling of barking dogs
- Control number of dogs allowed
- More reasonable rules regarding dogs outdoors when owners not present
- Include penalties for violations

Motion (Bickler/Falstad) to table the matter to allow Mr. Wiemer and Mr. Macy to rework the ordinance to include the above-noted items, *Carried Unanimously.*

Discussion/action regarding an ordinance to attach certain property from the Town of Summit along East Wisconsin Avenue from the Village of Oconomowoc Lake village limits on Gifford Road west to City of Oconomowoc city limits on Wisconsin Avenue as more specifically described in the ordinance, pursuant to the Cooperative Boundary Plan with the Town of Summit.

Mr. Wiemer explained that this ordinance corresponds to the recently approved border agreement with the Town of Summit, which attaches certain property from the Town of Summit to the Village of Oconomowoc Lake. Mr. Wiemer also noted that the Town of Summit must pass a similar ordinance to finalize the agreement. Motion (Bickler/Shult) to adopt the ordinance to attach certain property from the Town of Summit along East Wisconsin Avenue from the Village of Oconomowoc Lake village limits on Gifford Road west to City of Oconomowoc city limits on Wisconsin Avenue as more specifically described in the ordinance, pursuant to the Cooperative Boundary Plan with the Town of Summit, *Carried Unanimously.*

Discussion/action regarding public record compliance notice.

Mr. Wiemer explained that this is an updated notice that is required by state law, and will be posted in the Village Hall. Motion (Bickler/Falstad) to approve the public record compliance notice, *Carried Unanimously.*

Discussion/action regarding the 2010 Lake Management Plan for Oconomowoc Lake.

Mr. Wiemer explained that the 2010 Lake Management Plan for Oconomowoc Lake, prepared by SEWRPC, was just received in final form, and had been commissioned in 2004, so it has been five years in the making. There is a link on the Village's website for residents to review the report. Mr. Kneiser noted that the author of the report had worked closely with Mr. Wiemer and himself to create the report, which reflects that the Village has shown very good stewardship toward the lake and has yielded a very high quality lake. Motion (Shult/Birbaum) to table this matter until the December 21st meeting to allow trustees to review the 300-page report, *Carried Unanimously.*

Discussion/action regarding the contract with Veolia Environmental Services for garbage service.

Mr. Wiemer explained that the proposed contract satisfies the majority of concerns expressed previously regarding the contract. Several issues were brought up by trustees. Motion (Bickler/Shult) to table the matter until the November 30th special Village Board meeting to allow Mr. Wiemer and Mr. Macy to meet with Veolia representatives to try to resolve the remaining concerns, Carried Unanimously.

POLICE CHIEF

There was no report.

FIRE COMMISSIONER

There was no report.

BOARD OF ZONING APPEALS

There was no report.

ARCHITECTURAL CONTROL BOARD (ACB)

Mr. Wiemer reported that a meeting was held on October 26, 2009. At that time, the plans presented by Mr. & Mrs. Peter Pope regarding 2 Fox Run Court for an outside pavilion, were approved; and plans presented by Dr. James Leaman of 4510 Sawyer Road for a fence, were approved. There will not be a meeting in November or December.

CLERK

Discussion/action regarding approval of operator's licenses (4) for employees of Pick "N Save. The three applicants are Ashlie A. Baumann, Dion T. Larson, Kyle A. Shady, and Rebecca A. York.

Ms. Schlieve reported that the required record checks had been completed. Motion (Bickler/Birbaum) to approve the operator's licenses for the above-noted applicants, Carried Unanimously.

COMMUNICATIONS

Communication regarding Town Hall meetings presented by the Wisconsin Department of Revenue to discuss their proposal to move property tax valuation and administration to the county level.

Ms. Schlieve provided a copy of the proposed meeting dates.

CLOSED SESSION

Mr. Kneiser stated that the Village Board of Trustees would convene into executive closed session by roll call vote, pursuant to section 19.85(1)(g), Wisconsin State Statutes, "conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved", regarding the litigation on the property located at 36016 South Beach Road, owned by Patrick and Jana Eilers. Participating in the executive closed session will be the Village Board, Village Attorney, Village Administrator, and Village Clerk-Treasurer.

A motion (Birbaum/Bickler) was made to convene into executive closed session as noted above. The roll call vote was: Owens, yes; Shult, yes; Birbaum, yes; Bickler, yes; Falstad, yes; Kneiser, yes; and Fischer, yes. Motion was Carried Unanimously.

The meeting went into closed session at 9:45 p.m.

At 11:00 p.m., a motion (Bickler/Birbaum) to reconvene into open session was made. The roll call vote was: Owens, yes; Shult, yes; Birbaum, yes; Bickler, yes; Falstad, yes; Kneiser, yes; and Fischer, yes. Motion was Carried Unanimously.

No motions were needed in relation to the closed session.

With no further discussion being heard, motion (Birbaum/Shult) to adjourn was made at approximately 11:03 p.m., and Carried Unanimously.

Respectfully submitted by:

Approved and ordered posted by:

Cindy J. Schlieve, Clerk-Treasurer

Richard J. Kneiser, President