

VILLAGE OF OCONOMOWOC LAKE

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OCONOMOWOC LAKE VILLAGE BOARD MEETING MINUTES OF MONDAY, August 20, 2007, Unofficial until approved by the Village Board. Approved as written (X) or with corrections () on 09/17/07.

The regular monthly meeting of the Board of Trustees of the Village of Oconomowoc Lake was held commencing at 7:00 PM on August 20, 2007, 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 – present
Messrs., Bickler, Birbaum, Fischer, Schinzer, Shult/Trustees – present
Mr. Owens/Trustee – absent
Ms. Schlieve/ Clerk-Treasurer – present
Mr. Wiemer/Police Chief-Administrator – present
Mr. Macy/Attorney –present

ATTENDANCE

Heather Turner-Loth (MSI General), Dan Farrell (Roundy's), Ed Johnson.

MINUTES

Motion (Birbaum/Bickler) to approve the July 16, 2007, Village Board meeting minutes, with the following revision: Under Update on Boat Gas Delivery, "refueling could be done safely" should read "refueling could possibly be done safely". Carried Unanimously.

PUBLIC COMMENT

There was no public comment.

PRESIDENT

Update on Blue-Green Algae Alert

President Kneiser advised that there is a web address available through the Department of Natural Resources that has a very good article about the blue-green algae. A copy of the document is available in the clerk's office. Our boat patrol has been instructed to be on the lookout for this, so that residents could be timely notified if it appears here.

PLAN COMMISSION

Update on McAdams redevelopment project.

Mr. Macy explained that appraisals are in progress by the Wisconsin Department of Transportation (D.O.T.) on the properties to be vacated and sold along Watertown Plank Road. The meetings with the D.O.T. are ongoing regarding the vacation of Watertown Plank Road. Mr. Macy also reported that Mr. McAdams and MSI General are continuing to make plans for the development with the assumption that the vacation of Watertown Plank Road will take place and that the purchase of land will be at a reasonable cost for them.

Motion (Shult/Birbaum) to open the meeting to comment from MSI General and Roundy's was Carried Unanimously. Ms. Turner-Loth of MSI General reported that they are proceeding with

their plans on the McAdams development with the assumption that the vacation of Watertown Plank Road will be accomplished. Ms. Turner-Loth also advised that they are continuing to work with the Town of Oconomowoc regarding the placement of the driveways for the project. Mr. Wiemer noted that he is still waiting a response from the City of Oconomowoc regarding the sewer agreement for the development. Ms. Turner-Loth will follow up on that matter as well. The trash management of the McAdams site was questioned. Mr. Wiemer advised that Mr. Pat McAdams has been contacted and that Mr. McAdams will be monitoring the area to make sure that it is kept free of trash and other debris. Mr. Farrell of Roundy's advised that he will have Roundy's employees monitor the situation more closely also. Motion (Shult/Birbaum) to close the meeting to public comment was Carried Unanimously.

ATTORNEY

Discussion/action regarding authorization for the vacation of Watertown Plank Road.

Mr. Macy advised that he, Mr. Kneiser and Mr. Wiemer had met with the D.O.T. to discuss the options for the vacation of Watertown Plank Road. The D.O.T. advised that this is a very unique situation and offered three options. Mr. Macy noted that documentation on jurisdiction for Watertown Plank Road does not exist; however, the Village of Oconomowoc Lake received highway aids for the road from the time of incorporation forward, and also has an ordinance on file (1992) making a portion of the road a pedestrian mall. Therefore, it is apparent that the Village has accepted jurisdiction for the road. The options as explained by Mr. Macy are as follows.

- Option 1. The D.O.T. could sell the road to the Village of Oconomowoc Lake for public use as a street, bike path, etc., for \$1.00, but the Village of Oconomowoc Lake could not at anytime resell it and at all times it must remain for use by the public. Based on the representations of the D.O.T. officials it did not appear that this option would be acceptable to the Village of Oconomowoc Lake.
- Option 2. The D.O.T. legal counsel advised that the Village of Oconomowoc Lake could vacate the road, and the land, including the bridge, would revert back to the State. Apparently, per their legal counsel, the Village can do this, and there is no procedure wherein the State could stop the Village from vacating the road. In this instance the State advised that they would have responsibility for the bridge, etc. The State would generally remove the bridge within 2-4 years and also remove any and all pavement unless the adjoining property owner requests that the pavement remain. Under this scenario the Village and State would work together to vacate the road and, thereafter, the State would sell to the adjoining property owners that portion of the vacated roadway that adjoins the respective properties, assuming an acceptable appraisal price. Since the State has title to the road, upon vacation the road vacated would revert to the State not the adjoining property owners. The State would need a non-public easement until such time as the bridge is removed. The State would also require the appropriate utility easements that currently exist along the road. The State also reported that they received no bids for the appraisal of the eight properties. The State has re-bid the project bidding out only the McAdams portion of the land. These bids are due on August 13, 2007. The bids require that the appraisal be done by September 17, 2007. The State, based on the information they receive on this appraisal will, in house, do the remaining seven appraisals.
- Option 3. The D.O.T. discussed a third option, although the same in all likelihood has never been done in the State of Wisconsin and would be very difficult to do. This third option would deal with the return of the jurisdictional transfer from the Village to the State, and the state thereafter abandoning the road as unnecessary right of way. After a great

deal of discussion it was agreed this would be difficult if not impossible to do, although there are some benefits; however, they were not optimistic that this option could occur in this instance.

Mr. Macy provided a letter noting a possible timeline and procedures to accomplish the vacation of Watertown Plank Road. The key procedures include the following: (1) A notice must be recorded with the Register of Deeds; (2) A discontinuance resolution must be "introduced" at a Board meeting; (3) A public hearing must be set, for a date that is not less than 40 days after the date the resolution is introduced; (4) Abutting property owners must be served with a notice of hearing, at least 30 days before the hearing; (5) The resolution must be delivered to the State Secretary of Transportation; (6) Class 3 notice of the public hearing must be published; (7) The hearing must be held; (8) The discontinuance resolution must be adopted; and (9) The adopted resolution must be recorded with the Register of Deeds.

The possible timeline is as follows.

- As soon as the Village Board authorizes: Order title insurance for all abutting property, to determine owners who are required to receive notice.
- On or before September 17, 2007: Record Notice of Pendency with Waukesha County Register of Deeds.
- September 17, 2007: Introduce Resolution of Discontinuance at the Village Board meeting.
- September 18, 2007: Deliver a copy of the Resolution to the State of Wisconsin Secretary of Transportation.
- Prior to September 29, 2007: Serve all owners of lots abutting upon the portion of Watertown Plank Road that is being discontinued, in the manner of service required for a Summons in Circuit Court.
- October 5, 2007: Notice of public hearing published in newspaper (first insertion).
- October 12, 2007: Notice of public hearing published in newspaper (second insertion).
- October 19, 2007: Notice of public hearing published in newspaper (third insertion).
- October 29, 2007: Hold the public hearing.
- October 29, 2007: Adopt the Resolution to discontinue Watertown Plank Road.
- October 30, 2007: Record a certified copy of the adopted resolution with the Register of Deeds.

Trustees questioned who would pay the costs of the title search and other costs associated with the discontinuance of Watertown Plank Road. It was determined that McAdams Realty, Inc. has signed a charge-back ordinance and the costs would most likely be born by McAdams since their development is the driving force behind the discontinuance of Watertown Plank Road.

Motion (Bickler/Schinzer) to instruct attorney Macy to proceed with the process as outlined in his memo by ordering the title insurance for all abutting property to ascertain ownership; with costs to be born by McAdams Realty; and continuing with all procedures needed to complete the process. Carried Unanimously.

Discussion/action regarding recommendations relating to the WIREdata, Inc. v. Sussex, Thiensville, and Port Washington Wisconsin Court of Appeals decision.

The case deals with open records requests. The lawsuit filed against the three municipalities stated that the request of WIREdata, Inc. for "an electronic/digital copy of the detailed real estate property records...used and/or maintained by the assessor" was not fulfilled. When the

municipalities received the request for data, it was forwarded to their assessor who refused to comply with the request stating that the information could not be released without also releasing copyright protected intellectual property in the form of licensed Market Drive software. The Court of Appeals ruled in favor of WIREdata, Inc. and found that all three municipalities had violated the Wisconsin Public Records Laws, for failure to provide the requested information. The court's ruling stated that the municipalities were responsible for releasing the requested records, not the contractor. In addition, they ruled that reformatting data does not constitute creating a record; that electronic data is not all the same; that the municipalities had no ability to delay response to the request due to technical issues; and that the municipalities must pay all attorneys fees and costs in the matter.

This case is being appealed; however, Mr. Macy advised that when municipalities outsource governments' services, such as property assessments, they address open records law compliance in their contracts. When questioned about whether the Village should renegotiate contracts mid-term, Mr. Macy advised against this, suggesting instead the Village review them at the time of renewal. In addition, if no contract is written, one does not need to be created.

Discussion/action regarding letter of recommendation relating to the use of electronic meeting packets.

Mr. Macy briefly explained his letter regarding the use of electronic meeting packets. One of the biggest concerns in using electronic meeting packets is the release of information that contains "personally identifiable data". Members noted that the current method whereby the documents needed are copied by the clerk and delivered in meeting packets to the members was preferred to electronic meeting packets.

TREASURER

Checks

Motion (Schinzer/Birbaum) to approve check nos. 34560 through 34633, for regular monthly payments and all electronic tax payments, Carried Unanimously.

Discussion/action regarding First Bank Financial Centre Resolution authorizing check signers.

Motion (Birbaum/Bickler) to approve the First Bank Financial Centre Resolution authorizing check signers, Carried Unanimously.

FINANCE

Discussion regarding monthly operating statement for August.

The monthly operating statement was discussed.

ADMINISTRATOR

Discussion/action regarding 35900 Pabst Road, dust issue on private road.

Mr. Wiemer reported that the driveway has been encapsulated with hot asphalt. Another property with a driveway dust issue is owned by Jack and Karen Swanson. A letter has been sent to them advising them to correct the dust issue on their driveway.

Report on Waukesha County Cooperation Council meeting on July 30, 2007.

Mr. Wiemer attended the meeting in lieu of Mr. Kneiser and reported on the meeting. He noted that there was some discussion regarding municipalities using sound addressing practices. A computer program called LUCA is being used that includes all the addresses for each municipality. That municipality has the ability to log on to the program, review the streets and

addresses that are listed, and make any changes or additions themselves. The Village of Oconomowoc Lake is part of the program, and Mr. Wiemer has been trained on the use of the program. Mr. Wiemer noted that for the next census, packets will be mailed to the addresses listed in LUCA. If those addresses are incorrect, residents may not receive the census information, and the Census Bureau will not follow up on any packets returned as undeliverable.

Mr. Wiemer reported that the dispatch times, which have previously been a concern of many of the Waukesha County Communication Center communities, have been improved. The communities are satisfied.

Report on Beach Road bridge repair process and timetable.

Mr. Wiemer reported that the repair of the bridge is a three-year process. The Village interviewed three engineering firms. The firm Graef, Anhalt, Schloemer & Associates has been approved for the project. The federal government will pay 80% and the Village will pay 20% of the repair costs. In addition, there is paperwork involved that the engineer must complete, in order to meet the federal requirements, which will cost approximately \$35,000. The bridge repair work will be bid out next year. Once a firm has been chosen, the repairs can then be made.

POLICE CHIEF

Discussion/action regarding disposal of squad car.

Motion (Bickler/Shult) to accept the top bid that has been received (\$7,500) for the sale of the 2003 Chevy Tahoe, and to accept the second bid of \$6,651 if the first bidder fails to buy, Carried Unanimously.

Discussion/action regarding disposal of old patrol boat.

Mr. Wiemer asked for direction in the disposal of the old patrol boat. He advised that there is a hole in the boat hull which no boat repair shop will repair due to the problems involved in the welding that would be needed. The motor and boat trailer are in good condition. Mr. Wiemer will report to next month's meeting with the blue book values on the boat, motor and trailer. A decision on the disposal can be made at that time.

Report on boat patrol citation volume and trends.

Mr. Wiemer reported that there have been about 20 citations issued for violations this year, which is close to the same as last year. He also noted that there have been additional tickets issued for underage alcohol violations, however, those citations will not be shown in our boating citation numbers as those are not considered boating citations by the D.N.R. Mr. Wiemer also advised all trustees to please call the officer on duty to let them know of any violations they may see. The officer on duty will respond to the area of the violation and take any action necessary. The department appreciates the input from Village residents.

Update on the DNR shoreline regulations proposals

Mr. Wiemer advised that these regulations do not apply to villages and cities. Mr. Macy noted that there is a summary on the D.N.R. site.

FIRE COMMISSIONER

Mr. Wiemer reported that work on the proposed new firehouse is on hold pending Mr. Bell's signature on the Certified Survey Map (CSM) and that the CSM for the Aurora Hospital & Clinic has not yet been completed.

Mr. Wiemer advised that the Summit fire fighters have asked to be paid on call for 2008. That would cost about \$80,000 and would impact the budget causing other budgeted items to be cut or drastically reduced, most specifically the money set aside for equipment purchases. Mr. Wiemer noted that the problem could be alleviated somewhat by a merger of the Summit Fire District and the Oconomowoc Fire Department. Negotiations are ongoing.

PUBLIC HEALTH AND SAFETY

Did not meet.

BOARD OF ZONING APPEALS

Did not meet.

ARCHITECTURAL CONTROL BOARD (ACB)

The ACB did not meet in July. They will be meeting in August to hear petitions from Mr. Jerry Holz (remodel accessory structure), Mr. Peter Roehl (addition to residence) and Mr. Joe Elles (new window to residence).

CLERK

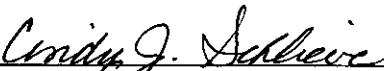
No report.

COMMUNICATIONS


There were no communications.

With no further discussion being heard, motion (Schinzer/Shult) to adjourn was made at approximately 8:43 PM, and Carried Unanimously.

Respectfully submitted by:


Cindy J. Schlieve, Clerk-Treasurer

Approved and Ordered Posted by:


Richard J. Kneiser, President