

A. CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE.

The Ledgeview Town Board held a meeting on **Monday, May 6, 2013, at 6:00 p.m.** at the Municipal Building located at 3700 Dickinson Road, De Pere, WI 54115.

The meeting was called to order at 6:02 p.m. by Chairman Marc D. Hess.

B. PLEDGE OF ALLEGIANCE.

All members present recited the Pledge of Allegiance.

C. ROLL CALL.

Members present were Andy Schlag, Marc Hess, Renee Van Rossum and Richard Huxford. Phil Danen was excused.

Staff present were Sarah Burdette, Clerk/Administrator, Nancy Hawley, Deputy Clerk, Scott Brosteau, Town Engineer and Luann Pansier, Town Treasurer.

D. VERIFY/MODIFY/APPROVE AGENDA.

MOTION made by Hess, seconded by Schlag to approve the agenda. The motion carried unanimously.

CONSENT AGENDA

1. Regular Board Meeting Minutes: April 15, 2013 (Joint meeting), April 16, 2013 (Special meeting), April 16, 2013 (Town Board meeting).
2. Routine Reports: None.
3. Committee/Commission Reports:
4. Operator's Licenses:
 - a. March 19, 2013 through May 6, 2013.
 - b. Kuss-April 30, 2013.
5. Other Committee minutes. Accept and place on file.
 - a. Ledgeview Sanitary District No. 2 - March 28, 2013.
6. Public Amusements & Shows Application from Terry Smits, Terry's Wall Street Pub, for an event at the Wall Street Pub on Saturday, May 18, 2013.

All items listed under "Consent Agenda" are considered to be routine and non-controversial by the Town Board and will be approved by one motion. There will be no separate discussion. If discussion is desired by members, that item will be removed from the consent agenda and discussed separately immediately after consent agenda is approved.

MOTION made by Hess, seconded by Van Rossum to approve the Consent Agenda with the exception of removing the minutes of the April 16, 2013 (Special meeting) to a future meeting. The motion carried unanimously.

MOTION made by Hess, seconded by Schlag to reconsider the motion to approve the consent agenda to additionally remove item 4.b. and move it to a separate discussion. The motion carried unanimously.

MOTION made by Hess, seconded by Schlag to deny item 4.b., Application for an Operator's License from Dustin Kuss from April 30, 2013. The motion carried unanimously.

PUBLIC HEARINGS: None.

PUBLIC COMMENT:

The Board indicated that public comment concerning **OLD BUSINESS**, item 1. a. will be permitted when the item is up for discussion on the agenda. Due to this statement, there was no public comment.

COMMUNICATIONS:

1. Correspondence from Attorney Timothy McCoy, representing Ms. Mona Vickman-King re: enforcement of Town of Ledgeview Zoning Ordinance.
Burdette informed the Board that the correspondence concerned an issue between neighboring property owners regarding zoning ordinances. A meeting has been scheduled for next week between the Town and the property owners.

OLD BUSINESS:

1. a. Request by Brad Westphal, of Corrigan's CBS, agent for Dave Wouters, owner, for a rezone of Lot #1, part of Parcel D-446-1, located at 4600 Heritage Heights, from Rural Residential (RR) to Institutional (I-1).
Burdette informed the Board that the Certified Survey Map (CSM), the site plan and the Area Development Plan (ADP) have already been approved and the rezone is the only matter left in order for the project to continue. She indicated that the Zoning and Planning Commission has unanimously recommended approval of the zoning change.
Burdette also informed the Board that a protest petition was received regarding the rezoning; however, it was received immediately prior to the start of the meeting. At this point, it is unknown if the protest petition is valid. Burdette informed the Board that at first glance, the protest petition lacks a notary signature which would make it invalid; however, further investigation is required.

POINT OF ORDER: John Fiddelke, 3800 Dickinson Road, indicated that if the protest petition is valid, and a full Board is not present, a vote cannot be taken. A change in zoning requires a vote by the entire Board.

The Board questioned whether there was a time frame associated with the protest petition to fix any defaults, and they wanted to know all the options available in order for the protest petition to be considered.

6:26 p.m. - Board recessed to consult with Town Attorney.

6:35 p.m. - Board returned into open session.

The Board indicated that they were unable to speak with the town attorney to receive a legal opinion on whether a full, five member Board was required to vote on a zoning issue.

Steve Corrigan, 4602 Dickinson Road, indicated that there could be instances in which a Board member was incapacitated or unable to attend the meeting. In those instances, State Statutes provide that a full Board does not have to be present in order to vote on an issue.

The Board commented that there was concern about the intent of the protest petition. However, there was also comment that a vote on the issue was stated to be held at this meeting. The Board indicated that the issue needed to move forward. The Board also mentioned the staff recommendation to approve the change of zoning with conditions.

6:45 p.m.

MOTION made by Hess, seconded by Van Rossum to open the floor for public comment. The motion carried unanimously.

Dan Kerkhoff, 3848 Dickinson Road, questioned if the Town Attorney had been asked about further concerns regarding the matter.

The Board indicated that the current process is to define what is required, identify concerns about the matter, and to continue from that point.

Ken Geurts, 1962 Old Valley Court, questioned why the protest petition was brought in immediately prior to the start of the meeting.

Steve Corrigan, 4602 Dickinson Road, indicated that an agenda must have all materials submitted 24 hours before posting in order for them to be on the agenda for Board action. The protest petition was not filed with the Town Clerk within that 24 hour time frame.

The Board indicated that the issue was tabled at previous Town Board meetings and action is needed at this time.

Carl Kuehne, 4479 Heritage Heights indicated that nowhere in the Town's ordinances does it state that items must be placed on the agenda 24 hours in advance. He indicated that all a protest petition does is require a full unanimous vote of the Board. There is no requirement to determine if it is valid. He also indicated that the matter can proceed without a vote and if the protest petition is determined to be valid, then the vote can be held at a later time.

Ed Phillips, 4380 Monroe Road, indicated that if the petition was not notarized, then it is not valid and cannot be used.

Carl Kuehne, 4479 Heritage Heights, informed the Board that the protest petition was not required to be notarized. Burdette informed the Board that based on past correspondence with the Town Attorney, the document does need to be notarized in order to be considered a valid document.

7:00 p.m.

MOTION made by Hess, seconded by Schlag to close the floor to public comment. The motion carried unanimously.

The Board decided that the matter should be taken to a vote. They discussed that the parcel was not in the sewer service area. However, in previous similar situations the Board has approved rezoning with the condition that mandatory hook up to sewer and water is required as soon as it is available.

7:05 p.m.

MOTION made by Hess, seconded by Van Rossum to open the floor to public comment. The motion carried unanimously.

Steve Corrigan, 4602 Dickinson Road, indicated that he was in favor of the project. He stated that caregivers are under a great deal of emotional stress and this type of facility would be beneficial. Carl Kuehne, 4479 Heritage Heights, indicated that he believes a commercial facility should not be placed in a residential/agricultural area. Mr. Kuehne indicated that according to the Town of Ledgeview Code 135.250(b) the facility would negatively impact the surrounding residents. He indicated that the roadway was not suitable for the anticipated traffic. He also indicated that there was no public sewer and water and that the elevation of the area would make it disruptive and expensive to service it with sewer and water if at all feasible. Mr. Kuehne also indicated that in accordance with Town of Ledgeview Code 135.18 lot requirements for Institutional zoning, public sewer and water is required and that no building permit shall be issued without public sewer and water. He also indicated that zoning should be consistent and spot rezoning should not be permitted. Mr. Kuehne indicated that the existing buildings are agriculture and rural residential, not commercial. He also mentioned that access would need to be considered if future development was proposed.

Dan Kerkhoff, 3848 Dickinson Road, indicated that he was in favor of the project. He also mentioned that he thought Unity Hospice instead of CTH X was a closer point for access to public sewer and water.

Elaine LeDuc, 2440 Oak Ridge Circle, indicated that she questioned the placement of a commercial property within a residential area and also questioned the traffic that the new facility would attract.

Steve Corrigan, 4602 Dickinson Road, indicated that an Area Development Plan (ADP) was never entered into for the Arcadian facility area at the time of its development.

Dave Wouters, 4600 Heritage Heights, informed the Board that the same services that Unity Hospice provides would be offered at the new facility, the only difference would be the clientele. He indicated that the land was planned as conservation by design.

Ms. Porter, a resident of Ledgeview residing on the corner of CTH X and CTH GV indicated that she has been a caregiver for 45 years and that she has never seen a facility dedicated to caregivers. She indicated the stress that caregivers are under and that this type of facility would be welcome.

Steve Jauquet, 1874 Ledgeview Road, President of the Ledgeview Sanitary District No. 2, indicated that he supports the project; he feels it will be a great asset to the Town. The Sanitary District will look at sewer and water service directly to the north and south.

Steve Corrigan, 4602 Dickinson Road, informed the Board that historically the Town Board has voted to change zoning on a parcel outside the sewer service area with the provision that the owner record and agree to hook up to sewer and water as soon as it becomes available.

7:26 p.m.

MOTION made by Hess, seconded by Huxford to close public comment. The motion carried unanimously.

The Board discussed the project's proximity to an existing Institutional facility and that it is comparable to that facility. The facility would not be oversized and would not be an eyesore. It is in a fairly isolated location. The Board discussed its appropriateness and impact and how the facility would blend in and affect the surrounding area.

The Board also discussed the concept of overruling an existing ordinance, in particular that Institutional zoning requires sewer and water service and that a building permit will not be issued until that time.

MOTION made by Hess, seconded by Van Rossum to approve the rezone of Lot #1, part of Parcel D-446-1, located at 4600 Heritage Heights, from Rural Residential (RR) to Institutional (I-1) with the condition that the property is to be hooked up to sewer and water as soon as it becomes available to the property. The condition is to be recorded on the Deed at the Register of Deeds office.

ROLL CALL VOTE TAKEN

Hess: Aye

Schlag: Aye

Van Rossum: Aye

Huxford: Nay

The motion carried.

- b. Recommendation from Town Treasurer on course of action for 2011 delinquent personal property tax accounts.

Luann Pansier reviewed the 2011 delinquent personal property tax accounts. She reviewed the options of having Finance Systems of Green Bay pursue delinquent claims in small claims court or have Finance Systems of Green Bay continue to pursue the recovery of delinquent personal property tax.

MOTION made by Van Rossum, seconded by Schlag to direct Finance Systems of Green Bay to file suit in Small Claims Court for the 2011 Personal Property tax roll for Ed Gersek (Gersek Excavating, LLC) in the amount of \$7,560.81 and New China Kitchen in the amount of \$1,975.12 for a total of \$9,535.93. The motion carried unanimously.

MOTION made by Van Rossum, seconded by Hess to direct Finance Systems of Green Bay to continue to attempt collection of the 2011 Delinquent Personal Property tax/interest for Snap Fitness in the amount of \$2,021.72. The motion carried unanimously.

- c. Brown County Municipal Agreement for PP-15 reconstruction project between Viking Lane and STH 57 on CTH PP.

Brosteau informed the Board that we are awaiting the revised Agreement.

MOTION made by Hess, seconded by Huxford to table the Brown County Municipal Agreement for PP-15 reconstruction project between Viking Lane and STH 57 on CTH PP until a future meeting. The motion carried unanimously.

- d. Sidewalk/trail consideration for CTH PP and CTH G county projects.

Brosteau informed the Board that we are awaiting the revised Agreement.

MOTION made by Hess, seconded by Huxford to table the Sidewalk/trail consideration for CTH PP and CTH G county projects until a future meeting. The motion carried unanimously.

NEW BUSINESS:

1. Discussion/possible action:

- a. Consideration of appointment extension for the following Zoning Board of Appeals members through May 31, 2013: Roger Tenor, Dan Kerkhoff and Mark Vander Logt.

Burdette explained that these appointments to the Zoning Board of Appeals expired in March 2013. However, there is a Zoning Board of Appeals meeting scheduled for May 8, 2013 and the members will be needed in order to hear the appeal. It is requested that Roger Tenor, Dan Kerkhoff and Mark Vander Logt be appointed until May 31, 2013, in order to be reappointed or to have recommendations for new members submitted to the Town Board for approval.

MOTION made by Schlag, seconded by Van Rossum to extend the appointment of the following Zoning Board of Appeals members through May 31, 2013: Roger Tenor, Dan Kerkhoff and Mark Vander Logt. The motion carried unanimously.

- b. Review recommendation and analysis on creation of Community Director position.

Burdette explained that there was a previous discussion on the creation of a Community Director position. However, at present there is a need for assistance to the Zoning and Planning Commission. Previous assistance was provided by Brown County and Bay Lakes, however, their services were discontinued due to budget constraints of each of those agencies. Burdette informed the Board that a flexible contract could be developed between the Town and a firm to determine needed services. The Board determined that a Request for Proposals (RFP) should be developed for a contract position with a firm that would be flexible enough to focus on Zoning and Planning issues but also to allow for some community development which would increase once CTH GV was completed.

MOTION made by Schlag, seconded by Hess to draft a Request for Proposals (RFP) for a firm to provide contract Zoning and Planning and Community Director needs to present to the Board for consideration and approval. The motion carried unanimously.

- c. Award contract A-2013, Swan Road resurfacing and sidewalk installation to Northeast Asphalt in the amount of \$229,881.20.

Brosteau indicated that Northeast Asphalt was the low bidder for the project and the Town has had good experience with the company in the past.

MOTION made by Hess, seconded by Schlag to award contract A-2013, Swan Road resurfacing and sidewalk installation to Northeast Asphalt in the amount of \$229,881.20. The motion carried unanimously.

REPORTS: Clerk/Administrator, Staff Updates and Board Comments.

A. Clerk/Administrator:

1. a. The Board received correspondence regarding the Knaus matter. The attorneys from both insurance agencies are coordinating.
b. A public informational meeting regarding GV-10 and associated assessments should be scheduled soon.
c. Hydrant flushing is underway.
d. Street sweeping was completed.
e. Open Book will be held Wednesday, May 8, 2013, from 4:00 p.m. to 6:00 p.m.

- f. Park and Recreation Committee initial meeting will be held Tuesday, May 7, 2013.
- g. Zoning Board of Appeals will be held May 8, 2013.
- h. Sanitary District No. 2 meeting will be held May 8, 2013.
- i. Brown County Planning is updating their Comprehensive Plan.
- j. Zoning and Planning Commission is looking to initiate a Request for Proposals (RFP) for an update to the Comprehensive Plan.
- k. Danen and Huxford need to take Board of Review training.
- l. Manitowoc Public Utilities has provided their Annual Report. Burdette has a copy for review.
- m. Zoning and Planning will be reviewing the Radue preliminary plat.
- n. Street and conservancy vacations are in progress.
- o. The Personnel Committee is continuing work on the Employee Manual.

B. Town Engineer:

- a. A proposal for trees for the median on CTH GV was awarded to Willems. Thirty-three trees will be planted.
- b. CTH PP will be done next year from STH 32/57 to Rockland Road.
- c. On CTH GV, the County has agreed to pave an eight-foot trail instead of the 10-foot trail that was once proposed.

C. Town Treasurer:

- a. Luann Pansier informed the Board that she attended the Treasurer's conference last week. The topics were timely and will be useful in the future.

APPROVAL OF THE VOUCHERS:

MOTION made by Hess, seconded by Schlag to approve vouchers. The motion carried unanimously.

ADJOURNMENT:

MOTION made by Hess, seconded by Schlag to adjourn the meeting at 8:25 p.m. The motion carried unanimously.

Nancy L. Hawley, CMC, WCMC, Deputy Clerk
Town of Ledgeview