

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

The Ledgeview Town Board held a meeting on **Monday, August 5, 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 6:01 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 Richard Huxford, Marc Hess, Renee Van Rossum and Phil Danen. Andy Schlag was excused.

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

D. VERIFY/MODIFY/APPROVE AGENDA.

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

CONSENT AGENDA

1. Regular Board Meeting Minutes: July 16, 2013.
2. Routine Reports:
3. Committee/Commission Reports:
4. Operator's Licenses:
 - a. July 16, 2013 through August 5, 2013.
5. Other Committee minutes. Accept and place on file.
6. Special Event Street Closure Form-Spring Lake Church-Africa Hope Run-various streets in Ledgeview-October 9, 2013, 7:00 a.m. - 10:30 a.m.

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.

Hess indicated that he and Supervisor Danen were not in attendance at the July 16, 2013, Town Board meeting. They determined that they would defer approval of the July 16, 2013, minutes until all members present at that meeting could review and approve those minutes.

MOTION made by Danen, seconded by Hess to approve the Consent Agenda with the exclusion of the July 16, 2013, minutes which will be acted upon at a future meeting. The motion carried unanimously.

PUBLIC HEARINGS/ACTION:

6:00 p.m. or as soon thereafter as can be heard:

1. Hear comment on an Ordinance to amend Chapters 135-8 and 135-11 regarding the enactment of 2011 WI Act 170, non-conforming uses.

6:04 p.m. Public Hearing opened.

Burdette informed the Board that the Ordinance was to amend the current non-conforming use language in the Town of Ledgeview Code to comply with 2011 Wisconsin Act 170.

John Fiddelke, 3800 Dickinson Road questioned the process that is followed to change an Ordinance.

Carl Kuehne, 4479 Heritage Heights, indicated that there was no opportunity for an individual to find out what changes were being considered prior to the public hearing.

Fiddelke asked how an Ordinance could be initiated that did not prohibit or limit costs to non-conforming structures.

Vince Cisler, 3706 Hidden Valley Lane, questioned how a non-conforming structure can be constructed.

Kuehne questioned how the Town may not enact an Ordinance that prohibits or limits, the expansion of a non-conforming structure based on costs if the Ordinance indicates a not-to-exceed percentage of the structure. He would like a clearer understanding of the Ordinance.

6:30 p.m. Public Hearing closed.

The Board indicated that they would like more information regarding when a non-conforming structure must be sent to the Zoning Board of Appeals or when a recommendation of the Zoning & Planning Commission can be made to the Town Board for action.

MOTION made by Danen, seconded by Hess to table Ordinance to amend Chapters 135-8 and 135-11 regarding the enactment of 2011 WI Act 170, non-conforming uses to a future meeting. The motion carried unanimously.

6:00 p.m. or as soon thereafter as can be heard:

2. Hear comment on an Ordinance amending section 135-15 (fences) and 135-16 (swimming pools, hot tubs and spas.)

6:35 p.m. Public Hearing opened.

Burdette informed the Board that the fence amendment was to allow a lot to deviate from the current height requirements of the Code by the Clerk/Administrator and the Zoning Administrator. The amendment would allow for deviations of the fence Ordinance depending on the location of the property.

The Ordinance would also require the man-made bodies of water section of the Code to conform to the Security, Prohibited and Exempt permit requirements sections of the fence code.

Christy Janitch, 2264 Fox Den Court, questioned the requirements for fences on corner lots.

Jean Bonacci, 3800 Dickinson Road, questioned the current requirements for fences.

Vince Cisler, 3706 Hidden Valley Lane, questioned who is currently responsible for approving the current deviations from height requirements in the absence of a Zoning Administrator.

Carl Kuehne, 4479 Heritage Heights, questioned why a request to deviate from height requirements for a fence should go through the Zoning Administrator.

John Fiddelke, 3800 Dickinson Road, asked why a fence should get a variance through the approval of the Town Board. He felt that any deviation should be handled by the Zoning Board of Appeals.

Vince Cisler, 3706 Hidden Valley Lane and chairman of the Zoning Board of Appeals feels that all requests for fence variances should be heard by the Zoning Board of Appeals.

Tomas Kaminski, 3661 Caboose Lane, indicated that he desired to put in a pond without a fence around it.

Kuehne indicated that the amendment should be more specific and contain certain parameters.

Cisler indicated that the maximum height is contained in current Code. If exceeded, the matter should go before the Town Board for action.

Burdette informed the Board the amendment to the swimming pools, hot tubs and spas added the inclusion that a fence shall not be required if the swimming pool, hot tub or spa is equipped with a safety cover complying with ASTM F1346 which is closed when not in use.

6:55 p.m. Public Hearing closed.

The Board indicated that they would like more information regarding both the fence and the swimming pool, hot tub and spa ordinances prior to taking action on the ordinances.

MOTION made by Danen, seconded by Hess to table an Ordinance amending section 135-15 (fences) and 135-16 (swimming pools, hot tubs and spas.) The motion carried unanimously.

6:00 p.m. or as soon thereafter as can be heard:

3. Hear comment on an Ordinance amending section 135-20(f)(2) of the Town of Ledgeview Zoning Code regarding protest petitions and time for action on re-zoning applications.

7:02 p.m. Public Hearing opened.

Burdette informed the Board that the amendment would indicate the timeline of when a written protest petition is received, the contents of the petition including the percentage of signers of the petition, and the time for the petition to be filed with the Town Clerk. In addition, the amendment changes the effective vote required for the amendment to be effective to a three-fourths ($\frac{3}{4}$) vote of the full Town Board membership.

John Fiddelke, 3800 Dickinson Road, indicated his objection to a $\frac{3}{4}$ vote by the full Town Board membership. He also indicated that he felt there should be a longer time frame to file a petition with the Town Clerk. He would like the Board to provide more direction and instruction on the correct procedure to follow to file a protest petition. He would like to see instructions listed on the website.

Greg Muehl, 3780 Dickinson Road, indicated he was opposed to the $\frac{3}{4}$ vote by the full Town Board and the time frame for filing the petition. He also indicated that there should be better direction on how an issue is placed on the Zoning and Planning Commission's agenda.

Jean Bonacci, 3800 Dickinson Road, indicated that she was opposed to the $\frac{3}{4}$ vote by the full Town Board. She indicated that she felt residents did not have enough input into Town issues and would like direction on how to file a protest petition. She questioned how issues are placed on the Zoning and Planning Commission agenda. She questioned why the $\frac{3}{4}$ rule needed to be changed.

Mark Schroeder indicated that he opposed the $\frac{3}{4}$ vote by the full Town Board. He indicated that he had a non-conforming business in his back yard and the use of the rule will reduce his latitude in using it.

Fiddelke indicated that just because the $\frac{3}{4}$ rule follows state statute, there are times when state rule does not follow federal rule.

Carl Kuehne, 4479 Heritage Heights, indicated that it was appropriate to consider the issue in a broader view based on a petition of 100% of property owners in area signing a petition as well as the 100 foot rule. A consideration of different standards should be investigated. He indicated that the current ordinance requires 100% vote of the full Town Board because of a prior case. He indicated that at some point there should be 100% of the full Town Board for change because of a significant number of signatures on a petition.

Attorney David Daul of Wanezek & Jaekels, S.C., attorney for Mr. Kuehne, indicated that there was case law that indicated that signatures on a petition did not have to have to be notarized.

7:34 p.m. Public Hearing closed.

The Board discussed a timeline that would be by noon at least two (2) Town business days prior to the Board meeting. The Board also would like to investigate the 100 ft. rule. The Board indicated that if the $\frac{3}{4}$ rule was in the State Statutes, then it should be followed. Also, they indicated that petitions should be based on the number of signees and make them aware of what is required for a protest petition. However, the Board indicated that they could not provide any legal advice. They would like some additional information regarding the issue.

MOTION made by Hess, seconded by Danen to table Ordinance amending section 135-20(f)(2) of the Town of Ledgeview Zoning Code regarding protest petitions and time for action on re-zoning applications to a future meeting. The motion carried unanimously.

6:00 p.m. or as soon thereafter as can be heard:

4. Hear comment on an Ordinance to amend Chapter 135-118, Institutional zone in the Code of the Town of Ledgeview.

7:50 p.m. Public Hearing opened.

Carl Kuehne, 4479 Heritage Heights commented that the Town Code regarding the Institutional Zone should remain as written and require that public sewer and water is available and extended to service the development. He also indicated that discussion on any changes to the Ordinance should be suspended pending the outcome of pending litigation.

Dave Outers, 4600 Heritage Heights commented that he could possibly develop his property in a manner other than his current proposed project.

John Fiddle, 3800 Dickinson Road, indicated his opposition to changing the provisions of the Institutional Zone of the Town Code and to continue the requirement for the District to be serviced by sewer and water.

7:55 p.m. Public Hearing closed.

MOTION made by Danen, seconded by Hess to table the Ordinance to amend Chapter 135-118, Institutional zone in the Code of the Town of Ledgeview to a future meeting pending outcome of pending litigation. The motion carried unanimously.

PUBLIC COMMENT:

COMMUNICATIONS: None.

OLD BUSINESS:

1. Discussion/possible action:

- a. Operator license re Rebecca Mott.

Hayley informed the Board that she spoke to Ms. Mott in person and she indicated that the information on her operator's license application all stemmed from the same incident. The Board would like Ms. Mott to provide additional appropriate documentation of the information the Board was provided based on a background check.

MOTION made by Hess, seconded by Danen, to table the approval of the operator license application for Rebecca Mott until she provides additional appropriate documentation of the information the Board was provided based on a background check. The motion carried unanimously.

2. Proposed Town Ordinance - third reading

- a. "An Ordinance to Create an Economic Development Grant for Reimbursement of Minimum Statutory Fee for Reserve "Class B" Liquor Licenses.

Hayley informed the Board that the Ordinance has been revised in accordance with their direction. The Ordinance allows for an applicant to file for an economic development grant of up to \$9,575. This amount would allow for the first year's "Class B" liquor license fee. One-half of the total grant may be paid six months after the license is issued, and the remainder may be paid one year after initial issuance.

MOTION made by Van Rossum, seconded by Huxford to approve "An Ordinance to Create an Economic Development Grant for Reimbursement of Minimum Statutory Fee for Reserve "Class B" Liquor Licenses. The motion carried unanimously.

NEW BUSINESS:

1. Discussion/possible action:

- a. Request from Susan Donlevy to negotiate a 50/50 split of Country Winds II final invoice in the amount of \$5,410.08.

Luann Pansier informed the Board that Country Winds subdivision was developed during the 1999-2000 timeframe. The Town billed the developer as the Town incurred expenses.

However, the last coat was not finished until 2009. The developer did not want to incur the added expense from the 2000 timeframe to the 2009 timeframe. When the last lot sold, the amount was put into escrow. Ms. Donlevy would like to negotiate with the Board for a 50/50 reduction of costs if possible in order to save additional legal expenses.

The Board indicated that they would desire to see a legitimate proposal prior to committing to an agreement. However, once presented, the Board would be agreeable to discussing the matter with Ms. Donlevy.

NO TOWN BOARD ACTION REQUIRED AT THIS TIME

- b. Recommendation to approve pay request #1, Contract A-2013, to Northeast Asphalt in the amount of \$124,545.60 for Swan Road resurfacing and sidewalk.

Brosteau indicated that this was the bill for the Swan Road resurfacing and sidewalk. It does not include the asphalt. He indicated that the project may be completed at slightly under projected costs.

MOTION made by Hess, seconded by Huxford to approve pay request #1, Contract A-2013, to Northeast Asphalt in the amount of \$124,545.60 for Swan Road resurfacing and sidewalk. The motion carried unanimously.

- c. Recommendation from Town Engineer to upsize pipe under Creamery Road at Tributary F. Brosteau indicated the area in question and the concerns regarding water flow and collection. The County is holding up the CTH GV-10 project until the Town indicates how funding will be accomplished to direct water flow in this area. Brosteau recommended that a flood study be accomplished. The Town directed Brosteau to see if any funding can be received from the Bridge Fund to defray the cost of the project.

MOTION made by Huxford, seconded by Hess to table the Recommendation from Town Engineer to upsize pipe under Creamery Road at Tributary F, until it is determined if funds from the Bridge Fund are available for the Town's use to help defray the cost of the project. Hess-aye, Huxford-aye, Van Rossum-aye, Danen-nay. The motion carried.

- d. Recommendation on draft policy for requests for Town funding to support special Town events or requests. Burdette explained that the policy is to establish guidelines for Town support for individuals and events that are non-specific to any one group and are designed to benefit the Town's residents.

MOTION made by Danen, seconded by Van Rossum to accept the policy as drafted. The motion carried unanimously.

- e. Request from LedgeFest Committee for \$1,500.00 for the purpose of event costs associated with the 7th Annual LedgeFest. Burdette explained that the Town has provided the LedgeFest Committee with the same sum in the past, and that the Town has also helped the Committee with the cost of supplies and printing. Bruce Pagel, 2420 Watson Circle, chairman of the LedgeFest Committee informed the Board that the money is used for securing entertainment, that all workers are volunteers. He also informed the Board that the Committee is working on forming a 501(3)(c). However, that would be a separate entity.

MOTION made by Danen, seconded by Hess to approve the request from the LedgeFest Committee for \$1,500.00 for the purpose of event costs associated with the 7th Annual LedgeFest. The motion carried unanimously.

- f. Review of annual building inspection data and related service expenditures. Burdette provided the Board with the statistical data provided from Independent Inspections Ltd regarding the Town's costs and how they relate to building permits. The Board discussed the builders' satisfaction with Independent Inspections LTD, however, they were aware of some personality conflicts with Independent Inspections LTD's personnel. The Board indicated that it would like to request a change of personnel with Independent Inspections, LTD to provide building inspection services for the Town.

NO FORMAL ACTION REQUIRED AT THIS TIME

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

A. Clerk/Administrator:

1. a. The Town has received legal correspondence from the Town's insurance carrier in regard to the Kuehne matter.
- b. The Town has received notice of a claim for injunctive relief in the Kuehne matter.
- c. Applications for the Deputy Clerk position have been placed in the Green Bay Press Gazette and on the Clerk's List. Deadline for applications is August 23, 2013.
- d. The Comprehensive Plan and Park Plan interviews will begin next week.
- e. Details of the annual insurance review plans are being prepared.
- f. Sanitary District meets tomorrow.
- g. Personnel Committee meets on the 14th.
- h. The Park Committee meets on the 22nd.
- i. The vacation of the Conservancy of Outlot 6 was successful. The Court has granted a period of time for additional comments.
- j. Burdette requested that the Board provide questions or comments to staff upon Board review of meeting packet materials. This would help the Board obtain the necessary feedback at the time of the meeting and to assist the Board complete decisions in a timely manner. She also asked the Board for their ideas for efficiency as well.
- a. CTH G bridge-waiting for cure time and then to complete the staining. Approximate August 14th opening.
- b. Bill Van De Yacht is not opposed to a trail. Will continue discussion with him.
- c. CTH GV-10. There is some talk regarding access and median crossings and the discussion occurred at a meeting with Brown County Highway.
- d. CTH GV-9. The main line lighting will be provided by WPS. The contract for the trail lighting was awarded to Bodart.

APPROVAL OF THE VOUCHERS:

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

ADJOURNMENT:

MOTION made by Danen, seconded by Hess to adjourn the meeting at 9:15 p.m. The motion carried unanimously.

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