

Town of Menasha Board of Supervisors Regular Meeting
Municipal Complex - Assembly Room - December 17, 2007

Minutes

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

Town Chair Arden Tews called the Meeting to order at 6:00 p.m. followed by the Pledge of Allegiance. Clerk Tweedie took roll call and present were Chairman Tews, Supervisor McQuillan, Supervisor Hanson, Supervisor McNamee, and Supervisor Youngquist.

Others present: Administrator Sturgell, Dir. of Finance Piergrossi, Dir. Comm. Dev. Dearborn, Clerk Tweedie, Engineer Reibold, Attorney Koehler, Fire Chief Kiesow, Police Chief McCants, Assessor Eiberger, Dir. Parks & Rec. Kading, P. C. Reporter Mike King, Melvin Schultz, Barb Knaack, Bill VanEeckhout, Virender Singh, Clarence Peterson, Dale Lamine, Jay Schroeder, Mike Lettier, Attorney Howard Healy, Bruce Anunson, Patti Haase, Pat Dobberke, Mike Dillon, William Ottow, Paul Eisen, Margie Weiss

2. AWARDS/PRESENTATIONS

a) Representative Roger Roth - Legislative Update. State Representative Roger Roth arrived during the public forum.

3. PUBLIC FORUM - Non-Agendized Town Related Matters

Those wishing to speak: Clarence Peterson, Lakeshore Drive, spoke about ways of reducing costs for garbage pickup; told residents about the pancake breakfast with Santa which he attended.

William Ottow, Dunning Street, commented on the dredging of Little Lake Butte Des Morts, his feelings about the PCB's still in the lake and having it capped off.

Resident and Winnebago County Supervisor Paul Eisen, Brighton Beach Road, appreciates the winter maintenance of the Plank Road trail and wants to see it continue; reminded residents that the Menasha Library will be open on Sunday beginning in January.

Fire Chief Keith Kiesow wanted residents and staff to know of the passing of retired paid-on-call firefighter Jerry Schroeder, whose tenure with the Fire Dept. had spanned approximately 36 years, including his 32 years as an active member from Sept. 13, 1971 to May 31, 2003 and his remaining years as an honorary member. The showing will be on Wednesday with a funeral and presence of the Honor Guard to follow on Thursday. Because the Fire Department was so much a part of his life, the family had requested some of the Town's firefighters to serve as pallbearers at the funeral.

State Rep. Roger Roth arrived and gave a legislative update; he is currently involved in working on two Bills before the Senate. One Bill is the Mandate Relief AB350 Act. Another Bill addresses automated 30-second telephone calls to people's homes and considered annoying, to include these type calls on the No-Call List. Supervisor McNamee asked about the Charter Town's Bill and Rep. Roth explained that it grants Towns certain powers. He stated he realized the potential annexation restrictions placed on neighboring municipalities is a problem. Supervisor McNamee expressed his feelings regarding levy limits hurting the municipalities and causing forced borrowing. Supervisor Hanson asked about the progress of the interchange for Hwy. 41/441. She stated there were six grocery store owners who told her they are unable to open for business, particularly on the west side, due to the current state of this highway system lacking an interchange. Rep. Roth stated the Transportation Project Commission must meet and expects this to be discussed in 2008, and they are making it a priority although there are no promises it will be acted upon. Chairman Tews discussed Smart Growth and it being extended from 2010 to 2015, he expressed his opposition, and hopes that Rep. Roth will oppose it if it comes to the floor. Chairman Tews presented Roth with a letter to take back with him. Rep. Roth thanked everyone and encouraged everyone in attendance to contact him as he is always available at home and at his office.

4. DISCUSSION ITEMS - None

5. OLD BUSINESS

6. NEW BUSINESS

- a) **071217-1: Rezoning - DiRenzo & Bomier - Neuroscience Center, LLC - South of 1305 West American Drive** MOTION: Hanson/McQuillan to approve.
 Director Dearborn explained the rezoning and stated the parcel was originally owned by the Dept. of Transportation. Present was Attorney Howard Healy of DiRenzo & Bomier who introduced himself as representative to Ms. Margie Weiss, CEO of the Neuroscience Center.
 On the motion to approve, motion carried.
- b) **071217-2: Certified survey Map - STS Consultants - Neuroscience Center, LLC - 1305 west American Drive** MOTION: Youngquist/Hanson to approve subject to the conditions listed.
 Ms. Weiss spoke of potential health-related businesses, possibly a dental office, locating next door to the Neuroscience Center. She also expressed her desire to make the most effective use of the property and prefers professional services at the location. Stormwater drainage runoff between the properties was also discussed. On the motion, motion carried.
- c) **071217-3: Conditional Use Permit - JS Foodmart - 931 Racine road**
 MOTION: Youngquist/McNamee to approve subject to the conditions as outlined.
 Director Dearborn explained the Conditional Use Permit. Board members expressed concerns of traffic flow. Discussion ensued between the Board members and the property owner of the Citgo-A.V. Foodmart gas station located to the north of the proposed new convenience store site. Board members expressed concern with these types of businesses who have in-ground tanks with possible contamination issues relocating, and leaving the tanks in the ground. Supervisor Youngquist discussed having too many similar businesses located in one immediate area, and questioned the possibility of placing zoning restrictions to allow more control, but Director Dearborn felt this was not something to be able to control.

Resident William Ottow, Dunning Street, also commented on issues with gas tanks left behind on abandoned properties.

Resident Barb Knaack, Irish Road, expressed concern of access onto Racine Road and asked how accidents are rectified once a business is established, and Director Dearborn stated there are rights by the owner and we can't deny them because of access to a property.

Mr. Virender Singh was present at the meeting to speak against the new business and stated there are too many gas stations and suggested larger businesses would be better suited that employ many more people; addressed the C.U.P for approval and began making several unsubstantiated claims and allegations against Mr. Kashmir Gill, the new business owner. At this point Chairman Tews stated these were personal issues and the Town Board was here to decide on the Conditional Use Permit. Mr. Steve Frassetto, Attorney for Mr. Gill, stepped in to state there was no proof of the allegations and feels the appropriate steps have been taken in purchasing this property and made positive comments.

Chairman Tews made a motion for approval. Supervisor McQuillan and Chairman Tews voted YES, and Supervisors Hanson, McNamee and Youngquist voted NO. Motion failed 3-2.

Director Dearborn stated he felt that Winnebago County would override the Town's vote and approve the C.U.P. Attorney Koehler stated he agreed the other issues had no bearing on the approval of the C.U.P. before the Board. Discussion continued with Supervisor Youngquist asking about the resolve of past issues of this business and stated he felt they should be dealt with before approving the resolution. Chief Kiesow and other staff again offered their opinions and stated the gas tank issue and approving the Conditional Use Permit were separate issues altogether. Supervisor McNamee asked that this be tabled for now. Attorney Koehler stated that board members could make a motion to reconsider if they so desired.

MOTION: McNamee/Hanson to Reconsider. Motion to reconsider carried YES 5-0.

MOTION: McQuillan/McNamee to approve the Conditional Use Permit for J.S. Foodmart on Racine Road. Attorney Koehler asked for more discussion. Discussion ensued regarding settlement of past issues with removal of the gas tanks on another property, and Supervisor McQuillan asked Fire Chief Kiesow to confirm that the issue had been resolved. Chief Kiesow felt the tanks had been replaced. Supervisor Hanson asked whether the owner of J.S. Foodmart, Mr. Kashmir Gill, was present and then asked him to present the plans he had for this business, and he explained.

Chairman Tews asked for a roll call vote. On roll call, motion carried unanimously.

d) **071217-4: Modify Town of Winchester Contract for Services**

MOTION: Youngquist/McNamee to approve.

Melvin Schultz, Clayton Avenue, made comments about staff time given to assisting the Town of Winchester, making reference to lack of time when it came to responding to a resident about an issue with their fence. Administrator Sturgell explained the number of people who had indeed responded to the resident about their fence, and described the significant amount of time and energy spent. Supervisor McQuillan had gone to the site and Chair Tews stated he had also.

Assessor Eiberger stated the smaller municipalities look up to larger municipalities for assistance and we help them when they need it.

William Ottow, Dunning Street, made comments. Barb Knaack, Irish Road, stated she agreed but not at our expense. Pat Dobberke, Palisades Lane, was concerned with Community Development/Planning having a timely response to our own Town's needs before another municipality's needs, and suggested use of questionnaires and speaking to developers promoting the Town. Chairman Tews and Director Dearborn stated that this is what their department does and has been doing on a continual basis.

After more discussion with staff, MOTION: Youngquist/McQuillan to amend adding the sentence, "Whereas, the contract will be approved on an annual basis and the cost for services will be updated each year." On the amendment, motion carried unanimously. On the main motion, motion carried unanimously.

e) **071217-5: Approve Change Order #2 and Final - 2007 Curb & Gutter Replacement & Street Resurfacing**

MOTION: Youngquist/McQuillan to approve Change Order #2 to N.E. Asphalt, Inc., resulting in a decrease of \$44,878.21 for the contract amount of \$658,501.09. Motion carried.

f) **071217-6: Automatic Assistance and Memorandum of Understanding Agreements with the Town of Neenah**

MOTION: Youngquist/McNamee to approve. Fire Chief Kiesow explained the agreements. Supervisor McQuillan asked that the Fire Department keep track of and provide the board with the types of calls and number of calls responded to from the Town of Neenah and the Town of Menasha, in order to compare. Supervisor Hanson also asked for a comparison/summary at year end to which Chief Kiesow responded that he would. On the motion, motion carried.

g) **071217-7: Request for Fire Department and Park and Recreation Department to Purchase Furniture for Fire Station #40 / #41 and Community Center**

MOTION: McQuillan/McNamee to approve. Supervisor Hanson asked for clarification of the disbursements to the Fire Department as compared to the Community Center, and Chief Kiesow answered. The leftover money from this project for the purchase of beds was questioned by Supervisor Youngquist. Chief Kiesow explained when the beds might be used; by interns, firefighters doing shift work, and at times of severe weather. Resident Barb Knaack commented on the Town spending leftover money. Chairman Tews reminded staff and residents that from the beginning of the project, the money was meant to be used for improvements, furniture and these types of needs and Chief Kiesow agreed.

William Ottow felt that by making these purchases it proved to residents our (future) intentions; utilizing paid volunteers, etc.

On the motion to approve the purchase, motion carried.

h) **071217-8: Appoint Election Inspectors for 2008-2009 Elections**

MOTION: McQuillan/Hanson to approve. Motion carried.

i) **071217-9: Expenditures**

MOTION: Youngquist/McNamee to approve. Motion carried.

j) **071217-10: Operator License Applicants**

MOTION: Hanson/McNamee to approve. Motion carried.

k) 071217-11: Adopt Non-Represented Employees 2008 Pay Plan and Wages

MOTION: Youngquist McNamee to approve.

MOTION: Youngquist/McNamee to amend the first Be It Further Resolved, to say "...the Town Board approves the wage plan marked Addendum "B" to establish 2008 wages for non-represented personnel". On the amendment, motion carried unanimously. On the main motion, motion carried unanimously.

7. ORDINANCES/POLICIES/AGREEMENTSa) 071022-1:ORD Create Town of Menasha Municipal Code Chapter 9.015 - Regulation of Alcohol Licenses for Sexually Oriented Businesses *Third Reading and Adoption*

MOTION: Youngquist/McNamee to accept the Third Reading and Adoption.

Attorney Koehler explained the ordinance. Discussion ensued with questions by board members regarding non-issuance/denial of a license, and limitations of an approved ordinance.

Jay Schroeder spoke opposing the setback zoning restrictions; contact with Attorney Trueman on the adult ordinance who stated he would be willing to come to the Town and speak with the Board; regulating of all businesses; article e-mailed to him regarding a club which opened in Boulder, CO; encouraged Board members to allow Attorney Trueman to come to the Town and listen to him, as Mr. Schroeder feels the adult ordinance is not yet correct and complete.

Supervisors McNamee and Youngquist want to adopt and then look at licensing later on. Mr. Schroeder was thanked for bringing Mr. Trueman to the board with his ideas and suggestions. He then asked Supervisor McQuillan directly if she would want Mr. Trueman to fly here and speak, and she answered yes, if Mr. Schroeder paid for his travel and no costs to the Town.

William Ottow, Dunning Street, spoke about juice bars, County zoning and serving liquor in adult establishments.

Melvin Schultz, Clayton Avenue, commented that he feels these types of establishments do not need to serve liquor.

Supervisor McQuillan stated she is grateful for the work done by Mr. Trueman, Mr. Schroeder, and Attorney Koehler. But she stated she supports passage of the ordinance tonight so that something is in place for the Town so that we are doing everything we can, and welcomes any further work on this ordinance in the future.

Chairman Tews stated the Board has looked at this ordinance for about five months now and wants to approve tonight, then seek more information from Winnebago County and look at additional options later.

Attorney Koehler made final comments and commended board members for taking their time with passage of an ordinance such as this. After discussion, the Town's Attorney suggested an amendment to the ordinance.

MOTION: Youngquist/McNamee to amend Item 8. Standards for Enforcement Action in the last sentence, deleting the words "in the discretion of the Board". On the amendment, motion carried unanimously. On the main motion, motion carried unanimously.

Resident and Winnebago County Supervisor Paul Eisen commented on the County's 600-ft. zoning regulations for adult businesses, and asked that if the Board would like to bring an issue regarding zoning to the County level, he would assist the Town. Chairman Tews confirmed the Town would be pursuing it, without a doubt.

b) 071203-1:ORD An Ordinance to Amend the Town of Menasha Municipal Code Appendix B Fee Schedule for 2008 *Second Reading and Adoption*

MOTION: Hanson/Youngquist to accept the Second Reading and Adoption as submitted. Motion carried.

c) 071203-2:ORD Amend Town of Menasha Municipal Code Appendix C Fines and Penalties Schedule for 2008 *Second Reading and Adoption*

MOTION: Youngquist/Hanson to accept the Second Reading and Adoption as submitted. Motion carried.

d) 071203-3:ORD Create Town of Menasha Municipal Code Chapter 34 - Illicit Discharge and Connection Ordinance *Second Reading and Adoption*

MOTION: Youngquist/Hanson to accept the Second Reading and Adoption as submitted. Motion carried.

8. PERSONNEL

9. APPROVAL OF MINUTES

a) Public Hearing of Proposed 2008 Budget - November 27, 2007

b) Regular Town Board Meeting - December 3, 2007

MOTION: McQuillan/Hanson to dispense with the reading of the above minutes and approve as submitted.
Motion carried.

10. CORRESPONDENCE

11. REPORTS

- a) **Chairman Tews - Christmas and Holiday Wishes:** Chairman Tews along with the other board members expressed holiday wishes to everyone.
- b) **Supervisor Youngquist - Listening Sessions:** Supervisor Youngquist reported he will continue the listening sessions but will be cutting back to once a month beginning in January and will re-evaluate it again. He stated the schedule would be published in The Bridge newsletter with the first few sessions being Mondays from 6:00-7:00 pm on Jan. 14 at the Municipal Complex, Feb. 18 at the Community Center, March 17 back at the Municipal Complex, and so on. (They are also on the Town's website at www.town-menasha.com). Supervisor Youngquist wanted to remind everyone that he will leave by 6:15 pm if there are no attendees. He thanked past attendees and welcomed new residents to come to these sessions.
- c) **Community Development Director Dearborn - Economic Development:** Director Dearborn gave an update summarizing 2007 and the building permits issued. He explained the Town has exceeded the value of permits from 2006, spoke of the quality of life within a community and the Town holding a higher quality noting the Neuroscience Center, Tom's Drive-in, Subway, etc., excellent trails, parks, our public transit system and more. Director Dearborn spoke of sustainability, and Chairman Tews added that the 41/441 lack of an interchange after 15 years still is not here and a proven fact this is why some businesses do not come into the Town. Chairman Tews also noted the amount of the grant monies the Town has obtained over the years. Supervisor McNamee felt we must increase the commercial and industrial base and noted the tax burden. He asked Director Dearborn which businesses/projects have had to be turned away or were discouraged, and Dearborn explained.

Assessor Eiberger wanted to offer more to the holiday greetings from board members. He said he does not want the people to forget those 350,000 troops serving our country fighting for the freedom of others who have families' home here - they are not. Think of them during the holiday season.

12. MOTIONS BY SUPERVISORS

13. ADJOURNMENT

At 9:18 p.m., MOTION: McQuillan/Hanson to adjourn. Motion carried.

Respectfully submitted,

Karen J. Tweedie, Town Clerk