

## MINUTES OF THE COMMITTEE OF THE WHOLE MEETING OF MARCH 24, 2010

### Call to Order

President Fischer called the Committee of the Whole meeting to order at 6:00 p.m.

### Roll Call

PRESENT: President Fischer, Trustee Elrick, Trustee Leicht, Trustee Ransbottom, Trustee Smith, Trustee Van Deurzen

EXCUSED: Trustee Verstegen

ALSO PRESENT: C. Kell, J. Moes, E. Misselt, D. Haug, T. Flick, R. Van Gheem, V. Schneider, Jeff Elrick, Mike Mc Clone, Mike Jansen from the Public Works Dept.

### Public Appearance for Items not on the Agenda

Michael Stouffer, 714 Bluff Avenue, asked about the policy for receiving information that was presented to the Board at the closed sessions regarding the Dutch Boyz Development. Mr. Stouffer was informed that minutes of closed sessions are not taken other than the motions to move into and out of closed session. President Fischer stated he believes that documents reviewed in closed session have been available and they could be requested from the Village Administrator.

President Fischer announced that next Wednesday is a 5<sup>th</sup> Wednesday and the Village Board will not be meeting.

### Proposal Presentation by City of Appleton Representatives – Reconstruction of French Road/Evergreen Drive Intersection

R. Van Gheem commented that the project for the French Road corridor and the intersection of French Road and Evergreen Drive is under the jurisdiction of Appleton but the intersection will extend over roads under the Village's jurisdiction and the goal from tonight's presentation is to get concurrence from the Board so Appleton can move forward with their public informational meetings and get the projects underway. R. Van Gheem introduced Jason Brown, Project Engineer with the City of Appleton and Sandy Carpenter from GRAEF. Mr. Brown stated that the project is being proposed for construction in 2011 and GRAEF had been hired to do a conceptual design for a round-a-bout of the French Road and Evergreen Drive intersection. Mr. Brown stated Evergreen Drive is being reconstructed this year from Ballard Road to French Road that includes the construction of three round-a-bouts and a round-a-bout at Evergreen and French would be a continuation of this project. Mr. Brown noted the round-a-bouts would be single lane. Trustee Smith asked about the adequacy of the single lane for truck traffic. Ms. Carpenter stated the single lane will be designed to accommodate trucks and if the round-a-bout project moves forward it will be designed, through coordination with the Village, to be wide enough for specific truck traffic. Trustee Smith asked about cost estimates of a round-a-bout compared to a signalized intersection with turning lanes. R. Van Gheem, Mr. Brown, and Ms. Carpenter estimated that the costs would be similar but also noted that the exact costs have not been calculated. The item will be on the April 6<sup>th</sup> agenda for possible action by the Board to concur with moving forward with the project design.

### Review/Discussion – Creating a Special Event Policy

T. Flick stated that based on the last discussion the Board had on the policy, the notice of the required three-month application submittal requirement has been bolded and placed at the beginning on the application form and the policy information sheet. C. Kell relayed information he gathered from the Village's insurance agent noting the Village is currently covered for any events taking place on Village property and it is being recommended that the Village not consider adding groups as riders to the Village's policy as this would increase the Village's exposure. It was also recommended by the Village's insurance company that at a minimum, the Village should request proof of insurance and it is the experience of the Village's agent, that many of these groups have their own insurance. C. Kell stated the only issue he sees is the downtown sidewalk sale and requiring that all businesses participating in the sidewalk sale have proof of their own insurance coverage. Discussion took place.

T. Flick stated he needs direction as the Cancer Benefit organizers will be coming forward soon with their request for exclusive use of Doyle Park for their event in August. T. Flick reviewed the questions that the Board needs to consider which are to charge a \$25 permit fee or waive the fee, provide cost support of 50% for non-profit groups, and does the Board want to exempt any groups from the policy. President Fischer suggested that for the time being, until the Board makes a decision on the policy, if the Rock Cancer event submits a permit application they should be charged the same as last year and he suggested that the policy be put on future agenda for action.

### **Discussion/Possible Action – Private Lateral Replacement Policy**

R. Van Gheem led a review of the current policy and complex issues of private lateral replacements and commented that staff is proposing that the Board reconsider the policy because of the comments that field staff members are receiving. Staff estimated that of the 243 lateral replacement orders that were sent out, approximately 80% have asked why the Village doesn't offer to replace the laterals under its contract and why wasn't the work done when the street was done. R. Van Gheem stated staff believes they can make the policy better for the Village and for the residents. Board members indicated agreement with reviewing the current policy to see if it can be improved upon. Discussion took place on the advantages and disadvantages of the proposal to add the lateral work to the Village's utility contract, the notification timeframe, and funding of the project and charges to the property owner if they elect to have the Village's contractor do the work. Staff recommended charging a flat fee after project costs are determined. The fee would be based on the average cost for laterals installed each project year. The cost would include the average cost from the main to the inside of the house and it could be assessed under the Village's assessment policy and property owners would be given the option to have the Village's contractor replace the lateral or hire their own contractor to do the work. It was noted that this process is currently done with sidewalk projects. Staff recommended incorporating the following seven items into the private lateral policy: 1) replace the entire lateral from the main to the inside of the house; 2) replace all laterals except plastic pipe in good condition; 3) offer only two options for repair – pipe bursting and open cut; 4) all restoration except clay backfill will be the responsibility of the property owner; 5) on concrete streets, terrace restoration would be part of the Village street contract; 6) any additional defect found inside the house or on the property will be an additional cost not included in the flat fee; 7) additional cost for outside backflow valve will not be included in the flat rate. Staff also asked the Board to consider having the Village provide an alternate bid for new water service from the curb box to the house for those property owners that want to voluntarily replace their lead service. Staff estimated that the average cost for a homeowner to replace the lead service would be \$300 to \$400. Mike Jansen commented that 75% of the residents that have been ordered to replace their sewer laterals have opted for pipe bursting as the process is clean and quick if everything goes right. R. Van Gheem commented on the advancement of technology in the trenchless process for replacing the laterals. Board members indicated agreement with putting these policy revisions on the April 7<sup>th</sup> agenda for possible action.

### **Discussion/Possible Action – Private Sanitary Lateral (The Prequel)**

R. Van Gheem reviewed staff's recommendation to assist property owners with the replacement of private laterals in areas where the street projects have been completed in past years. The Village would provide a contractor to perform the work on these laterals which need replacement only outside of the right-of-way. Board members indicated agreement with putting this item on the April 7<sup>th</sup> agenda for possible action.

### **Unfinished Business**

None

### **Items for Future Agenda**

Private Sanitary Lateral Replacement Policy will be on the agenda of April 7, 2010.

Trustee Van Deurzen requested that the second driveway issue for Mr. Hoefler be put on the next agenda as he has been in contact with Mr. Hoefler and he has indicated that time is of the essence. Staff

stated they may be able to have information on the consequences of amending the ordinance to allow for second driveways by April 7. Trustee Elrick stated that if the information on the possible consequences of amending the ordinance is not completed by the Public Works Director, the issue could be put on the agenda for the Committee of the Whole meeting of April 14. T. Flick stated he will make a recommendation on the Special Event Policy based on the Board's discussions and he requested that the Special Event Policy proposal be put on the April 7 agenda for possible action.

*Moved by Trustee Ransbottom, seconded by Trustee Elrick to enter into Closed Session. (7:35 pm)*  
Ayes 6, Nay 0 – Motion Carried

**Closed Session:**

Conferring with legal counsel for the Village, legal counsel rendering oral or written advice concerning strategy to be adopted by the Village Board with respect to litigation in which the Village is now or is likely to become involved. 19.85(1)(g), Wis. Stats. *Berken's Adverse Possession Issue*

Deliberations or negotiations on the purchase of public properties, investing of public funds or conducting other specific public business when competitive or bargaining reasons require a closed session. 19.85(1)(e), Wis. Stats. *Dutch Boyz Development Agreement*

*Moved by Trustee Ransbottom, seconded by Trustee Elrick to Exit Closed Session and Return to Open Session. (8:43 p.m.)*

Ayes 6, Nay 0 – Motion Carried

**Return to Open Session/Possible Action on Closed Session Items**

C. Kell summarized the Dutch Boyz Development Agreement and commented that the Board had performed due diligence in their negotiations on the project as the original request was for \$800,000 in Village assistance and the agreement is now at \$500,000 being offered in TID assistance by the Village, which is 14% of the proposed project. C. Kell noted the agreement calls for the Developer to increase the value of the properties by at least \$3.5 million and the total expended on the project must not be less than \$4 million. Also noted was that the Village will use the TID dollars to purchase parcels at 320 W. Lincoln Avenue and 319 W. Main Street for \$260,000 for the purposes of acquiring public right-of-way for installing a new street and the street improvements will be 100% paid with tax increment funds. The Village will relocate existing utilities at an estimated cost of \$50,000 and an approximate contribution of \$50,000 will be used to assist in preparation of the project site. C. Kell stated the Developer's obligations are to develop a four story mixed use apartment and commercial building. The project must be 50% completed by December 31, 2010 with 100% completion by March 31, 2011 and the Village will receive an exclusive tax increment minimum payment of \$41,317 in 2010 and \$82,635 per year for years 2013 through 2017. The Developer must also personally guarantee all obligations in the agreement. C. Kell also reviewed the remedies contained in the agreement to protect the Village if the Developer fails to meet any of the obligations defined in the Developer's Agreement. Molly Houlihan, 329 W. Main St., requested that she and Jim Martin receive a written document stating they will not be assessed for street repairs as she was told that would be the case. Ms. Houlihan also asked about the landscaping plan and Trustee Elrick stated he will meet with her concerning the landscaping once the road is designed. Michael Stouffer, 714 Bluff Avenue, questioned the personal guarantee of the Developer and asked how the LLC was funded. Tammy Frassetto, 408 W. Lincoln Ave., asked about the conditions concerning the requirement for the Developer to pay the assessments for the road if the Developer doesn't meet his obligations. C. Kell explained how the Developer would be assessed for the roads and other options that

can be acted on to recover Village expenditures on the project. Gabe Konopka, 102 E. McKinley Ave., commented that the Developer's Agreement was a reasonable agreement and he thanked the Board for their hard work on negotiating down the Village's contribution to the Development. Trustee Ransbottom commented that Molly Houlihan's concerns are probably a separate issue and C. Kell agreed that the issue is between the Village and the resident.

*Moved by Trustee Ransbottom, seconded by Trustee Van Deurzen to Approve the Tax Increment District No. 1 Development Agreement – Dutch Boyz Mixed Use Development Project as presented Contingent Upon the Outcome of the Legal Action on the Challenge to the Street Vacation of a Portion of W. Lincoln Avenue.*

Further Discussion: C. Kell explained that the Village is not signing the agreement until it is known that the Village has the legal right to vacate the road and he expects the decision to be made by the Court this Friday.

Molly Houlihan asked when her issue would be on an agenda. Trustee Ransbottom stated he will be asking the Board to put her assessment issue on a future agenda following the vote on this motion.

Vote on the Motion: Ayes 5, Nay 1(Elrick) – Motion Carried  
Trustee Ransbottom stated he would like the issue of future street assessments concerning Mollie Houlihan and Jim Martin put on a future agenda to address their concerns. C. Kell stated he would like the Village Attorney to provide a legal opinion on this issue with the assessments before the Board takes up the issue.

### **Adjournment**

*Moved by Trustee Van Deurzen, seconded by Trustee Leicht to Adjourn the Committee of the Whole meeting at 9:30 p.m.*

Ayes 6, Nay 0 – Motion Carried Unanimously

### **VILLAGE OF LITTLE CHUTE**

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By: Charles Fischer, Village President

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Attest: Vicki Schneider, Village Clerk