

Approved  
8-7-14

TOWN OF WINDSOR  
REGULAR BOARD MEETING

Minutes

July 17, 2014

1. Call Meeting To Order And Roll Call.

Meeting convened by Chairperson Wipperfurth at 5:00 p.m. Supervisors present: Alan Buchner, Don Madelung, Bruce Stravinski, and Bob Wipperfurth. Supervisor Madelung arrived at 6:53 p.m. Supervisor Smith had an excused absence. Others present: Finance Director/Deputy Town Clerk Tina Butteris, Town Engineer Kevin Richardson, Town Planner Jamie Rybarczyk, and Town Attorney Connie Anderson.

2. Recitation Of The Pledge Of Allegiance.

The flag pledge was led by Supervisor Buchner.

3. Announcements.

None.

4. Approve Minutes.

- a. May 28, 2014.
- b. June 18, 2014.
- c. June 19, 2014.
- d. June 30, 2014.

A motion was made by Supervisor Buchner, seconded by Chairperson Wipperfurth, to approve the minutes as presented of May 28, 2014; June 18, 2014; June 19, 2014; and June 30, 2014. Motion carried with a 3-0 vote.

5. Finance.

- a. Staff Report On Finances.

Finance Director/Deputy Town Clerk Butteris noted that there were additional invoices. Noted was that in the Treasurer's Report there is now listed TD Ameritrade. The Community Center has paid \$30,000. Receipts are typical; there is nothing out of the ordinary. Five new single-family building permits were issued, bringing the total for the year to 27. The budget comparison should be around 50 percent, with revenues at 70 percent and expenses at 40 percent.

b. Consider Vouchers For Payment.

A motion was made by Supervisor Buchner, seconded by Supervisor Stravinski, to approve the vouchers presented for payment. Motion carried with a 3-0 vote.

c. Treasurer's Report.

A motion was made by Chairperson Wipperfurth, seconded by Supervisor Buchner, to approve the Treasurer's report as presented. Motion carried with a 3-0 vote.

d. Budget Report.

A motion was made by Supervisor Buchner, seconded by Supervisor Stravinski, to approve the Budget report as presented. Motion carried with a 3-0 vote.

6. Appearances Before The Board.

None.

7. Report From Contract Deputy And Town Of Windsor Policing Monthly Report.

The Law Enforcement Report for the month of June was provided. There were six crashes. Calls of interest included a credit card fraud, ID theft, arrest of a wanted person, OWI arrest, physical abuse of a child, domestic arrest, and a violent dog chewed on a house. There were issues with a builder leaving materials in the road. Excessive speed in the roundabout was mentioned. There were unregistered cars on Windsor Road.

8. Citizen Input On 2015 Budget.

None.

9. Future Governmental Structure Of Windsor.

Chairperson Wipperfurth advised that Windsor is holding a series of four meetings in July. This is an opportunity for the public and the Town Board to have discussions. Supervisor Buchner

stated that both meetings have gone well. Supervisor Stravinski added that, with the good preparation, the meetings have gone really smoothly.

10. Operator Licenses.

Chairperson Wipperfurth stated that there were three applications for Operator Licenses. Town Clerk Capstran recommended approval of all three.

A motion was made by Supervisor Stravinski, seconded by Supervisor Buchner, to approve the Operator Licenses for Daniel R. Beck, Isabelle S. Renteria, and Nicole M. Duel based on staff recommendation. Motion carried with a 3-0 vote.

11. Discussion/Action On Windsor Recycling Center Composting, Operations And Facility Improvements.

A report has been prepared; however, no action will be taken.

Town Engineer Richardson indicated there were four types of recycled materials: brush/clean wood; lawn clippings; leaves; and garden waste. The biggest problem is everything is commingled. They would like to see three bins, which would make it necessary to always have someone present to ensure that people are complying.

The town burns clean wood. The town has a permit, and it would be very difficult to get a permit to burn at another site in the town. The present site is too small for proper unloading. Should the town expand that site or look for another site in the town that is more centrally located? There are unauthorized dumps from people not from the town of Windsor.

Instead of having concrete bins, there could be canister-like dumpsters. There needs to be discussion with the Town Board and direction.

Supervisor Stravinski looked at one of the plusses of separating materials. People have both recycle and burn in their car and do not know where they are going to put it. Monitoring would be easier at two sites.

There was discussion on types of identification – cards or stickers.

Supervisor Buchner sees little value in the parcel across the road. If the town is going to spend money, he would like to see it at a different geographic location. There would need to be vigilant monitoring.

Clarence Day indicated it is a problem when he drives a trailer in there. The biggest problem is one can't get to the brush pile. The brush pile needs to be separate.

Dean Dopkins added that people dump and go. With the Highway 19 dump closed, there is more traffic on Saturday mornings at Windsor. There is a problem with numbers. There are a lot of people on Saturdays. The town is on the right path to look at the problem.

Chairperson Wipperfurth indicated that this also has budget implications.

Supervisor Stravinski suggested a sticker for a \$10 charge to offset the costs of employing another person.

Dean Dopkins offered a short-term solution of opening the landfill on Wednesday afternoons from noon to 4:00 p.m. so there would not be so much traffic on Saturdays.

Town Engineer Richardson said the first thing to do is investigate what the cost of additional land would be. Making it more efficient would help the town and make it easier for policing.

Chairperson Wipperfurth indicated that Supervisor Stravinski, Town Engineer Richardson, and Streets Superintendent Fredenberg would continue to work on this and come back with recommendations.

Chairperson Wipperfurth added that he had talked to DeForest Village President Blau a month or so ago on this. President Blau has not gotten back to Chairperson Wipperfurth.

Town Engineer Richardson indicated they would look at a central location or expansion.

Chairperson Wipperfurth said they should look at other options.

12. User Permit Application For Display Of Fireworks – Applicant Lawrence Spahn Jr. To Display Fireworks At Family Picnic.

Chairperson Wipperfurth advised that this will be the second time Lawrence Spahn, Jr., has had fireworks. Town Clerk Capstran recommended approval. A motion was made by Supervisor Buchner, seconded by Chairperson Wipperfurth, to approve the User Permit for Display of Fireworks for Lawrence Spahn, Jr. Motion carried with a 3-0 vote.

Chairperson Wipperfurth commended Mr. Spahn for coming forward and asking for permission.

13. Ordinance 2014-05 Rename And Renumber Portion Of Old Hwy. 51 To Shawn Williams Trail

No action will be taken on this item at this time.

14. Ordinance 2014-06 Dawn Drive No Parking Designation.

Town Engineer Richardson explained he was contacted by the School Board – Diane Pertzborn – who was concerned about children getting to the school on Dawn Drive. No parking would make it better for kids to get to the school.

A motion was made by Supervisor Buchner, seconded by Supervisor Stravinski, to approve Ordinance 2014-06 Approving Addition To Ordinance Chapter 48 Traffic And Motor Vehicles; Article V, Parking; Section 48-220 Areas Restricted To No Parking At Any Time. Motion carried with a 3-0 vote.

15. Dawn Drive School Zone Speed Limit.

Suggested were no parking designations on either side of the path entrance and school speed zone signs in the vicinity of the path to make it easy for the children to walk to school.

A motion was made by Supervisor Stravinski, seconded by Supervisor Buchner, approving the no parking designations and school speed zone signs. Motion carried with a 3-0 vote.

16. Resolution 2014-42 Conifer Court Mini-Warehouse Storage Proposal And Site Plan Review. Bill Kippley Has Proposed A Redevelopment Plan For His Property Located At 7646 and 7652 Conifer Court In Order To Build Mini-Warehouse Storage Facilities.

The applicant was present. Town Planner Rybarczyk provided a staff report. The applicant owns Prairie Auto Sales and is looking to expand on the property and construct mini-warehouses, constructing 12 additional buildings in three phases. There would be 60 to 100 units. Downward lighting would be installed on the buildings. The perimeter landscaping would be maintained. Internal to the site, applicant is proposing areas of additional plantings and lawn and rain gardens. Fencing and gates will be maintained. Security cameras would be incorporated. There will be access cards to allow renters 24-hour access to the site. They do not need their full building, so it is rented to hobbyists and auto repairmen. This was approved by the Plan Commission.

The applicant has worked with an expert on mini-warehouses, and they have modified the site plan from what the Plan Commission has seen. They plan to decrease the drive aisles from 30 feet in between the buildings to 26 feet. The perimeter buildings will be expanded in size from 24 to 30 feet. Pretty much the whole site is impervious. Is this a significant-enough change so that this should go back to the Plan Commission for its approval and then come back to the Town Board?

Chairperson Wipperfurth indicated he would defer his comments.

Town Engineer Richardson indicated the only issue will be the storm water management and they have satisfied the requirements of Dane County and Storm Water Conservation.

Town Attorney Anderson indicated that paragraph 1.1 in the Resolution may need to be changed.

Chairperson Wipperfurth asked that there be a condition in the Resolution that this project is subject to inspection by the EMS and Fire Department. If this is going to be rented to other users, the Fire Department and EMS need to see the project.

Present on behalf of the applicant were Bill Kippley, Attorney Frank Sutherland of Boardman Clark, and Patrick O'Connor.

Attorney Sutherland wanted to clarify the matter. The issue related to the width of the driveways between the buildings is driven because there are three different manufacturers of these buildings that have standard sizes that they are looking at. The applicant has not decided who he will go with. They would like to go forward off the Plan Commission approval, and this would have a minor impact for storm water. There is no material change. They would like to keep both options open – approval with either a 30-foot or 26-foot width.

There was approval by the Plan Commission which the applicant has now changed.

Attorney Sutherland stated, if they did not think this was a minor change, they would go back to the Plan Commission to have another look. This does not have any bearing on the terms of the Plan Commission approval. They did expand the width from the time of the Plan Commission approval.

Town Planner Rybarczyk stated that this gets difficult with an “either/or” with what the town is approving. The town would prefer one or the other.

Town Attorney Anderson indicated that what the town has needs to be changed. This is confusing for the town to receive this information. The timing was difficult. They just received information about signage which also made it more confusing.

This defeats the Plan Commission review process if the changes come up after the Plan Commission meeting and before the Town Board meeting. This is difficult from a review process.

Attorney Sutherland responded that those were fair points. The applicant had received communications from an overzealous vendor. They are not seeking approval for the signage at this time. What they were hoping for at the meeting was to build on the Plan Commission approval. They feel this is a minor change and would like to move forward with the process.

The Resolution needs to be refashioned.

Chairperson Wipperfurth indicated, from a function standpoint, there are some projects that are nicely done and some that leave a lot to be desired. The buildings are too close. There are vehicles on both sides that have trouble maneuvering. One thing nice about this project is there are wide aisles.

Supervisor Stravinski wondered if there was a car parked in a 26-foot width, could a fire engine get by.

Town Engineer Richardson responded that a fire engine needs 15 feet.

Supervisor Stravinski indicated that this project is in a mixed-use neighborhood which requires natural materials. Discouraged are concrete, block, or metal siding.

Supervisor Stravinski also had a question regarding the mature trees. What about when they die off?

Town Attorney Anderson indicated that there could be language in the Resolution that they would have to be replaced. The screening is important, and it would be maintained.

Patrick O'Connor said that the trees are intended for visual security.

In response to a question from Supervisor Stravinski, Town Engineer Richardson responded that with either the 26-foot width or 30-foot width the impervious surface is still the same.

If one has a submittal prepared and there are flexible issues, they should be asked for at that time – not several days before the Board meeting. This puts a lot of pressure on the staff. This is a process issue.

Chairperson Wipperfurth had a suggestion. From his perspective, he would like to see the Plan Commission revisit this. The town is looking at a change to the Resolution. The next Plan Commission meeting is August 19. Typically, something coming out of the Plan Commission would follow in a month. The Board could look at this at their second meeting in August. Chairperson Wipperfurth would like the Fire Department and EMS to do an onsite inspection. The Town Board could take action on August 21.

The applicants indicated they would like to talk this over. They went outside, and the Town Board proceeded with other agenda items.

The applicants returned, and Attorney Sutherland indicated that they would like to go before the Plan Commission on August 19 and then come back before the Town Board.

The applicants will have to coordinate a review of the project by the Fire Department and EMS.

Supervisor Stravinski was concerned about the 45-day requirement.

Town Attorney Anderson said the ordinance says within 45 days of action at the Plan Commission. The applicant could waive the 45-day timeline and send an e-mail confirming that there is a 45-day requirement and that there has been agreement to a new timeline.

A motion was made by Chairperson Wipperfurth, seconded by Supervisor Buchner, to hold in abeyance Resolution 2014-42 Approving Redevelopment And Site Plan Of Conifer Court Mini-Warehouse At 7646 And 7652 Conifer Court, In The Town Of Windsor, Dane County, Wisconsin, and that the applicants have agreed to defer this until the August 19 Plan Commission meeting to be reviewed and the Town Board will look at this on August 21. The applicants will indicate their concurrence via e-mail. Motion carried with a 3-0 vote.

17. Resolution 2014-43 Approving Rezone From ETZ AG-35ac To ETZ ER-1 To Bring The Non-Conforming Property Into Compliance And Allow For Reduced Setbacks For Swimming Pool (Michael Peterson And Dana Diedrich, Petitioners And Owners Of 3901 Aric Avenue, Town Of Windsor).

Town Planner Rybarczyk advised that the petitioners want to construct an in-ground pool. The property is zoned AG-35, which requires a 50-foot side yard setback. This property is 1.7 acres. The property is a nonconforming lot, and they would like to rezone the property to ER-1, which would require a 10-foot setback. The lot is nonconforming, and this would make it conforming. Variance was not the route to go. The city of Sun Prairie also recommended rezoning. Petitioners also requested to start construction early to use the pool this year. Town Attorney Anderson provided an agreement allowing the petitioners to proceed prior to approval. Attorney Anderson had no additional comments.

Applicant Dana Diedrich was present and had nothing further to add.

Supervisor Buchner indicated this made sense. A motion was made by Supervisor Buchner, seconded by Chairperson Wipperfurth, approving Resolution 2014-43 Approving Rezone From ETZ AG-35ac To ETZ ER-1 To Bring The Non-Conforming Property Into Compliance And Allow For Reduced Setbacks For Swimming Pool. Motion carried with a 3-0 vote.

18. Resolution 2014-44 2014 Budget Amendments.

Finance Director Butteris stated that the Park Commission has requested and reviewed its budget and what it would like to do is move out such project funds that are for yard maintenance and reappropriate them. The Park Commission approved this on July 1. By Statute, the Town Board needs to approve all budget amendments. Finance Director Butteris recommended approving the budget amendment for the Park Commission. A motion was made by Supervisor Stravinski, seconded by Supervisor Buchner, to approve Resolution 2014-44 Approving Budget Amendments. Motion carried with a 3-0 vote.

19. Tax Incremental District Feasibility Analysis Study Report.

Jim Mann of Ehlers was present to provide a feasibility analysis regarding the creation of a tax increment district (TID) in the town for the Windsor Crossing project. Proposed is the creation of a district which would include the north third of the property. There are four different types of districts: blight elimination/redevelopment; industrial; mixed use; and environmental remediation. The vast majority of the property would be commercial-type use with some mixed use. This includes areas west of Windsor Crossing which is for a PUD for Wolf Hollow and one lot south of the conservancy which is multi-family.

The CDA will act on behalf of the Plan Commission.

Mr. Mann explained the process for creation of a District. There has been talk about creation in September of this year. The life cycle for final revenue would be 2035. A feasibility study would include Wolf Hollow commercial, residential and commercial, multi-family units. There is a good chance that the creation of a TID would be successful in this area. A lot is contingent with Wolf Hollow moving forward.

Supervisor Buchner's fear was that Wolf Hollow would go through, and we stall on everything else. Mr. Mann responded that, on paper, Wolf Hollow would cover the first phase.

Chairperson Wipperfurth indicated there presently was a real estate broker who was interested in whether the town will have a TID.

Supervisor Stravinski had questions about the citizen membership. Where does that member come from?

Mr. Mann responded that it does not have to be from within the geographic location of the town.

Mr. Mann indicated that no action needed to be taken by the Town Board. Since this is new for the town, he thought it would be a good idea to go through it with the town.

Supervisor Stravinski felt this is really needed and is in favor of the town using TIF.

20. Consideration/Respond To Notice From Town Of Vienna And Town Of Burke Regarding Room Tax And Tourism Commission.

Chairperson Wipperfurth stated that this started with an abrupt letter from the town of Vienna that it was giving notice in writing that it was withdrawing from the Tourism Commission. Windsor decided it was going to stay in the Commission. That same night, the town of Burke decided to withdraw. The communities left would be DeForest and Windsor for control on how the money is going to be disbursed. This is on the agenda for a joint meeting with the village of DeForest.

Supervisor Stravinski will have more information when the Tourism Commission meets this coming Monday.

Chairperson Wipperfurth is disappointed how this has all come down.

Supervisor Buchner felt it was sinful that this group has around \$100,000 that is unused revenue without an intended use.

(Supervisor Madelung arrived at this time: 6:53 p.m.)

Supervisor Buchner indicated he would like to see if Vienna and Burke would reconsider.

A motion was made by Chairperson Wipperfurth, seconded by Supervisor Buchner, that the town of Windsor encourage the participants of the Joint Room and Tax Commission to come back to the table to come up with a solution to spend the money they currently have to promote the area. Motion carried with a 4-0 vote.

21. DeForest/Windsor Housing Analysis.

Town Planner Rybarczyk advised that the town had received from the village of DeForest an update to the 2011 Housing Analysis. Staff has taken a look at it. There was a cursory review at the Plan Commission level. At the end of that meeting, it was decided that it needed a fine tune look. The intent of the report is to inform the DeForest-Windsor community of the housing and residential trends. It focuses on neighborhoods serviced by the DeForest Area School District. Town Planner Rybarczyk felt the analysis was one-sided. The data is looking at the incorporated areas and assuming that the data is taking into account the unincorporated areas, but nothing says that. Point No. 11 discusses restrictive covenants. Finance Director Butteris went through it with a fine-tooth comb. Some of Windsor's subdivisions were not included. The village of DeForest is going to use this as an appendix to its Comprehensive Plan. There does not seem to be any direct value to the town.

Town Engineer Richardson added that Windsor supplied to DeForest its recordkeeping – a running total of building permits. It is a good way to keep track of how many lots are available.

Finance Director Butteris stated, if there is going to be utilization of this and it is going into DeForest's plan, it needs to be correctly stated as to Windsor's subdivisions. There needs to be a correct reflection of Windsor statistics.

Town Planner Rybarczyk said, at a minimum, Windsor should provide DeForest with the correct data.

Finance Director Butteris indicated that DeForest asked for feedback. Windsor will provide that information.

A motion was made by Chairperson Wipperfurth, seconded by Supervisor Madelung, to direct the town to sit down with Mark Roeffers and give him Windsor's response based on Town Planner Rybarczyk's memo. Motion carried with a 4-0 vote.

22. DeForest Area Fire District Budgeting, Staffing And Facilities.

Chairperson Wipperfurth advised that there recently was a meeting of the Fire District. Chief Nelson is recommending staffing a second ambulance full time. A two and one-half year history of calls was provided, with 31 percent of the calls for a second ambulance were missed. Mutual aid comes from Waunakee and Sun Prairie. There would be significant budget implications for this. The fire inspector is changing his job description. If this were instituted on January 1, it would increase Windsor's contribution by 31 percent. The need, however, is there.

Chairperson Wipperfurth is lobbying if we are going to do this that we start this after July 1. It will soften it into the budget. Part of this is our response back to the Union. Part of the wages would be realigned.

Supervisor Buchner indicated he had two questions. The second ambulance was purchased without the staff to operate it?

Chairperson Wipperfurth replied that it still primarily a voluntary unit. He noted that there is nothing to decide. This is just to bring this to the board's attention. It is pretty significant. The town needs to give some more thought to this.

23. Resolution 2014-45 Resolution Ratifying Denial Of Lot 137 Site Plan As Presented To Plan Commission On July 15, 2014.

This is a resolution ratifying denial of Plan Commission action. Additional information was received from Mr. DeWitt prior to the Town Board meeting. He is the owner of Lot 137 and is asking the Town Board not to concur with the Plan Commission recommendation.

Town Attorney Anderson advised of the technical aspects on what happened. What happened that evening was review of the staff report that was presented and quite a bit of information provided by the developer and by residents that were in the audience that made their concerns known. Ultimately the action taken by the Plan Commission was to deny the Resolution which leaves the Town Board in a couple of difficult positions.

Chairperson Wipperfurth advised that Lot 137 is a multi-family lot in the Holland Fields Subdivision. The plat could receive approval for up to 53 units. The Plan Commission was having a public hearing on this site plan.

Town Attorney Anderson stated, following their action, in looking at the information in the Development Agreement, there is a reference on pages 10 and 11 to a development plan review. Page 11 indicates:

[W]ithin 45 days of filing, the plan shall be irrevocably deemed approved. The plan is filed with the Town along with such application fee as established by the Town.

That is what leads to the time constraints that the town is facing. Is the Plan Commission action denying sufficient to consider the town acting on this? Typically, the Plan Commission is a referring body. It states within 45 days of filing. It is when it is a complete application. Amy Anderson Schweppe looked at this, and it appears that it was June 13 that the application was filed and complete. If that is the beginning of our 45-day period, the town has little time to act. The town cannot, by inadvertence, allow any argument that this was approved because the Town Board failed to act.

Town Engineer Richardson discussed the change in density. He indicated 411 units were originally approved. Mr. DeWitt sold the project to Don Simon which merged with Midland to become Veridian. They came back, and the town supported eliminating a 100-unit apartment. Duplexes were changed to single-family. This is the last multi-family lot. These lots were substantially reduced.

Town Attorney Anderson indicated there are some differences. Things in this document can change and do change. Worth noting in the Development Agreement is the section on Pages 10 and 11 talking about development plans. The letter received from Mr. DeWitt at 4:00 p.m. talks about some insignificant omissions in their submission and that the property has been assessed based on 53 units. He also alleges that the town attorney wrongfully reported that the plan could be denied based upon the complaints of the public. The issues are density and compatibility with adjacent properties. The goal is to see if there is any room to discuss this and deal with the development concerns. Multi-family should be where it is planned. Traffic goes in and out.

Chairperson Wipperfurth stated that people from the neighborhood claimed that they did not know anything about this. It is noted on their covenants. It states right in there that Lot 137 is a multi-family lot and is entitled to 53 units. The lot is for sale. It is hard to fathom that the residents did not know anything about this.

Town Planner Rybarczyk did note that the project was short parking spaces, and landscaping encroached on the drainage easement.

Town Attorney Anderson advised that the challenge is, if the town does not act, it could end up approving this. Her suggestion was to modify the time line and see what the developer brings back.

Town Engineer Richardson referenced two-story condos. There are taller multi-family buildings, but they are not in the middle of single-family residential.

Supervisor Buchner noted that the developer has some contractual rights, but the town needs to stop the clock for additional discussion.

Supervisor Stravinski stated that, if the developer adds more parking, he did not know where he would put it.

Chairperson Wipperfurth suggested that the town meet with Mr. DeWitt and work on the terms. There are subjective compatibility issues. He has a certain amount of rights.

A motion was made by Supervisor Stravinski, seconded by Supervisor Madelung, to approve Resolution 2014-45 Ratifying Action Of Plan Commission On July 15, 2014, And Denying Development Plan Presented To Plan Commission On July 15, 2014 Regarding Lot 137, Plat Of Holland Fields. Motion carried with a 4-0 vote.

24. Update On US Hwy. 51 Expansion Project.

Town Engineer Richardson advised that progress has picked up since it stopped raining. The ramps should be completed by early next week. Scrapers moved to the north side. They have not started building access ramps but will be doing so shortly. Traffic will stay the same for a while longer. The goal is to have the project complete before deer hunting.

25. Adjournment.

At 8:40 p.m., a motion was made by Supervisor Buchner, seconded by Supervisor Madelung, to adjourn the meeting. Motion carried with a 4-0 vote.

Respectfully submitted,



Ellen G. Teed  
Recording Secretary