

TOWN OF WINDSOR
REGULAR BOARD MEETING

Minutes

August 6, 2015

1. Call Meeting To Order And Roll Call.

Meeting convened by Chairperson Wipperfurth at 5:00 p.m. Supervisors present: Alan Buchner, Don Madelung, Monica Smith, Bruce Stravinski, and Bob Wipperfurth. Others present: Town Clerk Christine Capstran, Town Attorney Connie Anderson, Town Planning and Development Coordinator Amy Anderson Schwappe, Town Engineer Kevin Richardson, and Town Planner Jamie Rybarczyk.

2. Recitation Of The Pledge Of Allegiance.

The flag pledge was led by Supervisor Madelung.

3. Announcements.

None.

4. Approve Minutes.

- a. July 16, 2015.
- b. July 23, 2015.
- c. July 28, 2015.

Town Attorney Anderson corrected the equalized value of the town from \$1,900,000 to \$6,900,000. A motion was made by Supervisor Stravinski, seconded by Supervisor Madelung, to approve the Minutes of July 16, 2015; July 23, 2015; and July 28, 2015, with the correction to the July 16 Minutes. Motion carried with a 5-0 vote.

5. Consider Vouchers For Payment.

Town Clerk Capstran indicated there was nothing out of the ordinary. A motion was made by Supervisor Buchner, seconded by Supervisor Smith, to approve the vouchers as presented. Motion carried with a 5-0 vote.

6. Appearances Before The Board.

None.

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

None.

8. Incorporation Update.

Chairperson Wipperfurth advised that the town will be holding a referendum on November 3 to hopefully pass the town's incorporation.

9. Operator Licenses.

The town received two applications for operator licenses which were approved by town staff. A motion was made by Supervisor Buchner, seconded by Supervisor Smith, to approve operator licenses for Stephanie N. Bancroft and Jerrell T. Jordan based on staff recommendation. Motion carried with a 5-0 vote.

10. Resolution 2015-25 Town Board Recommendation To Joint Extraterritorial Zoning Committee Regarding Hoffman Quarry.

Chairperson Wipperfurth advised that earlier in the afternoon the town received correspondence from Yahara Materials. They are withdrawing their application for a conditional use permit for the Hoffman Quarry. They still retain their right to submit another application at some point in the future. This application is effectively over as of now.

Town Attorney Anderson indicated that this was back on the agenda at this meeting to determine which comprehensive plan should be applied. Given that the application has been withdrawn, there is nothing for the Board to act on.

Judith Hutchinson asked why they took back their request. What is the advantage for them to pull this out now?

Chairperson Wipperfurth responded that this decision was made by Yahara Materials and their legal counsel.

Rod Schneider asked how long do they have to wait before they can come back.

Town Attorney Anderson responded that, because there was no denial, the town cannot require that there be a 12-month period before they come back. Everything submitted with the current application has been withdrawn. It cannot be approved, and it cannot be denied.

Bud Yngsdahl asked if they reapply whether they would be notified.

Chairperson Wipperfurth answered that the town will not notify residents when the application comes in. They will know when it comes to the Plan Commission.

Judith Hutchinson asked whether it would be in the paper that it would be on the agenda.

Chairperson Wipperfurth responded that it has to go through the public notice process.

Dave Roscoe asked if you put a quarry on your land you do not have to rezone it?

Chairperson Wipperfurth answered that a quarry is a conditional use and does not require rezoning. This is per state law.

Alan Harvey asked, because the applicants withdrew their application prior to any formal vote on the actual reconsideration, does that mean for the record that the May 21 vote is still the official vote?

Town Attorney Anderson responded that the last official action was the motion for reconsideration. Now it is coming back for action.

Alan Harvey stated that the reconsideration vote was a procedural action.

Town Attorney Anderson advised that, if there is a new submission, it will have to go through the entire process. This is not a delay. This is a withdrawal.

Supervisor Stravinski asked, if the applicants would have come to the meeting and there would have been a denial vote, could they still have withdrawn?

Town Attorney Anderson responded that the town would have made the recommendation to move it forward. The applicants can withdraw at any point.

Kyle McLean asked if there was any way this could be made permanent. She has been living in Windsor for 20 years. Is there any way to make it not come up again?

Chairperson Wipperfurth responded that the town would have to ban it town-wide, and it would take away people's property rights.

Town Attorney Anderson added that it would also be unconstitutional.

Ed Ritter asked what difference it would make that Comprehensive Plan: 2035 was used.

Town Attorney Anderson answered that the way Sun Prairie's ETZ jurisdiction was written it would not have made a difference. The town has a positive working relationship with Sun Prairie.

Bob Paske asked if this could be put to a vote by the residents of the town of Windsor.

Town Attorney Anderson responded there could be a referendum.

Don Tierney added that, if the incorporation goes through and Windsor has the decision-making ability of a village, it would not have to go to Sun Prairie.

Chairperson Wipperfurth agreed.

The question was asked whether a new application could be the same as the old application.

Town Attorney Anderson answered that the reports would have to be updated. The information submitted would have to be brought current. It would cover the same types of topics.

Chairperson Wipperfurth asked whether the town should accept the materials from Yahara Materials.

Town Attorney Anderson responded that it should be noted for the record that they have withdrawn their application and the reason the town did not act on it was because there was no application to act on.

Supervisor Stravinski thanked everyone for giving up their time to come to the meeting.

Supervisor Buchner added that this is a very sensitive topic. This takes some thought and time to consider.

Supervisor Smith reminded everyone to come and vote for the referendum.

11. Resolution 2015-66 Reduction In Letter Of Credit For Holland Fields Phase 10.

Town Engineer Richardson indicated that the Town Board had before it a Resolution and memorandum. Veridian Homes has finished the last phase of Holland Fields. Construction has been completed except for street trees and the surface course. Town Engineer Richardson has reviewed this, and it meets town standards. He recommended a reduction to \$27,600.

A motion was made by Supervisor Buchner, seconded by Supervisor Smith, to approve Resolution 2015-66 Approving Reduction In Letter Of Credit And Acceptance Of Public Improvements For Phase 10 Of The Plat Of Holland Fields. Motion carried with a 5-0 vote.

12. Dane County Zoning Ordinance/Petition No. 10849 (Petitioner: Richard E. Clack).

Town Planning and Development Coordinator Anderson Schweppe prepared a memorandum and indicated that the Dane County Board of Supervisors approved Zoning Ordinance Amendment 10849 which was approved by the County Executive on July 20, 2015. The town approved the rezone and certified survey map. The town must now approve the County's Ordinance Amendment, and Planning and Development Coordinator Anderson Schweppe recommended ratification. A motion was made by Supervisor Buchner, seconded by Supervisor Stravinski, to approve Zoning Ordinance Amendment 10849 for Richard E. Clack. Motion carried with a 5-0 vote.

13. Bear Tree Farms, Inc., The Location Of The Property Is Generally Located At The Southeastern Corner Of The Intersection Of Highway 51 And Windsor Road. The Proposal Includes 364 Single Family Detached Residential Dwelling Units, 232 Multi-Family And Senior Housing Dwelling Units, A Park And A Trail System.

There are a number of issues before the Town Board. Town Attorney Anderson explained that each of the items would need to be approved in order for the project to move forward. It is now down to four issues. There were concerns with the covenants on single-family parcels and park fee issues in the development agreement. The issues that relate to the covenants are regarding minimum house sizes. One item relates to walkouts. Planning and Development Coordinator Anderson Schweppe explained that the differences the town is asking the Board to take a position on are in a number of areas. Originally, the town had a category that allowed for a ranch-style or single-story home to be 1,400 square feet with a walkout basement. The developer believes that this has to be changed to an exposed lower level.

The developer would like the square footage on a two-story house to be changed. A compromise was agreed, and that is in the memorandum provided by Town Attorney Anderson.

Chairperson Wipperfurth brought up walkout basement v. exposed basement.

Attorney Mike Lawton would like to remove the word "walkout."

Steve Pederson stated that, at the last meeting, he thought everyone had agreed that an exposed and walkout were the same thing. One can get out of the windows in case of a fire. There is no difference if there is a walkout or a legal exposure. Whether there is a walkout or not does not matter. Steve Pederson stated that it can be hard to get eight feet of fall for a walkout.

Supervisor Buchner agreed with Steve Pederson. What is the difference of a buildout on a 700-foot level with an exposed basement with a legal egress window v. a door? There is no difference.

Supervisor Smith asked whether they would offer people the choice of having a walkout.

Steven Pederson responded in the first phase they are going to spend \$170,000 building up the roads to get an exposure. People want the exposure. That is market-driven. In Phase 1 there are no available walkouts.

Supervisor Stravinski stated he had indicated there should be a walkout. He was also concerned about 1,400 square foot homes. He understands the developers are going to raise the road.

Steve Pederson responded that he did not know if there will be any 1,400 square foot homes.

Dwight Ziegler stated there was more confusion in this area.

Attorney Lawton suggested taking out the word “walkout.”

Town Attorney Anderson indicated that the other issue was at the bottom of page 6 regarding two or two and one-half story homes. The minimum on the main floor is 1,350 square feet. What is being asked is – if the residence is 2,200 square feet that there be half of the square footage on each floor.

Supervisor Stravinski added that the numbers being used are the same numbers that were used for Revere Trails.

If it was 2,200 or more, half would be on the main floor.

The other issues that were policy issues have to do with the development agreement.

In Version 7 of the development agreement, one of the issues has to do with staking.

Discussion followed regarding escrow which could be put in the letter of credit.

There were two issues regarding park fees. On the park improvement fees, the calculation is based on the number of dwelling units approved. A reduction in multi-family and senior housing was discussed. The amount of money that is paid in park fees is how the town will budget for the community park improvements and tot lots.

Mr. Ziegler said that there is no interest from anyone in senior housing or multi-family. It would be better to modify it and put up homes.

DeForest has signed off on the multi-family and senior density. There may be a problem if it is reduced to single-family.

Planning and Development Coordinator Anderson Schweppe offered that the Development Agreement could be amended.

Town Attorney Anderson stated that the community park depends on the fees that are obtained. The big issue is the money for the park. There is a reliance on the fees.

Chairperson Wipperfurth stated the easiest way would be to leave it as proposed.

Town Engineer Richardson indicated that, as each phase starts, ahead of time the fees would be paid.

Town Attorney Anderson noted there are two park fees: park improvements and fees in lieu.

Dwight Ziegler stated that fees in lieu are based on multi-family and senior.

Fees in lieu are always paid at the beginning of a plat. Discussion followed regarding fees in lieu and Exhibit 5, Calculation of Fees in Lieu and Parkland Improvement Fees.

Town Attorney Anderson stated that the developers presented a plan and asked for a guarantee to get that range number of units. They have to pay for that. There is a cost to pay to preserve higher density.

Chairperson Wipperfurth stated the town is borrowing money on “x” number of units.

Supervisor Smith said there were two ways to put in a park. The developer can fund the entire park. If the developer wants to reduce the number of units, the developer builds the park.

Supervisor Stravinski indicated he agreed with Mr. Ziegler’s comments. They would have to see what is the actual dollar amount. What do you see as happening? It was mentioned taking the 152 units of multi-family and putting them in single-family.

Supervisor Stravinski said he would rather see single-family instead of 152 multi-family units.

Chairperson Wipperfurth responded that it is not as simple as that. As part of the approval from CARPC, the developer has to have a certain amount of density. If the developer is thinking about changing the zoning on these lots, then the town will need to have the ability to determine when it constructs the park.

Town Attorney Anderson added there is no time commitment or dollar commitment by the town in the Development Agreement, but it would be based on what comes in from the developer.

Town Attorney Anderson stated that for park improvements it was anticipated by the developer that the fees would be used for the community park and some of the tot lots. No fees have been segregated for the tot lots. The developer wants funds available for the tot lots. If more is spent on the tot lots, there is less for the community park.

Supervisor Smith stated that the play equipment could be put up by volunteers.

It was noted that there are no residents with a stake in the parks that may want to volunteer to install play equipment. The tot lots are being built to attract buyers.

Chairperson Wipperfurth stated that if the developers put in improvements they have to come to the town for reimbursement.

- a) Resolution 2015-48 Declaration Of Covenants, Restrictions, Conditions And Easements For Lots 4-269 And 271-368 In The Plat Of Bear Tree Farms.

A motion was made by Supervisor Buchner, seconded by Supervisor Stravinski, to approve Resolution 2015-48 Approving Declaration Of Covenants, Restrictions, Conditions And Easements In The Final Plat Of Bear Tree Farms (Single Family Lots 4-269 And 271-368). Motion carried with a 5-0 vote.

- b) Resolution 2015-49 Declaration Of Covenants, Restrictions, Conditions And Easements For Lots 1, 3 And 270 In The Plat Of Bear Tree Farms.

A motion was made by Supervisor Madelung, seconded by Supervisor Smith, to approve Resolution 2015-49 Approving Declaration Of Covenants, Restrictions, Conditions And Easements In The Final Plat Of Bear Tree Farms (Multi Family / Senior Lots 1, 3, And 270). Motion carried with a 5-0 vote.

- c) Resolution 2015-50 Agreement For Public Improvements And Development Matters In The Plat Of Bear Tree Farms.

A motion was made by Supervisor Stravinski, seconded by Supervisor Buchner, to approve Resolution 2015-50 Approving Agreement For Public Improvements And Development Matters In The Final Plat Of Bear Tree Farms. Motion carried with a 5-0 vote.

- d) Resolution 2015-51 Declaration Of Restrictions And Maintenance Requirements For Stormwater Management Measures And Waiver Of Right To Contest Special Assessments And Charges In The Plat Of Bear Tree Farms.

A motion was made by Supervisor Madelung, seconded by Supervisor Smith, to approve Resolution 2015-51 Approving Declaration Of Restrictions And Maintenance Requirements For Stormwater Management Measures And Waiver Of Right To Contest Special Assessments And Charges In The Plat Of Bear Tree Farms. Motion carried with a 5-0 vote.

- e) Resolution 2015-52 Requirements For Path Maintenance And Waiver Of Right To Contest Special Assessments And Charges In The Plat Of Bear Tree Farms.

A motion was made by Supervisor Buchner, seconded by Supervisor Smith to approve Resolution 2015-52 Approving Requirements For Path Maintenance And Waiver Of Right To Contest Special Assessments And Charges In The Plat Of Bear Tree Farms. Motion carried with a 5-0 vote.

- f) Resolution 2015-53 Declaration Restricting Sale Or Transfer Of Lots Prior To Compliance With Requirements In The Plat Of Bear Tree Farms.

A motion was made by Supervisor Smith, seconded by Supervisor Madelung, to approve Resolution 2015-53 Approving Declaration Restricting Sale Or Transfer Of Lots In The Plat of Bear Tree Farms Prior To Compliance With Requirements. Motion carried with a 5-0 vote.

- g) Evaluate Options And Recommend Method To Collateralize WSD No. 1 Construction Costs For Connection Of Water Service And Sanitary Collection System To Bear Tree Farms.

This item is referencing a booster pump station and how it is going to be paid for. The sanitary district has set borrowing at \$1,000,000 to build the facilities. The facilities have to be built and will be paid for by a special assessment. The village of DeForest is not participating in the special assessment. They are looking to Bear Tree for this to be paid back in 10 years with annual installments. Steve Pederson indicated they would pay 150 instead of 100 to speed it up. Town Attorney Richardson said there was \$1,000,000 out there and that has to be collected. How is the town going insure that it is collected within 10 years? Attorney Lawton added that the project has still not been designed. Town Engineer Richardson indicated this is a security issue – if something unforeseen happens and the developer cannot make payment. What is the guarantee that the payment will be made?

Town Attorney Anderson stated that various proposals have been discussed. One of the discussions indicated a personal guarantee. However, things happen with personal guarantees. There can be special assessments against the land. The developer needs to provide a letter of credit – a one-year letter of credit for \$100,000. That would cover payment due each year. It would keep rolling over. If a letter of credit is ever called on, it will not roll over. The developer indicated they would not like to provide a second mortgage and letter of credit. Town Attorney Anderson suggested a longer letter of credit – three years. She suggested following the same model as Pederson Crossing – a one-year letter of credit at \$100,000 paid 150 as each lot closes based on specials each year and a second mortgage on the parcels.

Supervisor Madelung asked how much the town of Windsor is covering for DeForest in this transaction.

Town Engineer Richardson responded that DeForest gets a benefit from the sanitary sewer and booster station.

Attorney Lawton added that the developer is paying for it.

Supervisor Madelung did not like the fact that Windsor is fronting this for DeForest and taking out the money.

Town Engineer Richardson said the town could go to the Pederson Crossing model and use that.

Town Attorney Anderson stated there should be a rolling letter of credit.

There could be mortgages on each lot instead of a rolling letter of credit.

Town Attorney Anderson stated when this first went out the town asked for input from the parties and did not receive any.

Supervisor Smith asked whether the development will have a special assessment. DeForest doesn't. Why doesn't DeForest have to pay for that?

Town Attorney Anderson suggested using the Pederson Crossing model and adding a letter of credit for one year, rolling, at \$100,000. That means a special assessment and a mortgage and the two developers will also guarantee.

A motion was made by Supervisor Stravinski recommending that the Windsor Sanitary District loan be collateralized using the mechanisms used in Pederson Crossing plus a one-year rolling letter of credit. The specific amounts that will be paid on the specials will be 150 percent of the amount due at each closing and there will also be a partial release at each closing. There will be personal guarantees and marital property statements. Supervisor Buchner seconded the motion.

Supervisor Smith stated that second mortgages do not mean anything.

Town Attorney Anderson indicated there would be special assessments which survive bankruptcy and are ahead of the first mortgage. These will be recorded and run with the land.

Motion carried with a 5-0 vote.

Discussion followed regarding the one additional parcel attached to Bear Tree that will be getting a "gift." The town will want to have a recapture provision.

14. Resolution 2015-67 Dedicate And Accept Road Access To Lot 97.

Town Engineer Richardson explained that there is an exhibit that explains what is happening. This will be done in two pieces to finish the dedication. This resolution will allow the roads to be completed and the town accepts the dedication of this right-of-way. This resolution refers to the bulb shown in the exhibit.

A motion was made by Supervisor Smith, seconded by Supervisor Madelung, to approve Resolution 2015-67 Approving Dedication Of Public Right-Of-Way And Approving Acceptance Of Dedicated Public Right-Of-Way Connecting North Towne Road In Plat Of Windsor Crossing To Lot 97 In Plat Of Wolf Hollow, All In Town Of Windsor, Dane County. Motion carried with a 5-0 vote.

15. Resolution 2015-68 Dedicate And Accept Road Access North Towne Road.

Town Engineer Richardson explained that this is the other piece. This is the north-south connection. A motion was made by Supervisor Smith, seconded by Supervisor Stravinski, to approve Resolution 2015-68 Approving Dedication Of Public Right-Of-Way And Approving Acceptance Of Dedicated Public Right-Of-Way To Be Known As North Towne Road In The Plat Of Windsor Crossing In The Town Of Windsor, Dane County. Motion carried with a 5-0 vote.

16. Community Signage.

Town Clerk Capstran explained. A sign has been designed with the idea that the town wanted simple entrance signs in key places in Windsor. If approved, the determination then has to be made as to how many signs the town wants. They have looked at entry points into Windsor: Speedway, off ramps at Windsor Road and Highway 51, Windsor Sports Commons, Highway V. By ordering five signs there is a big cost savings. It would be more economical to go with six signs. The town would be saving \$5,000 if it went with five signs. There would be a similar cost savings if the town ordered six signs.

Supervisor Buchner asked whether the signs should indicate “village.”

Chairperson Wipperfurth felt the proposed signs were okay and suggested a sign in Morrisonville.

Highway 19 and C was also suggested.

Before the Town Board is deciding how many signs should be purchased. It was noted that Finance Director Butteris told LaCrosse Sign Co. that the town’s budget was \$15,000.

The consensus was that the signs looked good.

A motion was made by Supervisor Buchner, seconded by Supervisor Smith, to approve purchase of these signs, up to six or not to exceed \$15,000. Motion carried with a 5-0 vote.

Locations will be determined at a later date by Chairperson Wipperfurth and town staff.

17. Committee/Board/Staff Reports.

a. Plan Commission.

Supervisor Stravinski reported on the Plan Commission.

b. Community Development Authority.

Town Engineer Richardson reported on the Community Development Authority.

c. Park Commission.

Supervisor Madelung reported on the Park Commission.

d. Token Creek Conservancy Committee.

Supervisor Stravinski reported on the Token Creek Conservancy Committee.

e. Sun Prairie Extra-Territorial Zoning Committee.

Supervisor Madelung indicated he had nothing to report.

f. DeForest Area Community And Senior Center/Half-Century Club.

Supervisor Stravinski reported on the DeForest Area Community and Senior Center/Half-Century Club.

g. DeForest Area Fire Protection Board.

Chairperson Wipperfurth reported on the DeForest Area Fire Protection Board.

h. DeForest Area Chamber Of Commerce.

Supervisor Smith reported indicated she had nothing to report.

i. DeForest Area Tourism Commission.

Supervisor Stravinski reported on the DeForest Area Tourism Commission.

j. Dane County Towns Association.

Supervisor Madelung reported on the Dane County Towns Association.

k. WisDOT I-39/90/94 Study From Madison To Portage.

Town Engineer Richardson indicated he had nothing to report.

l. Town Chair Report.

Chairperson Wipperfurth provided his report.

m. Town Staff Report.

Town Engineer Richardson provided a staff report.

18. Adjournment.

At 7:30 p.m. a motion was made by Supervisor Madelung, seconded by Supervisor Smith, to adjourn the meeting. Motion carried with a 5-0 vote.

Respectfully submitted,

A handwritten signature in cursive script that reads "Ellen G. Teed".

Ellen G. Teed
Recording Secretary