

Town of Burke Board Meeting Minutes – April 18, 2012
6:00 p.m.

Board members in attendance: Chairman Viney, Supervisor Berg, Supervisor Hess, Supervisor Munson and Supervisor Searls. Also in attendance: Brenda Ayers, Clerk/Treasurer; Ron Kurt, Public Works; Kim Peterson, Deputy Clerk/Treasurer; Anne Anderson, Town Engineer and Kelly Mattfield, AECOM. See attached list for other interested parties in attendance.

1. ADMINISTRATIVE

- a. Determination that a quorum is present and that the meeting was properly posted.
- b. The meeting was called to order at 6:00 p.m. by Viney.
- c. The Pledge of Allegiance was recited.
- d. Public Hearing regarding a rezone and CSM petition submitted by Stroud, Willink & Howard, LLC agent for Mart Enterprises, LLC to create a one acre lot and rezone the newly created lot from A-1 to C-2 from an existing 45.96 acre parcel currently zoned A-1, for the purpose of future expansion of a business operated on an adjoining property, parcel located on South Thompson Road, Sun Prairie, WI (parcel number 0810-122-9681-0). A copy of an email from Scott Kugler, City of Sun Prairie planner was included in the packet. The City requested that the Town table action on this item until they have an opportunity to review the petition. The City's position is that due to the way development is defined in the Cooperative Plan, the rezone may be their only opportunity to have a say in what happens with the property. Hess questioned the City's position and request for the Town to table action. Duane Nolden, Prairie Power Center, explained that he is interested in purchasing the one acre lot for the purpose of future expansion of his existing business. He further explained that the City of Sun Prairie wants to have input on the future building. Leo Schneider, one of family members owning Mart Enterprises, explained that the owners are interested in selling the entire property and they were approached by Prairie Power Center to sell a portion to them. Viney said that he had no intention of tabling action this item because it is a good fit for the community.
- e. Approval of minutes from the March 21, 2012, Board meeting. Hess made note of grammatical corrections which did not change the substance of the minutes. Motion: Hess/Munson to approve the minutes as corrected. Motion carried.
- f. Public Works report. Kurt reported that Schleicher and Hoffman worked on shouldering the roads while he was on vacation. CJ's has already started mowing and spraying some of the playground areas in the parks. Madison Crushing is working on repairing the ruts. Staff is working on the first round of brush chipping for the year. Berg asked if the chips from the brush collection could be used around the park equipment in Burke Conservancy. Kurt replied no, because they do not meet ADA standards.
- g. Clerk/Treasurer report. Ayers reported that there were 601 voters in the April 3 election. Staff is currently preparing for the May 8 and June 5

recall elections. A copy of a petition for attachment to the City of Madison from Jay Fuller and Associates (Jim Taff) was received in the office. Per the Boundary Agreement, this item will be on the next meeting agenda for informational purposes. Waste Management will begin delivery of carts the week of April 23 and will use the Town Hall as a staging area. Automated pick up begins May 2.

- h. Finance Report. The Cash on Hand and Profit and Loss reports through March 31 were included in the packet.
- i. Approval of Bills. Board members reviewed the bills and signed the Town Board Approval cover sheet for check number 25044-25130 and payroll related disbursements number 1964-2000.
- j. Public Concerns: Public's opportunity to speak to the Town Board about any subject that is not a specific agenda item. Lynn Baldwin, Burke Conservancy Neighborhood, inquired about wood chips for Burke Conservancy Park. She is concerned because the lack of chips is a safety issue. She also suggested that since the Town has a new engineer, it would be a good time to look at the storm water drainage in the area. Baldwin was asked to email the Town with the measurements of the playground area.

Merlin Stegmann expressed his concerns about a property located at 6123 Danielle Road. Stegmann stated that Town has been notified of this concern in the past and it has not improved. Stegmann shared pictures of the property from a year ago. Ayers reported that she received a complaint from Stegmann the week prior to the meeting and informed him that she would have Kurt visit the property when he returned from vacation. Ayers further reported that Kurt had visited the property on April 16 and took pictures from the roadside. Ayers also noted that a letter will be sent to the property by the end of the week asking that he clean up his property and remove a tree that poses a threat to the right-of-way. The Town has the ability to remove the tree from the property and put the related charges on the tax roll however, the nuisance ordinance does not allow the Town to do the same with cleaning up the property. Ayers reported that there is noticeable improvement in the property when comparing the pictures from last year to this year.

Peterson read Deputy Veto's written report.

Hess expressed his concern about a resident at 3713 Shiloh using a semi trailer to circumvent the Town's pod ordinance. Kurt said he would follow up on it.

2. NEW BUSINESS

- a. Resolution 04182012A regarding the Plan Commission's recommendation on a rezone and CSM petition submitted by Stroud, Willink & Howard, LLC agent for Mart Enterprises, LLC to create a one acre lot and rezone the newly created lot from A-1 to C-2 from an existing 45.96 acre parcel currently zoned A-1, for the purpose of future expansion of a business operated on an adjoining property, parcel located on South Thompson

Road, Sun Prairie, WI (parcel number 0810-122-9681-0). Ayers recommended tabling action on this item per the City of Sun Prairie's request so a resolution was not included in the Board packet. Motion: Hess/Viney to approve the rezone with the following contingencies as recommended by the Plan Commission 1) the applicant receives approval from the City of Sun Prairie 2) the property is limited to the following land uses from the application (copy attached) as revised by the Plan Commission: a. retail service uses including, but not limited to, grocery stores, drugstores, hardware stores, appliance and furniture stores, barbershops and beauty shops without limitation as to size; c. Warehousing and storage incidental to a permitted use on the premises; d. Medical, dental and veterinary clinics; e. Banks, offices, office buildings and condominium office buildings; g. Bakeries, printing plants, laundries and dry cleaning plants; h. Distribution centers and wholesale businesses; i. Woodworking shops, machine shops, manufacturing and assembly plants; j. Bicycle sales and service; k. Rental businesses; l. Sales and repair of lawn and garden equipment; n. Off-site parking of motor vehicles as provided in section 10.18(3) (c) of Dane County Ordinances; p. Major repairs to motor vehicles; q. Sales of new and used motor vehicles; r. Sales of new and used contractor's machinery and equipment; s. Repairs, storage and service of contractor's machinery and equipment; t. Rental and leasing of motor vehicles, contractor's machinery and equipment; w. Parking or storing of motor vehicles; x. Warehouses; y. Mini-warehouses; z. General, mechanical and landscape contracting businesses and building used in connection with such activity; aa. Storage of construction equipment necessary for the operation of a general mechanical or landscaping contracting business. Discussion: Berg asked the applicants if there would be a negative impact on them if the Town tabled action for two weeks. Duane Nolden, Prairie Power, said it would not impact him. Leo Schneider said he would like to work with Prairie Power. Roll call vote: Searls-aye, Berg- nay, Viney-aye, Hess-aye, Munson aye. Motion carried.

- b. Request for a variance to the fence ordinance submitted by Brian and Heather Meyer to allow a four foot high fence in the front of their property. Heather Meyer explained that she would like to extend the wire fence on the property next door (3214 Burke Road owned by her father, Curt Jensen) to the east end of her property (3184 Burke Road). Motion: Berg/Hess to grant a variance to the fence ordinance to allow the fence to match adjacent property and to advise the property owner to obtain the appropriate building permit. Motion carried.
- c. Request for a variance to the commercial driveway width for Wolf Paving. The site improvement plans were included in the Board packet. Harold Butschke of Wolf Paving Company explained that it is difficult to get vehicles in and out of the existing driveway and he wishes to expand it to 40 feet (five feet wider than the ordinance allows) to have better access. He is also proposing changing the grade and opening up the ditch area along Reiner. Butschke said that they made modifications to the plant that will result in increased production. Hess asked if the modifications will increase the traffic in and out of the plant. Butschke responded, not in the

current economy. Anderson said the elevations look reasonable and advised that the ditch needs to stay in the right of way. Motion: Hess/Searls to approve the variance with the following conditions 1) the regrading of the ditch follows the established ditch line that currently exists 2) the Town reserves the right to work with work Wolf Paving for compensation for potential road damage. Motion carried.

- d. Discussion with Dave Taylor regarding TMDL stormwater requirements and the adaptive management pilot program. Dave Taylor, Director of Special projects, MMSD explained that the EPA has imposed the TMDL requirements and the requirements are unlikely to go away. Compliance strategies include traditional practices, water quality trading and adaptive management. It is estimated that if the Town were to use traditional practices to reduce the 1,139 pounds per year of phosphorus per the model it would cost \$228,000-\$683,000 per year. It is estimated that adaptive management techniques would cost the Town \$30,000 per year. Taylor explained that they are conducting a pilot project in the Six Mile Creek area to test the assumptions used to develop costs and phosphorus reduction estimates. Based on the Town's phosphorus load in the model, the pilot will cost the Town \$9,500 per year for three years. Searls asked what the consequences would be if the Town chose to do nothing to meet the TMDL requirements. Taylor said the DNR and EPA will impose fines. Hess asked how he can justify spending the money. Taylor responded that there is a regulatory obligation to do this. Motion: Searls/Berg to participate in the Adaptive Management in pilot project with MMSD. Motion carried. Viney- nay.
- e. Notice of Disallowance of Claim submitted by Attorney Don Millis on behalf of Jorgenson Investments, LLC. A copy of the claim and the proposed notice of disallowance were provided in the Board packet. Ayers explained that she has been working with Hughes and Yanacheck (attorney assigned by Rural Insurance) to try to get attorney Millis to withdraw the claim since the claimant did not appear at Board of Review as stated in the claim. Since it has not been withdrawn, the Town's insurance company has recommended that notice of disallowance is sent to attorney Millis. Motion: Berg/Munson to disallow the claim submitted by Attorney Don Millis on behalf of Jorgenson Investments, LLC, dated January 25, 2012. Motion carried.
- f. Recommendation to the Burke-DeForest ETZ regarding the proposed Village code revisions. Hess reported that he will not be able to attend the ETZ meeting regarding the code revisions. He also noted that he read through the proposed changes and did not have any concerns. Motion: Hess/Munson to approve the Village code revisions as presented. Motion carried.
- g. Resolution 04182012B to write off uncollected personal property tax from 2010 uncollected in 2011. Motion: Hess/Berg to adopt Resolution 04182012B as presented. Motion carried.
- h. Operator's licenses. Motion: Searls/Munson to grant Operator's Licenses to Nina Berg, Scott Jacobson, Justin Mani and Nichole Quintana. Motion carried.

3. OLD/UNFINISHED BUSINESS

- a. Charlottes Walk Pond project update and consideration of pay request #3 and discussion about a request for a guard rail on the new culvert. Anderson reported that this is the last pay request on this project and she recommends holding the retainage until the lien waivers are obtained from the subs and a final inspection it made. Anderson noted that she is concerned about the lack of grass growth and she will contact the contractor. Motion: Hess/Searls to approve pay request #3 in the amount of \$15,574.75 as presented. Motion carried.

Anderson and Ayers reported that Dan Lothe has expressed an interest in installing a fence on each side of the culvert in his driveway. He has offered to install the fence if the Town purchases the materials. Hess said that since the Town owns the culvert, not the driveway it is not permitted by State Statutes for the Town to pay for a fence on private property.

4. COMMITTEE REPORTS (AS APPLICABLE)

- a. Plan Commission- met on April 11 to review a site plan for the old Naughty Novelties site and tabled action on a CSM for the new NAMI site submitted by Welton Enterprises due to lack of representation at the meeting.
- b. ETZ Committee- meeting on April 24 to review ordinance revisions.
- c. Events Committee- none.
- d. Parks Commission- Berg is contacting potential commission members and will have more information at the next Board meeting.
- e. Fire Commission- no update other then items to be discussed in closed session.
- f. NECC- next meeting is April 30.
- g. JRTC- Katy Smith has been hired through the Chamber to handle Tourism related issues. Tina Butteris, LuAnn Leggett and Pat Fischbeck have resigned from the commission. Butteris and Leggett have been replaced by other representatives from their municipalities. Fischbeck's replacement will be appointed by the commission chair. Ayers asked the chair to consider appointing the owner of the bed and breakfast in Windsor to the position.

5. **CLOSED SESSION: The Town Board will convene into closed session pursuant to Wis. statute 19.85(1) (e)** Deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session, to discuss the status of existing fire service contracts and a proposed IGA related to personnel. Motion: Hess/Berg to convene into closed session. Roll call: Searls-aye, Berg-aye, Viney-aye, Hess-aye, Munson-aye. Motion carried.

6. **OPEN SESSION:** the Town Board will reconvene into open session pursuant to WI Statutes 19.85 (2) for discussion and possible action regarding matters discussed in Closed Session and to proceed with other items on the agenda. Motion: Hess/Berg to reconvene in open session. Motion carried. Motion: Viney/Hess to establish a committee for fire contract negotiations, members to be

named at a later date. Motion carried. Motion: Berg/Hess to give notice of termination of the contract effective 12/31/2013 to Sun Prairie Volunteer Fire Department, Inc. after the City of Sun Prairie gives its notice. Motion carried.

7. ADJOURNMENT

Motion: Searls/Munson to adjourn. Motion carried. Meeting adjourned at 8:32 p.m.

Brenda Ayers, Clerk/Treasurer
Town of Burke

(3) **Central Star Communications, Inc.** Central Star Communications, Inc. owns the adjoining parcel described as Lot 2 of CSM No. 10689 identified in the attached Exhibit. This parcel is currently zoned C-2 and is used for agricultural purposes. This parcel also contains a radio tower. This parcel is not currently subject to any other uses.

(4) **Brooks Inc.** Brooks Inc. owns the adjoining parcel west of the property and identified as "Lands" on the attached Exhibit. This parcel is currently zoned C-2 and is used for agricultural purposes. This parcel is not currently subject to any other uses.

C. Proposed Uses of the Re-zoned Area.

Upon the closing of the real estate transaction pending between Owner and Applicant for the sale of the Property, Applicant intends to hold the Property, as re-zoned, for potential future expansion of the business operated on the adjoining property zoned C-2, by Prairie Power Center.

Until expansion of Prairie Power Center becomes necessary or desirable, Applicant intends to continue to lease the land to the local farmer who presently uses the Property for agricultural purposes. Should expansion of Prairie Power Center become necessary or desirable, Applicant specifically intends to use the Property to potentially construct additional business facilities, including but not limited to an additional or larger showroom, an additional or larger service area, and/or additional parking.

Applicant agrees to limit his use of the Property to the following permitted land uses:

- a. Retail service uses including, but not limited to, grocery stores, drugstores, hardware stores, appliance and furniture stores, barbershops and beauty shops without limitation as to size.
- ~~b. Self-service laundries and dry-cleaning establishments.~~ removed by Plan Commission 3-14-12
- c. Warehousing and storage incidental to a permitted use on the premises.
- d. Medical, dental and veterinary clinics.
- e. Banks, offices, office buildings and condominium office buildings.
- ~~f. Utility services.~~ removed by Plan Commission 3-14-12
- g. Bakeries, printing plants, laundries, dry cleaning plants.
- h. Distribution centers and wholesale businesses.
- i. Woodworking shops, machine shops, manufacturing and assembly plants.
- j. Bicycle sales and service.
- k. Rental businesses.
- l. Sales and repair of lawn and garden equipment.
- ~~m. Marinas.~~ Removed by Plan Commission 3-14-12
- n. Off-site parking of motor vehicles as provided in section 10.18(3)(c) of Dane County Ordinances.
- ~~o. Crematoriums.~~ removed by Plan Commission 3-14-12