

**Town of Burke Meeting Minutes**  
**Wednesday, May 16, 2018**  
**6:00 p.m.**

Board members in attendance: Chairman Viney, Supervisor Berg, Supervisor Nimmow, Supervisor Stieren, and Supervisor Truitt. Also in attendance Brenda Ayers, Administrator/Clerk, Treasurer, Teri Saxon, Deputy Clerk/Treasurer and Ron Kurt, Public Works Lead Patrolman. See attached list for other interested parties in attendance.

1) ADMINISTRATIVE

- a) It was determined that a quorum was present and that the meeting was properly posted.
- b) The meeting was called to order at 6 p.m. by Chairman Viney.
- c) The Pledge of Allegiance was recited.
- d) Public Concerns: Public's opportunity to speak to the Town Board about any subject that is not a specific agenda item. Dennis Suchomel stated that on February 16 his well went out and he needed to have a new well. His daughter called town staff instructing them to come and remove some trees and trim some evergreens in the park so the well company could have access to the well located on his property through the park. He was upset with the manner it was handled. Viney asked him to refrain from speaking about personnel matters and instructed him to call the office to set up a meeting to discuss. Suchomel went on further to comment that in the park there are trees that need to be trimmed, lawn that needs to be mowed and an electrical meter that needs to be moved off of his property.
- e) Public Hearing regarding a two-lot Certified Survey Map (CSM) and rezone petition from RH-1 to R-1 submitted by Bryan Stueck, Birrenkott Surveying Inc. on behalf of Exporior Properties for the purpose of creating two residential lots. Property located at 6265 Portage Rd (parcel number 0810-031-4234-6). Trish Schaefer spoke as the property owner and stated the property is just shy of three acres. They are requesting to rezone to two lots with the front lot being the minimum 20,000 square feet and the back lot just under 2 acres. They are planning to continue to rent out the existing house and build their personal home on the back lot within the next year or so.

Denise Thompson, 3788 Token Road, is opposed to the application and expressed her concern as to the busyness of Portage Road and adding another driveway will decrease the availability to get out of a private driveway.

Schaefer indicated the driveway off Portage Road will not change. The driveway is a horseshoe shaped drive. The back lot will utilize the northerly leg of the horseshoe while the existing home will use the second leg to the existing home.

Brandi Cooper, 3784 Token Road, stated her concern of an additional driveway will add to the congestion and busyness of Portage Road. She would like to ask that the Board consider with the rezone to R-1 that they recommend that the current property be maintained as that corner area becomes a gather place for clutter.

Schaefer stated they plan to do a full remodel of the “older” existing home. They are keeping the existing horseshoe driveway as it is will not force anyone to back out onto Portage Road.

- f) Public Hearing regarding a Conditional Use Permit (CUP) application submitted by Zignego Ready Mix for a ready mix plant on the property located at 5356 Felland Road (parcel number 0810-234-8500-0). Ayers addressed the fairly new legislation Act 67 has changed the review process of CUPs. Under Act 67 in order to deny or add a condition on a CUP one must be able to provide substantial evidence. She further wanted to clarify to everyone present, including the Board members, that we need evidence to back up claims in order to put conditions on or to not to issue CUPs.

Applicant Scott Zignego with Zignego Ready Mix stated they are proposing to build a batch plant at 5356 Felland Road. They currently own and operate five ready mix plants in the Milwaukee area and are looking to expand the business to the Madison area. They choose this location because of the close proximity to the freeway, it is on a truck route and felt it would be less of an impact on local traffic. He further stated that directly across the street is a landfill and kitty-corner from an operating asphalt plant. The property also adjoins an existing ready mix plant. The parcel is 40 acres and they are proposing to use 12 acres. The 12 acres of the parcel they proposing to use is directly across the street from the landfill and up against the railroad tracks. They will own all 40 acres and using 12 acres for the ready mix plant will leave approximately 30 that will create a buffer zone. The plant will be completely enclosed.

Stephen H. Jozefowski, 5831 Lupine Lane #305, stated he is definitely opposed to the plan and CUP. The main reason being that there already is a landfill and asphalt plant and all the truck traffic on Nelson. He understands they will operate six days a week which will affect the park use with the asphalt on one side and cement plant in the back – not a lot of fun. The condominiums are right across from the proposed plant and our property values will go down. He stated he lives on the south side so he will look at the plant and it will be an eyesore. He further stated he bought here because it was peaceful and was told the proposed ready mix plant property was zoned residential and there would be houses there someday. He questioned if they are only using 12 acres why are they buying all 40 acres and what is the future plan for the approximate other 30 acres. Attorney Sweeney, representing Zignego, responded that there are no future plans for expansion and plan to keep the remaining approximate 30 acres as is and situate the plant in the wooded area.

Buck Sweeney, attorney with Axley Law, stated he is in support of the CUP. He further stated that this will be a state of the art facility and fully enclosed. The ready mix plant will be a good neighbor. He invited all to visit other Zignego ready mix plants and indicated there is a plant in West Allis that is located in a residential area. At the West Allis plant they conducted sound studies and by enclosing the plant you eliminate a lot of the noise and dust. He further added that he does not see this affecting property values. They plan to try and screen the plant as much as possible with landscaping.

Bob Ness, 5831 Lupine Lane #209, introduced himself as a board member of the condominium association. The association has submitted a petition to the Town signed by most of the residents in opposition of the CUP. He further stated his personal opposition to the CUP. Ness indicated that although it is an allowable CUP usage in the Town of Burke, the plan shows it as residential use. He further indicated this is all very frustrating to us who have lived in the area. He stated we know it will have a negative impact on our properties and the other surrounding land. He stated that he could talk to a relator who could substantiate the impact on property values. He further stated that, hopefully, the 64 unit association would have the resources to hire an attorney to prove the impact on property values. He expressed added concern of the increased truck traffic on Nelson Road and understands the ready mix plant's entrance and exit will be on Nelson Road. He added further concern that Nelson Road is extremely busy with a parade of dump trucks, trucks, school buses and commuter traffic. He further added that Nelson Road is a two lane road and not in good condition. He feels it may be a good location for business purposes but a terrible land use plan.

Andrew Schauer introduced himself as the Supervisor for the 21<sup>st</sup> District for the Dane County Board Supervisors. He stated that he represents the Town of Burke, a small part of the City of Madison, and a small part of the City of Sun Prairie. He further stated that he came to the meeting to learn more about this project. He noted that he has learned so much and he appreciates the hard working businesses that are looking to add to the new construction in the area. He stated we all are in favor of that but we are not in favor of anything that gets in the way of the Comprehensive Plan that this Board and the County have worked so hard at. He added that the Comprehensive Plan for usage of that area is not in line for this. The plant they want to build, especially that high, is going to be multiple stories tall. It will necessarily impede the enjoyment of the surrounding area. Even if they leave the trees out by the road and promise not to touch the other approximately 20 acres will see the plant from every side; including the park. The Town has done beautiful work making this park an oasis of sorts. He stated he would hate to see the park use reduced in any way. He understands that one needs proof in order to deny a CUP but if you are making enjoyment one of the conditions it cannot. He further stated it would impede his enjoyment as well as other neighbor's enjoyment of the park; as well as those neighbors that have invested a lot of their time and money in putting up condominiums kiddy corner from that lot. He stated that he has been contacted by multiple constituents in and outside the Town of Burke expressing their concerns of dust, noise, lights, additional traffic and the decrease of property values. He stated that if the Board rezones that entire plat of land to commercial, or grants them a CUP, that will allow the entire plat of land to be used for the ready mix plant. He further stated that he would like them to go somewhere else and this would diminish property values and the enjoyment of the surrounding area. He noted this as his opinion and that of many constituents of the Town.

Jay Jones, 5337 Reiner Rd, indicated that he owns a business in the Town of Burke and is very much pro-business and is neutral on the application. He stated that he feels property values will not decrease because of the cement plant. He further added that the condominium owners have already bought land next to a landfill and that drops property

values more than anything else in this Town. He further added that the truck traffic will stay on Nelson Road which is a truck route. He stated that the land where the Town Hall and park is located is on an old landfill site and we have our wells checked twice a year. He inquired about the amount of water the ready mix plant will use and if it will change the water flow and affect the contamination from the old landfill. He further stated that to his knowledge none of the wells in the area are contaminated but if they were to become contaminated he believes the Town would be responsible to rectify the contaminated wells; which means the taxpayers of the Town. He inquired if the ready mix plant is pulling 30,000 gallons of water a day and running 20 trucks will that change the water flow and damage people's wells. He noted his biggest concern being people's wells and the possible contamination of those wells.

Donald D. Schroeder, 5831 Lupine Lane #221, introduced himself and stated that he is in opposition of the CUP. He added an additional concern of the construction of the 192 unit apartment building and the added traffic and high density it will bring to the area.

Pat Walsh, 5831 Lupine, introduced himself and stated that he is opposed to the CUP. He further stated that he felt the State Act for them to prove is inherently unfair. He indicated that if they claim their property values will be affected the applicant should prove it will not. He further indicated that the landfill will not be a landfill forever and has heard rumors it may become a possible park. He feels the landfill argument is short term. He stated traffic is his main concern. He further stated that his unit faces Nelson Road and claims when dump trucks drive by the building shakes and he does not want more of that noise. He believes that the ready mix plan is totally inappropriate land use and it should remain residential use, especially with an adjacent park.

Ayers noted for the record that the petition was received as referenced previously. Also received was a written opposition from Marilyn Rastall, Lupine Lane. She is opposed to this type of business so close to housing and condominiums in the area. The added noise from the traffic would not be contusive in the area. Ayers also noted Mr. Ness who spoke has written an opposition as well. Katherine Messier, Lupine Lane, Unit 324, wrote lengthy opposition. The letter has been received by the Board.

- 2) Consent agenda (*all items listed under the consent agenda will be approved in one motion without discussion unless any Board member requests that the item be removed for individual discussion and possible action. Any item so removed shall be considered after the approval of the remainder of the consent agenda*)
  - a) Approval of minutes from the April 17, 2018 Board meeting.
  - b) Approval of bills (payroll related disbursements #4501-4528 and bills #29402-29457) and April Cash on Hand report.
  - c) Operator's Licenses. None.

Motion: Truitt/Stieren motion to approve consent agenda as presented. Motion carried.

### 3) NEW BUSINESS

- a) Resolution 05162018A approving a CSM and rezone petition submitted by Experior Properties. Berg questioned if the property is split in two pieces there would be nothing stopping them from selling the property that passes through the smaller portion. He further questioned the need for a possible easement. Ayers indicated that would be a shared driveway agreement and that would be a civil matter. Truitt noted this is an opportunity to improve the appearance of that area. Viney noted he was satisfied with the driveway situation.

Motion: Truitt/Stieren to approve Resolution 05162018A approving a CSM and rezone petition submitted by Experior Properties. Motion carried.

- b) Resolution 05162018B conditionally approving a Conditional Use Permit submitted by Zignego Ready Mix. Stieren stated he would like more time to gather information before taking action. Viney expressed concern with the water issue and the history of the previous landfill and the dredging of the pond and wetlands in the back corner. He further expressed concern about the neighboring homes water quality and digging of a well for the ready mix plant and where the waste water will go. Zignego indicated that there are a series of retention ponds drawn on the map for both waste and run off water. They are estimated for the size of this site. Viney noted that looking at the plan you are close to Nelson Road and questioned if that is the best buildable site area. Zignego indicated they wanted to keep it close to the railroad tracks and furthest away from residential and directly across from the landfill. Zignego felt that was the most appropriate placement on the property with the approximate back drop of about 25 feet. Stieren inquired as to how many gallons of water will be used on a weekly basis. Zignego stated that approximately 30,000 gallons a day is a good estimate but for a weekly average it would be less because of the winter months. He further added that most of the water used goes out with the concrete and would not go back into the ponds. Stieren inquired as to the number of trucks the plant would run. Zignego indicated they plan to start with 10 to 15 trucks. Berg inquired if material would come in by rail. Zignego indicated that to begin with no material will come by rail. He further stated that it is quite a process to go through but it is a consideration for putting it up next to the rails to possibly utilize in the future. Viney inquired if the working hours would be 6 a.m. to 8 p.m. Zignego stated they used hours from another plant's permit which permits daytime hours of 6 a.m. to 8 p.m. He added that they begin charging extra to load trucks after 4 p.m. and that extra fee generally deters loading trucks after 4 p.m. Viney inquired if weekends are a big work day. Zignego indicated that they work occasionally on Saturdays but not Sundays. Zignego further indicated that he estimates the production for a Saturday is 10 to 15 percent the production of a weekday. Viney inquired about fuel tank storage. Attorney for Zignego responded that fuel tanks are contained tanks that meet State and safety standards. Nimmow inquired if the ready mix plant would be driving their trucks on Felland Road as well as Nelson Road. Ayers stated that the truck route is Nelson only not Felland. Viney inquired if the proposed driveway would be close to the evergreens and the railroad tracks. Ayers stated the driveway would be subject to the approval of public works. Ayers inquired if they are only using approximately 12 of the 40 acres for the ready mix plant would they consider limiting the CUP to the approximate 12 acres. Zignego stated that the CUP is only for the

approximate 12 acres. Ayers stated that it appears that additional time is needed to gather more information and prepare the Town to go through the six standards. She further stated at this point, there is not enough evidence to substantiate the claims.

Motion: Stieren/Berg to table until June 20 meeting. Motion carried.

- c) Request for a holding tank submitted by Lakestone Properties for the property located at 5954 Daentl Service Road, parcel 0810-081-9840-0. Chad Paley representative of Lakestone Properties provided background on the development of six acres for mini storage units. One of the storage units will have a 600 square foot office area. He stated they discovered there are no services available to the area and a holding tank is the only option available.

Motion: Nimmow/Berg to approve request for a holding tank submitted by Lakestone Properties for property located at 5954 Daentl Service Road, parcel 0810-081-9840-0. Motion carried.

- d) Change of Agent request for the liquor license for the Paddle Inn, 6335 Portage Rd.

Motion: Stieren/Truitt to approve request for change of agent for liquor license for Paddle Inn. Motion carried.

- e) Change of Agent request for the liquor license for the VFW, 5737 County Rd CV.

Motion: Truitt/Stieren to approve request for change of agent for the liquor license for the VFW. Motion carried.

- f) Ordinance 05162018A amending the Town of Burke fence ordinance regarding side and rear yard setbacks.

Motion: Truitt/Nimmow to approve Ordinance 05162018A amending the Town of Burke fence ordinance regarding side and rear yard setbacks. Motion carried.

- g) Ordinance 05162018B amending the Town of Burke ordinance regarding road weight limits.

Motion: Berg/Stieren to approve Ordinance 05162018B amending the Town of Burke ordinance regarding road weight limits. Motion carried.

- h) Resolution 05162018C Tentatively approving a boundary adjustment agreement for a jurisdictional transfer of Highway 19 right-of-way on south side of Highway 19 and west of the Interstate 90/94/39 corridor with the Village of DeForest and scheduling a public hearing. Ayers indicated that the Town cannot approve the agreement until a public hearing is held. If the Board tentatively approves the agreement the Public Hearing will be scheduled for the June 20<sup>th</sup> Board Meeting.

Motion: Berg/Stieren to adopt Resolution 05162018C. Motion carried.

- i) Installment of the final lift on the Wood Ger Development. Ayers recommends that the Board extend the time period for a date certain, or three years, and revisit at that time looking at where the development is at.

Motion: Berg/Stieren move to extend deadline time for December 15, 2020. Motion carried.

- j) Consideration of a vacation of Bark Lane in the Burke Conservancy Estates Subdivision. Ayers noted the history of Bark Lane and stated that that neighbors have been mowing that section out of the goodness of their hearts. They are unable to continue to mow and are requesting the Town to mow. After discussion Ayers will gather more information and report back.

#### 4) OLD/UNFINISHED BUSINESS

- a) Consideration of the purchase of solar speed signs. Ayers noted she is waiting to hear back from the company and will have more information for the June meeting.

#### 5) COMMITTEE REPORTS (AS APPLICABLE)

- a) Plan Commission – met on April 4 looked at preliminary consultation
- b) ETZ Committee – no meeting.
- c) Parks Commission – no meeting.
- d) NECC. Met on May 7. Truitt reported they decided to suspend a portion of Town support payments and will revisit at future meeting.

6) NEXT MEETING DATE. Wednesday, June 20, 2018 6:00 p.m.

7) ADJOURNMENT. Motion: Nimmow to adjourn. Meeting adjourned at 7:47 p.m.

Teri Saxon  
Deputy Clerk/Treasurer  
Town of Burke  
June 15, 2018