

TOWN OF BURKE MEETING MINUTES
Wednesday, July 17, 2019
6:00 p.m.

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

ALL AGENDA ITEMS ARE SUBJECT TO POSSIBLE ACTION

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 6:00 p.m. by Chairman Viney.
- c) The Pledge of Allegiance was recited.
- d) Public Hearing regarding a preliminary four lot Certified Survey Map (CSM) and rezone petition submitted by Peter Sachs from NR-C to RR-1, RR-2 and RR-4 for the purpose of creating four residential lots at the property located at 3285 Nelson Rd (parcel numbers 0810-244-8600-7 and 0810-244-8670-3).

Angel Helland introduced herself as representing Peter Sachs. She stated that an application has been submitted to split the parcel into four residential lots. He is requesting a CSM and rezone to create the four residential lots. He needs access to the road that is already a dedicated Town road. Maps have been submitted and show the divisions we have been through the process of working with the Plan Commission and include their recommendations. We also have been working with the Town attorney on a development agreement for access for two of the lots.

Jim Page introduced himself and stated he resides at 5369 Sunnyburke. There was a pond on the property and it has been filled in. He is very familiar with the Nelson property. This spring there was tremendous amounts of water run-off and it came down into the gully. He inquired as to the Board's special assessment for putting in roads. He added that he is only aware of special assessments for water and sewer; not roads. He instructed the Board that the Nelson property is a storm water run-off beginning at the top of the hill down Rising Sun to Camy Circle and then to Peter Sachs property.

Al Felt introduced himself and stated he resides at 5401 Sunnyburke. He indicated he was present to gather information. He stated his house is adjacent to the Peter Sachs property. He further stated he has a walk out basement and has never had a drop of water in his basement and added his walk out basement is accessible to what is being done. He is present to hear what is discussed and would like to reserve the right to possibly talk later.

Margie Biersach, 3259 Rising Sun Road, introduced herself and stated they reside on a corner lot and Sunnyburke goes through the side of their property and also owns the lot behind. Sachs property has a pond and he has clear cut the whole thing and is starting to develop with no permits. The water runs down the hill and floods her property and also floods the people living on Nelson Road. She believes it should be declared a holding area for water and a designated park. They were told long ago it would be a dedicated green space. When they first moved here 48 years ago Broken Bow was developed and

they got a park. She added that kids cannot cross Nelson Road to get to the park. She noted they were told the land would be dedicated for a park and they do not have a park. She further stated she will not pay for a road that only Peter Sachs will use.

Paul Biersach introduced himself residing at 3506 Portage Road. He stated he works for Kobussen Buses and looking at the proposed maps the bus company has no idea what they are doing. The Board needs to take into consideration access for fire trucks as well as school buses. He further stated that his parents are retired and were told the road would cost them no more than \$489. They cannot afford more than that.

John Schmied, 3252 Camy Circle, introduced himself and stated he does not see anything preventing Peter Sachs from rezoning. He stated he does oppose this on the terms of understanding where the water from the neighborhood goes. He requested if the Board approves this that conditions be added requesting that a stormwater assessment be done and to research the land that has been filled in. He further requested that he would like to see that report and the conditions placed on those lots ensuring there will not be any additional stormwater problems. He would also like to see that an erosion control report be filed.

Jerome Hornung, 3259 Nelson Road, introduced himself and stated that about 10 years ago he had a flooding problem. It was fixed by ditching and digging a channel that brought water down Broken Bow and runs across Nelson into the pit and settles in the pond. He stated that if Sachs continues to do what he is doing and develops the property he will be flooded out. He further stated that his backyard is a flood zone and he has water in his basement. He requested the Town buy him out and make his backyard a retention pond.

Ayers noted that letters of opposition from the City of Madison and Stephanie Dunn were included in the packets to the Board.

- e) Public Concerns: Public's opportunity to speak to the Town Board about any subject that is not a specific agenda item. Viney instructed the audience that the public hearing regarding the CSM is closed. If anyone further speaks out about the CSM, the Sheriff's office will be called. Margie Biersach inquired about the construction on Nelson Road (Zignego Ready Mix) and raised concerns about the traffic. Ayers stated the concerns expressed have been addressed with the property owner and Town engineer.

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 June 19, 2019 Board meeting.
- b) Approval of bills (payroll related disbursements #4928-4956 and bills #30092-30126) and June Cash on Hand report.
- c) Operator's licenses – Ashley N. Cichy, Chloe R. Schueller and Kelly Erdman.

Motion: Berg/Nimmow to remove the operator license application for Kelly Erdman from the consent agenda. Motion carried.

Motion: Berg/Nimmow to approve the consent agenda as presented. Motion carried.

Motion: Nimmow/Berg to deny the operator license application for Kelly Erdman for pending charges discovered in background check that were not noted on application.
Motion carried.

3) NEW BUSINESS

- a) Resolution 07172019A Conditionally Approving the Rezone from NR-C to RR-1, RR-2 and RR-4 submitted by Peter Sachs. Nimmow noted the City of Madison stated this is inconsistent land development of the surrounding area. Ayers indicated the comment is very vague and they have not come up with a plan to refer to. Angel Helland, representing the applicant, stated that in conversations with the City of Madison, they do not have a plan and when they come up with a development plan it may include more lots than what the applicant is proposing.

Viney called for a recess at 6:37 p.m.

Viney stated that the Sheriff's department has been called and the Board has business to conduct and are going to resume calmly. Shortly after the disruptive parties left the building a sheriff deputy arrived. The meeting resumed.

Berg expressed his concern about the City's issues and the neighbors concern about storm water run-off. He further expressed to table until we have received more information from the Town engineer. Nimmow expressed his concerns as well about water. Ayers stated the road is a designated Town road. She further stated that the Town engineer has been at the site and her memo is included in the packet to the Board.

Motion: Nimmow/Berg to table action until more information is received. Motion carried.

- b) Resolution 07172019B Conditionally Approving the four lot CSM submitted by Peter Sachs.

Motion: Nimmow/ Berg to table action until more information is received. Motion carried.

- c) Resolution 07172019C Approving the Rezone from UTR to AT-35 Requested by MG&E and Dane County to install solar panels on Dane County owned property located at 5723 US Hwy 51 (parcel numbers 0810-171-9500-4, 0810-171-8190-2 and 0810-174-8070-4). Ayers stated correspondence received from the City of Madison has been resolved. She stated further the Board has received copies of that correspondence.

Motion: Berg/Nimmow to adopt Resolution 07172019C. Motion carried.

- d) Resolution 07172019D Conditionally Approving a Conditional Use Permit Requested by MG&E and Dane County for solar generation to install solar panels on Dane County owned property located at 5723 US Hwy 51 (parcel numbers 0810-171-9500-4, 0810-171-8190-2 and 0810-174-8070-4). Viney instructed the members of the Six Standards of a Conditional Use Permit (Section 10.255(2)(h) of Dane County Zoning Ordinance). Viney further instructed that all conditions must be met to grant the CUP.

“Standard 1: That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or welfare.” IS MET. Motion carried.

“Standard 2: That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by establishment, maintenance or operation of the conditional use.” IS MET. Motion carried.

“Standard 3: That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.” IS MET. Motion carried.

“Standard 4: That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made.” IS MET. Motion carried.

“Standard 5: That adequate measures have been or will be being taken to provide ingress and egress so designed to minimize traffic congestion in the public streets.” IS MET. Motion carried.

“Standard 6: That the conditional use shall conform to all applicable regulations of the district in which it is located.” IS MET. Motion carried.

Motion: Berg/Nimmow to approve Resolution 07172019D conditionally approving a Conditional Use Permit requested by MG&E and Dane County for solar generation to install solar panels on Dane County owned property located at 5723 US Hwy 51 including 14 conditions: 13 of which are standard Dane County CUP conditions and one added by the Town. The Town’s condition is to obtain FAA approval and compliance with any requirements thereof. Motion carried

- e) A request from Zachary Carson and Susan Bertrand, 3258 Camy Cir, for a 3 foot variance to the fence height to allow a six foot fence on the side of the house which has road frontage and is considered a front yard. Carson noted that the property is a corner lot and requested a six foot fence the full length to prevent his two large dogs from jumping over a three foot fence.

Motion: Nimmow/Viney to approve the three foot variance. Motion carried.

Ayers indicated that a fence permit is required.

- f) 4th pay request submitted by RG Huston for the Seminary Springs/Gaston and Burke Roads project.

Motion: Berg/Nimmow to approve the 4th pay request in the amount of \$176,606.94 as submitted by RG Huston for the Seminary Springs/Gaston and Burke Roads project. Motion carried.

- g) Open and possibly award 2019 Chip Seal Bids. Scott Construction and Farner Construction received bid packets. One bid was received in the amount of \$95,387.80.

Motion: Nimmow/Berg to allow the Administrator/Clerk/Treasurer to award the bid to Scott Construction after she reviews the bid packet for accuracy. Motion carried.

- 4) Hearing regarding Town Board reconsideration of denial of the application of Heather N. Reed for an Operator's License. Ayers read into record the Facts/Records Entered into Record Reed Reconsideration Hearing 7/17/2019. Ayers explained that this is a reconsideration hearing and is treated somewhat like a quasi judicial board and stating to the Board the documents presented and the basis for the denial of the operator's license. This is your opportunity to explain to the Board why they should grant you an operator's license and the circumstance behind the event you listed on your application for the basis of the denial. Viney reminded Reed that in 2014, the Board considered denying her application for an operator's license but granted the license with the understanding that everyone deserved a second chance. The license was granted in good faith. Reed thanked the Board for the opportunity before them and hopes they reconsider again because this is all she has and she provides for her daughter. Viney inquired as to how many hours she works at the bar. Reed stated that she works full-time at the bar and has had no issues. She further noted that in Julie's absence she takes on full responsibility of the bar. She stated that she takes her job very seriously. She hugely apologized for the mistake she made and hopes they reconsider. Berg inquired about the facts surrounding the recent OWI. Reed stated that over a long period of time she has made some bad choices around circumstances in her life. She thanked Julie for trusting her and giving her the opportunity over the last 20 years. She added that Julie knows how she bartends. She requested the Board to reconsider so she can keep her job. Nimmow stated that an operator's license is a license to serve. Reed stated that she always works alone and closes the bar alone.

Motion: Berg/Nimmow to convene in closed session. Viney-aye, Berg-aye, Nimmow - aye. Motion carried.

- 5) **CLOSED SESSION. THE TOWN BOARD WILL CONVENE INTO CLOSED SESSION PURSUANT TO WIS. STAT. SEC. 19.85 (1)(a) Deliberating concerning a case which was the subject of any judicial or quasi-judicial trial or hearing before that governmental body to deliberate the reconsideration of the Town Board's denial of an operator's license for Heather N. Reed**

- 6) **OPEN SESSION. THE TOWN BOARD WILL RECONVENE INTO OPEN SESSION PURSUANT TO WIS. STATUTES 19.85(2) FOR DISCUSSION AND POSSIBLE ACTION REGARDING MATTERS DISCUSSED IN CLOSED SESSION**

Motion: Nimmow/Berg to reconvene in open session. Motion carried.

- 7) Action regarding reconsideration of the Town Board's denial of the application of Heather N. Reed for an Operator's License. Viney instructed Reed of the seriousness of this matter. He reminded her that in 2014 the Board reconsidered and granted her an operator's license. He noted his appreciation over the last five years and hopes that whatever happened in 2019 can be cleared up. He further noted if the operator's license is granted - the license is for one

year and this cannot happen again. Berg noted the tough situation and Reed needs to think of her daughter.

Motion: Nimmow/Viney to adopt Exhibit A Resolution 07172019E granting Heather N. Reed an Operator's License. Motion carried. Berg – nay.

8) OLD/UNFINISHED BUSINESS

a) None

9) COMMITTEE REPORTS (AS APPLICABLE)

a) Plan Commission. Berg noted the Plan Commission had a preliminary consultation with Tom Schultz regarding a proposed rezone and CSM.

b) ETZ Committee – no meeting.

c) Parks Commission – no report.

d) NECC – no report.

10) NEXT MEETING DATE. Regular meeting: Wednesday, August 21, 6:00 p.m. Board of Review: Thursday, August 22, 6 p.m.

11) ADJOURNMENT. Motion: Nimmow motion to adjourn. Meeting adjourned at 7:33 p.m.

Teri Saxon
Deputy Clerk/Treasurer
Town of Burke
August 15, 2019