

TOWN OF BROOKFIELD
TOWN BOARD
MARCH 4, 2008

The regular meeting of the Town Board was held on Tuesday March 4, 2008 in the Erich Gnant Room of the Town Hall, 645 N Janacek Road, Brookfield, WI.

Chairperson Keith Henderson called the meeting to order at 7:06 p.m. with the following people present: Supervisors: John Schatzman, and Patrick Stroebel, Attorney James Hammes, Administrator Richard Czopp, Building Inspector Gary Lake and the Town Clerk Jane Carlson to record the minutes. Excused absence for Supervisors Robert Flessas and Dan Shea.

APPROVAL OF AGENDA

Supervisor Stroebel moved to approve the agenda as presented, seconded by Supervisor Schatzman, voted on, and carried unanimously.

APPROVAL OF MINUTES

Supervisor Stroebel moved to dispense with the reading of the minutes of the February 20, 2008 Town Board meeting and approve them as presented seconded by Supervisor Schatzman, voted on, carried unanimously

PUBLIC COMMENT

James Burkamper 1376 Sunnydale Court, Hubertus, WI, Managing Partner of Goerke's Park Associates commented on a non-agenda item regarding having a public hearing for a hotel proposal.

OLD BUSINESS

a. REQUEST TO CHANGE ORDINANCE REGARDING NUMBER OF DOGS

Mike Mattek spoke on behalf of Meggie Teasdale the petitioner. He said that Ms. Teasdale has requested that the Town ordinance that limiting an owner to keeping 2 dogs be changed to allow for 4 dogs. She is requesting this because the State of Wisconsin has a lot of puppy mills and does not regulate them as other states do. There are some bills pending in the state legislature to try for some regulation but until this would happen there is a problem for local Humane Societies trying to find owners. The people that would be willing to take them for fostering or adopting are typically people that already own dogs. He said that other municipalities in the area such as New Berlin do allow 4 dogs to be kept on the property, and the City of Brookfield and Menomonee Falls have no restriction on the number. They are not looking for an unlimited number but would like to have the ordinance changed to be more in line with New Berlin.

Inspector Lake said that he did a search of surrounding municipalities and found that there is a range of what is allowed. The City of Brookfield currently does not have a limit on the number, New Berlin has a 4 dog limit, City of Pewaukee has a limit of 3 dogs City of Waukesha has a limit of 2, and the Village of Menomonee Falls has a limit of 3, with a proposal for a revised ordinance that would create a dog fancier permit. This ordinance would allow in excess of 3 dogs with conditions and one of the conditions is a minimum lot size of not less than 20,000 square feet.

Chairman Henderson asked what 20,000 square feet would be in acres.

Inspector Lake said that it would be approximately half an acre.

Supervisor Schatzman said that he was a foster dog handler for 8 years and the dogs were used for handicap assist purposes so he understands the nature of fostering dogs for the correct purpose. What he is concerned about is that the Town passes this ordinance following what some things are that are going on in the general area, Brookfield is now looking at going to a more restricted situation. But during that time that the Town has had a 2 dog limit, it has been brought to his attention by some of the neighbors that the requester is indeed in violation of the current ordinance. He is not asking for enforcement of the ordinance now but would like to remind them that the ordinance of law is the way you do it. Not just say like it or not we are going to take care of dogs and we will call it a temporary shelter or temporary housing. In the mean time some neighbors are upset that you are knowing violating the ordinance and should enforcement be imposed the fine could be anywhere from \$5.00 to \$1,000.00 per day. The ordinance is in place for a reason and needs to be abided by until such time it would be changed.

Supervisor Stroebel said that he would like to comment that when the requester first addressed the board it was for a special exception. There was discussion on the criteria that the Board had for getting the special exception for an additional dog. In his opinion that is a better route to follow and does not favor allowing for one situation to drive the change of an ordinance.

Ms. Teasdale asked if there was anything regarding fostering a dog.

Attorney Hammes said that the fostering of a dog would still count towards the total number of dogs allowed on a premise. It is not necessarily whether they are owned or fostered, the ordinance addresses the number of dogs on premises.

Supervisor Stroebel moved to deny the request to change the Town Ordinance 12.07 Dog and Other Domesticated Animals, seconded by Supervisor Schatzman, voted on, carried unanimously.

NEW BUSINESS

a. REITERATE TOWN'S POSITION ON PAYMENT FOR STATE HIGHWAY 59 PROJECT

Supervisor Stroebel said that there has been discussion in the newspaper and media regarding the fact that Highway 59 in the Town has not been improved. A lot of the discussion has been that the Town reneged from agreement in deciding not to pay anything at all. He thought it was important in a public forum to reiterate the Town's position. From the beginning the Town had serious question about the road beginning with the study that was done to determine that it was a local road. The Town wanted to look at the detail of the study and it was never provided. The Town disagreed with the calculation that was put together as far as what the allocations was between the communities. Throughout the entire process the Town has been consistent in their position. The Town has a standing offer to the state to pay what the Town feels is a fair portion based on a per front footage calculation on Greenfield Avenue. It has been offered to the DOT, they denied the offer

and did not come back to negotiate anything. He feels the Town had done their part in a good faith effort.

Supervisor Schatzman said he absolutely agrees with what Supervisor Stroebel reiterated. He added that the Town's offer is still out there and open and never has been accepted. The Town has four or five properties along Highway 59 (Greenfield Avenue) and the State of Wisconsin wants them to pay nearly a million dollars to put a new road in front of those properties. This is absolutely ludicrous and the request comes with no guarantee that those properties will even remain in the Town of Brookfield because they are abutting the City of Brookfield and New Berlin. If a check is paid for this and annexation takes place it is good bye money for the Town. The Town Board is a better custodian of the citizen's dollars than to write an open ended check without any guarantees or agreements. However the Town's offer still stands that they will pay the far share based on front footage as many other programs have been done for roadways. It should also be noted that a very large portion on Capital Drive (Highway 190) which is a similarly designated state highway was done gratis at the behest of the State of Wisconsin.

Chairman Henderson said that it should be noted that the project was stated that if all five communities did not agree it would not occur. The City of Brookfield and Waukesha went back to the state when they could not get all five to agree (2 said no and 3 yes) and asked if they would still do it if they put the money upfront and gave the state the portions. In essence the two communities spent three other communities' money without any input from those communities. He feels that when those two communities said they wanted the project to proceed anyway, the entire financial obligation is born by those communities and the state.

Administrator Czopp said that there have been a lot of comments from the Mayor of the City of Brookfield that the city wanted to pick up the share but when it was presented to the council they voted not to. He also said that he has called Dewayne Johnson from the State three times and he has not received a call back. The Town also sent a letter with the conditions and that was never responded to by the state. He thinks the Town has made their position to the state clear and they get nothing from them. He also checked with the Police Department on the traffic accidents in that area and there have been none for the last six years other than in parking lots and two deer being hit.

Chairman Henderson said that the area of land consists of seventeen hundred feet in the Town and the state wants payment of \$723,000.00 from the Town.

No action was taken.

b. PICNIC PERMIT

Supervisor Stroebel moved to approve a picnic permit for Mary Jane Wendelberger (Wendelberger Family Reunion), at Marx Park, on June 21, 2008 from 11:00 a.m. until 9:00 p.m., seconded by Supervisor Schatzman, voted on, carried unanimously

c. PICNIC PERMIT

Supervisor Schatzman moved to approve a picnic permit for Michael T. Baker (Acura of Brookfield), at Marx Park, on July 27, 2008 from 11:00 a.m. until 5:00 p.m., seconded by Supervisor Stroebel, voted on, carried unanimously

d. BARTENDER LICENSES

Supervisor Schatzman moved to approve bartender licenses for Samantha Fox at PDQ Store; Diane Gonzalez at Qdoba and Christopher J Cox at Marcus Majestic, seconded by Supervisor Stroebel, voted on, carried unanimously

DEPARTMENT, BOARDS, COMMITTEE/COMMISSIONS RECOMMENDATIONS

a. PLAN COMMISSION

1. SET A PUBLIC HEARING DATE FOR A SPECIAL EXCEPTION

Supervisor Stroebel moved to set the Public Hearing date for Tuesday, March 25, 2008 at 7:00 p.m. for a Special Exception, as provided by Section 17.02(16) of the Town of Brookfield's Zoning Code, to allow drive-thru food service at a proposed multi-tenant commercial building at 19770 West Bluemound Road, in excess of the provision in the Code limiting such to two in a one mile radius, seconded by Supervisor Schatzman, voted on and carried unanimously.

2. SET A PUBLIC HEARING DATE FOR A CONDITIONAL USE PERMIT

Supervisor Schatzman moved to set the Public Hearing date for Tuesday, March 25, 2008 at 7:00 p.m. for a Conditional Use Permit, as provided by Section 17.08(5)a. of the Town of Brookfield's Zoning Code to allow for the installation of free-standing signage at a reduced setback, allowing for existing site development conditions at 19730 & 19770 & 19850 Bluemound Road, seconded by Supervisor Stroebel, voted on and carried unanimously.

3. APPROVAL FOR REVISED SITE DEVELOPMENT PLAN

Inspector Lake said that Elmbrook representatives have met with the neighbors to the west and that they are please with the revised proposal but want to wait for the snow to melt to make sure that the placement is proper to address their concerns for screening.

Supervisor Schatzman moved to grant approval of a revised site development plan to eliminate approximately 48,000 square feet (1.11 acre) of paved parking area, to be replaced by an outdoor play area / green space at Elmbrook Church, 777 South Barker Road, with the understanding that the follow through by Elmbrook with the neighbors to the west will take place and be consummated with them, and review of the revised landscape plan by the Architectural Control Committee. The motion was seconded by Supervisor Stroebel, voted on and carried unanimously.

4. COUNTY DEVELOPMENT PLAN MAP AMENDMENTS FOR REDEVELOPMENT PLAN

Inspector Lake explained that the County has incorporated in the Land Development Plan a new category of Mixed Use which consists of Office – Retail – Possible Residential. The residential can be either a separate development with in the area or upper floors of a commercial building.

Supervisor Schatzman moved to amend the Redevelopment Plan for the commercial node bounded by Bluemound Road, Janacek Road, I-94 and Barker

Road and include the new category proposed by Waukesha County of Mixed Use, seconded by Supervisor Stroebel, voted on, carried unanimously.

VOUCHERS

Supervisor Stroebel moved to approve the vouchers as presented in the amount of \$343,820.37, seconded by Supervisor Schatzman, voted on, and carried unanimously.

Included in the approved vouchers were: two checks for \$187,104.66 to Sanitary District No 4 for special assessments placed on the tax bills; \$29,920.28 to Brookfield Convention & Visitor Bureau for 4th qtr room tax distribution; \$25,939.93 to Veolia ES Solid Waste for recycling, refuse and yard waste collection; \$12,520.79 to Emergency Apparatus for fire department equipment; \$10,285.26 to Butterfield Trucking Inc for salt/sand mixture and \$7,000.00 to Tough Solutions, Inc for police department grant supplies

COMMUNICATIONS AND ANNOUNCEMENTS

The attached list of correspondence was reviewed by members of the Board with the following comment.

#5. Chairman Henderson said to make it an agenda item for the next meeting.

There being no further business Supervisor Stroebel moved to adjourn, seconded by Supervisor Schatzman, voted on and carried unanimously. The meeting adjourned at 8:05 p.m.

Respectfully submitted,

Jane F. Carlson
Town Clerk

CORRESPONDENCE

March 4, 2008

1. Wisconsin Safe Routes to School Reporter, Winter 2008.
2. Solutions, Ruekert-Mielke, Winter 2008.
3. WCEDC invitation to a seminar, March 4th, 2008.
4. Letter from Time Warner regarding processing fee.
5. Letter from Goerkes Park Assoc regarding rezoning hearing.
6. Update from Gloria Albrecht, Brookfield Chamber representative.
7. Grota Appraisals February newsletter.
8. Stormwater Utility Report (available at clerk's office)

February 29, 2008

MEETING NOTICES

All meetings will be held at the TOWN HALL, 645 N Janacek Road, Brookfield, WI:

TUESDAY, MARCH 4, 2008

7:00 P.M.

**SANITARY DISTRICT
NO 4**

AGENDA:

1. Call to Order.
2. Approval of Agenda.
3. Approval of Minutes.
4. Citizen comments: Three-minute limit.
5. Old Business. None.
6. New Business. None.
7. Approval of Vouchers and Checks.
8. Communications and Announcements.
9. Adjournment.

TUESDAY, MARCH 4, 2008

**IMMEDIATELY
FOLLOWING
SANITARY DISTRICT NO 4
MEETING**

UTILITY DISTRICT NO 1

AGENDA:

1. Call to Order.
2. Approval of Agenda.
3. Approval of Minutes.
4. Citizen Comment.
5. Old Business. None.
6. New Business:
 - a. Transfer of funds to Fire Department Capital fund.
7. Adjournment.

TUESDAY, MARCH 4, 2008

IMMEDIATELY
FOLLOWING UTILITY
DISTRICT NO 1 MEETING

TOWN BOARD

AGENDA:

1. Call to Order.
2. Approval of Agenda.
3. Approval of Minutes.
4. Citizen comments: Three-minute limit.
5. Old Business:
 - a. Discussion and necessary action regarding amending the Town Ordinance 12.07 Dog and Other Domesticated Animals.
6. New Business:
 - a. Discussion to reiterate the Town's position, and reasoning for what the Board has agreed to pay on the State Highway 59 (Greenfield Road) widening project
 - b. Approval of Picnic Permit for Marx Park on June 21, 2008 for Mary Jane Wendelberger (Wendelberger Family Reunion) from 11:00 a.m. until 9:00 p.m.
 - c. Approval of Picnic Permit for Marx Park on July 27, 2008 for Michael T. Baker (Acura of Brookfield) from 11:00 a.m. until 5:00 p.m.
 - d. Approve bartender licenses.
7. Department, Boards, Committee/Commission Reports/Recommendations:
 - a. Plan Commission Recommendations:
 1. To set a date for a Public Hearing for a Special Exception, as provided by Section 17.02(16) of the Town of Brookfield's Zoning Code, to allow drive-thru food service at a proposed multi-tenant commercial building at 19770 West Bluemound Road, in excess of the provision in the Code limiting such to two in a one mile radius.
 2. To set a date for a Public Hearing for a Conditional Use Permit, as provided by Section 17.08(5)a. of the Town of Brookfield's Zoning Code to allow for the installation of free-standing signage at a reduced setback, allowing for existing site development conditions at 19730 & 19770 & 19850 Bluemound Road.
 3. For approving a revised site development plan to eliminate approximately 48,000 square feet (1.11 acre) of paved parking area, to be replaced by an outdoor play area / green space at Elmbrook Church, 777 South Barker Road.
 4. To amend the Redevelopment Plan for the commercial node bounded by Bluemound Road, Janacek Road, I-94 and Barker Road in light of new land use categories proposed by the County.
8. Approval of Vouchers and Checks.
9. Communications and Announcements.
10. Adjournment.

Jane F. Carlson, Town Clerk

PLEASE NOTE: It is possible that members of and possibly a quorum of members of other governmental bodies of the municipality may be in attendance at the above meetings to gather information. No action will be taken by any governmental body other than that specifically noticed. Also, upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information or to request such services contact the clerk's office at the above location.