

TOWN OF COTTAGE GROVE  
PUBLIC HEARING AND TOWN BOARD MEETING  
APRIL 6, 2015

PUBLIC HEARING REGARDING AN ORDINANCE PRECLUDING SEX OFFENDERS WHO  
COMMITTED A CRIME AGAINST CHILDREN FROM BEING PRESENT IN AREAS WHERE  
CHILDREN CONGREGATE

- I. Notice of the public hearing was posted at Town Hall, the park at 4539 American Way, Gaston Road at Brown Thrush and US Hwy 12 & 18 at County Road BN, and on the Town's web site. Town Chair Kris Hampton and Supervisors Mike Fonger, Steve Anders, and Kristi Williams were present, along with Clerk Kim Banigan, Treasurer Debra Abel, Highway Superintendent Jeff Smith, Attorney Connie Anderson, and Deputy Jennifer Grafton. A list of other attendees is available in the Clerk's office.
- II. Hampton asked for public input on the proposed ordinance:
- Murali Kudipudi, 4729 Gaston Circle, commended Attorney Anderson for doing a great job drafting the ordinance. He indicated his support of prohibiting sex offenders from residing within 1,000 feet of child safety zones. But he also noted that Madison is proposing a 2,000 foot distance for their ordinance, and wondered how much effort would be required to amend the Town's ordinance to a greater distance in the event that Madison's ordinance survives a legal challenge. He was advised that it would be a matter of holding another public hearing followed by a vote of the Town Board.
  - Steve Anders said that the DOC list of sex-offender residency ordinances includes a wide range of distances, and questioned Atty. Anderson about whether her research had led her to believe there have been challenges other than the one in South Milwaukee. She said if there have been, they have not reached the appellate court level. Anders said he would prefer to error on the side of a higher distance. Mike Fonger said that the Town is “under the gun” right now, and possibly Madison is better able and willing to face a challenge. Atty. Anderson said that if there is a violation, we want it to stick, and rather than focusing on the distance, better to think about the child protection areas, noting that a new draft before the Town Board has expanded definitions to include bookmobiles, little free libraries, restaurant playgrounds, and other child recreation areas.
  - Carol Klubertanz, 4680 Gaston Circle, asked if other ordinances specifically reference Level 3 offenders. Atty. Anderson said that they do not, and this term is left out of our ordinance as well since it is not a clearly defined category of offenders. Her consultation with law enforcement contacts led her to define a sex offender based on clearly defined statutory parameters.
  - Several residents went on record in support of the ordinance as drafted, and expressed thanks to Atty. Anderson and the Town Board for their quick response:
    - Brad and Amy Bliss  
2575 Simpson Drive
    - Doris and Gary Garczynsi  
2610 Simpson Drive
    - Carol Klubertanz  
4680 Gaston Circle
    - Cory Klonsinski  
2564 Simpson Drive
    - Murali Kudipudi  
4729 Gaston Circle
    - Maria Jasewski & Michael Kmiotek  
4728 Gaston Circle
    - Rick Smith  
4692 Gaston Circle
    - Ron Daggett  
4620 Meadowlark St.
    - Rich and Chris Reines  
4686 Gaston Circle

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- Romayn Rote, 2964 Gaston Road, voiced his support of the ordinance along with his opinion that protection is needed from DOC and DHS officials who arrogantly addressed Town residents at the public notification meeting regarding Mr. Nygard's planned residency at 4721 Gaston Circle.

III. **MOTION** by Anders/Williams to close the public hearing. **MOTION CARRIED 5-0.** The public hearing ended at 6:56 P.M.

TOWN BOARD MEETING

I. ADMINISTRATIVE

- A. Notice and attendance of the meeting were as described above for the Public Hearing, with the addition of Supervisor Mike DuPlayee and Fire Chief Bruce Boxrucker in attendance.
- B. Hampton called the meeting to order at 6:56 P.M.
- C. Minutes of previous meeting(s): **MOTION** by Williams/DuPlayee to approve the minutes of the March 16, 2015 Town Board meeting as printed. **MOTION CARRIED 5-0.**
- D. Finance Report and Approval of Bills:
  - 1. **MOTION** by DuPlayee/Anders to approve payment of bills corresponding to checks #23465-23523 as presented, including voided of check #23493. **MOTION CARRIED 5-0.**
  - 2. **MOTION** by Anders/Fonger to approve payment of March per diems as presented, and payment of \$375.00 to Tom Viken for March Building Permits. **MOTION CARRIED 5-0.**
- E. Public Concerns: None.
- F. Road Right of Way Permits: None.

II. BUSINESS:

- A. Discuss/Consider adoption of an ordinance precluding sex offenders who committed a crime against children from being present in areas where children congregate: **MOTION** by Fonger/Williams to adopt the red-line version presented and discussed tonight of Ordinance 2015-02 An Ordinance Creating Child Safety Zones and Precluding Designated Sex Offenders From Residing or Being Present in Child Safety Areas, and confirming that the 6 findings in the recitals are pertinent based on the research and testimony presented. **MOTION CARRIED 5-0.**
- B. Update on razing of fire damaged house 4721 Gaston Circle: Hampton said that on Friday, March 29<sup>th</sup> equipment and dumpsters were moved onto the property despite the fact that spring weight limits were posted on the roads. Workers were told to stop what they were doing until weight limits are lifted. A fence has somewhat been built around the exposed basement. Smith has informed the contractor that he expects to lift the weight limits this Wednesday, so work may then resume. The current work is being done for the insurance company. A razing permit has been issued, but no building permit application has been received at this point.
- C. Discuss/Consider approval of Implements of Husbandry permit for Kurt Dairy: The application was for a Massey Ferguson 8650 Tractor and a Balzer 4800 Manure Tanker to make up to 25 trips per week, 52 weeks per year, on a portion of Ridge Road, Meadow View Lane, W. Ridge Road, Kennedy Road, and Myer Road. Maximum weight will be 92,000

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pounds, total length of the combination will be 35 feet. There was consensus that this permit requirement causes great confusion to all involved. **MOTION** by Anders/DuPlayee to approve the permit as requested. **MOTION CARRIED 5-0.**

- D. Discuss/Consider the Town's policy on overtime pay: Hampton stated that an article in the October issue of the WTA's newsletter caused him to ask Atty. Anderson if our overtime policy is right. Atty. Anderson said that it appears the policy is not consistent with the law. The law says that overtime must be paid any time an employee works more than 40 hours in a week. The Town's policy pays overtime anytime an employee exceeds 40 hours in pay status, which also includes paid time off (sick leave, vacation, holidays). Smith said that the law states the minimum requirement, but does not say that the Town cannot go above and beyond that. He said the current practice has been in place since he started working for the Town back in 1973, and gives an incentive for employees to make themselves available on weekends and holidays when the need arises (mostly for snow removal). He also expressed concern that employees would be asked to go home early when they have already reached 40 hours before the end of the work week. Discussion indicated acceptance for paying overtime on holidays (on top of holiday pay), but not so much for including other paid time off in the calculations of the first 40 hours. **MOTION** by Anders/DuPlayee to table until the April 20<sup>th</sup> meeting. **MOTION CARRIED 5-0.**
- E. Discuss/Consider options to recover fire service expenses from Feb. 22, 2015 arson fire at 4721 Gaston Circle: Atty. Susan Allen had provided written advice showing two possible options for recouping the cost to fight the arson fire. The first option was to assess the cost to the property owner as an extraordinary fire expense under TCG Ord. 7.03. The second option was to pursue restitution from the person who started the fire, which would be a much slower process and involve the District Attorney's office. **MOTION** by DuPlayee/Williams directing Atty. Anderson to send a letter assessing the cost of the February 22, 2015 arson cost on the property owner. **MOTION CARRIED 5-0.** Anderson asked what would be the legal basis for this assessment? Chief Boxrucker said the accelerant used to start the fire caused the floor to fall in, which made it much more difficult and dangerous to fight. It was obvious to the first in that the fire was an arson, and extra steps had to be taken to preserve evidence.

(Atty. Anderson and Chief Boxrucker left the meeting)

- F. Discuss/Consider approval of a Parade, Procession or Race permit for Paula Severson representing the Hot2Trot Race on June 20, 2015. Proposed route for 10K portion includes Clark St., a portion of Vilas Road, and Damascus Trail. Applicant is asking for a waiver of the permit fee based on the non-profit status of the organization and benefits of the race to the community: Paula Severson explained that the annual race has reached its saturation level at just 5K, so they are hoping to expand to also include a 10K that would include Town Roads. She expects about 100 runners on the 10K route. They plan to stagger the starts and have volunteers at every intersection. With this she noted that they are in need of more volunteers. She provided a sample notification to residents along the route, stating that in the past they have used volunteers to take it door to door in lieu of mailing it. **MOTION** by Hampton/Williams to approve the Parade, Procession or Race Permit for the 10K race on June 20<sup>th</sup> to include Clark St., Vilas Road, and Damascus Trail, waiving the fee and deposit, and allowing hand delivery of the notice to residents. **MOTION CARRIED 5-0.**
- G. Discuss/Consider approval of terms for renewal of lease for the former Town Garage at 4091 County Road N: Hampton reported that the Hustons had accepted the terms discussed at the

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last meeting. One question remaining was whether a security deposit is necessary, noting that the Hustons have not required a security deposit from the Town for the police station.

**MOTION** by DuPlayee/Anders to approve the terms of renewal in the lease as presented, with removal of the section requiring a security deposit. **MOTION CARRIED 5-0.**

- H. Discuss/Consider approval of Agreement to Participate in the Plan Update of the Dane County Natural Hazard Mitigation Plan: Hampton said that the Emergency Government Committee intends to work on this eventually, but the municipalities need to sign the agreement. **MOTION** by Fonger/Williams to approve the agreement, and designating DuPlayee to attend the meetings representing the Town. **MOTION CARRIED 5-0.**
  - I. Select date for annual inspection of Town roads: Two possible dates were identified: April 29<sup>th</sup> or April 30<sup>th</sup>, both at 1:00 P.M. Williams needs to check her calendar and will get back to the others.
  - J. Consider/Adopt motion to move into closed session pursuant to Wisconsin Statute 19.85(1)(c) for the purpose of considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility: 6 month evaluation of Treasurer Debra Abel: **MOTION** by Williams/DuPlayee to move into closed session for the reason stated above. **MOTION CARRIED UNANIMOUSLY BY ROLL CALL VOTE.** The closed session began at 8:05 P.M.
  - K. Consider/Adopt motion to reconvene to open session to take any action necessary from closed session: **MOTION** by Williams/DuPlayee to reconvene to open session. **MOTION CARRIED UNANIMOUSLY BY ROLL CALL VOTE.** The closed session ended at 8:10 P.M. **MOTION** by Hampton/DuPlayee to approve the evaluations noted in the closed session, and a \$1.00 pay increase for Abel effective April 6, 2015 for successfully completing her introductory period. **MOTION CARRIED 5-0.**
- III. CLERK'S REPORT: None.
- IV. BOARD REPORTS AND COMMUNICATIONS: None.
- V. COMMITTEE REPORTS:
- A. Deer-Grove EMS Commission: Nothing to report.
  - B. Joint Town/Village Landfill Monitoring Committee: Nothing to report.
  - C. Emergency Government Committee: Nothing to report.
- VI. Adjournment: **MOTION** by Anders/Williams to adjourn. **MOTION CARRIED 5-0.** The meeting ended at 8:12 P.M.

Kim Banigan, Clerk

TOWN OF COTTAGE GROVE  
TOWN BOARD CLOSED SESSION MINUTES  
APRIL 6, 2015

- A. Consider/Adopt motion to move into closed session pursuant to Wisconsin Statute 19.85(1)(c) for the purpose of considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility: 6 month evaluation of Treasurer Debra Abel: **MOTION** by Williams/DuPlayee to move into closed session for the reason stated above. **ROLL CALL VOTE: Fonger, Anders, Hampton, Williams, DuPlayee all ayes.** The closed session began at 8:05 P.M. Clerk Kim Banigan and Treasurer Debra Abel were also present.
- B. Board members were provided with copies of the Treasurer's job description to use as a basis for their evaluation. The Clerk began by stating that in her opinion, Abel is doing a fantastic job, being highly qualified for the required duties, and pleasant to work with. Hampton agreed that his observations indicate Abel is handling the position with competence and accuracy. Discussion among other board members indicated their approval of Abels job performance as well. Abel noted that she has had perfect attendance during her first 6 months.
- C. Consider/Adopt motion to reconvene to open session to take any action necessary from closed session: **MOTION** by Williams/DuPlayee to reconvene to open session. **MOTION CARRIED UNANIMOUSLY BY ROLL CALL VOTE.** The closed session ended at 8:10 P.M.

Kim Banigan, Clerk

Approved and made an open record 04-20-2015