

TOWN OF COTTAGE GROVE
TOWN BOARD MEETING
JULY 6, 2020

I. ADMINISTRATIVE

- A. Notice of the meeting was properly posted at the Town Hall and on the Town's web site. Due to the COVID-19 pandemic, in-person attendance was limited and participants were able to join using gotomeeting.com. Town Chair Kris Hampton, Supervisors Mike Fonger, Steve Anders, Kristi Williams and Mike DuPlayee were present, as well as Clerk Kim Banigan, Treasurer Deb Abel, and Highway Superintendent Dan Dresen. Special Counsel Connie Anderson and Town Engineer Thomas TeBeest attended virtually.

NOTE: THERE WERE TECHNICAL DIFFICULTIES WITH THE AUDIO FOR VIRTUAL PARTICIPANTS THROUGH ITEM II. A BELOW, WITH A BREAK IN THE MEETING OCCURRING WHILE THE DIFFICULTIES WERE RECTIFIED.

- B. Hampton called the meeting to order at 7:00 P.M.
- C. Minutes of previous meeting(s): **MOTION** by Williams/DuPlayee to approve the minutes from the June 15, 2020 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 #33946-33974 from Monona Bank as presented. **MOTION CARRIED 5-0.**
 2. **MOTION** by Anders/DuPlayee to approve payment of June per diems as presented. **MOTION CARRIED 5-0.**
- E. Public Concerns: None.
- F. Road Right of Way Permits: None.

II. BUSINESS:

- A. Plan Commission Recommendations:
1. Discuss/Consider approval of a certified survey map to divide parcel# 0711-284-9755-0 at 3447 North Star Road into two lots with no change to zoning (General Commercial): Mr. Banovetz was present, but there were no questions for him. **MOTION** by Anders/Fonger to accept the Plan Commission's recommendation to approve the CSM as presented. **MOTION CARRIED 5-0.**
- B. Discuss/Consider approval of a proposed concept plan for an 11-lot subdivision between Wittewood Ln. and Hope Road (parcel # 0711-292-8500-0): Bob, Kathy, Dave and Andrew Witte were present, along with Rachel Holloway and Dave Gersick from Vierbicher.
- Dave Witte began by saying that they had considered several concept options that were denser than the one proposed, but felt this was the best fit for the Town. He said they have no plans to develop on their remaining land north of Hope Road.
 - Holloway gave an overview of the concept and offered to answer questions.
 - Hampton pointed out that lots 5, 10, and 11 are actually outside of the planned neighborhood development area, and said that unless the County would allow them to develop outside of that, those lots could not be developed without an amendment to the future land use map.
 - Fonger questioned how much of the area is actually developable due to drainage issues. Holloway responded that they know the stormwater basin will need to be expanded and drainage ways will be needed between lots, all to requirements of Dane County. No perk

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tests or water testing have been done yet, but will be a next step if the concept plan is approved.

- Hampton noted that the Board had the minutes from the June Plan Commission meeting in their packets. The Clerk added that Board members also have an email from Linda Wilson, 2889 Wittewood Lane, expressing her questions and concerns over the proposed concept plan (Appendix A). Hampton noted that her concerns included water quality and stormwater management, which all has yet to be designed and will have to pass Dane County standards. Wilson was also concerned about traffic on Hope Road, which Hampton said has been addressed somewhat by discussion of shared driveways. She questioned what the development timeline would look like, Hampton said that would be up to the developer.
- Kathryn Kersels, 2881 Wittewood Lane, submitted a petition signed by 11 residents on Wittewood Lane, Hope Road and S. Hope Road protesting against the concept plan and any change that would detrimentally affect the peaceful environment of their homes. (Appendix B). Dave Witte took offense that the petition was not shared with the Witte family prior to the meeting. Holloway added that she had not heard any concerns that they couldn't work through.
- Anders brought up the recommendation of the Plan Commission to re-configure the intersection of Hope and S. Hope Roads into a 90° angle. Holloway acknowledged that they would take that into consideration, and that it will impact the stormwater area.
- Doreen Burton, 2867 Wittewood Lane, didn't understand how the concept can be approved without further analysis of stormwater management. Hampton explained that approval of the concept is simply permission for the developer to move forward with that type of analysis. Without DNR and Dane County approval of stormwater management, the project would not be able to go any further.

MOTION by DuPlayee/Williams to approve the concept plan for lots 1, 2, 3, 4, 6, 7, 8, 9 on the area planned for neighborhood development, NOT lots 5, 10 and 11 that fall outside of that area.

MOTION CARRIED 5-0.

Dave Witte asked if the board would consider a concept to put 11 lots within the neighborhood development area. Anders went on record saying he would be 100% opposed to that, and DuPlayee and Williams agreed.

- C. Consider/Approve Town of Cottage Grove Board Resolution 2020-07-06: Approval of Final Plat of Kennedy Hills And Related Legal Documents Including Development Agreement, Easements and Declaration of Restrictions & Covenants: Atty. Anderson presented the resolution and related documents (Appendix C). Developer David Riesop and Realtor David Dinkel were present in person. Highlights included:
- Resolution 2020-07-06: Page one outlines the history of the development process, page 2 includes a breakdown of the items required before the Town can sign the final plat. Items that must be completed prior to the commencement of construction begin on page 2 and continue to page 3, which also includes continuing obligations of the developer.
 - Exhibit 1: Developer's Agreement: This document is the agreement between the developer and Town regarding public improvements and other matters relating to the plat.

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- Mr. Riesop questioned where utility boxes should be placed in light of the 12' drainage easements centered over lot lines throughout the plat as identified in section 2.8. TeBeest said that where drainage easements coincide with utility easements, the underground utilities should be kept to the upper portions of the easements. Utility boxes (pedestals) should not be placed within the drainage easements, but rather on the lot just inside from the drainage easements.
- Item 2.10 (d) states that a stop work order may be issued if the developer fails to submit a full set of construction plans for the CTH BB/Kennedy Road intersection to the Town Engineer and Dane County Highway Department on or before noon on July 31, 2020. It was noted that July 31st is a Friday, and since County staff does not work on Fridays in the summer, the developer should plan on submitting the plans by the County's close of business on July 30, 2020.
- Mr. Riesop asked for more time under item 2.10 (e) which mandates a stop work order if the County does not approve the final construction plans for the CTH BB/Kennedy Road intersection by September 1st, stating that how quickly the County completes their review is not within his control. Anders suggested that Riesop come to the Town in the event that the County indicates it will not be able to meet that deadline. Atty. Anderson said there is no basis to believe that the County will hold things up, but there is nothing wrong with extending the deadline to October 1st. **MOTION** by Hampton/DuPlayee to change the dates in item 2.10 (e) from September 1 and 4, 2020 to October 1 and 5, 2020. **MOTION CARRIED 5-0.**
- Exhibit 2: Perpetual Stormwater Drainage Easements: This easement includes the blanket easements between lots as well as the CTH BB Drainage Easement. There was discussion about the 30-foot buffer strip along lots 2-6, half reserved for drainage and half reserved for a berm with plantings. TeBeest envisioned the berm at the south or outer edge of the buffer strip, with the north or inner portion reserved for drainage to the Outlot 1. Riesop said that is what is intended, although Atty. Anderson did not think this was clear on the plat map. Building setbacks would be from the inside edge of the buffer strip.
- Exhibit 3: Temporary Turnaround Easement: This document grants temporary easements for temporary turnarounds at the dead ends of Scenic Oak Drive and Wood Ridge Trail that fall outside the limits of the plat. Once the road is extended through a future addition to Kennedy Hills, the temporary easement ends.
- Exhibit 4: Agreement for Maintenance of Stormwater Management Measures: This agreement is between the developer and the County, and was drafted by Dane County. Hampton asked who is supposed to perform the semi-annual inspections? Atty. Anderson said that the homeowner's association should make sure that the homeowners conduct the inspections (Exhibit 6). If it does not occur, the Town is authorized to do it at the lot owner's expense (Exhibit 5).
- Exhibit 5: Dedication and Supplemental Agreement regarding Stormwater management of Outlot 1: This agreement is between the developer and the Town, and gives the Town an independent right to meet the requirements of the County's stormwater maintenance requirements (Exhibit 4) should the homeowner's association fail to do so, and charge the cost back to the lot owners.

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- Exhibit 6: Declaration of Covenants, Restrictions, Conditions and Easements:
 - Williams questioned section 3.18 prohibiting solar panels. Hampton said they could be allowed if permitted by the homeowner's association.
 - Atty. Anderson noted that these restrictions can be pre-empted by State law or Town Ordinance.
 - Anders questioned whether US Flags would be considered signage under section 3.23. TeBeest found that Wis. Stats. 710.17 prohibits a homeowner's association from restricting the display of the American flag. Atty. Anderson also noted that State law says political signs cannot be prohibited, although they cannot be left out year around.
 - Hampton questioned why section 3.31 identified a 30-year term followed by successive 5-year terms rather than running into perpetuity. Atty. Anderson said this is standard language to get around the rule against perpetuity. In effect it continues until the process to cancel it is followed.
 - Atty. Anderson noted that the right to farm is included, as well as all the information about the Homeowner's Association. Hampton asked if section 4.5 should include a requirement to notify the Clerk of changes to the Board of Directors. There was general agreement that this is a good idea.
 - Atty. Anderson noted that a reference to section 3.28 needs to be corrected.
- Exhibit 7: Dane County Transfer of Development Rights Documents: These documents were put together by the County to execute the transfer of the development rights and the conservation easement (restriction against development) on the sending property. Atty. Anderson noted that the Clerk should sign as a cooperative entity, not as a grantor where her name was filled in.

MOTION by DuPlayee/Fonger to adopt Resolution 2020-07-06: Approval of Final Plat of Kennedy Hills And Related Legal Documents Including Development Agreement, Easements and Declaration of Restrictions & Covenants with the changes discussed tonight. **MOTION CARRIED 5-0.**

- D. Discuss/Consider speed bumps on Sandpiper Trail: **MOTION** by Williams/DuPlayee to table until after speed bumps are discussed at the Annual meeting on July 13th. **MOTION CARRIED 5-0.**
- E. Update on repairs to 2983 County Road BB: an email received earlier this evening from the property owner requested more time. He said he plans to have everything complete by the end of July. Consensus was to have an update on the August 3rd agenda, and strongly encourage the owner to attend the meeting.
- F. Discuss/Consider approval of a Parade or Race Permit for The Ride to use portions of the following Town roads: Deerfield, S. and W. Jargo, Nora, Uphoff, W. Ridge, Vilas and Gaston for a bike ride fundraiser on Sunday, September 27th: Due to COVID-19, organizers will not be present and riders are on their own this year. The Clerk said organizers are working with Deer-Grove EMS for contracted coverage. **MOTION** by Williams/Fonger to approve the permit. **MOTION CARRIED 5-0.**

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- G. Discuss/Consider quote for new air conditioner for Flynn Hall.: Hampton said the 20-year-old A/C unit has sprung a leak. A quote High Tech Heating & A/C Inc. proposed to install a new Daikin DX135A060 A/C unit and remove old equipment for \$3,675. **MOTION** by Fonger/DuPlayee to accept the quote, cost not to exceed \$3,800. **MOTION CARRIED 5-0.**
- III. Discuss/Consider quote and other options to install playground equipment at Capitol View Park: The resident who requested the new equipment has indicated she is unable to organize its installation. Dresen spent 3.5 hours with a representative of the vendor to mark out the post hole locations. The representative estimated installation would take 4 days for the Town's 4-person crew. Discussion was that if residents of Capitol View do not step forward to install it, the equipment should be offered to another subdivision with a park. **MOTION** by DuPlayee/Fonger directing the Clerk to send a letter to all Capitol View residences asking for volunteers to install the equipment, with responses in time for the August 3rd meeting. **MOTION CARRIED 5-0.**
- IV. Discuss/Consider Approval of Contract for Revaluation Assessment Services.
- V. Discuss/Consider Approval of Contract for Maintenance Assessment Services
MOTION by Anders/Williams to approve both the contract for revaluation and the contract for maintenance as presented. **MOTION CARRIED 5-0.**
- VI. Discuss/Consider hiring process for Public Works Employee vacancy: Andrew Perry resigned his position. **MOTION** by Hampton/DuPlayee to allow Dresen to handle the hiring process on his own. **MOTION CARRIED 5-0.**
- VII. CLERK'S OFFICE UPDATE: Over 600 absentee ballots for the August 11th Partisan Primary were mailed out on June 25th. The new bar code tracking system on the ballots is not working perfectly, she has been in communication with the elections commission on this. The WEC put out advice regarding a recent Supreme Court ruling that affects absentee voting, but then rescinded the advice when they learned the ruling is not yet in effect. A mandate is expected on or about July 21st.
- VIII. PUBLIC WORKS DEPARTMENT ACTIVITY UPDATE: Shouldering of the new blacktop is complete, and the Flynn Hall parking lot has been blacktopped. Crews will use a rented striper to stripe parking lots and center lines.
- IX. BOARD REPORTS AND COMMUNICATIONS:
- A. Hampton asked Fonger if he saw that the Village Board is discussing joint Emergency Government options tonight? Fonger is waiting for the Village Emergency Director to call him back about coming to a Town committee meeting to discuss how to split the funds from Hydrite, then he could take that back to the Village committee. The other option would be to have a joint meeting.
- B. Williams urged everyone to complete the Dane County Board survey regarding changing the number of County supervisors. Anders said this has been a topic of the DCTA Executive board, hoping to get a representative on the committee. They heard that if the board is made smaller, the County intends to hire full time administrative assistants for the board members, or make all the County Supervisors full time employees. Fonger also thought there was talk of having the supervisors run at large rather than having districts.
- X. COMMITTEE REPORTS:
- A. Deer-Grove EMS Commission: No report

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XI. Adjournment: **MOTION** by DuPlayee/Williams to adjourn. **MOTION CARRIED 5-0.** The meeting ended at 10:17 P.M.

Kim Banigan, Clerk
Approved 07-20-2020

Wetland

GAS EASEMENT

2 RDUs
Remaining

HOPE RD

Wetland

WITTEWOOD LN

S HOPE RD

500 Year Floodplain

Wetland

WRP Area

Existing and Proposed Outlet Structure

Existing and Proposed Culvert

Neighborhood Development Area