

**MINUTES OF THE MEETING OF THE
TOWN OF SHEBOYGAN TOWN BOARD
HELD ON TUESDAY, August 20, 2013 @ 5:15 pm**

A Town of Sheboygan Town Board meeting was held on Tuesday, August 20, 2013 in open session at the Town of Sheboygan Town Hall, 1512 No. 40th Street, Sheboygan, Wisconsin 53081, Sheboygan County, Wisconsin.

The meeting was called to order by Town Chairman, Daniel W. Hein. The following were also present at the meeting: Supervisors Ralph Schneider, James R. Schwinn, Char Gumm and John Wagner, Atty. Michael Bauer, Public Works Director William Blashka and Clerk Cathy Conrad.

Notice of the meeting was given to the public at least 24 hours prior to the meeting by forwarding the complete agenda to the official Town newspaper, *The Sheboygan Press*, and to all news media who have requested the same, as well as posting in four (4) different places.

Upon motions duly made and seconded, the Town of Sheboygan Town Board unanimously adopted the attached resolutions unless noted otherwise and made a part of these minutes by reference.

There being no further business the meeting was adjourned.

TOWN OF SHEBOYGAN TOWN BOARD

DANIEL W. HEIN, CHAIRMAN

RALPH J. SCHNEIDER, SUPERVISOR

CHAR GUMM, SUPERVISOR

JAMES R. SCHWINN, SUPERVISOR

JOHN WAGNER, SUPERVISOR

UPON MOTIONS DULY MADE AND SECONDED, THE FOLLOWING RESOLUTIONS WERE ADOPTED UNANIMOUSLY BY THE TOWN OF SHEBOYGAN TOWN BOARD IN OPEN SESSION

- 2) Pledge of Allegiance-The Chairman led those present in the Pledge of Allegiance.
- 3) Agenda-**Motion Gumm, second Schneider to approve the Town of Sheboygan Town Board agenda for August 20, 2013. Motion carried.**
- 4) Approval of the Minutes-**Motion Schwinn, second Gumm to approve the Town Board minutes of July 16, 2013 as presented. Motion carried.**
- 5) Constable Reports-The Constable had nothing to report. Schwinn stated that the budget has already been exceeded for labor expense. Parking ticket revenues are offsetting the wages. Constable VanDerPuy stated he feels the wages were under budget. The Town is doing more enforcement this year. The Constable recommended fixing the budget and continuing with patrolling. Hein felt that budget should be looked at closely for next year. The Constable asked to be part of the budget process. Supervisor Schwinn invited the constables to attend upcoming finance meetings regarding the budget. **Motion Gumm, second Schneider to accept the constable's reports as presented. Motion carried.**
- 6) Rezoning & Conditional Use Permit for Acuity, 3627 Union Avenue-Atty. Bauer explained that the Plan Commission held a hearing and recommended approval with the conditions that there be review and approval of drainage plan, review and approval of color renderings with neutral or earth tone colors, review of the landscaping plan with berms and screening and the storage amounts of gasoline and fertilizer must be kept to a minimum. **Motion Schwinn, second Wagner to concur with the Plan Commission and approve the Rezoning from R-2 Residential to B-4A Business and a Conditional Use Permit for Acuity, 3627 Union Avenue for a 60' x 100' metal utility/storage equipment building with landscaping, including berms and drainage as shown on the color rendering, and gasoline and fertilizer storage within the building to be kept to a minimum as needed for the nursery and landscaping operations. Motion carried.**
- 7) Sign Permit for Lake Country Academy, 4101 Technology Parkway-The Plan Commission considered this request as the naming of a building. **Motion Gumm, second Schwinn to concur with the Plan Commission and approve the Lake Country Academy sign application as a name of building exception pursuant to Section 9.2 of the Town Zoning Code. Motion carried.**
- 8) Amendment to the conditional use permit for Superior Lawn & Garden, 6510 Superior Avenue for a permanent driveway on Woodland Road. Behrens is continuing the plantings. A driveway/culvert permit for a permanent driveway on Woodland Road has been obtained from AECOM. M/M Leicht were present and stated the drawing is not to scale. They had concerns of the width of the driveway being increased to 35' and this was done to assure that semi's don't need to use their neighboring driveway to backup. They felt the drawing does not show the accurate driveway location. Leichts have talked directly with Behrens and felt disappointed that they were assured in the past that there would be no driveway and now it is approved. Hein stated that no one was opposed at the Plan Commission and the neighbors were not opposed to the landscaping plan Behrens proposed. Plan Commission recommended approval upon completion of the planting. Neighbors asked for the driveway to be moved as far south as possible. A 36' culvert pipe is recommended by the engineer. **Motion Schneider, second Gumm to concur with the Plan Commission and amend the Conditional Use Permit for Superior Lawn & Garden to allow a permanent driveway to be installed in the Woodland Road right-of-way with the driveway moved as far south as possible, with no signage on Woodland Road and completion of the landscaping plan as submitted. Motion carried.**
- 9) Gottsacker Development Agreement for future phases of Springtime Ridge-Atty. Bauer presented a Development Agreement for review. Gottsacker feels the development agreement as drafted is acceptable. The developer can construct the drainage system this year and can build a residence at the same time, but he must meet the deadlines in the agreement. **Motion Schwinn, second Gumm to approve the Second Development Agreement for Springtime Ridge with completion of the remainder of the road and drainage system with permanent pavement by deadlines specified in the Second Development Agreement. Motion carried.**
- 10) Conditional Use Permit for Homes for Independent Living of WI LLC on behalf of ORP Real Estate Holdings LLC for 1302 No. 49th Street for Community Based Residential Facility (CBRF). Several letters and pieces of correspondence were read into record. Atty. Bauer explained that the Plan Commission recommends granting an exception to the separation rule to permit Independent Living of WI as a CBRF and recommends approval of the

Conditional Use Permit with a 6' high screening fence along the north and south property line. Atty. Bauer explained that nothing else has changed since the last meeting and legal opinion is that the Town cannot defend themselves against the federal housing laws. **Motion Gumm, second Schneider to approve the Conditional Use Permit for Homes for Independent Living of WI LLC on behalf of ORP Real Estate Holdings LLC to operate a Community Based Residential Facility at 1302 No. 49th Street with the condition that a 6' high screening fence be constructed along the north and south property lines of the property, as recommended by the Plan Commission. Motion carried.**

Atty. Bauer explained the proposed moratorium and how the 2500 ft. State rule was struck down by the Federal Courts and another case that had a 500 ft. separation rule was found to be acceptable. The Plan Commission recommended no further CBRF's be allowed in Still Meadows Subdivision until an ordinance is adopted with separation language that could be acceptable by the Federal Courts. **Motion Schwinn, second Gumm to enact an ordinance creating a Temporary Moratorium prohibiting approval of exceptions for additional community or other living arrangements pursuant to Wis. Stat. Sec. 62.23(7)(1)1 within the Still Meadows Subdivision related to the 2,500 foot separation rule and shall remain in effect for not longer than 12 months from its effective date unless rescinded by the Town Board, as recommended by the Plan Commission. Motion carried.**

11) Economic Development Loan request by Muth Mirror-**Motion Schwinn, second Schneider to approve the Economic Development Loan to Muth Mirror for an expansion of their production facility at 4221 High Tech Lane in the amount not to exceed \$425,000 with a term of 5 years at a fixed rate of 2.5% with a personal guarantee and the Town taking appropriate collateral and a first party lien on equipment, as recommended by the Revolving Loan Fund Committee who met on August 5, 2013 with loan documents to be approved at the September Town Board meeting and disbursed by the end of September. Motion carried.**

12) Conditional Use Permit for Muth Company, 4221 High Tech Lane-**Motion Wagner, second Schneider to approve a 1,300 sq. ft. addition to the facility including a new break room, remodeling and approval of the landscape plan for the Muth Company, 4221 High Tech Lane, as presented and recommended by the Plan Commission. Motion carried.**

13) Jon Gumtow was present regarding the Schuchardt/Korman properties. Willow Creek is a trout stream that runs through the township and the Schuchardt/Korman property and Gumtow was part of group trying to acquire the property. At one point the City bought the Schuchardt property. Gumtow stated he feels there are some opportunities in the future for the Town to obtain the property. Gumtow stated improving the habitat of the river along I-43 is the Sheboygan River Basin Group's goal. They would like to work with Town to remove the culvert at the end of Greendale and restore the creek and are looking for funding to work with the Town to restore the stream. The group understands that there was a planned development for this land and they wish to preserve the northern portion of the parcel as the City has plans to develop only the southern portion of the parcel. The group has access to funds to acquire land and use as greenspace to preserve the northern portion and to provide passive recreation. Gumtow has talked to the City and they are not interested in northern part of Schuchardt property. Gumtow stated someone would have to apply for federal funds. The entire parcel was annexed to the City of Sheboygan. Gumtow stated his discussions were that the City doesn't want the northern portion of the property. Atty. Bauer stated the City Common Council would have to act to return the property to the Town. The Town would purchase the property from the City with grant monies. The Korman property borders the Schuchardt parcel. Gumtow is asking for the Town to work with them to acquire funding. Hein stated that if the Town doesn't have to put up any money to get the property back he would agree. Gumtow stated there would be deed restrictions and it would be a 100% grant. He also stated there may be some upfront costs and an appraisal of the property, thought to be minor expenses. Gumtow stated that most dollars would be federal dollars that preserve streams. **Motion Gumm, second Wagner to authorize Atty. Bauer to work with the Sheboygan River Basin Partnership and Jon Gumtow to acquire funding and grant monies regarding the Schuchardt/Korman properties. Motion carried.** This will be kept on future agendas.

14) Mirsab Mujkanovic was present regarding development of a parcel of land located on No. 32nd Street. Hein read information from Atty. Bauer along with copies of the warranty deed and survey and order vacating unimproved Lisa Avenue. Blashka was at the property earlier today. Blashka provided maps showing the driveway to the Bistan property. Mujkanovic talked to the Sheboygan County Planner and was told that only two addresses are allowed per private driveway so he would like his own private driveway and would like not to share with Bistan. Blashka reviewed the driveway area and road area. Blashka found property irons but is not sure if Town still has the full right-of-way. Bistan has placed stone and plantings in the road right-of-way. The Town could allow Mujkanovic to build his own private driveway that would allow him access to two parcels so he could build on those two parcels. He could then build a private driveway if the Town agrees and the Town would need to clarify in an agreement who is responsible for building and maintaining the road and if it is not built to Town standards that the Town would not maintain it. Bistan's

access comes off Lisa Avenue. Sewer is to the road, but water is not there. Mujkanovic stated he would make an 8' driveway and would start building the first home as soon as he sells his home in Cleveland. Blashka noted the water would come off Lisa Avenue and two different laterals would have to be run to the homes. Hein stated the driveway would have to be paved with asphalt or concrete, the Town would not allow gravel, it would be along the treeline and 10' wide. Hein informed Mujkanovic that water extension costs could be obtained from any plumber and a driveway estimate could be obtained from a contractor such as Wagner Excavating or Northeast Asphalt. Mujkanovic will keep the Clerk informed if he wants to be on a future agenda.

15) Advanced Disposal trash disposal services were briefly discussed. The Town has not obtained an updated final proposal in writing with all specifics. This item will be placed on the next agenda.

16) Intergovernmental Agreement re: Maintenance of Rangeline Road-The Town is still waiting for contact from Town of Sheboygan Falls Chairman Steve Bauer regarding the agreement. Supervisor Schwinn will contact the Town of Sheboygan Falls Chairman for an update.

17) Windmor Subdivision & Town & Country drainage issues-There was no response to the proposal from the bank to Guy Miller. Supervisor Schwinn asked about the costs that remain unpaid related to drainage discussions and drainage review by AECOM. Atty. Mayer stated he felt these costs are the Town's costs and are not the responsibility of his client though Mayer will discuss with his client and get a response back from the bank. This item will be placed on the next agenda.

18) Graveling of parking lot at Park-The Fire Department does not want to participate in this upgrade. Discussed was that any damage from any Fire Department event to the grassy area from lack of a parking lot would be charged to the Fire Department.

19) Town owned land Green Meadows Subdivision Outlots-There was nothing new to report. The Clerk was advised to send out letters to other local developers.

20) Dairyland/County LS Proposal-All municipalities have agreed except Manitowoc County. The Village of Cleveland just redid Westview Drive and this is for the front side of their property and some of those same people would be hit for an assessment for the backside of their properties and they would have a double assessment. Monies if approved could be set aside for up to 6 years. The hope is to get joint funding for the entire project with details not yet available. A future meeting will be scheduled within a month. Schwinn commented that he would like the project to wait several years as the Town is not in a financial situation to pay their match portion for several years. Manitowoc County is not in favor of the project due to having paved their portion of the roadway within the past 5 years and the road being in good shape. This will be discussed further as soon as more information is available.

21) Operator's Licenses-**Motion Gumm, second Wagner to approve the operator's licenses for Laura McDermott, 222 S. Terrace View Dr. 3A, Sheboygan for Holidays Pub & Grill; Allyson Krom, W1606 Santana Drive, Sheboygan for Texas Roadhouse; Elizabeth Schroeder, 1712 No. 18th Street, Sheboygan for Kwik Trip; Brian Werner, 2114 Meadowland Drive #201, Sheboygan for WalMart; and Sam Jensen, W4165 Main Road, Plymouth for The Blind Horse. Motion carried.**

22) Request to vacate a strip of land at the North end of No. 17th Street-Mr. & Mrs. Kelling requested the Town to vacate a strip of land at the north end of No. 17th Street. It was felt this is a neighbor dispute and it is not necessary for the Town to make any change. **Motion Schwinn, second Gumm to deny the request to vacate a strip of land at the North end of No. 17th Street. Motion carried.**

23) AECOM 2013 Proposal for Groundwater Monitoring at former Landfill site-No written notification has been received from the WDNR regarding the reduced scope of work, only verbal okay. The work was done in 2012 with billing in 2013. It was recommended that the same policy be followed with services performed in December and paid in January. **Motion Schwinn, second Gumm to have testing done in December \$8,100 and \$1,000 with billing in January. Motion carried.**

24) Noncriminal Forfeiture Schedule-VanDerPuy commented that he would like to see a noncriminal forfeiture schedule for property nuisance issues to avoid Court costs, Court time and legal fees. VanDerPuy commented that he would like to see a schedule that could be followed for issuance of the citations with time allowed to be paid without processing through the Courts, allowing offenders a "second chance". This will be put on the next agenda.

25) Revolving Loan Certification-**Motion Gumm, second Schwinn to accept and file the Revolving Loan Certification Report for January 1, 2013 - June 30, 2013 as presented. Motion carried.**

26) Reports-Several checks for expenses were held by Chairman Hein until he receives answers regarding items shipped to personal addresses, the Town Hall cleaning bill and fuel purchase. **Motion Gumm, second Wagner to accept the reports as presented. Motion carried.**

27) Correspondence-The correspondence was read into the record and filed.

Closed Session

The Town Board did not go into Closed Session.

28) Employment Issues-Establishing a starting wage or wage range for public works employees was discussed. The Town had a pay range several years ago, but the current employment policy does not include any pay range. **Motion Schwinn, second Schneider to establish wage range of \$18.00-\$23.00 for full time public works employees. Motion carried.**

29) Adjourn-**Motion Schwinn, second Gumm to adjourn the meeting at 7:00 pm. Motion carried.**

Minutes recorded by Cathy Conrad, Clerk