

MINUTES

**TOWN OF YORKVILLE
JOINT TOWN BOARD/PLAN COMMISSION
TOWN BOARD ROOM
UNION GROVE MUNICIPAL CENTER
MONDAY, JULY 10, 2017**

Call to Order

Town Board Chair Peter Hansen called the meeting to order at 6:00 p.m.

Roll Call

The following Town Board members were present: Peter Hansen, Sherry Gruhn and Terrence McMahon. The following Plan Commission members were present: Peter Hansen, Sherry Gruhn, Gary Fink, Douglas Nelson, Barbara Geschke and Robbie Funk. Nathan Skewes was absent. Also present were Mark Mickelson representing Short Elliott Hendrickson, Jon and Kay Erickson representing Erickson's Landscape Supply, Israel Vargas representing Home Run Heaven, Jim Fox, Yorkville Stormwater Utility District Commission Chair Stephen Nelson, Engineer Mark Madsen, Attorney Elaine Ekes, Clerk-Treasurer Michael McKinney and one unidentified attendee.

Approval of Minutes

Motion (Gruhn, McMahon) to approve the June 26, 2017 Town Board meeting minutes as presented, MC.

Approval of Financial Reports

Motion (McMahon, Gruhn) to approve the June Town and Stormwater financial reports as presented, MC.

Approval of Town Invoices

Motion (McMahon, Hansen) to approve payment of Town invoices as presented in the amount of \$111,659.02, MC.

Approval of Stormwater Invoices

Motion (Gruhn, McMahon) to approve payment of Stormwater invoices as presented in the amount of \$1,100.00, MC.

New and Unfinished Business - Discussion and possible action on all of the following:

Wisconsin Department of Transportation presentation on the proposed portion of the Interstate 94 North-South project involving the Durand Avenue (STH 11) interchange and the existing bridges over 58th Road

Hansen noted that the Wisconsin Department of Transportation representatives that planned to come to this meeting were not able to attend. He and McMahon discussed the information that was presented at a meeting they attended with the Wisconsin Department of Transportation on June 28 in Mount Pleasant to discuss this proposal.

No formal action was taken by the Town Board on this agenda item.

Site plan application submitted by Storage Authority/MABKGPNB, LLC (with Brian Depies as agent) for the parcel located at 19031 Spring Street (CTH C) (Parcel ID # 018-03-21-20-020-001) in the B-3 (Commercial Service) Zoning District to permit construction of an additional seven storage buildings at this address

Mark Mickelson appeared before the Town Board and Plan Commission to discuss this application. The following information was provided on this application:

- Proposed activity is construction of an additional seven storage buildings at this address, which would match the existing storage buildings at this address in material, color and height. The proposed east-west spacing between these buildings would range from 25 to 29 feet. These storage buildings would be constructed to the south of the existing stormwater basin at this address and would have the following dimensions:
 - Building 1: 30 feet by 150 feet (4,500 square feet)
 - Building 2: 40 feet by 120 feet (4,800 square feet)
 - Building 3: 40 feet by 110 feet (4,400 square feet)
 - Building 4: 40 feet by 100 feet (4,000 square feet)
 - Building 5: 40 feet by 160 feet (6,400 square feet)
 - Building 6: 40 feet by 160 feet (6,400 square feet)
 - Building 7: 40 feet by 160 feet (6,400 square feet)
- One full time employee works at this facility during office hours, which are 9:00 a.m. through 5:00 p.m., Monday through Friday, with this facility continuously open to tenants
- Construction anticipated to begin in late 2017 and end in early 2018
- An on-site septic holding tank serves the office building; these storage buildings would not be connected to this holding tank
- The existing open-air gravel storage area would remain
- Fencing would be added to the south of the existing stormwater basin and relocated along the east property line to the south of the existing stormwater basin
- A lighting plan was submitted with this application for placing 48 lights throughout this proposed addition

Mickelson noted that this proposal constitutes the final development of this parcel, adding that the remainder of this parcel is already developed. Madsen stated that he did not identify any major issues with the preliminary plan for this project, adding that the applicant still needs to submit a final site plan, grading plan, erosion control plan and storm sewer design plan for this site. He recommended that the applicant record an easement for the existing stormwater basin and any regional stormwater infrastructure on this site currently not under easement with the Racine County Register of Deeds prior to the issuance of any building permits for this project.

Madsen stated that one of the existing buildings on the site was constructed over a regional concrete stormwater pipe, adding that this may create issues later on if this pipe requires maintenance. He recommended that the Town's building inspector and Union Grove-Yorkville Fire Department staff review this application to confirm that there is sufficient spacing between each proposed building. Jim Fox asked whether the existing stormwater basin can handle any additional discharge from this proposed development and whether the Town has any regulations for controlling vegetation, such as cattails, in this stormwater basin. Madsen stated that most easements and maintenance agreements now require vegetation control.

Motion (Fink, Nelson) to recommend conceptual approval of the site plan application submitted by Storage Authority/MABKGPNB, LLC (with Brian Depies as agent) for the parcel located at 19031 Spring Street (CTH C) (Parcel ID # 018-03-21-20-020-001) in the B-3 (Commercial Service) Zoning District to permit construction of an additional seven storage buildings at this address, with the following conditions:

- ***That the applicant submit a final site plan for this site to the Town's building inspector and Union Grove-Yorkville Fire Department staff for review to determine whether sufficient spacing exists between the proposed storage buildings for fire safety purposes;***
- ***That the applicant submit a final site plan, grading plan, erosion control plan and storm sewer design plan for this site to the Town's engineer for review and approval;***
- ***That the applicant submit an easement for the existing stormwater basin and any regional stormwater infrastructure currently not under easement at this address to the Town's attorney for review and approval and subsequently records said easement with the Racine County Register of Deeds prior to the issuance of any building permits for this project;***
- ***That the applicant returns to a future joint Town Board/Plan Commission meeting with a final plan for this proposal, MC.***

Motion (McMahon, Gruhn) to accept the Plan Commission's recommendation and to conceptually approve the site plan application submitted by Storage Authority/MABKGPNB, LLC (with Brian Depies as agent) for the parcel located at 19031 Spring Street (CTH C) (Parcel ID # 018-03-21-20-020-001) in the B-3 (Commercial Service) Zoning District to permit construction of an additional seven storage buildings at this address, with no additional conditions beyond those recommended by the Plan Commission, MC.

Approval issued on May 8, 2017 to James Peterson Sons, Inc. for an asphalt and concrete recycling operation for the Colony Avenue (USH 45) reconstruction project on the parcel located at 18917 Spring Street (CTH C) (Parcel ID # 018-03-21-20-040-000) in the A-2 (General Farming and Residential II) and B-3 (Commercial Service) Zoning Districts

Hansen stated that he, McKinney and the Town's attorney met with representatives from James Peterson Sons and Erickson's Landscape Supply regarding their request for an amendment to this approval, adding that Erickson's has not been able to move much of the stockpiled topsoil off this site due to the weather. Jon Erickson noted that James Peterson Sons only plans to use the west end of this site, adding that he plans to move all stockpiled topsoil to the east end of this site for now. He stated that the topsoil that is still on this site has already been purchased and he is waiting for the weather to improve to remove it. He noted that the mulch on this site is in the process of being removed now. He stated that nothing else will be brought back onto this site until James Peterson Sons no longer needs to use it.

Gruhn asked Erickson whether he can access the east end of this site without interfering with James Peterson Sons' operation. Erickson stated that both activities will use the same access driveway off of Spring Street (CTH C). The Town Board and Plan Commission reiterated their desire to see all materials removed from this site as soon as possible and a new site plan approved by the Town before any new equipment or material is brought back to this site by Erickson. Nelson questioned whether a set date should be considered for the removal of topsoil and mulch from this site or if the amendment should be open-ended as to when this removal can be completed by. The Town Board and Plan Commission also discussed a request from James Peterson Sons to amend the occupancy dates for this site for this year to July 17, 2017 through

November 17, 2017. McMahon questioned whether conditions in November may impact James Peterson Sons' ability to occupy this site until mid-November.

Motion (Fink, Nelson) to recommend approval of the following amendment to the approval issued on May 8, 2017 to James Peterson Sons, Inc. for an asphalt and concrete recycling operation for the Colony Avenue (USH 45) reconstruction project on the parcel located at 18917 Spring Street (CTH C) (Parcel ID # 018-03-21-20-040-000) in the A-2 (General Farming and Residential II) and B-3 (Commercial Service) Zoning Districts:

- ***That the duration of occupancy for 2017 be from July 17, 2017 through November 17, 2017;***

with the following condition:

- ***That all existing equipment and material (including but not limited to mulch, soil, gravel and any unprocessed wood material) being kept on the entire portion of the parcel at this address north of Spring Street (CTH C) by the current business operator at this address be completely removed from that portion of said parcel, with no specified date requiring compliance but as soon as possible, and shall not be permitted to return until such time as James Peterson Sons, Inc. and/or their successors and assigns have vacated and fully restored the site and until such time as the Town of Yorkville (and, if required, Racine County) approves an updated site plan for that portion of said parcel for placement of equipment and materials, MC.***

Motion (McMahon, Gruhn) to accept the Plan Commission's recommendation and to approve the recommended amendment to the approval issued on May 8, 2017 to James Peterson Sons, Inc. for an asphalt and concrete recycling operation for the Colony Avenue (USH 45) reconstruction project on the parcel located at 18917 Spring Street (CTH C) (Parcel ID # 018-03-21-20-040-000) in the A-2 (General Farming and Residential II) and B-3 (Commercial Service) Zoning Districts, with no additional conditions beyond that recommended by the Plan Commission, MC.

Erickson stated that he planned to fill in the east end of his property on the south side of Spring Street (CTH C) with materials coming from the Colony Avenue (USH 45) reconstruction project. The Town Board and Plan Commission discussed whether this work would require Town approval. Madsen noted that these projects are typically reviewed by the state, adding that he is not sure what jurisdiction the Town would have over such a project.

Annual special event permit application submitted by Jose Luis Solorzano for the period of July 23, 2017, through July 22, 2018 for Home Run Heaven, located at 3400 South Sylvania Avenue (Parcel ID # 018-03-21-25-007-010) in the B-5 (Highway Business) Zoning District

Israel Vargas appeared before the Town Board and Plan Commission to discuss this application. The following information was provided on this application:

- Proposed activity is holding up to 12 outdoor events from July 23, 2017, through July 22, 2018 on the property, including car shows, multi-breed dog shows, music festivals and rodeos
- Events would be scheduled to end at 11:00 p.m. on Fridays and Saturdays and 9:00 p.m. on Sundays

Vargas stated that he would like to see the requirement for providing notice for each event to the Town reduced from three weeks to one week. He noted that he has used the same security company for all events for the last few years, adding that some of the security officers he uses are also certified paramedics. Geschke questioned why different names are used on the applications submitted to the Town and Racine County as well as on the site's insurance policy. Vargas stated that he is still helping the new event manager this year with events at this site. McKinney noted that the Town's application and this site's insurance policy have the same business name on them. Vargas stated that he purchased special event insurance for this site that only covers weekend events.

Motion (Funk, Fink) to recommend approval of the annual special event permit application submitted by Jose Luis Solorzano for the period of July 23, 2017, through July 22, 2018 for Home Run Heaven, located at 3400 South Sylvania Avenue (Parcel ID # 018-03-21-25-007-010) in the B-5 (Highway Business) Zoning District, with the following conditions:

- ***That a maximum of 12 outdoor events, such as car shows, multi-breed dog shows, music festivals and rodeos, be permitted from July 23, 2017, through July 22, 2018;***
- ***That events end no later than 11:00 p.m. on Fridays and Saturdays and 9:00 p.m. on Sundays;***
- ***That the applicant notify the Town of Yorkville at least one week in advance of any event being held;***
- ***That the applicant notify the Racine County Sheriff's Department at least one week in advance of each event where attendance is anticipated to exceed 200;***
- ***That the Clerk-Treasurer notify the Racine County Sheriff's Department and the Union Grove-Yorkville Fire Department in advance of all events;***
- ***That the applicant provide a certificate of liability insurance for the property to the Town of Yorkville before July 23, 2017;***
- ***That an ambulance and certified paramedic be on-site for the duration of each rodeo event until such time as the event is concluded;***
- ***That emergency medical personnel be on-site for the duration of each event until such time as the event is cleared of event attendees;***
- ***That a minimum of two security officers be on-site for security purposes for all events held on this property;***
- ***That a minimum of two off-duty police officers be on-site for security purposes for all music and rodeo events held on this property;***
- ***That at least one security officer be present for every 100 anticipated attendees during all events, with security officer patrolling both the event and parking areas;***
- ***That alcohol not be consumed or sold during each event in areas outside of the described premises on the current alcohol license;***
- ***That event attendees under the age of 21 not be permitted in areas where alcohol is sold or consumed;***
- ***That alcohol not be sold in quantities of more than two 12-ounce drinks per patron per visit to the area where alcohol is sold from the beginning of each event to 30 minutes preceding the scheduled end of each event;***
- ***That alcohol not be sold at all in the 30 minutes preceding the scheduled end of each event;***
- ***That the applicant personally provide management and supervision of each event;***
- ***That both holding tanks be pumped on a regular basis to prevent any future alarms, especially before any scheduled events;***
- ***That appropriate restroom and off-street parking facilities be provided for each event;***

- ***That dog shows be conducted within a show ring, with dogs either leashed or crated while kept on the premises during these shows and required to be current on their rabies vaccinations before being allowed on the premises. Aggressive dogs shall not be permitted on the premises;***
- ***That bulls be kept within a bullring during rodeos;***
- ***That the applicant is not required to return to the Town of Yorkville for approval of their recent site plan application for these events, which is being considered by the Racine County Economic Development and Land Use Planning Committee at their meeting on July 17, 2017, MC.***

McMahon excused himself from the meeting at 6:59 p.m.

Motion (Gruhn, Hansen) to accept the Plan Commission's recommendation and to approve the annual special event permit application submitted by Jose Luis Solorzano for the period of July 23, 2017, through July 22, 2018 for Home Run Heaven, located at 3400 South Sylvania Avenue (Parcel ID # 018-03-21-25-007-010) in the B-5 (Highway Business) Zoning District, with no additional conditions beyond those recommended by the Plan Commission, MC.

McMahon returned to the meeting at 7:02 p.m.

Ordinance No. 2017-01 Amending Article III of Chapter 30 of the Code of Ordinances for the Town of Yorkville relating to sex offender restrictions

Ekes provided background information to the Town Board regarding a recent federal court ruling that was related to the Village of Pleasant Prairie's sex offender ordinances. She also discussed the lawsuit that was recently filed against the Town regarding the Town's sex offender domicile restriction ordinance, which prohibited sex offenders who did not live in Yorkville at the time of their offense from relocating here upon their release. She provided a summary of the proposed sex offender ordinance updates to the Town Board. She noted that no revisions were proposed to the definitions or protected locations contained within the existing sex offender ordinance or to the Town's existing 1,000-foot child safety zones.

Ekes stated that the proposed sex offender ordinance update eliminates the sex offender domicile restriction. Gruhn noted that this change would remove the most restrictive limitation preventing sex offenders from moving into the Town. Ekes stated that she does not anticipate a large influx of sex offenders relocating into the Town as a result of this change. Nelson asked whether the federal court ruling related to the Village of Pleasant Prairie's sex offender ordinances could be overturned. Ekes stated that she is not aware of an appeal in this case, as the plaintiffs and Pleasant Prairie apparently reached a settlement agreement. She noted that sex offender ordinances in other communities have also been challenged, adding that many communities are reviewing their sex offender ordinances in the wake of these challenges.

Ekes noted that the proposed sex offender ordinance update also includes a proposed sex offender appeals process for sex offenders that may otherwise be in violation of the Town's sex offender ordinances for any other reason, adding that this provision provides that each sex offender that needs to file an appeal will receive due process and an individualized assessment of their request. She provided a summary of the appeals process outlined in the proposed sex offender ordinance update, adding that the proposed sex offender appeals board would be composed of Town Board-appointed Town residents rather than elected officials. She stated that the proposed sex offender appeals board could enter into closed session to discuss sensitive information related to each sex offender's appeal request. Nelson asked whether this board

would have immunity from any decisions they make. Ekes noted that this appeals board would have immunity from its decision-making as long as it acted within the scope of its duties. She stated that this board can have legal counsel present at its meetings. She noted that applicants can appeal decisions of the appeals board within 30 days to Circuit Court.

Ekes stated that it is good for sex offenders to be near a robust support system, including any resources or services that they may require. She discussed several groups that would be exempted from the sex offender residency restrictions in the proposed sex offender ordinance, such as those residing in the Town prior to the time the ordinance was adopted, those under the age of 17 at the time they offended, juvenile delinquents or wards of the state placed with a legal guardian, those who had not attained the age of 19 at the time of their offense and whose offense did not include the threat of force or violence and who were not required to register for the sex offender database, those who are able to live in the home of a parent or spouse, and under certain circumstances per Wisconsin Statutes, those who are on supervised release and the location of the sex offender is court-ordered.

Motion (McMahon, Hansen) to adopt Ordinance No. 2017-01 as presented, MC.

Resolution No. 2017-06 Prohibiting the disposal of certain tires at the Town of Yorkville's waste and recycling collection site, 19040 Spring Street (CTH C)

Hansen stated that the Town Board has several options regarding how to handle the disposal of tires at the Town's collection site, including making no changes, allowing tire collection only on those days designated for electronics collection in spring and fall, charging for the disposal of each tire or prohibiting the disposal of tires altogether. McMahon and Hansen both suggested that tire collection could be allowed twice per year at the Town's collection site, with ASDA running the event and collecting the tire disposal fee. Nelson stated that it would be a good idea to continue to allow the disposal of passenger vehicle tires at the Town's collection site.

Gruhn questioned whether the Town's current policy of allowing four tires per month per household was excessive. Jim Fox questioned how the Town would define a passenger vehicle tire given that some tires that would otherwise not be allowed under this proposal are smaller than passenger vehicle tires. He stated that businesses generally charge between \$110 and \$150 per ton for the disposal of tires. McMahon noted that only a small percentage of households in the Town currently dispose of tires at the collection site. Jon Erickson stated that he deals with illegal dumping of tires and furniture on his property. McMahon recommended that the Town Board discuss scheduling two tire collection events per year at their August 14 meeting.

Motion (McMahon, Gruhn) to adopt Resolution No. 2017-06 as presented, with the following conditions:

- ***That this resolution take effect immediately;***
- ***That the Town Board discusses scheduling two annual tire collection events at the Town's waste and recycling collection site, 19040 Spring Street (CTH C), at their August 14 meeting, motion carried with Hansen voting no.***

Pay request No. 2 submitted by Payne & Dolan, Inc. in the amount of \$177,736.24 for the Braun Road, 53rd Drive and Maurice Drive paving and drainage project

Motion (Hansen, Gruhn) to approve payment of Pay Request No. 2 to Payne & Dolan, Inc. in the amount of \$177,736.24 for the Braun Road, 53rd Drive and Maurice Drive paving and drainage project, MC.

2017 Wisconsin Department of Transportation Highway Safety Improvement Program application

McKinney noted that the Town has submitted applications in the past for funding through this program for 61st Drive. The Town Board opted against submitting an application for this funding for any Town roads.

No formal action was taken by the Town Board on this agenda item.

Upcoming events on the properties located at 14001 and 14007 Washington Avenue (STH 20)

McKinney stated that two music events were planned on the properties located at 14001 and 14007 Washington Avenue (STH 20) in late August and early September. He noted that the event scheduled for late August included the use of the large vacant parking lot to the south of these two properties for patron parking, while the event scheduled for early September only included the use of these two lots for the event and patron parking. He stated that a site plan request for these two events was scheduled to be on the agenda for the Racine County Economic Development and Land Use Planning Committee meeting on July 17. He noted that the alcohol license premises description for these two events may need to be amended, as the current premises description for the property only includes the bar and restaurant areas. Geschke recommended that more information be provided on proposed parking and the hours of operation for both events. The Town Board and Plan Commission agreed that the site plan review set for consideration by the Racine County Economic Development and Land Use Planning Committee at their meeting on July 17 should also be reviewed and acted upon by the Town Board and Plan Commission at their August 14 meeting.

No formal action was taken by the Town Board on this agenda item.

Reports

Building Inspector's Report: The Building Inspector was not present to provide his report to the Town Board.

Motion (Hansen, Gruhn) to approve and file the Building Inspector's report as presented, MC.

Engineer's Report: Madsen noted that he had no information to report to the Town Board.

Yorkville Stormwater Utility District Report: Stephen Nelson noted that he had no information to report to the Town Board.

Clerk's Report: McKinney reported to the Town Board on the following:

- That the Stonecrest Shores subdivision conservation easement plan of action that the Town Board had originally requested to discuss at this evening's meeting has been delayed until the August 14 joint Town Board/Plan Commission meeting due to delays in getting the plan put together and approved
- That the variance request discussed by the Town Board at their June 26 meeting for the property located at 14001 Washington Avenue (STH 20) was approved by the Racine County Zoning Board of Adjustment

- That the variance request discussed by the Town Board at their June 26 meeting for the property located at 18506 52nd Road was denied by the Racine County Zoning Board of Adjustment

Other – Comments, questions and suggestions

McMahon asked whether there were any updates on the Racine Water Utility's prospective offer to purchase the Yorkville Water Utility District. Hansen stated that this topic will be discussed at next week's Water Utility District Commission meeting. Geschke asked whether there was any timeline on reestablishing the Town's long range planning committee. Hansen stated that this issue had originally been postponed until after the prospective sale of the Yorkville Water Utility District had been resolved.

Adjournment

Motion (Gruhn, McMahon) to adjourn, MC. The meeting was adjourned at 8:16 p.m. The next scheduled Town Board meeting is Monday, July 24, 2017, at 6:00 p.m.

Michael McKinney
Clerk-Treasurer