

# SAUKVILLE PUBLIC HEARING AND TOWN BOARD MEETING MINUTES

October 17, 1995 7:00.m.

Saukville Town Hall 3762 Lakeland Road

TO: TOWN BOARD MEMBERS
FROM: Walter H. Clarke, Town Clerk

## **PUBLIC HEARING:**

Consideration of the proposal to amend Section 10.6 of the Town's Zoning Ordinance to require a majority rather than an unanimous vote of the Town Board to amend said Ordinance. The Saukville Town Plan Commission recommended against the change.

Chairman Gute opened the public hearing and called for public comment. A synopsis of speakers' comments follows:

### **Bill Niehaus, 3439 Knollwood Rd., speaking against:**

Mr. Niehaus stated that as the existing system made it difficult for the Town Board to change zoning for special interests, it helped support property values and insured that the character of the Town would not change radically in a short period.

### **Gary Ahrens, attorney for Michael Best & Frederick, representing Donald Tesker, speaking in favor:**

Mr. Ahrens stated that he believes that the current system hands absolute power to the Town Board Chairman, was undemocratic, and give too much power to an appointed Plan Commission.

### **Albin Vande Boom, 2237 Hillcrest Rd., speaking in favor:**

Mr. Vande Boom stated that he feels that the current system is undemocratic and should be changed.

### **Mary LaVelle, 3993 Birchwood Rd., speaking against:**

Mrs. LaVelle pointed out that the Plan Commission is confirmed by the full Town Board and is not appointed by the Chairman. She also favors making it difficult to change zoning and override the recommendation of the Plan Commission. She stated that the Plan Commission is a representative cross section of the community and provides citizen input into zoning regulations. She stated that the current proposal is emotional and brought forward to benefit one family; it would be much better to defer changing our zoning codes through a logical and systematic process by first developing a master land use plan.

### **Ron Horn, 3165 Tree Lane, speaking against:**

Mr. Horn stressed the need for a comprehensive long-range plan and suggested adoption of his suggested amendment that he had introduced earlier. He cautioned against legal actions that detract from these efforts.

### **Barbara Jobs, 4474 Hwy I, speaking against:**

Mrs. Jobs stated that in her numerous years of public service, she has never experienced public officials using their power to benefit a special interest to the detriment of all the taxpayers in the community. She believes that this is what is occurring in this case. She requested that a report prepared by her family be included in the Town's records.

### **Jeff Johnson, 3360 Hwy I, speaking against:**

He pointed out that the Plan Commission is approved by the Town Board and should not be overruled easily. He questioned why Mr. Opitz had not challenged this ordinance previously in his term on the Plan Commission?

### **Rose Haas Lieder, N6623 Hwy 57, Belgium, speaking for:**

Mrs. Lieder is an Ozaukee Board Supervisor and secretary for the Ozaukee County Economic Development Corporation. One of the principles of the latter is retaining businesses in the County and she believes that the Teskers are good people and well respected and deserve to be accommodated. She stated that she was not sure as to the procedure for changing Section 10.6 and asked that the Town attorney be heard.

### **Karen Christianson, Saukville Town Attorney, advising on the procedure for changing Section 10.6:**

Ms. Christianson reiterated her belief that the changing of this aspect of the zoning ordinance was “procedural” and did not require an unanimous vote of the Board to overrule the recommendation of the Plan Commission. She cited the origin of town powers versus city powers as her basis of opinion.

**Roger Bolls, 3240 Hwy W, speaking for:**

Mr. Bolls stated that majority rule should apply in Town. He stated that he believes that the Plan Commission is divided 4 to 3 and that in cases where there is not unanimous agreement then a simple majority of the Town Board should prevail on planning issues.

**Joe Hollrith, speaking against:**

Mr. Hollrith attempted to gain a straw vote of those present for or against the change. The show of hands appeared to support not changing the ordinance.

**Robert Charnitz, 3437 Bluegoose Rd, speaking for:**

Mr. Charnitz stated that the Chairman appoints like-minded individuals to the Plan Commission and he believes that this gives him undue influence.

**Kate Smallish, 4844 St. Finbars Rd, speaking against:**

Ms. Smallish questioned why the Teskers need industrial land to test tractors, when the current zoning would permit such activities? She believes that this land is owned by outside investors as well as the Teskers and she is suspicious of their motives. Why do they need 35 acres when their current 5 acres seems to be adequate? Could this lead to 7 more plants and an industrial park. Who would pay for utilities for an industrial park? She believes that the town would be obligated. She believes that there is a hidden agenda in the request.

**Larry Beverung, 3835 Hwy I, speaking against:**

Mr. Beverung, who is a member of the Plan Commission, pointed out that there is no opposition on the Commission to reasonable expansion of Tesker Manufacturing, but it was not clear that they needed an additional 35 acres in the near future. He pointed out that by changing Section 10.6 the Board members would be losing the power to veto inappropriate recommendations by the Plan Commission.

**Frank Parsons, Forrest Lane, speaking against:**

He does not like the timing of the proposed change. The issue is now highly emotional because a family business is affected. Any changes to an ordinance that has been in place for over 30 years should be changed only through a lengthy and non-emotional process.

**Al Heon, 4891 Blueberry Lane, speaking against:**

Mr. Heon stated his belief that the Plan Commission was democratically approved by the full Town Board and there is sufficient diversity on the Commission to reach reasonable decisions. He characterized Attorney Ahrens contention that Chairman Gute is exercising dictatorial power as a smoke screen. He reminded the Board that the last two times that the Town Board did not follow ordinances, they were sued and lost. He also challenged Attorney Christianson’s opinion as no case law was cited. He noted other legal opinions which were contrary to her opinion.

After hearing all interested parties, Chairman Gute moved to close the public hearing.

## **REGULAR TOWN BOARD MEETING:**

1. **Call to Order**
2. **Pledge of Allegiance**
3. **Approval of Minutes of September 19, 1995, meeting.**  
Opitz moved to approve; Fellenz seconded; motion carried.
4. **Discussion/Action on recommendation of the Plan Commission to deny the request to amend Section 10.6 of the Town’s Zoning Ordinance to require a majority rather than an unanimous vote of the Town Board to amend said Ordinance.**  
Fellenz cited ordinances from neighboring communities that do not require unanimous votes to overturn a recommendation by the Plan Commission. Fellenz stated that he supports a simple majority to overrule the Plan Commission and that he wants to have this power when the master plan is formulated.  
Opitz agreed that because of the pending master plan, he would like veto power over the plan commission as well. He stated that he is concerned that existing business are being harassed by people who do not know what it takes to run a business.  
Gute stated that he has pondered this issue long and hard and has sought opinions from a number of expert and legal sources. Gute does not agree that the change proposed to Section 10.6 is merely procedural but rather a

key provision of a comprehensive zoning ordinance. He cited a recent Wis. Supreme Court opinion as determinative in this matter. He also stated that he considers it inappropriate to make such a change to the zoning ordinance while a major zoning decision is pending. He recalled the difficulties that have arisen in the past when the Town Board did not obey their own ordinances.

Gute then called for a motion. Attorney Christianson then stated that she had prepared a written ordinance amending Section 10.6 for consideration and apologized that she was unable to distribute a fax of this to Board members until late today. She also stated that the Supreme Court decision cited by Chairman Gute did not apply. Gute read the ordinance into the record, but indicated that he did not agree with the preamble. Opitz moved to approve the ordinance prepared by Christianson amending Section 10.6 of the Zoning Ordinance; Fellenz seconded. Opitz and Fellenz voted affirmatively; Gute voted against. Gute ruled that under Section 10.6 of the Zoning Ordinance that an unanimous vote was required to amend said ordinance and that the motion failed.

**5. Discussion/Action on Plan Commission's recommendation to engage SEWRPC as a consultant in creating a master land use plan.**

Fellenz stated that he supported SEWRPC because of price and capabilities, but cautioned that working with them would probably be more work for the Plan Commission than using a private consultant. Gute moved to confirm the recommendation of the Plan Commission to engage SEWRPC; Fellenz seconded; motion carried unanimously. Gute stated that he would prepare a letter with the assistance to the Clerk formally asking SEWRPC to begin the process. He stated that in the meantime, the Plan Commission intended to go ahead with a survey of Town residents regarding their vision as to the future of the Town.

**6. Refer for Public Hearing Robert Roden's request to rezone Tax Key #08-022-13-0008.00 from A-2 to A-1.**

After noting that we had all the relevant information and fees, Gute moved to refer the request to public hearing at the November Town Board meeting; Opitz seconded; motion carried.

**7. Building Inspectors Report- John Derler**

**A. Building Permits**

Derler reported a quiet month: 2-A1 sheds, 1-A2 shed, 1-remodel porch, 1-sign permit, and 1 home addition permit. The home for the Coverts on Lakeland Road is delayed and they will apply for an extension of their trailer permit in November.

**B. Inspection of Sauk Trail Range.**

Derler toured the facility and reported that he is dismantling some of the bunkers. He stated that no building permits were required. Gute read an exchange of letters with Mr. Bartels in which Mr. Bartels charges the Chairman with harassment. Gute denied the harassment.

**C. Discussion/Action on performance of Town electrical inspector.**

Phyllis Linden reported that a teller at the Newburg State Bank had a problem with the Town Electrical Inspector Mr. Hupfer in that he insisted on cashing a check made out to the Town. She reported that Hupfer was not following the new Town resolution requiring inspectors to give all moneys collected to the Town Treasurer. Hupfer stated that he will follow the resolution in the future.

**8. Discussion/Action on Town Assessor's maintenance contract for 1996.**

The Clerk presented a copy of the 1996 contract in which the assessor raised fees from \$4250 to \$4500 per year for maintaining the assessment roles. Fellenz moved to approve the contract; Opitz seconded; motion carried.

**9. Discussion/Action on PASER road evaluation/inspection and town roads and signs.**

A special meeting of the Town Board traveled all Town roads on October 5, 1995. They noted sign and road repair and requirements:

- a. Weight limit signs (2) are being placed on Cold Springs Road.
- b. Repair a bent No Parking sign at the west end of Hawthorne Road.
- c. Replacing a Dead End sign on Highview Lane.
- d. Placing an advance curve and advisory speed limit (20mph) on Singing Hills Road.
- e. New weight limit sign on Center Road west.
- f. Patch on the curve on Birchwood in 1996.
- g. Repair patches south of Center Lane on Blue Goose in 1995.
- h. Gravel on the hill on Center Lane in 1996.
- i. Patch on east section of Cold Spring near the Industrial Park.
- j. Crack filling on Deerfield Road in 1996
- k. Fairway Drive is an abandoned subdivision that needs gravel in 1996 and 1997. Opitz suggested abandonment of the road if and when possible. This would need to be on the agenda for a future meeting.
- l. Hillcrest Road—due to annexation, the Town will lose the south lane going west from the village;
- m. Knollwood Road—patch on the East near the intersection with Blue Goose in 1995 or 1996.
- n. Riverpark Road—needs gravel on the west end.
- o. Riverview Trail is a dead end that needs to be changed on survey map and paved in 1996 or 1997.
- p. Sauk Road west needs more gravel in 1996.

- q. Sauk Road east needs overlay and chip seal in 1996.
- r. Shady Lane overlay and chip seal in 1996.
- s. St. Augustine needs brushing in 1996.

Opitz reported that he did not have an estimate from the County on this work, but money available depends on the snow plowing this winter. Fellenz suggested that we proceed with additional work this year because the mild winter last year left us with additional funds. Opitz moved to spend an additional \$15,000 (upper limit) on road maintenance this year; Fellenz seconded; motion carried.

**8. Discussion/Action on Local Road Improvement Project (LRIP) project for Deerfield Rd.**

Gute reported that we were eligible for \$4,000 of State assistance to overlay Deerfield Road in 1997. Opitz moved to submit Deerfield Road as the LRIP project for 1997; Fellenz seconded; motion carried.

**9. Follow-up on speed limit petition for Birchwood Road proposed by Mike Wollmer, 3489 Birchwood Road.**

Mr. Wollmer surveyed his neighbors and stated that 45 mph would be reasonable for this road. Opitz will pursue this with the County Safety Committee and report at the next meeting.

**10. Recycling Report.**

Gute reported that the new sign had a grammatical error and would be fixed. He also reported that he had received a complaint that the operator was 10 minutes late opening the center. Opitz reported that they would soon clean up the debris next to the center and place a snow fence to block dumping.

**11. Treasurer's Report**

Linden presented the cash flow for the month. She also included information on the State's LGIP fund.

**12. Clerk's Financial Report**

**A. Year to date budget status**

Clarke presented the status of the budget and noted continuing overrun in legal expenses. Highway maintenance continues to have a significant under-run.

**B. Claims**

Clarke presented the following claims:

Num	Name	Memo	Amount	Balance
1036	Terry M Hoffman	\$10 secretary supplement	(46.17)	(46.17)
1037	Newburg Fire Department, Inc.	Fire Protection	(2,832.63)	(2,878.80)
1038	O'Meara, Eckert, Poulos & Gonring	Legal Fees-September 1995	(781.00)	(3,659.80)
1039	Lehn's Catering	WTA Meeting	(80.00)	(3,739.80)
1040	Baumann's Food Market	WTA Meeting	(12.62)	(3,752.42)
1041	Owens Office Products	Copier Cartridges	(23.50)	(3,775.92)
1042	Port Publications	Publications	(20.63)	(3,796.55)
1043	Ozaukee County Hwy Dept.	Aug-Sept Charges	(24,879.98)	(28,676.53)
1044	Internal Revenue Service	Quarterly Form 941	(338.15)	(29,014.68)
1045	Phyllis V. Linden	Postage and Misc.	(33.00)	(29,047.68)
1046	Fred Last Plumbing Inc.	Plumbing Inspections	(155.00)	(29,202.68)
1047	Title West Inc. - Muni Account	Excess pmt. 9/14/95	(14.50)	(29,217.18)
1048	John Derler	9/12 to 9/24	(360.00)	(29,577.18)
1049	Walter H. Clarke	Supplies, Mileage	(166.91)	(29,744.09)
1050	Ameritech	414 675-9217 556 2	(29.67)	(29,773.76)

Fellenz moved to approve the claims; Opitz seconded; motion carried.

**C. Discussion/Action on Town Mailing Address**

Clarke proposed to install a mail box at the Town Hall to avoid continuing addressing problems. Security concerns were voiced and several alternatives were suggested. Clarke stated that he would investigate alternative mailboxes. Gute moved to approve delivery to the Town Hall; Fellenz seconded; motion carried.

**D. Availability of County Public Access System.**

Clarke reported that the Town computer was now connected to the Ozaukee Public Access System for inquiries into land records and Clerk of Court records.

**E. 1996 Preliminary Proposed Budget**

Clarke presented a draft budget which would decrease the tax levy by about 16%. He noted that this was achieved in spite of the County rescinding about \$26,000 in road maintenance funds. Linden noted that the road maintenance could not be increased without a special Town meeting after adoption. Clarke suggested retiring the debt on the Town Hall to save interest expenses. He also suggested that we set aside funds in 1996 for the 1997 road capital improvement fund to mitigate the annual swing in the tax rate.

**14. Correspondence/Floor**

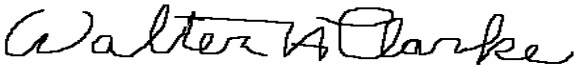
**A. SEWRPC Map Status**

Gute described a map that he had received from SEWRPC which would form the basis of a new zoning map for the Town.

- B. Exchange of letters regarding Bartel shooting range.  
Gute noted that he had addressed this in a previous agenda item.
- C. Follow-up on letter from Village of Fredonia re: Industrial Park Expansion—Jack Fellenz  
Fellenz reported that the park had been in existence for a long period of time and that it would eventually reach Meadow Lark Rd. Gute expressed frustration that there was no coordination with neighboring villages in the planning process.
- D. Follow-up on letter from Village of Saukville re: Ambulance Service defaults.  
Gute reported that he had a rough map of where the various ambulance services extend. Newburg and Waubesa are very lenient. He asked Chris Lear to “cost account” the defaults by spreading the unpaid amounts over all users. There is also a state program to cover these bills.
- E. Letter from Donald F. Race.  
Gute read a letter from Don Race that formally asks the Town to help in dealing with Charter Steel in noise mitigation. Gute also announced a plant tour offered by Charter. Fellenz stated that the noise bothers different people differently and he and Gute stated that there is not much which can be done as it is not within the Town. Don Race spoke on the issue by reiterating his frustration and his fear that the area will become a “slum.” Fellenz recalled a meeting with Charter officials in which they essentially said that there was not much more which could be done. Ron Horn questioned whether there were noise ordinances in the state.
- F. Call from Ron Pollack, Cedar Sauk Rd.  
Mr. Pollack who lives in the Town of Cedarburg claims that the Town of Saukville is responsible for maintaining a culvert adjacent to his property. Opitz will check with the County Highway Dept.
- G. Invitation from Charter Steel for open house and plant tour.  
This was discussed previously.
- H. Advisory on 1995 Wisconsin Act 34 from Wisconsin Town’s Association.  
Gute described a new law that will allow the Town to combine the jobs of clerk and treasurer and appoint rather than elect the individual. This would require a referendum in the spring of 1996. The advantage is that the Town would be able to retain a more qualified and highly paid individual for the increasingly complex position and assure continuity in the position. The law also allows an individual to serve more than one Town in this capacity.
- I. Items from floor.  
One citizen expressed his gratitude to all the Town officials for their efforts.

**15. Adjournment**

Fellenz moved to adjourn; Opitz seconded; motion carried.



Walter H. Clarke, Clerk, Town of Saukville