

**VILLAGE OF FREDONIA**  
**FREDONIA VILLAGE BOARD**  
**August 9, 2007**

The public hearing on the proposed rezoning of 603 South Milwaukee Street from A-1 (Agriculture) to I-1 (Institutional) and Rs-2 (Single Family Residential) was called to order at 7:00 p.m. by President Short. No comments were received.

**Close of Public Hearing and Call to Order of Regular Village Board Meeting**

The public hearing was closed and the regular village board meeting was called to order at 7:02 p.m. by President Short. Members present: Joseph Short, Jill Bertram, Frederick Buchholtz, Don Dohrwardt, Bruce Laabs, and Larry Palm. Also present: John Blasczyk, Carla and Kendall Thistle, Scot Roberts, Mary Jane Depies, John Depies, Mark Jaeger, Allen Neumann, and Jo Ann Wagner. Arriving later: Nancy Washburn, Jack and Louise Janik.

**Pledge of Allegiance**

The Pledge of Allegiance was recited. (Nancy Washburn arrived).

**Approve Minutes of July 19th and August 2nd Village Board Meetings**

Minutes from the July 19, 2007, regular village board meeting, and the August 2, 2007, special village board meeting were approved as presented on a **MOTION** by Dohrwardt, seconded by Buchholtz, and carried.

**Operator Licenses**

Operator licenses for Debra Asleson and Brenda Regazzi were approved on a **MOTION** by Palm, seconded by Bertram, and carried.

**Special Gathering Beer License**

Approval of the special gathering beer license was postponed until the next meeting.

**Payment of Bills**

With three additional bills – Cardmember Services (Home Depot) for \$158.53; Neumann Construction for \$14,500; and Veolia for \$7,137.59, the general fund, water, and sewer bills were approved for payment on a **MOTION** by Palm, seconded by Dohrwardt, and carried.

**Citizen Questions and Comments**

John Depies stated that two weeks ago when 4.9” of rain fell in two hours, he again had flooding with serious consequences to his property. He stated that at one time he had about 20 acres of land under water with damage to his crops and to the aquatic life in his pond. He is also concerned about contamination of his well and his field drainage system. He would like a response from the village in writing about what will be done.

Kendall Thistle stated that the “fixes” that were done to the storm water management plan north of his property are not working. With the large amount of rain, he had a huge inflow of water on his property. He noted that the area that was to be drained by the 3’ pipe was completely flooded and that one inlet was blocked so water could not enter the pond. Thistle stated that he was told that the only water he would see would be from the side of the hill. However, the rain wore 6” deep fissures down the side of the hill. He is asking that these issues be addressed and corrected.

Mary Jane Depies stated that she was told that the farm would not receive any more water than it did before development. She stated that the farm has never had twenty acres under water and questioned what the remediation plan is.

John Depies asked that the village provide a written statement on how they will address these issues. Short stated that the village will not provide a written statement at this time as Depies has publicly stated that he will litigate this issue against the village. Depies stated that he has not retained legal counsel and has only noted that litigation is an option.

He noted that this was taken out of context and that the DNR has also taken items out of context. Short requested that Depies put in writing his concerns, what he wants the village to address, and supply the village with copies of any written documentation that he has. Short asked Depies if his contention is that the primary cause of his water problem is the Mastercraft Development. John Depies stated that it is the Mastercraft Development (Regency Hills Village Green) as the developer, helped by the Village of Fredonia, and assisted by the Wisconsin Department of Natural Resources. (Louise and Jack Janik arrived)

### **Unfinished Business**

The Public Works Committee will meet on Monday, August 20, 2007, at noon, to discuss the Martin Drive project, including the road grade and a possible change to village ordinance regarding retaining walls. These items were postponed until the next meeting.

### **Ordinance No. 2007-06 Approving Rezoning of 603 S. Milwaukee Street**

In two places in the ordinance the property was referred to as 603 Fredonia Avenue. A **MOTION** was made by Dohrwardt, seconded by Palm, to change this to read 603 South Milwaukee Street. Motion carried.

A **MOTION** was made by Laabs, seconded by Bertram, to adopt Ordinance No. 2007-06 approving the rezoning of 603 S. Milwaukee Street from A-1 (Agriculture) to Rs-2 (Single Family Residential) and I-1 (Institutional) contingent on clear title from the mortgage company. Motion carried.

### **Land Division - 603 S. Milwaukee Street**

The certified survey map dividing the five acre property at 603 S. Milwaukee Street into a 3.85 acre lot, a 1.05 acre lot, and dedicating 33 feet of road right of way was approved contingent upon clear title from the mortgage company on a **MOTION** by Dohrwardt, seconded by Laabs, and carried.

### **Letter from Mary Jane Depies Requesting Changes to Village Board Meetings**

The July 31, 2007, letter from Mary Jane Depies requesting the use of a public address/audio speaker amplification system at all village board meetings and that all village board meetings be taped and transcribed was read. The possible need for a speaker system was referred to the Public Works Committee. Dohrwardt noted that the village has investigated the practicality and cost of purchasing a system in the past. The intent is to install a system in the new shared municipal building. Thistle stated that under the guise of shared services, the school board has a small system that they use, that could perhaps be used for village board meetings.

### **Acquisition of Road Right of Way at 218 Fredonia Avenue**

This item was postponed until the next meeting.

### **Report on Storm Event of July 26, 2007**

The August 1, 2007, letter from the Wisconsin Department of Natural Resources to John Depies regarding their July 27, 2007, and July 30, 2007 conversations regarding the July 26, 2007, rain storm was read. Per the letter, the observations and perspectives shared by John Depies during these conversations are:

- That 4.9 inches of rain fell in Fredonia on Thursday, July 26, 2007 between 8 p.m. and 10 p.m.
- That by 10 p.m. ten acres of the Depies farm land was flooded.
- That this had never happened prior to the Village Green development.
- Depies requested that the DNR proceed with a referral recommendation to the Department of Justice because of the storm water and flooding impacts that occurred to his property.
- Depies requested that the DNR stop the Village Green development.
- Depies expressed concern with the design of the storm water east pond and was upset with the development.
- Depies was frustrated that he was not invited to the enforcement conference that was held in April.

- Depies indicated there will be litigation with all parties involved.

The DNR noted in the letter that the pre-development 2 year, 24 hour peak flow rate is 80.67 cubic feet per second (cfs) while the post development 2 year, 24 hour peak flow rate is 17.24 cfs which more than complies with ch. NR151.12 Wis.Adm.Code.

According to Southeastern Wisconsin Regional Plan Commission, a 3.64 inch rainfall in 2 hours would equate to a 100-year event. The rainfall of 4.9 inches in 2 ½ hours is well above the 100 year interval storm in such a short period of time. The DNR also noted in the letter that the east basin meets their wet detention basin technical standard for construction site runoff. However, the pond must be inspected and maintained. The DNR's Storm Water Program does not regulate drainage or land use issues. They regulate the pollutants in storm water by requiring the installation and maintenance of best management practices. Drainage is covered by common law doctrine and there is no specific statute that gives the DNR the authority to intervene in private drainage and/or property damage disputes. The DNR recommended in the letter that Depies continue to work with the developer and the village on the drainage and/or flooding concerns. John Depies stated that the letter from the DNR left certain things out and also contained inaccuracies. He stated that he told the DNR that he had not taken legal action and that Jim McNelly, from the DNR, suggested that he take legal action.

### **Resolution No. 2007-I Urging Ozaukee County to Deny Use of Land Trust Fund to Purchase Squire's Property**

Dohrwardt noted that the owners of the Squire's Golf Course no longer want to operate the property as a golf course. They would like to sell the property. They have been approached by the Washington Ozaukee Land Trust about turning the property into a nature reserve. They are asking for state and federal funds to turn this property into public ownership. Dohrwardt stated at this point in time, when the state budget has a two billion deficit, the state should be looking at the need to fix roads and bridges, not the purchase of nature reserves. He also noted that the loss of the value from the property will result in about \$12,000 of taxes that Northern Ozaukee School District will need to collect from other properties. Dohrwardt believes other options should be explored before the property is taken off the tax rolls. Scot Roberts asked what the negative side to the park would be besides the loss of tax dollars. Dohrwardt noted that the current business owners tried to have the property rezoned, but many of the property owners in the area did not want it rezoned. However, you cannot make a business stay a business. Dohrwardt stated that at a minimum, if the county allows the purchase by the Washington Ozaukee Land Trust, provisions should be made for a payment in lieu of taxes. A **MOTION** was made by Dohrwardt, seconded by Short, to adopt Resolution No. 2007-I urging Ozaukee County to deny use of Land Trust Funds to purchase the Squire's property. Short noted that when private property is taken off the tax rolls, you never get the taxes back. He stated that as a village board they need to control taxes and by allowing this property to be taken off the tax rolls it will indirectly allow taxes to increase. Roberts felt that an additional park would attract people and improve the quality of life in the area. A vote was taken with Dohrwardt, Short, Buchholtz, Laabs and Bertram voting aye, and Palm voting nay.

### **Plan Commission – Willow Valley Estates**

John Blasczyk stated that he is proposing to develop 12 acres of land into a 20 unit (10 side by side) condo development. The east end of the property is wetlands. He has approval letters for the wetland delineation from the DNR and the Army Corps of Engineers. The property is located in the Town of Fredonia and Blasczyk had been to the Town Plan Commission twice. Tonight the Town Board is considering a change to the town zoning code to allow cluster development. If he needs to, Blasczyk will add eight acres to this development to be in compliance with the R-2 zoning in the Town. The development would have three or four wells to service the units and a septic system with lift stations. Each unit will have some type of pre-treatment within them. The water going to the mound system will be almost clean. This will not be a gated community, but very close to it. Their target resident is an empty nester or early retiree, although the condo association will not have age restrictions. Blasczyk has a commitment on four units. Two units will be used as models. The units will sell for \$200,000 to \$255,000. Blasczyk still needs the rezoning approved by the Town. The proposed net density (with roads out but not the wetlands out is 1.83 units per acre. To meet the town R-2 zoning Blasczyk will need to add eight acres to the parcel. Per Blasczyk, the proposed development would also meet Rd-1 village zoning requirements. Short noted that the

village's 20/20 plan shows Rs-4 zoning south of Willow Valley Road. The proposed development does not meet the village's Rs-4 zoning requirements. Short questioned if this zoning is appropriate in this area and if it would be considered spot zoning as the land on the east side of Cedar Valley road north of Ridgeway Circle is zoned RS-4. Short did not feel comparing zoning in the town to zoning in the village was appropriate as the village zoning restrictions require public water and sewer. The village needs to protect the values of the neighboring property owners. Property west of Cedar Valley Road requires five acre lots. Short added that if it is an environmental corridor our ordinance requires 5-acre parcels. Short referred to our zoning code Sec. 14-1-21 Land Suitability which states that: All lots more than one (1) acre in area served by a septic tank system shall contain not less than forty thousand (40,000) square feet of land which is above flood protection elevation at least two (2) feet above the elevation of the one hundred (100) year recurrence interval flood, or where such data is not available, five (5) feet above the maximum flood of record. Sec. 14-1-21(h) states that: Lands covered by soils having a percolation rate slower than sixty (60) minutes per inch or faster than ten (10) minutes per inch shall not be divided into building sites to be served by on-site soil absorption sewage disposal systems. Discussion followed. Dohrwardt noted that the sewage disposal system will need to meet county standards. Dohrwardt also noted that Smart Growth encourages cluster development. A **MOTION** was by Laabs, seconded by Buchholtz, to approve the conceptual plan for John Blasczyk for the corner of Willow Valley Road and Cedar Valley Road in the Town of Fredonia, contingent upon the development meeting or exceeding the town's zoning requirements. Motion carried with Short opposed.

### **Parks Committee – July 30, 2007 Meeting**

The Parks Committee met and discussed Celebrate Fredonia. One very helpful committee member has resigned. The committee is requesting the use of two sets of construction lights from the Fire Department, with these lights being delivered by August 18, 2007, to the village hall. A **MOTION** was made by Laabs, seconded by Buchholtz, to request the use of two sets of construction lights from the Fredonia Fire Department for Celebrate Fredonia. Motion carried. Palm to contact the Fire Chief regarding this request. Laabs reported that they have changed the fireworks vendor to Five Star. They will provide \$2,000 worth of fireworks for \$1,500. A **MOTION** was made by Laabs, seconded by Palm, to approve a contract for fireworks with Five Star, at a cost of \$1,500, with Five Star to provide \$2,000 worth of fireworks. It was noted that Five Star has \$5 million of liability insurance. Motion carried. The owner of the building west of the village shop will be contacted about the change in set up for fireworks. Dohrwardt will contact Lundman (owner of the building). The electrical upgrade at Fireman's Park should be completed within the next ten days. The committee also requested that village president Joe Short, and trustees Jill Bertram, Fritz Buchholtz, Don Dohrwardt, and Larry Waskiewicz ride in the parade. The committee has also discussed having active/discharged members of the military ride in the parade as grand marshals. Currently 24 units are in the parade.

### **Joint Building Committee**

The Shared Building Committee met on August 2, 2007, and recommended approval to the village board of the contract with Smies Architects.

### **Appoint NIMS Coordinator**

Joe Short was appointed the NIMS coordinator on a **MOTION** by Laabs, seconded by Dohrwardt, and carried.

### **Report from Manager of Wastewater Treatment Plant on Operations of Plant**

The report from the Manager of the Wastewater Treatment Plant was reviewed. During the rain event of July 26, 2007, one manhole surcharged.

### **Report from Director of Public Works**

The report from the Director of Public Works was reviewed. Neumann noted that a hydrant on South Milwaukee Street was replaced today and the curb apron and sidewalk sections at the fire department will be poured tomorrow. The Marie Kraus Park parking

lot has been compacted and is functional. Gravel should be added. Laabs stated that what is appropriate and within budget should be added.

### **Report from Clerk-Treasurer**

The report from the Clerk-Treasurer was reviewed.

### **Correspondence**

The letter from Veolia Environmental Services was referred to the Public Works Committee for review and discussion of contract for trash and recycling services.

### **Wisconsin Government Finance Officers Fall Conference**

A **MOTION** was made by Palm, seconded by Dohrwardt, to approve attendance at the Wisconsin Government Finance Officers Fall Conference on September 20 and 21 by the Clerk-Treasurer with registration, mileage and lodging. Motion carried.

The meeting adjourned at 8:58 p.m. on a **MOTION** by Palm, seconded by Laabs, and carried.