

Regular Board Meeting

August 18, 2015

Meeting called to order at 7:00 p.m. by Village Administrator Teresa Schnitzler. Trustees present: Brown, Deal, Hennessey, Lautz, Leicht, and Schumacher. Excused: Manthei. Also present: Village Attorney Bryant Klos, Public Works Director Scott Halbrucker, Coulee News Special Correspondent Emily Staed, Police Chief Charles Ashbeck, Merlin Wehrs, Sue Lynch, Nolan Wahoske, and Jason Witte.

Motion by Trustee Schumacher, seconded by Trustee Lautz to appoint Trustee Leicht to preside over the Village Board meeting due to President Manthei's excused absence. Roll call vote: Unanimous aye.

Public Comment

Jason Witte, 1516 Waterloo Avenue, appeared before the Village Board to discuss zoning determination requirements that he feels have not yet been met by Marcie's Pet Spa, 1515 Heritage Boulevard. The Witte's live directly behind the Marcie's Pet Spa. Mr. Witte stated he would like to get his back yard lawn back in order. He feels the Village has not enforced compliance with the zoning determination requirements. Mr. Witte stated the curb has not been installed yet, and water drainage still has not been addressed. Attorney Klos informed the Village Board that Building Inspector Randy Sullivan has completed the final inspection of the property, and Mr. Sullivan stated all requirements have been met. The Village Board offered to have Building Inspector Sullivan address each condition of the zoning determination and how each condition has been met. Mr. Witte commented his opinion of compliance is not the same as the Village's determination of compliance.

Minutes

Motion by Trustee Lautz, seconded by Trustee Brown to approve the minutes of the August 4, 2015, Regular Board meeting as written. Roll call vote: Unanimous aye.

Claims

Claims from the following funds were presented for payment:

General Fund:

Allied Cooperative	\$351.70
Aracade Portables, LLC	64.90
Assessment Technologies, LLC	630.00
Band Box Cleaners, Inc.	193.92
Best Buy	329.99
Brandon Communications	52.50
Bruce Defries Studio Group	288.00
Cedar Corporation	8,582.85
Centurylink	371.17
Centurylink-Business Services	2.18
Charles Ashbeck	13.67
Contractor Supply	49.30
Coulee Trophy & Sport	50.00

General Fund (cont'd.)

Dalco	70.51
Empower Retirement	628.00
Hale, Skemp Law Office	3,889.50
Hansen's IGA	14.96
Hilltopper Refuse & Recycling	12,416.54
Julie Carrell	30.00
Justin Wannemuehler	80.00
Kiesler's Police supply, Inc.	961.43
Kwik Trip	1,220.30
La Crosse Premium Water	12.00
Mayo Clinic Health System	102.50
MCS Networks, Inc.	1,163.60
Miller & Associates	484.00
Minnesota Life Insurance Co.	218.75
NAPA Coulee Region RV	49.33
Postmaster	516.08
Purchase Power	582.99
River Valley Newspaper Group	469.38
Schumacher Elevator	362.82
Sherwin Industries, Inc.	885.00
Sullivan Building Inspections	3,106.85
Sunshine Alley	150.00
Tony Green Cleaning Service	750.00
Tri-State Mudjacking	1,856.25
Unum Life Insurance Company	290.09
US Cellular	59.24
Village Lumber Co. Inc.	36.00
Walters Concrete, LLC	6,930.00
West Salem Adult Jazz Band	150.00
West Salem Auto Repair, Inc.	151.80
West Salem Water Utility	615.90
Wisconsin Support Collections	237.59
Xcel Energy	8,187.70

Water Utility:

Allied Cooperative	\$33.74
Cedar Corporation	40.90
Centurylink	88.57
Davy Laboratories	133.00
Minnesota Life Insurance Co.	17.91
Scott Halbrucker	306.94
Unum Life Insurance Co.	47.56
West Salem General Fund	4,703.10
Wisconsin State Lab of Hygiene	20.00
Xcel Energy	3,390.10
Zemple-Batteries Plus	19.95

Sewer Utility:

Allied Cooperative	\$6.89
Band Box Cleaners, Inc.	307.66
Cedar Corporation	3,241.15
Davy Laboratories	722.90
Freemont Industries, Inc.	921.69
Hale, Skemp Law Office	1,812.50
Hansen's IGA	19.98
Minnesota Life Insurance co.,	30.94
Scott Halbrucker	306.94
Smith & Loveless, Inc.	257.61
Unum Life Insurance Company	60.06
West Salem General Fund	5,900.32
West Salem Water Utility	3,090.20
Xcel Energy	3,862.37

Storm Water Utility:

Cedar Corporation	306.75
Kwik Trip	440.67
Minnesota Life Insurance Co.	2.13
Unum Life Insurance Co.	4.12
West Salem General Fund	381.84

Motion by Trustee Leicht, seconded by Trustee Schumacher to approve the payment of all claims as listed. Roll call vote: Unanimous aye.

Resolution 4.15 Alley Abandonment

Attorney Klos updated the Village Board on progress made with the land swap between the Village and Contractor Supply and the alley abandonment procedures. Coulee Region Land Surveyors has surveyed the Contractor Supply properties and the Village properties bounded by Elm Street, Mill Street, and Memorial Drive. Surveyor Fechner has drafted a legal description for the east-west alley to North Mill Street. In order for the alley to be vacated at a public hearing, the new certified survey map must be in final form, approved by the Village Board, and recorded with the La Crosse County Register of Deeds. It is anticipated the Village Board would act on the Certified Survey Map at its September 1, 2015, regular meeting. Resolution 4.15 to vacate and discontinue roadway was introduced to the Village Board. The Resolution proposed a public hearing date of October 6, 2015, at which time the Village Board would take public comment and could act on the Resolution.

Motion by Trustee Schumacher, seconded by Trustee Deal to schedule a public hearing on Resolution 4.15 for Tuesday, October 6, 2015, at 6:45 p.m. Roll call vote: Unanimous aye.

Allied Cooperative Land Gift

Attorney Klos informed the Village Board that Allied Cooperative still retains ownership of a triangle piece of land adjacent to Elm Street. If the Village was to consider opening a north/south alley from Memorial Drive to Elm Street or if the Village was to consider opening a parking lot on the newly acquired land from Fossum Management, the Allied

land would also have to be acquired. Attorney Klos talked with the Director of Finance and Operations for Allied Cooperative, and Allied Cooperative is interested in gifting this land to the Village of West Salem. A proposed quit claim deed has been sent to Allied for its review and execution.

Reconsideration of Denial of Alcohol Beverage License Application

Nolan Wahoske addressed the Village Board asking for reconsideration of its recent denial of his application for an alcohol beverage license. Mr. Wahoske stated he did not complete the application form completely. He could work more hours at Lloyd's Speedstop's beer bar if he were granted an alcohol beverage license. The Board requested Chief Ashbeck's opinion of the reconsideration request. Based on the manner in which Mr. Wahoske completed the application form, it is unclear what Mr. Wahoske's intentions were by the answers he gave on the form and Mr. Wahoske's past alcohol-related citations. Since the violations occurred less than a year ago, Chief Ashbeck agreed to reconsider the application when the 2015-2016 renewals are submitted next year.

Alcohol Beverage License Application

Motion by Trustee Schumacher, seconded by Trustee Leicht to approve the issuance of an alcohol beverage license to Kimberly M. Adams. Roll call vote: Unanimous aye.

Utilities Committee

Trustee Schumacher reported on the August 3, 2015, Utilities Committee meeting. The purpose of the meeting was to review the 2014 Compliance Maintenance Annual Report completed for the West Salem Wastewater Treatment Plant with updated financial review and to review the Water, Sewer, and Storm Water Utility maintenance and repair priorities. Attorney Bryant Klos updated the Committee with a financial analysis he computed for years 2009 through 2014. Between 2009 and 2012, no rate increase changes occurred, and revenue increases were based on increased water usage. Residential water usage and billed sewer usage began to decrease beginning in 2013. In January of 2013, the Village Board increased the variable sewer rate by ten percent, and the expected revenue increase was \$70,000. However, due to lower billed water usage, the revenue increase realized was actually only \$36,000. It is obvious the Sewer Utility cannot rely on the variable rate to increase revenues as customers have decreased water usages. In 2014, the yearly increase was reduced to \$28,000. In 2011, Village Engineer Dave Sauer advised an increase in fixed residential equivalent unit charge from \$45.00 per quarter to \$52.20 per quarter would raise about \$100,000 in revenue. Increasing the fixed rate from \$45 to \$50 per quarter would raise approximately \$70,000 and would have been an eleven percent increase. Actual year-end deficits or surpluses in the Sewer Utility between 2009 and 2014 are the result of equipment replacement fund transfers, new equipment purchases, and street utility maintenance and replacements. There are two years of bond principal and interest payments remaining, and beginning in 2018, the Utility will not have those budgeted expenses. The Sewer Utility has utilized the Water Utility equity transfer repayment to balance the budget, and this repayment will be completed around the same time as the Sewer Utility bonds are paid off. In 2010, the Wisconsin Department of Natural Resources enacted regulatory phosphorus pollution reduction legislation. The "phosphorus rule" establishes the amount of phosphorus that can be present in State waters without negatively affecting water quality. West Salem has costly compliance

requirements it must financially prepare for over the next nine years. There are provisions for phosphorus dischargers called the “adaptive management option”, which allows dischargers within a given watershed to create a flexible, cost-effective strategy for phosphorus reduction. An adaptive management option for the Sewer Utility would be to work with the Neshonoc Lake District to improve water quality in Lake Neshonoc. The Sewer Utility working with owners of land around Lake Neshonoc, the Lake District, and La Crosse County to target sources of phosphorus runoff would enable the Sewer Utility to minimize its overall investment while helping to achieve compliance with water quality-based criteria and improve water quality. The Utility is allowed to earn credits for phosphorus reductions in the watershed towards its phosphorus compliance requirements without having to implement expensive treatment plant upgrades and technologies. Attorney Klos directed the Committee to the Financial Management section of the draft 2014 Compliance Maintenance Annual Report. Question 2.1 asks if user charges or other revenues are sufficient to cover operating and maintenance expenses for the treatment plant. Attorney Klos explained this question is vague, and it does not appear to follow the requirements of the Wisconsin Administrative Code NR 208.05(L) which only inquires as to whether the user charges and other revenues are sufficient to cover the treatment works’ operating and maintenance expenses. There is no inquiry in the Administrative Code regarding the collection system. The Village’s user charges and revenues are sufficient to cover operating and maintenance expenses as budgeted. Those revenues are also sufficient to cover Village Board budgeted and authorized collection system repairs and maintenance. Question 2.2 asks when the user charge system or other revenue sources was last reviewed or revised. The Village Board adopted a variable rate increase in January of 2013, which is within the last two years. This answer should be changed from three or more years to zero to two years. The next set of questions relate to the equipment replacement fund. Attorney Klos informed the Committee an equipment replacement fund certificate of deposit was not included in the total, and, therefore, question 3.2.2 should include an audit correction increase of \$56,281.63 so the total equipment replacement fund balances are \$446,061.21. Question 3.3.1 requests an explanation as to why the ending balance in the equipment replacement fund is not equal to the amount that should be in the replacement fund. Attorney Klos suggested the following explanatory language: The Village plan in January of 2013 with regards to its underfunded equipment replacement fund was to gradually work toward full funding by 2018. There was a failure to fund the budgeted amount for equipment replacement fund in the 2014 calendar year which was caused by a significant decline in billed water usage in 2013 which accelerated into 2014 and which reduced the sewer revenue gain anticipated by a variable rate increase effective January 2013. The Village’s sewer bonds will be fully paid off in mid-2017. That payoff will free up enough funds within the sewer utility such that the equipment replacement fund will be able to be fully funded by July 1, 2018. The last page of the annual report is the Resolution or Owner’s Statement page. Attorney Klos suggested the last box on this page contain the following comment: In January of 2013, the Village increased its variable sewer rate by 10%. This has not generated the anticipated revenue increase because of a significant reduction in water usage and correlated sewer charges. The Village is in the process of proposing a 16% increase on the fixed rate side for the sewer system to make up for this shortfall. The language presently contained in the Financial Management section of the draft annual report should be eliminated as the grade is no longer an “F”. The Committee recommended incorporating Attorney Klos’s suggested revisions and changes as the basis for

completing the 2014 Compliance Maintenance Annual Report. Motion approved. The Committee also recommend to the Village Board a fixed residential equivalent unit rate increase of 16 percent. Scott Halbrucker presented utility maps for each of the three utilities. Mr. Halbrucker flagged on each map needed utility repairs and maintenance. Storm water utility work is needed in the Lincoln Street, Mill to Leonard Street, and Oak and Elm Street areas. Water utility work is not as extensive in that upgrades and replacements are being made as street construction is taking place. Four-inch mains are progressively being replaced with six-inch mains. The Sewer Utility repair and maintenance program is falling behind with manholes caving in, and the Village needs to continually budget for replacement and repairs.

Motion by Trustee Schumacher, seconded by Trustee Brown to approve the minutes of the August 3, 2015, Utilities Committee meeting as presented. Roll call vote: Unanimous aye.

Resolution 3.15

Motion by Trustee Schumacher, seconded by Trustee Lautz to approve Resolution 3.15 Compliance Maintenance Annual Report as presented. Roll call vote: Unanimous aye.

RESOLVED, that the Village of West Salem Board of Trustees informs the Department of Natural Resources that the following actions were taken by it:

1. Reviewed a summary of the 2014 Compliance Maintenance Annual Report, which is attached to this Resolution; and
2. Due to the letter grades in Influent Flow and Loadings, BOD and TSS Effluent Qualities, Phosphorus Effluent Quality, Biosolids Quality, Staffing, Operator Certification, Financial Management, and Collection Systems category points generated as a result of completing this Report, the Board did not feel that any required action was necessary at this time.
3. Submits to the Department of Natural Resources the optional comment that in January of 2013, the Village increased its variable sewer rate by 10%. This has not generated the anticipated revenue increase because of a significant reduction in water usage and correlated sewer charges. The Village is in the process of proposing a 16% increase to the fixed rates to make up for this shortfall.

PASSED by unanimous vote of the Village of West Salem Board of Trustees on the 18th day of August, 2015.

/s/ _____
Dennis Manthei, Village President

(SEAL)

/s/ _____
Teresa L. Schnitzler, Village Administrator

Motion by Trustee Schumacher, seconded by Trustee Deal to approve the Utilities Committee recommendation to increase the Sewer Utility fixed residential equivalent unit rate 16 percent to be effective October 22, 2015. Roll call vote: Unanimous aye.

Law Enforcement Committee

Trustee Lautz reported on the August 4, 2015, Law Enforcement Committee meeting. The purpose of the meeting was to review and act on a request to consider an ordinance prohibiting alcohol social hosting and to review for possible recommendation Section 11.08(D)(3) of the Code of Ordinances relating to barking dogs. Sue Lynch,

Policy Consultant for Changing the Culture of Risky Drinking Behavior Coalition, has requested the Village of West Salem consider adopting an ordinance prohibiting alcohol social hosting relating to underage persons. Ms. Lynch provided copies of the same ordinances adopted in the Cities of La Crosse and Onalaska. The purpose of the ordinance is to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and it intends to hold persons civilly responsible who host gatherings where persons under twenty-one years of age possess or consume alcohol regardless of whether the person hosting the gathering supplied the alcohol. The Committee had requested legal advice with regard to Committee concerns with the proposed ordinance. One issue raised by the Committee was the possibility of a child sneaking alcohol and sharing it with friends. The current ordinance as drafted would not place any liability on the parents at the house unless the parents actually know that this action is going on or have actual knowledge that it will occur in the future. The Cities of La Crosse and Onalaska ordinances do require knowledge. Under Wis. Stat. Sec. 800.08(3), to be convicted, the prosecutor must prove this knowledge by evidence that is clear and convincing. If there is no evidence of knowledge, the citation would not be issued nor the person convicted. Attorney Klos suggested Section 3 of the proposed ordinances be revised for clarity as follows:

3. Prohibited Acts. It is unlawful for any person(s) to: host or allow an event or gathering at any residence, premises, or on any other private or public property where alcohol or alcoholic beverages are present when the person knows:

(a) that an underage person will:

(1) consume any alcohol or alcoholic beverage;

or

(2) possess any alcohol or alcoholic beverage with the intent to consume it; and the person fails to take reasonable steps within that person's legal authority to prevent possession or consumption by the underage person(s),

(b) That an underage person is currently:

(1) consuming any alcohol or alcoholic beverage; or

(2) possesses any alcohol or alcoholic beverage with the intent to consume it; and the person fails to take reasonable steps within the person's legal authority to prevent possession or consumption by the underage persons.

Attorney Klos then recommended Section 2(d) be revised as follows:

(d) Host or Allow. "Host" or "allow" means to intentionally aid, hire, counsel, conduct, entertain, organize, supervise, control, or conspire with or otherwise procure another to commit the prohibited act. A person who hosts an event or gathering does not have to be present at the event or gathering to be responsible if the person has the requisite knowledge and acts intentionally.

There are exceptions included in the ordinances adopted by the Cities of La Crosse and Onalaska. Attorney Klos recommended revising those exceptions to read:

4. Exceptions.

(a) This chapter does not apply to conduct solely between an underage person and his or her parent while the parent is present and in control of the underage person.

(b) This chapter does not apply to legally protected religious observances.

(c) This chapter does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of their employment.

(d) This chapter does not apply to landlords unless the landlord qualifies as a parent of one of the tenants.

Police Chief Ashbeck stated the municipal fine for supplying alcohol to a minor is quite low. Chief Ashbeck stated social hosting is not a significant issue in West Salem, but the ordinance would give the police department an additional avenue of enforcement if a situation warrants it and provides uniformity among municipalities in La Crosse County. The penalties associated with the proposed ordinance would encourage adults to think twice before violating the ordinance by hosting events and serving alcohol to underage persons, and it also emphasizes the importance of this issue by sending a strong message that West Salem does not condone the behavior. The Committee agreed a draft of a proposed Ordinance for West Salem should be drafted for final review by this Committee at its next meeting scheduled for August 18, 2015. The Village Board referred Section 11.08(D)(3) of the Code of Ordinances relating to barking dogs to the Law Enforcement Committee for review with possible revisions. The Ordinance states:

(3) (a) No owner shall keep or allow to be kept about the owner's premises any dog which shall repeatedly by barking, howling, or other noise disturb the peace and quiet of any person or persons in the vicinity thereof.

(b) It shall be unlawful for any person to keep or house a dog outside the primary residence, between the hours of 10:30 p.m. and 7:00 a.m. when the owner of the dog has been notified of three (3) verified complaints within any six-month (6) period made to the Police Department of frequent or habitual barking, howling, or other noise.

Chris Corbin received a citation for a barking dog two years ago. Mr. Corbin questioned the word "vicinity", what qualifies as "vicinity", and pointed out there are noises louder and annoying that are allowed in the Village Code. Attorney Klos offered to research ordinances adopted in other municipalities to find out if there are better standards the Village could consider.

Motion by Trustee Lautz, seconded by Trustee Leicht to approve the minutes of the August 4, 2015, Law Enforcement Committee meeting as presented. Roll call vote: Unanimous aye.

The Wisconsin Department of Administration released a preliminary estimate of the January 1, 2015, population for West Salem to be 4,960. The Village Board took no action on the population estimate.

Motion by Trustee Lautz, seconded by Trustee Hennessey to adjourn the meeting at 7:49 p.m. Approved by voice vote.

Teresa L. Schnitzler, Village Administrator