

Regular Meeting of the Oregon Village Board,
Monday, April 17, 2006

1. **CALL TO ORDER.** The regular meeting of the Village Board was called to order by Village Board President Luebke at 5:45 p.m. on Monday, April 17, 2006.
2. **ROLL CALL.** Present: Jerry Bollig, Darrell Klimke, Jerry Luebke, Mark Mortensen, Hans Noeldner, Eric Poole and Steve Staton. Also present: Village Administrator Mike Gracz, Village Attorney Joe Wright, Public Works Director Mark Below, Police Chief Doug Pettit and Village Clerk Georgia Johnson.
3. **EXECUTIVE SESSION.** At 5:47 p.m., Poole moved to adjourn into Executive Session pursuant to Wis. Stats. Sec. 19.85(1)(e) and (g) for the purposes of conducting public business when bargaining reasons require a closed session and conferring with legal counsel who is rendering advice concerning strategy with respect to litigation in which the Village is likely to become involved. Second by Bollig. Roll call vote: **Mortensen – yes; Noeldner – yes; Klimke – yes; Luebke – yes; Poole – yes; Bollig – yes; Staton - yes. Motion carried 7-0.**

On motion by Bollig, second by Mortensen, the meeting reconvened at 6:04 p.m. Motion carried 7-0.

Luebke presented Trustees Darrell Klimke and Mark Mortensen with certificates of appreciation for their service on the Board.

4. **STUDENT VISIT – GT LEADERSHIP GROUP ROME CORNERS INTERMEDIATE SCHOOL.** Mrs. Chose, the leader of Rome Corners Elementary School's Gifted and Talented Leadership Group, thanked the Board for allowing the students to present questions to the Board members with respect to Village government. Each of the eight students present asked questions of the Board including how the Village is funded, what effect the building of Rome Corners School had on the Village budget, how industry comes to the Village, how the Fire/EMS District is staffed, what the major challenges are facing the Village Board, whether there are any requirements to serve on the Village Board and so forth.
5. **APPROVAL OF MINUTES 4/3/06 and 4/12/06.** Noeldner moved to approve the minutes of the regular Village Board meeting of April 3, 2006. Second by Bollig. Motion carried 7-0. It was noted there are no minutes from the 4/12/06 meeting as there was no quorum.
6. **APPROVAL OF VOUCHERS.** Klimke moved, second by Bollig, to approve payment of vouchers for the Water and Sewer Utility Funds in the amount \$20,160.77 per the list dated April 17, 2006. There was some discussion. Roll call vote: **Mortensen – yes; Noeldner – yes; Klimke – yes; Luebke – yes; Poole – yes; Bollig – yes; Staton - yes. Motion carried 7-0.**

Bollig moved, second by Staton, to approve the payment of vouchers for the General Operating Fund in the amount of \$347,674.47 per the list dated April 17, 2006. Roll call vote: Mortensen – yes; Noeldner – yes; Klimke – yes; Luebke – yes; Poole – yes; Bollig – yes; Staton - yes. Motion carried 7-0.

7. **COMMUNITY INPUT.** There was none.
8. **PUBLIC APPEARANCES AND PUBLIC HEARINGS.**
 - a) **Discussion with Developers regarding Sewer Interceptor Settlement.** Attorney John Zawadsky, attorney for Dan Fleming and Jerry Heinrichs, stated it is his understanding that the Board is looking for the developers' position as it relates to the sewer interceptor. Luebke stated that is correct. Zawadsky briefly went over the issues: What occurred was—there were significant unexpected expenses on bringing the sewer across Main Street and the claimed cost for that is approximately \$1.5M. That is almost the entire cost that was anticipated under the original

agreement to do the infrastructure work for the development. Another significant issue that arose involves some culverts that apparently Joe Daniels Construction (the general contractor) claimed forced them to incur a large amount of additional expense in the amount of \$710,000. What occurred thereafter was the Village mediated the dispute with Daniels and Michels and reached a resolution of that dispute. Now the question is how much of that money should the developers pay toward that resolution. Zawadsky thinks there are a number of significant issues involved stating that he does not want to discount the involvement of Earth Tech who was the Village's engineer. Zawadsky suggested and stated he feels it is the best course of action at this time to go forward in mediation with the Village's attorneys. He stated he is fairly confident they can reach a resolution of the dispute without litigation. Attorney Wright stated he has talked with Attorney Zawadsky previously and feels he has a pretty good understanding of where Fleming and Heinrichs are coming from although he has not had a chance to talk to Mr. Ladopoulos about it. Wright stated what the Board was hoping for tonight was to understand where the developers are at to get an idea of whether mediation will be fruitful or not. Zawadsky stated it is their opinion that they have a strong legal position on this. They are not going to sit on that legal position because both developers (Fleming and Heinrichs) value the relationship with the Village and look toward a long-term mutually beneficial relationship so they are willing to be flexible in discussions in mediation. They are not prepared to give the Board a dollar number tonight—that is what mediation is about. There was discussion. Bollig asked Attorney Wright for his recommendation on the issue and Wright responded that he preferred to give that in closed session. Staton asked Zawadsky how long mediation might take. Zawadsky stated once they got a mediator he felt it could be done in a month—it is really going to depend more on scheduling and getting the people involved together. Noeldner stated he reviewed the Developer's Agreement and he felt the language is quite clear on what the percentages are on how the costs would be apportioned among the various developers. Noeldner asked what language in the Developer's Agreement Zawadsky would point to as making this ambiguous. There was some discussion regarding the agreement assuming what the costs are. Discussion continued. Wright suggested if mediation was agreed to that they use the same mediator (Judge Patrick Snyder) as was used for the Daniels Construction mediation. Discussion continued. Luebke stated that as Board members they take advice from the professionals they hire to give it to them, and stated he does not feel that the Board made a wrong decision on this project. The Board represents the Oregon taxpayers and they know that decisions on these issues could affect the Village's water and sewer rates depending on what transpires. There was further discussion. When asked his opinion, developer Nick Ladopoulos stated he followed the discussion and is in agreement with Attorney Zawadsky's comments. **Klimke moved to adjourn into closed session under Wis. Stats. Sec. 19.85(1)(e) and (g) for the purposes of discussing and negotiating potential litigation regarding sewer interceptor costs pursuant to Wis. Stats. Section 19.85(1)(e) and (g) conducting public business for bargaining purposes and to confer with legal counsel concerning strategy with respect to litigation the Village is likely to become involved in. Second by Staton.** Noeldner expressed his disappointment that the developers are not willing to discuss this before the citizens of the Village of Oregon. **Roll call vote: Mortensen – yes; Noeldner – yes; Klimke – yes; Luebke – yes; Poole – yes; Bollig – yes; Staton - yes. Motion carried 7-0.**

There was discussion regarding the issue and direction given to Attorney Wright on how to proceed. The Board reconvened into open session at 6:50 p.m. **on motion by Staton, second by Bollig. Motion carried unanimously.**

Attorney Wright thanked the developers for their appearance tonight. He advised that the Board has decided it would like to pursue mediation with all three of the developers to try and resolve this. Wright advised that he exchanged voice mails with Judge Patrick Snyder about dates if/when he would be able to conduct the mediation—the only two dates available in the next month and a half are April 25th and May 2nd. The best date for the Village Board and Attorney Wright are May 2nd if the developers are available. On the assumption that mediation can be set up for May 2nd, the

Board has decided to defer acting on any other matters on the agenda with respect to the developers as to letters of credit and developments until after mediation. Ladopoulos indicated he would be available on that date and possibly have legal representation. Attorney Zawadsky indicated he and his clients would be available. The mediation will take place in Attorney Wright's offices.

The following issues b), c) and d) (except the street repair issue) were deferred to the outcome of the mediation.

- b) Discussion of Fleming Development's Letter of Credit Reduction Request with Dan Fleming. Deferred to follow mediation.
- c) Discussion of Developers Agreement for Alpine Meadows' Phase IV with Jerry Heinrichs. Deferred to follow mediation.
- d) Discussion of Oregon Parks Neighborhood's Letter of Credit Reduction Request, Open Records Request and Street Repair Work with Nick Ladopoulos. Except for the street repair work these items are deferred to follow mediation.

Regarding the street repair work, Below referred to his letter to Nick Ladopoulos regarding the need for street repair and would like to look into this further. He recommended deferring the matter to the Public Works & Utilities Committee. This would allow for time to gather more information. Luebke stated there is concern about the blacktopping in the subdivision and asked if there is a way to inspect the blacktop and report on that. Klimke stated there is a test for concrete but he didn't know if there was for blacktop. There was discussion. Village Engineer Eilertson stated that he was of the understanding that CGC did some testing but he does not have the results yet. There was further discussion. Below stated that the crack fill needs to be done this year. Further review needs to be done and brought to the Committee. Klimke stated it is important that the base be looked at to make sure the base is at an appropriate depth and it is important for the Committee to have that information. Discussion continued. It was noted this matter will be on the Public Works agenda for Monday, April 24th. Discussion continued.

- e) Chamber of Commerce Monthly Report. Chamber Director Linda Pollock gave a brief report of the Chamber's upcoming activities.
 - 1) Request for Temporary Class B Retailer's License to sell beer and wine at Brew Fest. Chief Pettit referred to the Chamber's request for a temporary picnic license to sell beer and wine at the upcoming Brew Fest. Questions had arisen as to what the Chamber's responsibility was with regard to how they would obtain the product. The Chief has talked with the Director Pollock and went over that section of Chapter 125 in the State Statutes that applies and stated he is confident the Chamber is meeting the necessary obligations under the law and recommended approval of the application. **Bollig moved to approve the Temporary Class "B" Retailer's License to the Chamber of Commerce to sell beer and wine at the Brew Fest event being held May 13th. Second by Poole. Motion carried 7-0.**
- f) Oregon Youth Center Report. The Director was unable to be present.

9. COMMUNICATION AND MISCELLANEOUS BUSINESS.

- a) Status Of Dissolution of the Oregon Area Joint Fire/EMS District: Administrative Services Agreement, Former EMS Building Discussion of Consultant's Report at May 8th Finance Committee Meeting and Discussion of Fire/EMS District's Union Contract Labor Representation. (Recommendation to Refer to Personnel, Public Safety & Protection Committee). Luebke noted there are two new representatives on the Fire/EMS District Commission. The representatives will

start their appointed positions on Tuesday night, the 18th, and will be appointed at that time. Bollig asked for a copy of the agreement to be provided to the representatives at the meeting tomorrow night.

Mortensen asked if there was discussion at the meeting last week about the Union Contract. Noeldner stated it was approved. Mortensen asked what the vote was and Noeldner stated it was unanimous. There was discussion including the inappropriateness of Noeldner voting for the contract when the Village Board had voted 6-1 at a previous meeting not to approve the contract, what the approval of that contract included, what the next step was with regard to the contract, what happened to going to arbitration as was thought was going to happen, how can the process be changed at this time and so forth. Chief Pettit stated in any mediation/arbitration issue it can be changed at any time and the parties can agree and you can divert from the plan. He stated normally the process is to come back to the governing body to get input. Discussion continued. Luebke reiterated what he perceives as the inequities of this type of Fire/EMS District not only where the money is concerned but the management as well. Staton indicated residents in the Village have stated to him that the system needs to be changed—that it is not right the way it is. All of these matters were referred to the Personnel, Public Safety and Protection Committee.

- b) Update regarding Gary Gorman's Red Brick Proposal. Luebke advised that he spoke with Mr. Gorman today. Gorman indicated there are some issues that have come up. They are doing some re-measuring looking at the fact that there are a lot of areas in the building that are not usable. Luebke indicated that the Village's Financial Advisor suggested Gorman look at conventional financing and Gorman is in the process of doing that. They will come back at another time. A conference call is set for tomorrow morning (Tuesday, the 18th at 8:00 a.m.).
- c) Village Board Organizational Meeting – April 18, 2006 at 6:00 p.m. Just a reminder of the meeting tomorrow night beginning at 6:00 p.m.
- d) Distribution of Investments, Connection Fees, Impact Fees and Building Permits Report. For informational purposes. There was some discussion. The question was asked if the impact fees would be impacted by TABOR if it passes the way it is right now. Gracz stated they will be impacted by TABOR and also by the new legislation that has already been passed. There was discussion.
- e) Status of TABOR II and TPA. It was noted that State Representative Gary Hebl responded to Trustee Klimke's letter regarding TABOR. There was discussion including whether other members had received any communication from representatives. Pettit noted that the legislative session ends May 4th so it is possible they won't get anything passed this year.
- f) Letter to Editor Village Candidates Break the Law in Oregon Election" Village's response. It was noted that although it did not appear in *The Oregon Observer*, a letter was sent out regarding Village Candidates displaying campaign yard signs illegally (in the Village's terrace—right-of-way). Luebke stated signage is something that is being reviewed and this is something that is being addressed in the zoning ordinance. Gracz noted this particular letter refers to the signs placed in Village terraces for the Spring Election which is already prohibited by Village ordinance. In the future when candidates take papers out to run they will be provided with a "flyer" stating that signs cannot be placed in Village terrace. That way they will have prior notice and will be enforced. There was discussion. Noeldner stated he sent a letter of apology to *The Oregon Observer* as his signs were placed in Village terrace—and he was not aware of that ordinance. There was further discussion.
- g) Annual Maintenance & Copy Supply Program—Senior Center. It was noted this is an agreement that comes to the Board annually and which the Board President signs. There are no significant

changes from last year's program. **Bollig moved, second by Noeldner, to approve the annual maintenance and copy supply program for the Senior Center. Motion carried 7-0.**

10. **REPORT OF OFFICERS.** Below stated that the Village does not do a spring leaf pickup and for those residents that have placed leaves out to the curb they can bring them to the Village's compost site down at the garage. Brush pickup started the 2nd Monday of April and runs through the 1st Monday of October. The crew has completed the first pickup in April. The annual Spring Cleanup is in the middle of June.

11. **REPORT OF COMMITTEES.**

a) Park Board 4/5/06

1) Letter from Oregon School District regarding Contribution for Playground Equipment at Netherwood Knoll Elementary School. Poole referred to the letter received from the Principal at Netherwood Knoll Elementary School, Teri Miller, requesting a contribution for playground equipment. Poole referred to the email from Attorney Dick Yde indicating using park funds to pay for school playground equipment is very doubtful validity—use of such fees should be only for acquisition and development of Village parks. There was considerable discussion at the Park Board regarding the matter and the Committee concluded that if the Village donated some monies to the fund it would help with future plans for the new Alpine Park once the school is built. **Poole moved to authorize a \$2,000 donation to the Oregon School District toward purchase of playground equipment for the Netherwood Knoll Elementary School and that the \$2,000 not come from park funds. Second by Staton.** Poole stated if the motion is approved he would ask that this matter go to the Finance Committee to determine where the \$2,000 would come from. Poole stated they are looking to raise \$16,000 and at this time have \$8,000. There was considerable discussion regarding this setting the Village up for organizations coming in and asking for additional monies for equipment or improvement, Attorney Yde's email stating the park funds collected from developers on school property would not be a wise choice, taking any such future requests on its merits and review on a case-by-case basis, why the School District isn't providing the funding for the equipment and so forth. Staton stated school budget monies does not go toward playground equipment—rather it is used for instructional materials and that type of thing. Klimke asked if the same shouldn't hold true for the Village and not using Village taxpayers' money for that—should come from either donations or park fund. Klimke suggested it go to the Finance Committee and determine where the monies would come from. Discussion continued. Following discussion, **Poole withdrew the motion** and this matter was deferred to the Finance Committee.

b) Planning Commission 4/6/06.

1) Ordinance #06-04 Rezoning Request of Habitat for Humanity Property in the 700 Block of Dunn Ave. The request is from Habitat for Humanity to rezone from R-2 Residential to Planned Unit Development, from Planned Unit Development to R-1 and Outlot 1 remaining R-2 Residential. It was noted the developer is looking for approval tonight in order that they can move forward. **Staton moved to approve the first reading of Ordinance #06-04, waive the second, and adopt the ordinance as presented. Second by Bollig. Motion carried 7-0.**

2) Consideration of General Development Plan (GDP) for Habitat for Humanity. **Staton moved to approve the General Development Plan for the Habitat for Humanity. Second by Noeldner.** Staton noted the Village Planner, Mike Slavney, supports approval of the GDP. **Motion carried 7-0.**

3) Consideration of Specific Implementation Plan (SIP) for Habitat for Humanity Site. (From April 13th Planning Commission Special Meeting.) **Staton moved, second by Bollig, to approve the Specific Implementation Plan for the Habitat for Humanity site on Dunn**

Avenue. Luebke noted Habitat for Humanity's willingness to work with the Planning Commission and meeting all the requests made by the Commission. Staton felt it was a good design for that neighborhood. **Motion carried 7-0.**

- 4) Consideration of CSM (Certified Survey Map) for Habitat for Humanity Location. (From April 6th, 2006 minutes.) **Staton moved to approve the Certified Survey Map for the Habitat for Humanity Location. Second by Noeldner. Motion carried 7-0.**
- 5) Update to the Proposed Peterson Annexation—Petitioner is Tabling Annexation Request. For informational purposes.
- 6) Discussion of Response from Veridian Regarding Proposed Annexation. Don Esposito from **Veridian Homes was present and asked to address the Board regarding this project. Esposito stated Veridian Homes has been working on the potential of developing the Jorgensen, People's Church and Duran properties on the southern of the Village for the past three years. There needs to be a discussion with the Village about a sanitary sewer interceptor extending around the east side of the Village which would eliminate the potential of a pump station. Esposito stated the difference between this proposal and the interceptor sewer project discussed earlier is that this interceptor would be designed under private contract with review by the Village, it would be installed under private contract with inspection by the Village and then it would be dedicated to the Village with the agreement of recapture to Veridian for funding it. This interceptor would service the business park on the east side of the Village. Regarding the pre-annexation agreement Veridian has a couple of issues to discuss and get direction from the Board. (1) Veridian would make acquire any necessary easements for construction of the sanitary sewer interceptor but would ask the Village's assistance should they reach a stalemate and to use the Village's condemnation powers if necessary; and (2) the issue of permit phasing. It is proposed to have about 153 development units to be split up over a four year period. Veridian is looking to complete the pre-annexation agreement, complete the engineering plan, preliminary and final plats and hopefully be able to start construction of the sanitary sewer interceptor in 2007 anticipating development in 2008.**

Luebke stated he would like to see a list of properties that the interceptor would cross and asked if there were a lot of properties? Below stated there are not as many as there were on the west side interceptor and stated he would put a list together. Gracz indicated the sanitary sewer interceptor project is something that should be sent through the Public Works Committee—that it isn't a Planning Commission issue. There was some discussion. Gracz noted that the Village will have to hire a different consulting firm because Vandewalle & Associates has a conflict with Veridian Homes. Discussion continued.

- 7) Public Hearing on Rezoning Request of the Oregon Community Sports Arena from Conservancy District to Planned Unit Development. It was noted this has been tabled to the May 15th Board meeting.
- 8) Consideration of General Development Plan for Oregon Community Sports Arena. This has been tabled to the May 15th Board meeting.
- 9) Consideration of Certified Survey Map for Oregon Sports Arena. This has been tabled to the May 15th Board meeting.
- 10) Recommendation to Proceed with Amending the Urban Service Area for the Oregon Community Sports Arena. **Staton moved, second by Bollig, to approve starting the process to add the Oregon Community Sports Arena property to the Urban Service Area. Gracz stated this is a very long process so it is being recommended to start the process before the**

rezoning and GDP have been considered. The organization has requested to start working with the County. **Motion carried 7-0.**

- 11) April 25th meeting with DOT regarding Hwy. 14 Project. For informational purposes. Staton noted this meeting starts at 3:30 p.m.
 - 12) Recommendation of the Official Functional Classification Map from the Wisconsin Department of Transportation. **Staton moved, second by Poole, to approve the Official Functional Classification Map from the Department of Transportation.** There was some discussion. It was noted that this map will need to be revised down the road and will include Cusick Parkway. **Motion carried 7-0.**
 - 13) Letter from the City of Fitchburg Regarding the Transportation Element of their Comprehensive Plan. Fitchburg had sent a letter looking for input from the Village and only received one response. Gracz advised that with the Board's approval a letter will be sent stating when the Village looked at the joint business park that moving County M and improving that intersection with County MM is a good idea. The Board was in agreement.
 - 14) Extraterritorial Land Division Review Jurisdiction—City of Fitchburg. Gracz stated he had intended to strike this from the agenda. The Village Planner is working on this.
- c) Committee Minutes Not Requiring Action
- 1) Library 3/8/06.
12. **UNFINISHED BUSINESS.** None.
 13. **NEW BUSINESS.** Luebke thanked Trustees Darrell Klimke and Mark Mortensen for their service on the Board.
 14. **ADJOURNMENT.** At 7:45 p.m., Mortensen moved, second by Klimke, to adjourn the meeting. Motion carried 7-0.

Submitted by,
Georgia Johnson,
Village Clerk