

1. **Planning Commission Call to Order:** Chairman Greg Schnelle called the Planning Commission meeting to order at 6:32 pm on Thursday September 3, 2009.
2. **Roll Call:** Greg Schnelle; Jeff Groenier, Larry Mahr (arrived at 6:36 pm), Scott Meier, alternate Doug Brethauer and Phil Harms. Absent: John Bieno and Pat Molzahn. Also Present: Village Administrator Mike Gracz, Public Works Director Mark Below, Village Attorney Matt Dregne, Village Engineer Joe Eberle, Village Planner Mike Slavney and Deputy Clerk/Deputy Treasurer Tracey Berman.
3. **Village Board Call to Order:** President Steve Staton called the Village Board meeting to order at 6:33 pm on Thursday September 3, 2009.
4. **Roll Call:** President Steve Staton, Jerry Bollig, Eric Poole, Darlene Groenier, Jon Lourigan (arrived at 7:35 pm), Phil Harms, and Randy Way.
5. **(6:30 PM – 6:35 PM) Village President Staton’s Comments regarding Proposed Stormwater Ordinance.** President Staton gave a summary of the results from the storm water study done and stated the proposed ordinance changes are part of the recommendation from the study. Staton reviewed other recommendations such as the 72” culvert replacement and removing the homes from the Florida Avenue Floodplain. Staton explained these recommendations have been completed and the Village is being proactive about preventing any further flooding. Staton noted some of the proposed storm water ordinance changes are already Dane County requirements. Staton thanked Joe Eberle and Matt Dregne for doing pro-bono work for the Village totaling over \$13,000. Staton acknowledged the Village’s appreciation.
6. **(6:35 PM – 7:00 PM) Overview of Proposed New Stormwater Ordinance by Joe Eberle and Matt Dregne including Enforcement of New Ordinance (Note: *The Village Board and Planning Commission Members will be asked to hold their questions and comments until the overview is completed.*)** Joe Eberle gave a brief overview discussing the 9 major issues regarding the new storm water ordinance. Eberle explained some of the ordinances are already Dane County requirements and the Village is required by law to follow the County ordinances, unless the Village ordinance is stricter. Eberle presented the first of the 9 (page 2 of the handout): “Furnish a certification, sealed by a professional Engineer, that constructed storm water management practices and conveyance systems comply with the approved storm water management plan. This certification shall also include a set of drawings showing any changes from the original plan approved by the Village.” Eberle stated this is already a Dane County requirement. Eberle explained that it addresses the issue of what was proposed was actually built. The second (page 3) presented stated “Furnish an annual report, sealed by a professional engineer, documenting the completion of the required annual maintenance.” Eberle explained this ensures the yearly maintenance is kept up. The third presented (page 4 & 5) stated: “Construct buildings such as that the lowest floor elevation has a minimum of one foot vertical separation above seasonal high groundwater elevation.” Eberle described the chart on page 5 stating the minimum floor elevation is at least 1 foot above the seasonal high ground water elevation. The fourth present (page 6 & 7): “construct buildings such that the lowest building elevation that is exposed to the ground surface is a minimum of two feet above the 100-year, 24-hour design storm.” Eberle noted the ordinance makes sure there is a safety net where a storm water facility is present - primarily a ditch, storm water pond, drainage easement, etc. Eberle stated when those storm water facilities fill up there is still a safety net. The fifth presented (page 8 &9) stated: “ Construct all buildings designated for human occupation such that there is a minimum 50 foot setback from the closet edge of water at 100-year, 24-hour design storm.” Eberle recommended the 50 foot setback for a horizontal separation from a storm water facility. Eberle noted this item along with the other two setbacks

work together. Eberle explained Dane County is looking at a model similar to this County wide. The sixth item presented (page 10): “Maintain the pre-development peak runoff rates for the 2-year, 24-hour storm event; reduce the peak runoff rate for 10-year, 24-hour storm event to pre-development peak runoff rates for the 2-year, 24-hour storm event; and reduce the peak runoff rate for 100-year, 24-hour storm event to pre-development peak runoff rates for the 10-year, 24-hour storm event.” The seventh item presented stated “Evaluate the impacts of the proposed storm water management plan on the existing storm water management facilities downstream from the development.” Eberle strongly recommended the proposed to help reduce the water flowage. Eberle addressed what would happen to developments, noting it is case by case and you can do it by infiltration or increase the size of the storm water facilities. Eberle explained ‘globally’ it would use about 5%, stating some cases it may only take 2% and others it maybe 8% The eighth item presented: “Furnish additional information as part of their storm water management plan, plat and CSM submittals.” Eberle stated the goal at the end of the day when a house or development is built the side yard ditches and master grading plan are actually what they say they are. This essentially asks for a little more information. The last item: “Record a notice to future purchasers of a property notifying them of storm water management and maintenance requirements.” Eberle stated this is a Dane County requirement.

7. **(7:00 PM – 8:00 PM) – General Discussion and Questions by Village Board and Planning Commission Members re:** Schnelle suggested starting with the 9 ordinances presented and discussing them one by one. It was noted the first ordinance presented was a Dane County requirement and will be changed in the ordinance because it is required by law. The second ordinance presented, Groenier questioned with costs now days is it necessary to hire a professional engineer to certify everything. Groenier inquired about the cost burden and if there is a way to do it on a case by case basis. Meier explained that not all storm water facilities need to be supervised and inquired if this could be put in the maintenance agreement. There was discussion regarding how to distinguish between which facilities need extensive supervision and which facilities need minimal. There was discussion regarding having a designated employee of the Village do the inspections? Dregne explained the reason for the some type of structure in place is to give Village staff a process which allows for some checking to see if the maintenance is being down and cautioned using Village staff for inspections. Dregne stated there are two points, one does there need to be a professional engineer conducting the inspections and two if you require a certification for everything, who signs it. Dregne stated it could be the property owner, Homeowners Association, or a Professional Engineer, noting there would need to be some kind of standard build into the process to make that judgment call. Eberle gave an example of the City of Madison requiring a professional engineer to sign off on everything because in the past people were submitting reports that weren’t necessarily truthful. This is the reason they went to requiring everyone having a professional engineer sign off. Meier stated they could do it on a case by case system that meets the requirements of the storm water facility. Schnelle agreed, noting the storm water facilities need to be monitored. Eberle suggested considering putting the responsibility on the property owners, noting the added expense to the Village if they agreed to inspect. Eberle gave the Commission and Village Board a heads up on what could potentially be coming in the future with more requirements for storm water facilities. Dregne explained he sees this working as a database being set up with of all the storm water facilities in the Village some type of annual notice getting sent out. There was discussion regarding how to proceed with drafting the language. Dregne suggested the Commission come up with a plan to draft the language and a plan to accomplish this. Schnelle gave an overview of options the Commission could do to accomplish this. Schnelle noted it sounds like the Commission is in favor of reviewing this on a case by case situation and may require some storm water facilities to have a professional engineer sing off on. Eberle noted the next three (pages 4, 6, & 8 of the handout) should be dealt with together since they all tie in together. Eberle gave an overview of how this formula was put together. Eberle stated Waukesha County uses the same model and has worked unbelievable well at solving a lot of problems. Eberle explained it does

make some areas more difficult to build in, but that's what you want to happen because certain places aren't meant to be built on. Below stated this doesn't necessarily restrict building, but it would restrict basements in certain areas. Eberle noted that most homeowners aren't aware of storm water issues and this is another step to make them aware of any issues that could potentially happen. Groenier agreed with 2 of the 3 suggested, but did not agree with the 50 foot building setback. Groenier discussed certain situations along Janesville Street noting their lots back up to Bad Fish Creek and there is a 12 foot elevation change between where the building sits and where the high water mark is. Eberle stated this is a very good point, noting there has to be some latitude restrictions. Eberle noted there are going to be cases where it is a judgment call and can be looked at and dealt with separately. Eberle explained these cases would go through the variance process. There was discussion regarding the zoning variance process. Groenier questioned if this would be financial hardship for the developer. Dregne stated this is a hardship but the state courts have now interpreted hardship in relation to set back issues in a way that allows the Zoning Board of Appeals to evaluate the hardship in light of the purpose of the zoning restriction is. Dregne stated this gives someone the ability to say granting the variance here is entirely consistent with the underlying objectives of the zoning code or the storm water ordinance. Dregne stated the problem they are trying to prevent with the 50 foot setback is such that you don't need to impose the 50 foot setback given the unique circumstances of the property. Dregne stated if in fact they can't show that or the Zoning Board of Appeals determines that they are subject to the problem they are trying to prevent, than they shouldn't receive the variance. Dregne stated he cannot predict who will receive a variance and who will not has to be determined by a case by case fact specific finding with a decision made by the Zoning Board of Appeals. Groenier expressed concern regarding the 50 foot setback noting if you are 2 feet above the flood plain then the 50 foot setback shouldn't matter. Eberle explained all of these requirements work together and work separately, noting this is confusing, but where the Village of Oregon is geographically located – ditches freeze, pipes freeze, 200 year storms a month a part occur and storm water is not an exact black and white science. Eberle stated this is a conservative approach, but it's those types of things that will make sure there isn't a problem. Eberle gave the example of Lake Brittney in Waukesha County, stating the water levels are now lapping at their patio doors. It was noted the setback requirements were not in place when the homes were built. Schnelle stated he would prefer to side on the cautious side. Schnelle questioned if the commission thought this was reasonable and workable, noting no decision needs to be made at the meeting. Dregne stated they have tried very carefully not to create non-conforming structures with this ordinance. Dregne stated the project has to have at least 4,000 square feet of new impervious surface area. There was discussion regarding TIF # 2 land. Dregne stated it would be worth while to run an exercise with all the 'what ifs' scenarios. Gracz noted there has been a lot of discussion regarding this and Gracz stated they don't want to hurt development, but the Village can't build developments that would cause storm water issues down stream. There was discussion of doing the exercise and it was noted it would help develop an ordinance that is acceptable for the Village. Gracz explained there does need to be discussion regarding the storm water ordinance and if it should apply to redevelopments. It was noted this discussion will need to happen at a later date. Eberle noted that people who do storm water the right way will have no problems with the ordinances. Meier stated the end result is desirable, but struggles with how it applies to existing lots that haven't been built on yet. Meier also questioned natural disasters. Dregne stated he is asking the same questioned they have all asked. Eberle stated staff and the consultants have all 'tested' each other on the issues and stated Meier is asking all the right questions. Eberle stated this is why it has taken so long to put together and they have tried to be as proactive as possible. There was discussion regarding the predevelopment peak run off rates. Eberle stated one of the big initiatives throughout the State and especially Dane County is infiltration. Infiltration will continue to be more of an issue in the future. Eberle noted a good storm water management plan designers won't have a problem with this and people should be doing this. Eberle stated this does protect the Village. Eberle noted some other communities have been more stringent. Eberle feels this is a good middle of the road ordinance. Eberle stated a storm water system is a big

system and it has to do when it rains and how much it rain and where it rains. Eberle explained if you take a 5 gallon bucket and dump it out on the west side of the village it takes time for that water to get across Hwy 14. Eberle stated it's a timing issue and you need to look at it as a whole system. Schnelle questioned if the Commission is in agreement that there is no real issue with the proposal, but there are some points they should evaluate with the proposed storm water ordinance. It was noted the Commission is not objecting, but will consider a few modifications to it.

- 1) Current Village Stormwater Ordinance
- 2) Dane County Stormwater Requirements
- 3) Possible Use of Dane County for Plan Review, Inspection and Enforcement of Stormwater Ordinance
- 4) Proposed Stormwater Ordinance

Items 7 (1-4) were discussed together

8. **(8:00 PM -8:15 PM) Discussion of next Step in process including use of consultants for the rest of 2009 and Upcoming Meetings for Proposed New Stormwater Ordinance.** Schnelle stated in the course of the next couple of months the Commission will need to discuss what they would like to do. Schnelle explained they will also need to discuss how they want to discuss this in the most efficient way possible. Gracz suggested putting this on the November agenda and possibly do another joint meeting to go through the items in more detail and do one or two items at each meeting. Dregne stated the ordinance is already drafted and all they really need to be decided is what adjustments need to be made. Dregne stated they could look at the language of the revisions and the Commission would review it, this would cut down on the consulting fees. Schnelle thanked Dregne and Eberle for all of their hard work. Eberle noted it wasn't just Dregne and himself it was staff too, commenting it is a pleasure to work with all of these people.
9. **Adjournment of Village Board at Approximately 8:15 PM: Bollig moved to adjourn the Village Board at 8:17 pm. Second by Groenier. Motion carried 7-0.**

Planning Commission Continued with its Regular Meeting

10. Approval of Minutes:

- a) **7/23/09 - Groenier moved to approve the regular Planning Commission July 23, 2009 minutes. Second by Mahr. Motion carried 6-0.**

Groenier stepped down

11. Public Appearances:

- a) **(8:15 PM – 8:45 PM) Conceptual discussion regarding Foxboro Creek Side Project – Darrell Wild.** Darrell Wild was in attendance to present his conceptual discussion regarding Foxboro Creek Side Project. Wild noted the changes he has made since the last meeting with the Commission. Wild explained he added a one story commercial structure on the open lot. Wild discussed using insulated concrete forms for the residential structures. Wild stated there will be a 4 story and a 6 story structures. Wild noted using geothermal heating for the buildings and making the buildings as energy efficient as possible. Wild discussed financing for the project. Schnelle stated the first item that comes to his mind is the height of the buildings. Village Planner Mike Slavney stated this would require an amended PUD to enable the height and the Fire Protection would need to be checked into at the height. It was noted staff would need to check into whether or not a building at this height. Schnelle questioned the density in the area, noting it appears too dense for the area. Schnelle noted

before going any further the fire protection of the building needs to be checked into. Slavney questioned if Wild intends to build the commercial space the same time as the residential. Wild noted he does.

- b) **(8:45 PM – 9:00 PM) Public Hearing re request for an amendment to the General Development Plan (GDP) for the Villages of Foxboro Lot 2, Building 2.** Schnelle opened the public hearing at 8:42 pm. Chuck Elliot was in attendance and gave a brief overview of the proposed amendment to the GDP. Meier questioned if the ownership of these units would be kept by Elliot. Elliot noted these will be residential rental units and will not be sold. Arthur Oscar resident of Concord Drive noted his concerns regarding the square footage and zoning for the residential units. Elliot stated the one bedrooms are around 900 square feet and the efficiencies are around 870 square feet. Gloria Oelke resident of Concord Drive stated her concerns regarding how many units have been sold and how many have been rented. Elliot noted no condos have been sold and all are rentals at this point. Oelke questioned if this area is getting too dense for rental units. Slavney stated the Planning Commission and the Village Board cannot pass any restrictions or regulations related to owner occupied verses rental and is against Federal Law. Slavney stated she could rent out her unit unless there are restrictive convinces, which the Village has no role in, would prohibit that. Slavney noted the GDP and the SIP need to be dealt with separately and recommends approval of both but does have a suggestion that the motion specifically states that the Village will be granting the ability to convert any of the ground floor residential units back to commercial. Elliot noted this was one of the recommendations and must have gotten missed at putting this in the GDP and SIP. Elliot will make that amendment.
- 1) **Discussion and Possible Recommendation to the Village Board re amendment to the GDP for the Villages of Foxboro to allow 10 residential rental units on the first floor of Building 2. Meier moved to recommend to the Village Board approval of the amendment to the GDP for the Villages of Foxboro to allow 10 residential rental units on the first floor of building 2 as presented with the recommendations listed in the Village Planner's memo dated August 27, 2009 along with keeping ownership of these particular units with the capability of the units returning back to commercial space. Second by Mahr. Motion carried 5-0.**
- c) **(9:00 PM – 9:15 PM) Discussion and Possible Recommendation to the Village Board to amend the Specific Implementation Plan for the Villages of Foxboro Lot 2 Building 2. Meier moved to recommend to the Village Board approval to amend the SIP for the Villages of Foxboro Lot 2 Building 2 with the two conditions per the recommended findings by the Village Planner. Second by Mahr. Motion carried 5-0.**

Groenier returned.

- d) **Discussion and possible recommendation to the Village Board regarding the preliminary plat of Rolling Meadows Homes.** Schnelle stated this is to clean up some of the issues that happened in the past regarding lot lines in the Rolling Meadows development. Al Miller and Ross Michaels were in attendance for the preliminary plat discussion. Michaels gave an overview regarding the plat. Michaels explained there are several existing situations on this site that need to be corrected. Michaels noted there are 9 fully developed existing parcels and all of the buildings, streets, utilities, driveways and landscaping are complete on the project. It was noted a portion of Waterman Street right of way that exists is intended to be discontinued and will be discussed later in the agenda. Michaels explained some of the buildings lay within several lot lines and there are multiple buildings on many of

the parcels. The project is currently zoned PD. Michaels stated there is an error on the Village's Zoning map for Rolling Meadows. Michaels discussed the purpose for doing the plat is they are trying to make one building per lot where possible and there will be two exceptions to this lot 7 and lot 8 which will have shared driveways. Michaels noted they would like to correct a zoning issue too. They would like to rezone out lot 1 to the Rural Holding zoning, which is more appropriate for the wetlands that occupy that lot. Michaels has requested some waivers since the project is fully developed. Schnelle referred to a letter from the Village Engineer Ruckert Mielke dated July 23, 2009 and noted four items they had concerns on. Below stated those issues have not been addressed yet. It was noted there were no boundary discrepancies with adjoining property owners. Michaels noted he has been in contact with the other utilities regarding the easements. **Mahr moved to recommend to the Village Board approval of the preliminary plat of Rolling Meadows Homes contingent upon complying with Ruckert Mielke's comments in their July 23, 2009 letter. Second by Groenier. Motion carried 6-0.**

12. (9:15 PM – 10:00 PM) Communications and Miscellaneous Business

- a) FYI Only -- Distribution of Submittal to CARPC for Presbyterian Church Gracz noted they were shooting for an October Public Hearing, but it will be moved to November.
- b) Discussion and Report to the Village Board on the Resolution to Discontinue Waterman Street **Recommended motion: recommend to the Village Board adoption of a resolution discontinuing part of Waterman Street** Schnelle noted this has been discussed in the past. Below stated this will need to be address before the final plat. Below referred to the Memo from Village Clerk Georgia Johnson, noting the time line and process. Below gave an overview of the process and brief history of why a part of Waterman Street is being discontinued. Schnelle questioned if the Planning Commission need to approve this first then recommend to the Village Board. Gracz stated the Commission approves the report and forwards the resolution to the Village Board for consideration. Gracz stated it is a complicated process. Slavney stated this process is to ensure that municipalities don't give away Village property to one of their 'buddies'. **Groenier moved to recommend to the Village Board adoption of a resolution discontinuing part of Waterman Street. Second by Mahr. Motion carried 6-0.**
- c) Discussion and Possible Action regarding Scheduling Public Hearing on Project Plans and Approval of TIFs #2 & #3 Amendments **Recommended motion: Schedule Public hearing for TIFs #2 & #3 for October 1 at 6:30pm** Meier inquired clarification for what the amendment was for. Gracz stated it to share increment between the TIF's and clarifying the downtown TIF's language. Gracz explained this would help alleviate the impact on property tax payers in the upcoming years. Gracz stated Finance Director Renee Hoeft will explain in greater detail at the October 1st meeting. **Groenier moved to schedule a Public Hearing for TIF's #2 and #3 for October 1, 2009 at 6:30 pm. Second by Meier. Motion carried 6-0.**
- d) Planning Staff Meeting of August 11th There was no discussion

13. Unfinished Business

- a) None

14. New Business

- a) None

15. Staff Report

Joint Planning Commission and Village Board Meeting
Thursday, September 3, 2009

- a) Status of Developments/Projects
 - 1) Alpine Meadows, Bergamont & Oregon Parks Neighborhood
 - 2) Alpine Business Park
 - 3) Update on the status of the Downtown Project Phase II Below gave an overview of the status of the Downtown Project Phase II project, noting substantial completion is set for October 2nd.

16. Items for Future Meetings
 - a) Extraterritorial Zoning
 - b) Review of Conditional Use Permit at 101 S. Main Street regarding outdoor dining in February, 2010

17. **Adjournment: Meier moved to adjourn the Planning Commission meeting at 9:25 pm on Thursday September 3, 2009. Second by Mahr. Motion carried 6-0.**