

PROCEEDINGS OF THE CITY OF NEW BERLIN
ETHICS BOARD

Monday, July 30, 2007
2:00 PM
NEW BERLIN CITY HALL
3805 S. Casper Drive
Conference Room A-B

Call Meeting to Order

The meeting was called to order at 2:00 PM by Chairman Mike Neuens.

Roll Call; Declaration of Quorum and Public Notice

Members Present: Mike Neuens, Tom Horton, Mike Everson and William Jonas. Also present: City Attorney Mark Blum, City Clerk/Secretary Marilyn Gauger and 6th District Alderman Dave Ament, Laura Krizan, Julie Krizan, Roger Krizan, Joan Ament, Angie Seidl, Alderman Ron Seidl, Ron Koessler, James & Rhoda Flagg, Keith Heun, Peggy Ament, John & Donna Goodrich, Linda Richter, Alderman Ken Harenda, Vernon and Marquerite Bentley, Matt Thomas and Delores Karner. Absent: Paul Gallagher.

This meeting was noticed on Thursday, June 28, 2007 in accordance with the Open Meeting Law.

Approval of Minutes from January 5, 2007 Meeting

Motion by Mike Everson to approve the January 5, 2007 Ethics Board minutes as printed. Seconded by Tom Horton and carried unanimously.

New Business:

Discussion and possible action regarding the Conflict of Interest letter from Paul D Gallagher.

Chairman Mike Neuens announced that this meeting is being held to consider whether there is a conflict of interest per the complaint letter received from Paul Gallagher. This meeting is not on the widening of Calhoun Road.

City Attorney Mark Blum gave a summary of the process and where we are now. The 1st issue is to determine if further investigation is needed and then if there is probable cause to believe that there has been a violation of the City's ethics ordinance based on a conflict of interest. At this time, all members re-read the letter of complaint submitted by Paul Gallagher dated May 26 regarding the possible conflict of interest of Alderman Ament voting on the Calhoun Road reconstruction project.

Motion by Mike Everson that no further investigation is necessary and to proceed with the hearing. Seconded by William Jonas and carried unanimously.

Hearing on Paul Gallagher ethics complaint against Alderman Ament.

Alderman Ament presented information regarding statements in Paul Gallagher's May 26th letter. He pointed to the following 3 statements in said letter:

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- “Ament has been strenuously protesting the widening of Calhoun Road. He was instrumental in a major change to the plan that allowed the frontage road/private drive to remain.”

Alderman Ament presented a Requested Action Statement dated May 16, 2007 that addressed the number of lanes, not intersection access, which was approved by Council. (Copy of RAS on file in the City Clerk’s office).

- “.....will increase his property values to the point that he may not be able to afford the taxes.”

This sentence is an incomplete statement. The full statement was: “The 3A Plan would *increase my property value but I don’t know that I could afford the taxes* after that if we keep spending like we are spending because we just can’t lose sight of the fact that the more debt we put in the less money we have and how it impacts our operating budget.”

- “The ethics committee made the correct decision (January 2007) and did not allow him to vote.” (on another issue).

Alderman Ament stated when this issue came up at Plan Commission, (he is a Plan Commission member) regarding the property adjacent to his, he recused himself from voting at Plan Commission or Council. He asked City Attorney Mark Blum if he could discuss the issue at Council and City Attorney Blum directed him to the Ethics Board for an opinion. The opinion of the Ethics Board was he should not speak to this issue and he did not.

City Attorney Blum asked Alderman Ament some questions regarding his statements at the May 22nd meeting for clarification purposes. He also asked him if he was aware of any plan to eliminate the frontage road/service driveway. Alderman Ament indicated “not anything that we have been presented” He also asked Alderman Ament whether he believed that the Calhoun Rd project as presently proposed would have a disproportionately greater impact on his business property than on other properties along Calhoun Rd. Alderman Ament stated that he did not believe so.

City Attorney Blum indicated that for the record Paul Gallagher was sent a copy of today’s meeting agenda indicating the date and time of this meeting.

Motion by Tom Horton to go to Closed Session. Motion withdrawn.

Motion by Tom Horton that he believes there is probable cause to conclude that there is a conflict of interest violation of the City’s Ethics Code based on the letter submitted by Paul Gallagher. Seconded by William Jonas and carried with Mike Everson voting no.

Motion by Tom Horton to go to Closed Session at 2:30 PM. Seconded by Mike Everson and carried unanimously per roll call vote.

Closed Session

The basis for the items to be discussed in Closed Session are as enumerated in Section 19.85(1) (h) of the Wisconsin State Statutes, (h) Consideration of request for confidential written advice from the Ethics Board under Section 19.46(2), or

from any County or municipal Ethics Board under Section 19.59(5). More specifically, discussion on request for Ethics Board opinion from Paul D Gallagher.

Motion by Tom Horton to go to Open Session at 3:12 PM. Seconded by Mike Everson and carried unanimously.

Open Session

Discussion and possible action for the issuance of an Ethics Board determination regarding the request for Ethics Board opinion as to whether there is a conflict of interest with Alderman Ament and the Calhoun Road Reconstruction Council agenda item.

Motion by William Jonas that we believe there is no violation of the City Ethics Code and directs the City Attorney to prepare finding of facts and conclusions of law in accordance with that decision. Seconded by Mike Everson and carried unanimously.

Adjourn

Motion by Tom Horton to adjourn at 3:15 PM. Seconded by Mike Everson and carried unanimously.

Respectfully submitted:

Marilyn Gauger
City Clerk