

Memo

Date: September 15, 2016

To: Village Board

From: Brad Lange

Re: Greene Ave. Pump House

The Greene Ave. Pump House has not been in service for many years. Back in 2008 the Public Works Committee recommended to the Village Board that the property be sold. The Village Board approved the recommendation and added that property owners within 300 feet should be notified to see if there is any interest before listing with a realtor, but if listed with a realtor, give priority to an Allouez based realtor. I cannot find any record of notifications being sent nor can I find that the property was ever listed with a realtor. (Please see attachment)

The Village Board, in 2015, accepted the recommendation of the Plan Commission that a potential buyer file a PDD petition to develop the property rather than rezoning it. This discussion and ultimate decision came about after an inquiry was made by a potential buyer. (Please see attachment)

The Village has not had an appraisal done on the property, but rather has an opinion of our Assessor of \$20,000.

Clarence Matuszek, 2680 S Webster

- ok to disagree as long as you are not disagreeable. Miracle League deserves support. We subsidize other youth activities.

APPROVAL OF
 CONTRACT FOR
 LEGAL SERVICES
 WITH ATTORNEY
 DENNIS DUFFY
 EFFECTIVE AUGUST
 19, 2008

Green moved, Zeller seconded to postpone action on approval of contract for legal services with Attorney Duffy until August 5, 2008 Board Meeting. All ayes.

PUBLIC WORK'S
 COMMITTEE
 MINUTES DATED
 JULY 1, 2008

- a. Recommendation from committee to sell the Greene Avenue well station owned by the Village of Allouez

Green moved and Swatloski seconded to accept the recommendation of the Public Works Committee to sell the Greene Avenue Well Station.

Zeller moved and Green seconded to amend the main motion that we first notify all property owners within 300 feet of the parcel to see if they are interested before listing with a realtor, but if listed with a realtor, give priority to an Allouez based realtor. Upon the vote the amendment carried. All ayes. Upon the vote, the main motion carried. All ayes.

- b. Action re: residential water bill adjustment policy to be presented to PSC at the water rate hearing on July 31st

Green moved to not approve the date and time for the PSC Water Rate Hearing. Motion died for lack of a second.

Vanden Avond moved and Zeller seconded to accept the recommendation of the Public Works Committee and approve the residential water bill adjustment policy to be presented at the PSC Water Rate Hearing on July 31st.

- Green objected to the PSC holding a public hearing during daytime hours

Agenda Item No. B

Memo

To: Plan Commission
Fr: Brad Lange
Re: DISCUSSION OF REZONING THE GREENE AVENUE WATER STATION
Date: January 2, 2015

The old Pump House/Well Station located on Greene Avenue has been out of service for many years. It was the recommendation of the Public Works Committee (2008) and approved by the Village Board (July 15, 2008) to sell the building.

July 15, 2008

PUBLIC WORK'S
COMMITTEE MINUTES
DATED JULY 1, 2008

- a. Recommendation from committee to sell the Greene Avenue well station owned by the Village of Allouez

Green moved and Swatloski seconded to accept the recommendation of the Public Works Committee to sell the Greene Avenue Well Station.

Zeller moved and Green seconded to amend the main motion that we first notify all property owners within 300 feet of the parcel to see if they are interested before listing with a realtor, but if listed with a realtor, give priority to an Allouez based realtor. Upon the vote the amendment carried. All ayes. Upon the vote, the main motion carried. All ayes.

The property is currently zoned Village Owned and the surrounding property is Commercial to the West and South, High Density to North and "B" Residential to the East. The Village Board asked the Plan Commission to recommend proper zoning of the property. Staff recommends zoning either "Commercial" or "C Office Residential."

Memo

To: Plan Commission

Fr: Trevor Fuller

Re: APPROVAL OF APPROACH REZONING OF GREENE AVENUE PUMP STATION

Date: February 18, 2015

The old pump station located on Greene Avenue has been out of service for many years. It was the recommendation of the Public Works Committee (2008) and approved by the Village Board (July 15, 2008) to sell the building. At the January meeting, Plan Commission discussed whether to rezone the property or have a potential buyer undergo the PDD process. Plan Commission asked staff to find out the value of the property, square footage, timeline to sell public property, parking requirements, and the historical significance of the rear tank.

Square Footage – 6500sqft. (including 3000sqft. rear tank)

Historical Significance – Rear tank is listed as a non-contributing structure

Timeline – no statutory requirements

Parking Requirements (commercial) – 1 space per 2 employees per 1000sqft. of working space

Plan Commission is asked to review the information and discuss the recommended zoning approach to the pump station on Greene Avenue.

February 23, 2015 (Plan Commission Meeting)

- Allouez Walks and Bikes is a non-recognized committee by the Village Board.
- This is a way of trying to draw in more community involvement.
- Information from the ad hoc committee would be brought to the Allouez Walks and Bikes committee.

Motion by Hansen/Kornowske to return to regular business. Motion carried.

Action will be taken at the March meeting, after receiving more information from the County.

APPROVAL OF THE 2014 PLAN COMMISSION ANNUAL REPORT

Discussion

- It would be nice to see some metrics in the Annual Report.
- How many of the Plan Commission decisions get ratified by the Village Board?
- Timeline is also included, and Fuller would make a recommendation to remove the Bike and Ped Plan in quarter 4 of the timeline.
- In quarter 3, the second bullet point, remove the word "bicycle".

Motion by Kornowske/Hansen to approve with changes discussed above. Motion carried.

APPROVAL OF APPROACH TO REZONING OF GREENE AVENUE PUMP STATION

Fuller presented additional information on the building including square footage, historical significance, timeline, and parking requirements.

Discussion

- PDD vs Rezoning would make the most sense and allow more flexibility.
- How much would it cost to remove the tank?

Motion by Ropp/Hansen to recommend that the property remain as Village owned so that the PDD process may be initiated for any development. Motion carried.

REPORT ON THE VILLAGE VISIONING DATA RESULTS

Data Results

- Residents feel we have a safe community.
- Like the fact that there is a historic flavor.
- Interested in having some Commercial Development within reason.
- Biking and pedestrian aspects are important.
- Like services provided.
- Enforce ordinances with consistency.
- Administrator and elected officials are well liked.
- Aging housing stock.
- Gathering destination points within the village.
- Parks being our identity

March 3, 2015 (Village Board Meeting)

ZONING RECOMMENDATION FOR GREENE AVENUE PUMP STATION (from Plan Comm on 2/23/15)

Genrich / Harris moved to accept the Plan Commission recommendation that a potential buyer file a PDD petition to develop the property (Greene Avenue Pump Station) rather than rezoning it. Motion carried.

2014 PLAN COMMISSION ANNUAL REPORT (from Plan Comm on 2/23/15)

Staff recommended removing the words “at Webster” and replacing them with “for Webster Elementary” in item vii, under “2014 Accomplishments”

Discussion:

- request for clarification on 2.b.iii (what is a qualitative design process) and 2.b.ii (aren't there parameters on how TIF applications should be handled)
- include data gathered during the visioning sessions into the Comprehensive Plan

Genrich / Harris moved to accept and place on file the Plan Commission 2014 Annual Report. Motion carried.

CONSENT AGENDA

Gast / Rafter moved to:

- a. **Approve Village Board minutes dated 01/20/15, 02/03/15, 02/17/15**
- b. **Accept and Place on File minutes from:**
 - i. **Plan Commission dated 11/24/14 amended, 01/26/15**
 - ii. **Economic Development Committee dated 02/06/15**
 - iii. **Park, Recreation & Forestry dated 02/24/15**
- c. **Approve accounts payable dated 01/30/15, 02/26/15, 02/13/15, 02/17/15, 02/20/15, 02/23/15, 02/24/15**

Motion carried.

INTENSIVE SURVEY INFORMATION (clarification on what Mr. O'Rourke needs to submit to the Village Board for the March 17, 2015 Village Board meeting concerning his complaints with the Village's Historical Intensive Survey Report) (from 2/17/15)

Vanden Avond

- clarified what is expected for the March 17th Board meeting
 - o O'Rourke was asked to bring in information regarding his allegations against the State Historic Preservation Office by the Wednesday before the March 17th meeting.
 - o The Board will then evaluate that information to determine whether the allegations against the State Historic Preservation Office are valid, then make a decision as to whether to move forward with either collecting more information or addressing the issue with the State Historic Preservation Office or to put an end to the allegations and pursue the issue no longer.

Discussion:

- Defer until April 21 when O'Rourke can be present or schedule a special meeting in April
- Require information based on original timeline to allow time to review

Powers of Municipalities FAQ 1

What procedures must a municipality follow when it sells land and may a municipality sell land for below fair market value?

Cities and villages are expressly authorized to sell and convey property. See Wis. Stat. secs. 61.34(3) and 62.22(1). The statutes do not specify any procedures a municipality must follow when selling property. We often get asked whether a municipality must, when selling property, solicit bids and sell to the highest bidder. A municipality may, but is not required to, use a competitive bidding process when selling property. A municipality may, just as well, choose to list the property with a real estate broker or establish any other reasonable sales procedure.

When a party interested in buying a particular parcel of land from a municipality initiates discussion with the municipality about the possibility of purchasing the parcel, the municipality may negotiate exclusively with the interested party and need not publicly advertise the property's availability before selling the property to the interested party.

We have advised municipalities in the past, however, that they should obtain an appraisal of any parcels to be sold to eliminate the possibility of a successful taxpayer's suit challenging the adequacy of the purchase price. The Wisconsin Supreme Court has held that a sale of municipal property authorized by the governing body may be voided if a taxpayer can establish (1) illegality, (2) fraud or (3) a clear abuse of discretion on the part of the governing body. *Newell v. Kenosha*, 7 Wis.2d 516, 96 N.W.2d 845 (1958); *Hermann v. Lake Mills*, 275 Wis. 537, 82 N.W.2d 167 (1957). If a municipal governing body sells property for substantially less than a fair consideration in money or other benefits, it may be found to have abused its discretion. See *Hermann v. Lake Mills*, supra. This is especially true if the land is sold to private parties who intend to use the land for purely private purposes.

When municipalities sell property to nonprofit organizations or governmental entities for a municipal public purpose, the sale price is less of a concern. Under such circumstances, the sale price could even be below fair market value as long as the amount of loss incurred by the municipality as a result of the sale is for a public purpose under the public purpose doctrine. In fact, sec. 62.22(2) specifically authorizes the donation of municipal property to nonprofit, private corporations for a public purpose. The public purpose doctrine requires that a municipality's expenditure of public funds be for a public purpose. *Hopper v. City of Madison*, 79 Wis.2d 120, 256 N.W.2d 139, 142 (1977).

The courts have stated that what constitutes a public purpose is, in the first instance, a matter for the legislature to determine and that the legislature's determination is entitled to great weight. *Id.* The courts have established the following test for determining whether a particular appropriation is for a public purpose:

For the public purpose requirement to be met, the subject matter of the appropriation must be a public necessity, convenience or welfare. Each case must be decided with reference to the object sought to be accomplished and to the degree and manner in which that object affects the public welfare. Factors which may be considered include the course or usage of the government, the objects for which taxes have been customarily levied, the objects which have been considered necessary for the support and proper use of government, the extent to which the expenditure results in competition with private enterprise, the presence or absence of a

general economic benefit, the number of citizens benefited, and the necessity and infeasibility of private performance.

Id., 256 N.W.2d at 143 (all citations omitted). For further discussion of the public purpose doctrine see League legal opinion Powers of Municipalities 852.

Finally, some sales of municipal property must be referred to the plan commission, if there is one, for its recommendation before final action is taken by the governing body. Wis. Stat. sec. 62.23(5). See also Scanlon v. Menasha, 16 Wis.2d 437, 114 N.W.2d 791 (1962).

(rev. 1/14)