

Public Hearing  
Ordinance No. 444  
Amendments to Liquor Licensing and General Licensing

June 5, 2012

Public hearing called to order at 6:55 p.m. by Village Administrator Teresa Schnitzler. Trustees present: Iverson, Koelbl, Lautz, Leicht, Schumacher, and Wehrs. Excused: President Manthei. Also present: Police Chief Charles Ashbeck, Public Works Director Scott Halbrucker, Recreation Director Michelle Czerwan, Keith Carson, Mary Neimeier, Village Attorney Bryant Klos, Coulee News Special Correspondent Emily Staed, County Board Supervisor Ray Ebert, Stewart and Susan Higdon, Walter Baltz, Charley Weeth, Tina and Shane Wehrs, and Village Administrator Teresa Schnitzler.

Due to the Village President's excused absence, a motion was made by Trustee Koelbl, seconded by Trustee Iverson to appoint Trustee Leicht to preside over the public hearing and regular meeting of the Board pursuant to Wis. Stat. Sec. 61.32. Roll call vote: Unanimous aye.

This hearing pertains to proposed Ordinance No. 444 to amend liquor licensing and general licensing chapters. The Village does not have in effect any ordinance structure regarding the issuance of a retail alcohol license for use in a building which has not yet been constructed. The Village Board also recognizes the need for a procedure for the issuance and revocation and suspension of licenses. Chapter 12 Intoxicating Liquor and Fermented Malt Beverages – Licensing and Chapter 13 Interpretation and Miscellaneous also need to be brought into compliance with State Statutes and clarify other issues.

There were no citizens present to speak for or against the proposed Ordinance.

Motion by Trustee Koelbl, seconded by Trustee Schumacher to adjourn the public hearing at 6:58 p.m. Roll call vote: Unanimous aye.

Teresa L. Schnitzler, Village Administrator

Regular Board Meeting

June 5, 2012

Meeting called to order at 7:00 p.m. by Trustee Leicht. Trustees present: Iverson, Koelbl, Lautz, Schumacher, and Wehrs. Excused: President Manthei. Also present: Police Chief Charles Ashbeck, Public Works Director Scott Halbrucker, Recreation Director Michelle Czerwan, Keith Carson, Mary Neimeier, Village Attorney Bryant Klos,

Coulee News Special Correspondent Emily Staed, County Board Supervisor Ray Ebert, Stewart and Susan Higdon, Walter Baltz, Charley Weeth, Tina and Shane Wehrs, and Village Administrator Teresa Schnitzler.

### Minutes

Motion by Trustee Lautz, seconded by Trustee Wehrs to approve the minutes of the May 15, 2012, Regular Board meeting as written. Roll call vote: Unanimous aye.

### Claims

Claims from the following funds were presented for payment:

<u>General Fund:</u>	\$70,109.57
<u>Water Utility:</u>	\$130,182.51
<u>Sewer Utility:</u>	\$19,165.95
<u>Storm Water Utility:</u>	\$333.33

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

### Ordinance No. 444 – Amendments to Liquor Licensing and General Licensing

Motion by Trustee Schumacher, seconded by Trustee Wehrs to approve Ordinance No. 444 as presented. Roll call vote: Unanimous aye.

### License Applications

Motion by Trustee Koelbl, seconded by Trustee Iverson to approve the issuance of an original “Class B” (Beer) License application, an application for cigarette license, an application for non-intoxicating beverage license, and an application for coin machine permit for five machines all at Lloyd’s Homemade Pizza Co., LLC, 83 Buol Road, Unit 4, West Salem. Roll call vote: Unanimous aye.

### Special Event Application

Motion by Trustee Koelbl, seconded by Trustee Iverson to approve a Special Event Application to the La Crosse Area Family YMCA for a triathlon scheduled for Sunday, June 10, 2012. Roll call vote: Unanimous aye.

### Planning Commission

Attorney Klos reported on the May 16, 2012, Planning Commission public hearing and meeting. The public hearing concerned a Conditional Use Permit Application filed by Olympus Media LLC. Olympus Media has requested a Conditional Use Permit for the purpose of changing an existing static face billboard to an electronic digital billboard. There were no citizens present to speak against the Petition. Keith Carson, Real Estate Manager for Olympus Media, addressed the Commission in support of the Conditional Use Permit citing a description of the proposed sign, the location, community service donation to West Salem, and emergency management announcement capabilities. Myrna Daugherty from the Town of Hamilton, Richard Kastenschmidt from the City of La Crosse, Charley Weeth of Scenic La Crosse, Rachel Teske of the City of Onalaska, and

Karen Ringstrom of La Crosse, all spoke in opposition to the Conditional Use Permit citing decreases in property values, affect on taxpayers, detracting from the beauty of the area, and suggesting a wider notification area and process. Village Resident William Heider spoke in favor of the Conditional Use Permit application for its proposed location and lack of interference with any Village residents. The Commission reviewed the Conditional Use Permit Application submitted by Olympus Media. Attorney Klos clarified Village Code sections applying to off-premise billboard signage and the fact the height, distance, and Department of Transportation regulations have been complied with. The proposed Conditional Use Permit sets forth eight conditions as follows:

1. The exact location of the billboard is outlined on the exhibit attached to the permit.
2. The east side of the signage would allow for an electronic digital face. The west side would allow the existing indirectly illuminated billboard but not an electronic digital billboard, animated sign, or directly illuminated sign.
3. The electronic digital billboard could have changeable messages that have a hold time of at least six seconds each. Each message change must occur in one second or less. The use of traveling messages, segmented messages, or scrolling messages is prohibited. Each message must be fixed and fully static during display. The message may not flash, move, use animation, twinkle, fade, bounce, rotate, pulse, flipflop, or create effect of movement.
4. The size of the sign would stay the same at 14' X 48'.
5. The height of the sign from grade level to the top of the sign would stay the same at 42 feet.
6. The electronic digital billboard must have illumination of no more than 5,000 nits during daylight and 500 nits during nighttime hours.
7. Olympus Media will donate five hours of community service messaging space on the signage per month for community public service announcements and for emergency management notices.
8. The electronic digital billboard must comply with West Salem Ordinance 3.07, Wis. Stat. Sec. 84.30, and Wis. Admin. Code Trans. Chapter 201 at all times.

The Commission recommend to the Village Board approval of the Conditional Use Permit as proposed. The Commission then reviewed an Application for Outdoor Alcoholic Beverage Garden Permit submitted by SSJH and Susan and Stewart Higdon. The Higdons own Breakers at 153 South Leonard Street, and they would like to construct a large, fenced in patio area behind the building. Stewart Higdon addressed the Planning Commission to explain their plans. The plan is to construct a 20-inch poured wall beginning at the building back wall out to within four feet from the alley right-of-way. A fence, gating and window system will be constructed on top of the poured wall. Security cameras will be installed to monitor the area, and additional lighting can be installed if necessary. The Commission scheduled a public hearing on the outdoor alcoholic beverage garden permit for Monday, June 4, 2012, at 6:30 p.m. Tim Brennan, representing Rustic Road Village, addressed the Commission regarding a Petition for Change of Zone submitted by Rustic Road Village and property owners Judith and Randall Manske for property located at 501 East Jefferson Street. Petitioners are requesting the zoning of this property be amended from Business District to Planned Unit Development District in order to allow light manufacturing, retail, special

events, public education, and other uses consistent with the new zoning. The Commission scheduled public hearing on the Petition for Change of Zone filed by Rustic Road Village for Tuesday, June 12, 2012, at 6:30 p.m. William Heider has requested the Village consider amending its zoning code to reclassify his property at 2551 West City Highway 16 from Agriculture District to Residential District and to reclassify the remainder of his property listed as Tax Parcel No. 16-1999-0 from a La Crosse County Agricultural Zone to West Salem's Agriculture District in order to allow construction of a farmstead, single-family home. The Commission scheduled a public hearing on both Petitions for Change of Zone for Tuesday, June 12, 2012, at 6:35 p.m. William Heider has applied for a Conditional Use Permit in order to continue the operation of his excavation business on lands owned by him and presently zoned under La Crosse County Agriculture District. Mr. Heider has requested the approval of the Conditional Use Permit be conditioned upon the granting of the Petition for Change of Zone to West Salem Agriculture District. The Commission scheduled the Conditional Use Permit Application for public hearing on Tuesday, June 12, 2012, at 6:40 p.m. Jim Weinmann and Jason Mayerl of Wireless Planning on behalf of U.S. Cellular appeared before the Commission to further review and discuss their Conditional Use Permit Application to replace an existing football field light pole with a light pole with telecommunications capacity use in an area zoned Residential and to ask for consideration to amend the West Salem Zoning Code to allow such a request. Mr. Weinmann and Mr. Mayerl explained why the Village water tower location has not been considered as a location option by U.S. Cellular. The high school ball field property is located closer to the center of the traffic density allowing sector utilization, i.e., three sectors handling calls and data versus only one sector. The desired location is nearest the center of their traffic density to allow multiple sectors to offload call data according to projected use on their network. Attorney Klos informed the Commission that under the current Village Zoning Code, the Village only allows conditional use permits for telecommunications towers in areas zoned Business and Industrial, and the proposed tower is in an area zoned Residential. In addition, Village Ordinances state telecommunication towers can be no more than 75 feet in height. The Commission requested Mr. Weinmann provide the names of other similar-sized municipalities in Wisconsin where this has been done. The Commission then agreed to meet to discuss an amendment to the zoning code.

Motion by Trustee Schumacher, seconded by Trustee Koelbl to approve the minutes of the May 16, 2012, Planning Commission public hearing and meeting. Roll call vote: Unanimous aye.

The Board reviewed the proposed Conditional Use Permit for Olympus Media, LLC, to allow an electronic digital billboard. Olympus Media has negotiated a 20-year lease with the owner of the land Ameen Ayoob d/b/a Indus Real Estate Enterprises. The Board discussed a time limit term be imposed on the conditional use permit.

Motion by Trustee Koelbl, seconded by Trustee Wehrs to approve the conditional use permit application filed by Olympus Media, LLC. with an amendment to add to the permit a term of 20-years from the date the sign is erected. Roll call vote: Unanimous aye.

Street Committee

Trustee Koelbl reported on the Street Committee meeting of May 24, 2012. The purpose of the meeting was to meet with La Crosse County Highway Commissioner Ronald Chamberlain to discuss West Salem taking jurisdictional transfer of portions or all of the county trunk highways within West Salem's village limits and recommendation to Village Board. Ron Chamberlain explained that jurisdictional transfer is the transfer of the ownership, control, jurisdiction, and responsibility of a road and its right-of-way from one governmental entity to another. When a municipal government entity feels there is a benefit for controlling a stretch of road within its boundaries, it may be viable to consider a jurisdictional transfer. In the 1980's counties were able to simply transfer the county trunks to a municipality. Such a transfer now must include a mutual agreement between the county and the municipality. La Crosse County has asked Mr. Chamberlain to visit each municipality to request each consider a jurisdictional transfer of the county trunk highways within their municipalities. To date, transfers have occurred in the Cities of Onalaska and La Crosse, and additional discussions have been had with Village of Holman, City of Onalaska, and the Town of Farmington. West Salem has four La Crosse County trunk highways within its limits: County Road B (Jefferson Street, Oak Street, to West Elm Street), County Road C (Neshonoc Road, East Garland, to North Leonard), County Trunk M on the west side of the Village, and County Trunk MW (Fairgrounds Road). West Salem taking jurisdictional transfer over one or more of the county trunks would be for control reasons. Permission in the form of permits or other methods is required for the Village to perform work or processes within those rights-of-way. Examples of items that have been discussed in the past year between the Village and the County are driveway access points, new stop signs, utility corridors, and truck routes. When the County performs work on its county trunk, the County is only responsible for the center 24 feet. Both government entities must agree and there is a negotiation process before a jurisdictional transfer takes place. Typically, counties and municipalities will agree the county will perform work in the right-of-way, such as repaving, prior to a jurisdictional transfer. Mr. Chamberlain informed the Committee no decision needs to be made at this time, and West Salem should keep this option in mind when making decisions in the future. The Committee took no action.

Motion by Trustee Koelbl, seconded by Trustee Lautz to approve the minutes of the May 24, 2012, Street Committee meeting. Roll call vote: Unanimous aye.

### Board of Appeals

The Board of Appeals met on May 24, 2012, to consider an appeal filed by Carol and Jerry Unser on May 14, 2012. The Unsers have applied for a variance to the zoning code for their property located at 501 West Avenue North. West Salem Code of Ordinance Section 3.02(E) states all lots shall abut upon a public street, and each lot shall have a minimum width at the street and at the building set back line of 60 feet. The Unser's lot has a 25-foot width at West Avenue North. Mr. Unser addressed the Board of Appeals to explain where the water, sewer, and sanitary sewer comes into the property, discussed a possible future use of the property for storage units, and stated if the variance is not granted, the result will be practical difficulty and unnecessary hardship because the lot will remain an unbuildable lot. Prior to this meeting, Board of Appeals members talked with neighboring lot owners, and several members visited the site. The Board strongly urges the Unsers relay to the ultimate buyer the lot should be fenced in so that traffic cannot use this property to access the neighboring properties and that outdoor storage will not be allowed. Mr. Unser agreed with the Board's

requests. The Board of Appeals voted unanimously to approve the appeal filed by Carol and Jerry Unser conditioned upon the lot being fenced and outdoor storage prohibited.

Motion by Trustee Leicht, seconded by Trustee Koelbl to approve the minutes of the Board of Appeals meeting of May 24, 2012. Roll call vote: Unanimous aye.

Motion by Trustee Lautz, seconded by Trustee Koelbl to approve the Board of Appeals recommendation. Roll call vote: Unanimous aye.

### Planning Commission

Attorney Klos reported on the June 4, 2012, public hearing and meeting of the Planning Commission. The public hearing concerned an outdoor alcoholic beverage garden permit application submitted by SSJH (Stewart and Susan Higdon). SSJH has submitted plans to construct a fenced-in patio behind the Breakers business at 153 South Leonard Street. There were citizens present to speak in general regarding outdoor alcoholic beverage garden permits. Lester Hanson submitted a letter on behalf of Salem Lodge 125. The Lodge voiced its objection to the permit for several reasons, including inquiring which taverns would be next to apply, fencing off properties in this alley would affect parking and emergency response, and concerns about debris in the alley and along the proposed fence. Tim Nagel, 121 South Youlon, addressed the Commission regarding loud music and bands performing in the garden such as what takes place at the Silverado Saloon. Brendan Young, 145 South Youlon, resides behind the Silverado Saloon, and he has made at least ten telephone calls to the police department regarding loud noise and lack of lighting behind the Silverado. Mr. Young inquired what would prevent the Silverado from applying for the same type of permit. Nancy Lewis, 153 South Youlon, stated her flood lights provide the lighting for the rear of the Silverado Saloon, and she, too, has concerns about noise issues. If the back door of the Silverado were kept closed, noise would not be as excessive as it is now. The Commission reviewed the Outdoor Alcoholic Beverage Garden Permit Application and accompanying documentation provided by SSJH. Attorney Klos clarified several concerns expressed at the public hearing. The Outdoor Alcoholic Beverage Garden Permit ordinance creates the ability to address concerns raised by the public, and each permit application is meant to be reviewed by the Village as to its proposed location. The Commission has the ability to set conditions according to input it receives from the public affected. The applicants propose to keep the back door closed, there is a condition requiring monitoring equipment, and if complaints are received, the Village has the ability to rescind the permit. The Commission noted SSJH's application meets the requirements of the Ordinance, and in some instances, proposes to go above and beyond the ordinance. If the applicants do not comply with the ordinance, the Village can rescind the permit. Future applications for the permit will be required to meet the same regulations as SSJH and any other conditions as recommended by the Commission. The Commission recommended to the Village Board approval of the Outdoor Alcoholic Beverage Garden Permit as presented. The Commission reviewed a certified survey map submitted by William Heider. The certified survey map depicts the current house as it is located on Highway 16. Mr. Heider intends to sell the present home and construct a new home for himself as part of the remaining farm. The Commission recommended approval of the Certified Survey Map as presented. The Commission reviewed proposed Resolution 2.12. Attorney Klos explained to the

Commission that Harter DC has notified the Village it does not wish to pursue the conditional use permit or the rezone application. Harter DC is going out of business. Danny Carr addressed the Commission with a number of questions regarding future owners rezoning the property and if the Village would allow a new owner to move forward with mining and reclamation plans. In addition, Mr. Carr informed the Commission Harter DC was not aware the Village would be billing their firm for outside legal and engineering review of the conditional use permit and rezoning application. The Commission agreed the application forms should be revised to add this information. The Planning Commission approved Resolution 2.12 with an additional proviso that the Village Attorney be instructed to protect the Village in that if the statement sent to Harter DC is not paid, the Village Attorney take judgment and levy on that judgment to make the Village whole.

Motion by Trustee Schumacher, seconded by Trustee Lautz to approve the minutes of the June 4, 2012, Planning Commission meeting. Roll call vote: Unanimous aye.

Motion by Trustee Lautz, seconded by Trustee Wehrs to approve Outdoor Alcohol Beverage Garden Permit No. 1 to SSJH, LLC. with an amendment to Condition 8.A. to read: No amplified sound or music is permitted outside the enclosed (building) premises. Amplified sound or music is not permitted in the OABG area. This does not ban an outside television as long as its sound is not amplified. The sound from the television must be from the television's internal sound system. Roll call vote: Unanimous aye.

Motion by Trustee Koelbl, seconded by Trustee Lautz to approve the certified survey map as submitted by William Heider. Roll call vote: Unanimous aye.

Motion by Trustee Wehrs, seconded by Trustee Iverson to approve Resolution 8.12 as presented. Roll call vote: Unanimous aye.

**WHEREAS**, Danny Carr, as agent for Harter DC, Inc., filed with the Village Administrator an Application dated November 22, 2011, for a Conditional Use Permit under 3.04 of the Village Code of Ordinances for its property located on Buol Road, requesting a Conditional Use Permit for a non-metallic mining operation, gravel and sand pit and quarry, including washing and grading the products for use in an area currently zoned Business, but which the applicant would apply to have re-zoned Conservancy District if said Conditional Use Permit application was approved, and that the Conditional Use Permit be granted subject to a condition that it only goes into effect if the property is successfully re-zoned Conservancy; and

**WHEREAS**, the Planning Commission held an initial meeting on November 30, 2011, wherein Danny Carr of Harter DC, Inc., presented to the Commission its plans for completing the excavation work at the Buol Road location, its plans for closing the mining operation, and its plans for completing the landscaping work; and

**WHEREAS**, the Planning Commission held a second meeting on January 10, 2012, wherein Danny Carr presented additional information as requested by the Planning Commission, presented preliminary engineering plans for the mining operation, and informed the Commission Harter DC had decided to revise its Application stating there will not be a washing operation on the site; and

**WHEREAS**, the Planning Commission held a third meeting on February 8, 2012, to review proposed conditions to be incorporated into a real estate declaration of

covenants, conditions, and deed restrictions as prepared by Village Attorney Bryant Klos, to review cross sections and elevations proposed for the mining operation, and the Commission requested Village Engineer Dave Sauer render a written report on the proposed conditions, how the operation may potentially affect water utility operations, and render an opinion on storm water issues, future erosion issues, potential damage to any Village facilities, and aesthetic issues; and

**WHEREAS**, the Planning Commission held a fourth meeting on March 13, 2012, wherein a public hearing was held to hear citizen comment on the proposed Conditional Use Permit and a Planning Commission meeting was held immediately following wherein the Commission directed Village Engineer Dave Sauer work with Harter DC Engineer Fred Hilby on a mutually satisfactory plan to move said Application forward; and

**WHEREAS**, the Planning Commission held a fifth meeting on April 16, 2012, wherein the Commission heard Village Engineer Dave Sauer's concerns regarding protection of Well Nos. 2 and 3 and groundwater contamination and reviewed conditions proposed to be incorporated into a conditional use permit, and the Planning Commission recommended by majority vote approval of the Conditional Use Permit contingent upon six conditions, considerations outlined by Village Engineer, and including a request from the La Crosse County Highway Department; and

**WHEREAS**, on April 17, 2012, the Village Board reviewed the Planning Commission's recommendation and unanimously voted to refer the Conditional Use Permit Application back to the Planning Commission in order to obtain reclamation plans, topographical plans, specifications, an engineering layout of the area, water runoff control plans, documentation on what the area will look like once the mining operation is completed, a recommendation from the Planning Commission on amending the wellhead protection ordinance, and an agreement from Harter DC to monitor the groundwater while the project is in process; and

**WHEREAS**, on April 26, 2012, Village Administrator Teresa Schnitzler prepared and mailed a statement of Village Engineer and Village Attorney review and services to date regarding the Buol Road mining conditional use permit and rezoning application; and

**WHEREAS**, on May 1, 2012, Sally McCann, as agent for Harter DC, Inc., telephoned Village Administrator Teresa Schnitzler stating Harter DC has no money, the business will be closing its doors the end of June, all its property is for sale, including the Buol Road property, stating Harter DC does not want any more work performed by the Village for the rezone or the conditional use permit application as the matter is now closed, and stating the April 26, 2012, statement for services to date sent by the Village to Harter DC, Inc. will not be paid; and

**THEREFORE**, the Village Planning Commission recommends to the Village Board that it deny the application for the Conditional Use Permit based on the grounds Harter DC, Inc. has withdrawn its application for a Conditional Use Permit subject to a condition that it only goes into effect if the property is successfully re-zoned Conservancy.

**DATED** this 4<sup>th</sup> day of June, 2012.

/s/ \_\_\_\_\_  
Dennis Manthei, Village President

/s/ \_\_\_\_\_  
Teresa L. Schnitzler, Village Administrator



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

Teresa L. Schnitzler, Village Administrator