

TOWN OF HOLLAND BOARD OF SUPERVISORS
OFFICIAL PROCEEDINGS OF THE MONTHLY MEETING
HOLLAND TOWN HALL, W3005 COUNTY ROAD G, CEDAR GROVE, WI 53013
Monday, July 8th, 2024 7:30pm

1. CALL TO ORDER:
Town Chair David Huenink called to order the Board of Supervisors monthly meeting at 7:30pm.
2. PLEDGE OF ALLEGIANCE:
Chair Huenink led attendees in the Pledge of Allegiance.
3. CERTIFY WISCONSIN OPEN MEETING LAW HAS BEEN MET:
Clerk-Treasurer Janelle Kaiser certified that the requirements of the Wisconsin Open Meeting Law had been met. The agenda for this meeting was posted at the Holland Town Hall and on the Town's website.
4. ROLL CALL:
 - a. Members Present: Town Chairman David Huenink, Town Supervisors Kelly Caswell, Douglas Hamilton, Stanley Lammers, and Brody Stapel.
 - b. Members Absent: None.
 - c. Others Present: Clerk-Treasurer Janelle Kaiser.
 - d. Members of the public that signed in: Michael Czysh, John Dickmann, Marie Dickmann, Kevin Kappers, Bob Neeb, Walter Ellis, Diane Ellis, Christy Smith, Margaret Smies, Ann Rauwerdink, Carol Sheeran, Corbett Sheeran, Greg Bachrach, Ann Bachrach, Scott Davis, Craig Droppers, Judy Britton, David Valenti, Ann Valenti, Kenneth Mac Kenzie, Judith Mac Kenzie, Janet Barthel, Grant Barthel, David Obbink, Amy Scott, Christine Frank, James Kastely, and Susan LaBudde.
5. ADOPT AGENDA AS OFFICIAL ORDER OF BUSINESS:
Motion by Hamilton, seconded by Lammers, to adopt the agenda for the July 8, 2024 board meeting as modified during the meeting to discuss agenda item 20b. following agenda item 7; the motion carried by unanimous voice vote.
6. DISCUSSION AND APPROVAL OF MINUTES:
Motion by Caswell, seconded by Hamilton, to approve the minutes from the June 10, 2024 board meeting as presented during the July 8, 2024 board meeting; the motion carried by unanimous voice vote.
7. RECORD RETENTION CERTIFICATION:
Clerk-Treasurer Janelle Kaiser certified that everything is up to date.
8. PUBLIC INPUT:

- a. Scott Davis commented on properties owned by American Orthodontics (AO) on Foster Road South. He recently observed the properties being used by more than one family for a fourth of July party and said that occupancy permits restrict the number of people allowed to use a dwelling at one time. He questions whether AO inform their guests about laws and ordinances like short-term rental license holders do, and asked how the usage issue of the structure at N2047 Pine Beach Road South will be resolved; short-term rentals have a mechanism for regulation, and there is no current mechanism for this situation. He inquired about a timeline to resolve the use issue.
- b. David Valenti opined that the Holland Town Code's definition of family does not align with American Orthodontics' proposed use of the dwelling at N2047 Pine Beach Road South, whereas no one is occupying the dwelling and living as a single household unit. He mentioned an email that the Town Board received in 2023 from Michele Keller regarding the use of the property and also expressed Town Board transparency concerns.
David Valenti presented an open records request dated July 8, 2024 to the Town Board and Clerk-Treasurer at this time during the meeting.
Let these minutes show that the open records request in itself is an open record and can be viewed at the office of the Clerk-Treasurer or upon request.
David opined that the proposed use of the dwelling at N2047 Pine Beach Road South is a non-conforming use, based on the definition of a family and a household in Town ordinances, and is clearly a commercial use that could contribute to the profits of AO. He questions whether AO could claim damages to the business due to a lack of sales if the use is deemed non-conforming.
- c. John Dickmann inquired about whether there are additional requests similar to the dwelling at N2047 Pine Beach Road South and about why Town property owners were not notified about the building plans for the dwelling as well as changes to the building plans. He commented that preliminary building plans for the dwelling are different than the plans submitted, stating that the dwelling was originally planned as a single-story structure. He said that the Town Board is supposed to be serving the community, not American Orthodontics, and expressed concerns about non-conformance with the R-1 zoning district, the square footage of the structure, and increased traffic on the private road. He inquired about whether property owners can be notified upon issuance of occupancy permits.
- d. Julie Kuether inquired about the height of the dwelling at N2047 Pine Beach Road South, and expressed concerns that it exceeds the maximum allowed height for a dwelling allowed by the R-1 zoning district. She opined that the proposed use of the dwelling is clearly commercial, commented that this is an unfair situation for anyone on Pine Beach Road South.
Julie stated that short-term rental property owners are held accountable to neighbors in making sure that guests are orderly, and expressed that neighbors and legacy property owners of N2047 Pine Beach Road South should be protected.
- e. Amy Scott commented that AO advertises multiple single-family homes with unique names for each property on their website.

- f. Ann Bachrach expressed concerns about a lack of recourse for bad behavior or misuse of the property at N2047 Pine Beach Road South, existing trespassing issues on private beaches, and law enforcement response times to trespassing incidents. She encouraged the Town to hire independent legal counsel, other than the appointed Town attorney, to provide an opinion of the proposed use of the dwelling at N2047 Pine Beach Road South. She feels the appointed Town attorney can't be fair-minded in this decision and questioned how they represent the people of the Town.
- Ann stated that their contact at AO has lied on multiple occasions and that she has very little confidence that AO cares about neighboring property owners. She reported that an ambulance was delayed in traveling down Pine Beach Road South due to construction equipment for the new dwelling at N2047 Pine Beach Road South being parked in the roadway. She inquired about an opportunity to discuss matters of concern regarding this property on the record between AO, the Town Board, and neighbors.
- g. Susan LaBudde commented that American Orthodontics' website features a calendar function which shows availability for use of their properties, and therefore provides evidence of short-term occupancy. She opined that AO's use and proposed use is commercial and integral to their business and marketing strategy. Susan also requested contact information for the Town attorney and said that there might be a slight bias of the Town attorney in issuing an opinion on the proposed use of the property at N2047 Pine Beach Road South since the Town has an ongoing relationship with them.
- h. Corbett Sheeran seconded Julie Kuether's concerns about a possible height variance of the dwelling at N2047 Pine Beach Road South.
- i. Carl Weingaertner inquired about proposed Town ordinance revisions that he previously submitted via email.
- j. Janet Barthel asked the Town Board to follow up on Julie Kuether's concerns about a possible height variance of the dwelling at N2047 Pine Beach Road South.
- k. Bob Neeb addressed the Town Board as follows:
- i. Inquiry about the cost of the Town's membership in the Wisconsin Towns Association (WTA). He commented that private citizens cannot ask the WTA questions.
 - ii. Comments on the lack of Town notification about the Onion River Solar Utility's development.
 - iii. Comments on the functionality of equipment at the Onion River Solar Utility as well as an inverter fire that occurred within the fence at the utility. He expressed concern about the lack of media attention that the fire received and about the lack of follow up to neighboring properties about it. Bob commented that the responding fire department was sitting on the road waiting for the fire to burn out, which poses a cost to the Town. He encouraged the Town Board to be proactive about these issues.
 - iv. Inquiry about ditch reshaping on Dekker Road and vegetation height under the solar panels.

- l. Grant Barthel seconded Ann Bachrach's request that the Town hire independent legal counsel, other than the appointed Town attorney, to issue an opinion on the proposed use of the dwelling at N2047 Pine Beach Road South.
- m. Craig Droppers asked the Town Board to address visibility issues at the intersection of Palmer Road and Smies Road. The visibility issues are caused by trees on private property not located in the road right-of-way, so they may not be able to be trimmed or removed. A stop sign at the intersection was suggested.
- n. Amy Scott requested that the Town discontinue the use of chemical herbicides at the base of all Town signs. She believes that the grasses and weeds do not grow tall enough to obstruct the signage, and that the herbicides are unnecessary, costly, and bad for the environment.

9. FINANCIAL/TREASURER'S REPORT:

Motion by Lammers, seconded by Hamilton, to approve the June 2024 financial/treasurer's report as presented during the July 8, 2024 board meeting; the motion carried by unanimous voice vote.

10. APPROVAL OF VOUCHERS:

Motion by Stapel, seconded by Lammers, to approve the July 8, 2024 voucher listing as modified during the July 8, 2024 board meeting to include several invoice additions; the motion carried by unanimous voice vote. A revised voucher listing will be included in the August 12, 2024 board meeting packet.

11. ACCOUNTS RECEIVABLE:

None.

12. ONION RIVER ELECTRICAL UTILITY UPDATE:

Motion by Lammers, seconded by Hamilton, authorizing the Town Chair to proceed with accepting \$370,000 from Alliant Energy as fulfillment of their obligation to repair town roads due to damage caused during the construction of the Onion River Solar project; the motion carried by unanimous roll call vote. Stanley Lammers: Y; Brody Stapel: Y; Kelly Caswell: Y; Douglas Hamilton: Y; David Huenink: Y.

Chair Huenink reported:

- a. Alliant has acknowledged issues with terminator and gearbox components within the utility. Alliant reported the manufacturer will send a team to investigate issues with these components and the root cause of two fires at the utility.
- b. Alliant's operations and maintenance (O&M) team for the utility will take over as the Town's main contact soon. Randy Bermke, Construction Project Manager for Alliant, will send contact information for the O&M team and set up an introductory meeting between the Town and that team in the future.
- c. Alliant reported mowing within the fenced areas has been started by their contractor.

The Town Board concurred that research should be conducted about the possibility of invoicing for extraordinary costs incurred as a result of responses to fires at the Onion River Solar Utility. Local area fire departments have been instructed not to enter the fenced-in

area for safety reasons. The fire department is to suppress fire that has traveled beyond the fence, however, will respond upon receipt of the fire call. Therefore, extraordinary costs could include extended time spent monitoring fires within the fenced-in area, regardless of whether the fire ever extends beyond the fence. The Town's existing ordinance related to fire department reimbursement will be reviewed as part of this research.

The Town Board also concurred that it would be appropriate to propose a 2024 budget amendment at the August 12, 2024 board meeting to include changes to the "road repairs related to the solar utility" budget line items.

13. PLAN COMMISSION RECOMMENDATIONS:

a. ORDINANCE TO AMEND HOLLAND TOWN CODE CHAPTER 330 – ZONING:

Motion by Hamilton, seconded by Lammers, to accept the recommendation of the Holland Town Plan Commission and adopt Ordinance 2024-05, An Ordinance Amending Provisions of Chapter 330 of the Code of the Town of Holland, Sheboygan County, Wisconsin; the motion carried by unanimous roll call vote. Kelly Caswell: Y; Douglas Hamilton: Y; David Huenink: Y; Stanley Lammers: Y; Brody Stapel: Y.

b. REQUEST BY JON VOSKUIL FOR A REZONING AND USE OF PROPERTY AT N735 COUNTY ROAD LL:

Motion by Lammers, seconded by Caswell, to accept the recommendation of the Holland Plan Commission and **amend** the motion carried at the May 13, 2024 board meeting for the request by Jon Voskuil for a rezoning at N735 County Road LL as follows:

The Holland Town Board accepts the recommendation of the Town of Holland Plan Commission and approves the request by Jon Voskuil for a rezoning of 1.73 acres of N735 County Road LL (parcel 59006066883) from A-5 to B-1, contingent upon:

- a. ~~Written evidence provided to the Town Clerk-Treasurer within 5 business days of the applicant's receipt of notice of this contingency showing that the existing structure proposed for use by the business has been submitted to the state building inspector of Wisconsin Department of Safety and Professional Services for review and approval of the structure to be used for commercial purposes.~~
- b. Written evidence **provided to the Town Clerk-Treasurer showing** ~~of~~ full approval of the existing structure **at N735 County Road LL** proposed for use by the business to be used for commercial purposes by the state building inspector of Wisconsin Department of Safety and Professional Services **on or before December 1, 2024.**

The motion carried by unanimous roll call vote.

14. ORDINANCE TO AMEND HOLLAND TOWN CODE CHAPTERS 63, 140, 150, 190, AND 200:

Motion by Caswell, seconded by Lammers, to adopt Ordinance 2024-06, An Ordinance Amending Provisions of Chapters 63, 140, 150, 190, and 200 of the Code of the Town of Holland, Sheboygan County, Wisconsin; the motion carried by unanimous roll call vote.

15. TOWN CODE UPDATE FOR ORDINANCES PENDING CODIFICATION WITH GENERAL CODE:

No new information to report. This topic may be discussed at a future board meeting.

16. REVIEW/UPDATE THE TOWN FEE SCHEDULE:

Motion by Stapel, seconded by Lammers, to adopt Town of Holland Resolution 2024-03, Resolution Setting Fees; the motion carried by unanimous roll call vote.

17. SET TENTATIVE TIMELINE FOR BUDGET ACTIVITIES:

The Holland Town Administrative Committee will meet on Monday, September 16th, 2024 at 7:00pm to discuss the proposed 2025 budget for the Town of Holland.

18. 2024-2025 INSURANCE QUOTES:

Supervisor Stapel will obtain insurance quotes to be included in the 2025 budget.

19. DEED RESTRICTIONS ON OBJECTS WITHIN TOWN ROAD RIGHT-OF-WAY:

Supervisor Lammers suggested that objects located in right-of-way along Town roads should be documented via deed restriction and recorded at the Sheboygan County Register of Deeds office if deemed necessary by the Town. The deed restriction could hold the Town harmless if the property owner and Town agree to allow certain objects, such as trees, to remain in the road right-of-way.

Chair Huenink will research this topic and may provide an update at a future board meeting.

20. ONGOING ISSUES:

a. MANAGING SHORT-TERM RENTAL (STR) LICENSES:

A report showing short-term rental license status, including the status of 2024-2025 license renewals, was provided to the Town Board in the July 8, 2024 board meeting packet.

b. NEW CONSTRUCTION ON PINE BEACH ROAD SOUTH:

Chair Huenink reported the following information in reference to the dwelling at N2047 Pine Beach Road South:

i. Working with Town Attorney:

We still have several things under discussion. This has been slow going. Due to a misunderstanding at one point, we were both waiting on the other for 2 weeks.

ii. Building as a residence:

As I stated previously, the building itself meets the town criteria for a residential dwelling. So, the structure is compliant. It's the proposed use of the structure that's in question.

iii. Building Permit:

The town did issue a building permit prematurely, on 9/23/2023. A preliminary approval could have been given, but the actual permit issuance should have waited until the two original parcels were merged. The new parcel number was assigned 10/24/2023. The town is addressing the internal process issue. We had a meeting earlier today with the Building Inspector. We are also requesting the county to slightly revise their parcel split/merge process. We had a meeting earlier today with County Planning about that.

iv. Stay of Construction:

It had been requested that the Town issue a 'Stay of Construction' on the grounds that the building permit was issued before the parcels were merged. As I just mentioned, that premature building permit issuance did occur. But we caught the error and within a few days the paperwork was submitted to the county to merge. I stated previously I did not think we had grounds to issue a stay of construction. This is because the 'parcel merge' issue had been resolved in October 2023. The Town Attorney agrees with that and stated that to issue a stay of construction at this time lacks legal merit.

v. Use of the Building:

Many people stated the building is being used for commercial purposes. The Town Attorney's legal opinion is that the proposed future use is not a commercial use, it is a residential use. It comes down to that AO's guests are customers, potential customers, and employees. The possibility the guests may someday purchase the company's products is too indirect and speculative to consider it a commercial use currently. However, that does not mean it's an allowed use on the subject property, which is zoned R-1. That is still under discussion. Our current primary attorney is meeting with our former primary attorney to discuss this entire situation.

vi. Contact American Orthodontics:

Last month it was suggested that the Town contact AO about the situation. We have not done that so far. The Town Attorney agrees it would be okay to contact them and discuss the issues. So, we will take the suggestion and contact AO. This will probably occur after the two town attorneys meet.

c. IMPROVING BROADBAND SERVICES IN THE TOWN:

No new information to report. This item will be removed from future board meeting agendas until further notice.

d. SIGNAGE AND BARRICADES AT WALK-IN ACCESS TO LAKE MICHIGAN LOCATIONS:

No new information to report. This topic may be discussed at a future board meeting.

e. BUILDING PERMIT FOR NEW RESIDENCE ON DEWITT ROAD:

The property owners at N1761 Dewitt Road, whose building permit for a new single-family residence expired on December 29, 2023, have obtained an independent inspection of the partially constructed residence as required by the Town due to concerns of prolonged exposure to weather and nature for many months during construction. The Town Building Inspector, Tom Huenink, recently received a copy of the inspection report, which provided that the residence is in structurally sound condition and that there is no evidence of mold or other concerns as described in the letter sent to the property owners. Tom Huenink expects to issue a new building permit to continue work on the residence after state approval of the permit is granted.

This item will be removed from future board meeting agendas until further notice.

f. STATUS OF PROPERTY AND BUILDINGS AT W1645 SMIES ROAD:

A letter was sent to the property owners of W1645 Smies Road on May 15, 2024 to notify them of non-compliance with certain Town ordinances on the property. The property owner provided correspondence and photos to show actions taken to correct the non-compliances with both Town of Holland and Sheboygan County ordinances at the end of May 2024.

Janelle Kaiser recently contacted Sheboygan County to inquire about any actions taken by the property owners to correct non-compliance with county ordinances. To date, it is the Town's understanding that the property owners have not corrected those non-compliances.

In addition, the Town Board received a report of 2 recent fire department responses to the property as a result of tree removal and burning, as well as a power outage which impacted several property owners along Smies Road South which was reportedly caused by the tree removal on the property.

g. EXCHANGE OF TOWN OWNED ROAD RIGHT-OF-WAY:

No new information to report. This topic may be discussed at a future board meeting.

h. INTERGOVERNMENTAL ROAD AGREEMENTS WITH TOWN OF LIMA AND VILLAGE OF CEDAR GROVE:

No new information to report. This topic may be discussed at a future board meeting.

21. COMMITTEE, CLERK-TREASURER AND CHAIRMAN REPORTS:

a. ADMINISTRATION AND FINANCE:

None.

b. PARKS AND PROPERTY:

i. REQUEST TO DONATE BENCH TO AMSTERDAM PARK:

Lynn Ardisana submitted donation payment and color selection for a bench from Wausau Tile to be installed at Amsterdam Park. Janelle Kaiser will order the bench from Wausau Tile.

c. PUBLIC SAFETY:

i. CEDAR GROVE FIRE DEPARTMENT AGREEMENT:

Chair Huenink reported that the Cedar Grove Fire Department Agreement Jointly Owned and Operated by and Between the Village of Cedar Grove and the Town of Holland has been approved and signed by both the Village of Cedar Grove and the Town of Holland.

ii. A report detailing contract time provided by the Sheboygan County Sheriff's Department in June 2024 was provided to the Town Board during the July 8, 2024 board meeting.

d. ROADS:

Supervisor Lammers reported that road work on Dekker Road and Wynveen Road has begun.

e. CLERK-TREASURER:

Janelle Kaiser reported:

- i. The Town of Holland's 2024 Maintenance of Effort and 2024 Personal Property reports were completed and filed on time with the Wisconsin Department of Revenue as required.
- ii. On July 5, 2024, the Wisconsin Supreme Court overruled its prior decision, in part, in *Teigen v. WEC*, and held that secure drop boxes were permitted under state law as a valid method of absentee ballot return. The decision is binding on all lower Wisconsin courts. The use of drop boxes is not mandatory and is at the discretion of the municipal clerk.

f. CHAIRMAN:

Chair Huenink reported:

- i. Kevin Struck of UW-Extension retired on July 3, 2024. Chair Huenink attended a retirement celebration for Kevin at the Sheboygan Marsh Center on June 27, 2024.
- ii. The Town of Wilson has indicated that they may be interested in withdrawal from the Oostburg Fire Partners.

22. PUBLIC INPUT:

Supervisor Caswell inquired about the process for lowering speed limits on Town roads. He received a request from a property owner to lower the speed limit on Sauk Trail Road between Van Ess Road and DeMaster Road from 45 miles per hour to 35 miles per hour.

23. CORRESPONDENCE:

All relevant correspondence was included in the July board meeting packet or was previously sent to Town Board members by email.

24. ADJOURN:

Motion by Hamilton, seconded by Lammers, to adjourn the meeting at 10:35pm; the motion carried by voice vote.