

**MINUTES OF THE
WATERTOWN CITY COUNCIL
Special Meeting Wednesday, July 25, 2007**

1. CALL TO ORDER AND ROLL CALL

Pursuant to due call and notice thereof, the special meeting of the Watertown City Council was called to order, on **Wednesday, July 25, 2007** by Mayor K. J. McDonald at 3:05 PM in the Watertown City Hall Council Chambers.

Upon roll call the following Council Members were present: McDonald, Rick Mann, and Earline King. Council member Dan Geiger was absent.

The following staff members were present: City Attorney Dave Hubert, City Engineer David Martini, City Planner Crystal Foust, Scott Qualle, Waldron and Associates, City Administrator David Mandt, Kim Kozar and George Hoff of Hoff Barry & Kozar.

Others present were: Bob Mahachek, Barry Grieve, State of Minnesota Building Code of Standards Division, Ryan Pacyga, John Trebesch.

2. REVIEW OF TUSCANY VILLAGE DEVELOPMENT

George Hoff, Hoff Barry & Kozar stated this meeting was called to hear the concerns from the developer, Mr. John Trebesch. The League of Minnesota Cities Insurance Trust has retained lawyers from Hoff Barry & Kozar for the verbal and written threats to bring upon a lawsuit to the City. Hoff presented Mr. Trebesch with a letter of default on the development agreement.

Mr. John Trebesch stated that buildings and development are two separate items and wants to address the building permit issue. The buildings on site are red tagged and a stop work order has been placed on buildings that have expired permits. Mr. Trebesch suggested that there is no variance required to remove the stop work order. There was a request from the City Council for dates on when the work was completed. A letter was submitted without dates, but Mr. Trebesch stated he could confirm dates once the stop work order was lifted. Mr. Trebesch stated that not all permits are expired. Permit 2005-2252 had a rough-in plumbing inspection on March 22, 2007 and a framing inspection on March 27, 2007. According to the Mr. Trebesch, there is ample evidence there has been work done. There are issues with the doors not being blocked. Permit 2005-2614 was inspected on February 23, 2007 to confirm the doors were blocked. Building inspector had 3 requests to look at the door, there were 3 inspections signed off by the inspector.

Another issue is the permits that were overcharged and not reviewed under a master plan. Mr. Trebesch stated that the building permits were not reviewed under a master plan and should have so the City overcharged him and wants this corrected. A building whether it is slab-on-grade, look-out, or walk-out can be reviewed under a master plan, according to Mr. Trebesch.

Mr. Greive commented on the statements Mr. Trebesch made. Under the building code, plan reviews can be made under the building code and the applicant can review a plan review at a discount rate. Buildings with a walk-out, look-out, or full basement can be

reviewed under the same plan if the same physical size. Garage dimensions can change, foundation types can change, and roof pitches can change and all can be reviewed under a master plan.

Mr. Qualle wanted to clarify if slab-on-grade is different. It was Greive's opinion they were not different and could be reviewed under a master plan as long as the house had the same physical dimension.

Mr. Trebesch commented that on May 18th, he received a letter from the City to pay for the plan review fees for the permits not picked up. Council member Duske asked if Mr. Trebesch had ever brought this issue to the City Council. He responded that he had not and was working with staff. Attorney Kozar asked Mr. Trebesch what the amount should be. Mr. Trebesch responded he doesn't have a number at this time.

Other outstanding issues include the deed to the park. Mr. Trebesch stated he delivered the original deed to the City. Another deed was delivered to the City at their request. Attorney Hoff asked Mr. Trebesch if it was his intention to deliver a deed free in clear of any mortgages. Mr. Trebesch stated yes. Attorney Hoff reiterated that it was Mr. Trebesch intention of releasing the outlot free and clear of any mortgages. Mr. Trebesch stated he will verify with Columbia Title and will deliver it within one week.

Mr. Trebesch proceeded to go through the letter dated May 18th from the City. Mr. Trebesch stated the park has been graded. Attorney Kozar asked who the contractors were that did the work on site. Mr. Trebesch responded there were multiple ones and a list can be prepared. Berg Exterior is one contractor and is in the audience. Mr. Trebesch stated he will get a list put together.

Attorney Hoff asked who the general contractor was for the site. Mr. Trebesch stated the original 8 permits were pulled by Anabesch. Hoff asked who Vision Design Build is. Mr. Trebesch stated that they are on hold until issues are resolved. Attorney Hoff asked when they left. Mr. Trebesch responded since the stop work order was in place. Hoff asked who is going to take Vision Design Build's place. Mr. Trebesch responded Bullseye Builder.

Mr. Trebesch went through the letter dated May 18th for notice of default on the development agreement. He stated he has had the letter for about four weeks now. Mr. Trebesch stated the escrow account is current. He believes he has been overcharged for the building permits. Mr. Trebesch discussed the items in the letter dated May 16th from Bolton and Menk. Mr. Trebesch stated that some issues were left on the list from the previous year. A lot of the items are taken care of. Another inspection was done on July 2nd. Mr. Trebesch went through the letter dated July 16th from Bolton and Menk outlining the punch list items. Attorney Kozar asked if Mr. Trebesch could go through the items not complete on the May 16th letter. Mr. Trebesch responded: 2nd lift, curb repair, landscape between lift station trail and pond, telephone line buried, and fire hydrant elevation needed for as-built survey. Council Member Duske asked if the retaining wall was done. Mr. Trebesch responded that it needs some engineering. Televising the sanitary sewer was completed last August but never supplied to Bolton and Menk. The line was televised again and the City Engineer needs the reports and tape. Mr. Trebesch will send it directly to Bolton and Menk. Final grading is complete around the structures. Attorney Kozar asked if the park was final graded. Mr. Trebesch responded that is was.

Attorney Hoff asked in regards to the buildings, what is the timeframe of completion. Mr. Trebesch stated that it would be 6-7 weeks for some of the buildings and would prefer longer to allow the first coat to cure. Council Member Mann stated that the City did not receive a letter with contractors' names and dates for completion of the buildings. This was asked for before the stop work order was in place.

Mr. Greive stated that building permits are valid as long as work or inspection has occurred within 180 days after the permit is issued.

Attorney Kozar asked Mr. Trebesch what detail can be provided to the city for insurance that the buildings are going to be completed.

Attorney Pacyga stated that a timeline depends on a lot of variables and it is hard to commit to dates with the buildings have stop work orders on them. It is the height of construction season and contractors are busy. Mr. Trebesch can proceed once stop work orders are lifted.

Attorney Hoff stated that the expectation of this meeting is to get an answer to the question when the buildings will be completed.

Council Member Mann stated that on the 27th of June, Council Member Mann, the Mayor, Dave Martini and Art Taylor of Bolton and Menk, and Scott Qualle met and went over the punch list for the development and building issues. It was stated at that meeting that if the City did not receive a letter of variance outlining a timeline for completion by Thursday afternoon June 28th, the City would place a stop work order.

Clarification, Mr. Qualle noted the City directed Waldron and Associates to place the stop work order.

Mr. Trebesch stated he supplied this letter. Staff did not receive a letter.

Attorney Kozar noted that the City needs answers when the development will be completed or the City will draw on the letter of credit. Mr. Trebesch responded that Art Taylor was on site last week Thursday for sidewalks. Mr. Trebesch would like to have an agreement to hold off on the 2nd lift.

Attorney Kozar asked what was left for the development and what the timeline is. Mr. Trebesch went through the letter dated July 16th outlining the punch list items. Temporary access is completed. Mr. Martini stated that restoration needs to be completed. Manhole # 12 needs additional rings. Number 11 and 12 manholes need signs. The televising has been done but not submitted to the City. Mr. Trebesch stated the phone line is not buried but that is Frontier. Storm sewer needs to be cleaned out and needs to be inspected after curb cut and milling. Mr. Martini stated the silt fence is not adequate.

Attorney Kozar stated that Mr. Trebesch is implying these items will be completed in the future. Mr. Trebesch responded in the near future. Attorney Pacyga stated that he is reviewing this list for the first time and need an updated list if some of the items are completed on the July 16th letter. Attorney Kozar stated these items were supposed to be complete in October 1, 2006.

Administrator Mandt clarified that the terminology for items “done” (complete) to the City means the outstanding items have been inspected, reviewed, and signed off by the City Engineer. Simply completing the work is not complete for the City.

Attorney Kozar understood that things need to get done but cannot give concrete dates. Mr. Trebesch stated he would like until September 15th to complete those items outstanding for the development in the letter dated July 16th.

Attorney Hoff asked what the plan was for the buildings and the exposed rafters and completing the stucco, etc. Assuming the red tags are removed, what is the timeline for completion of the complete exterior? Mr. Trebesch stated at least 6 weeks for the 1st coat to cure properly. Mr. Rob Berg, the contractor of Berg Exterior stated at least 8 weeks for the stucco to cure. Attorney Hoff asked what guarantees the City has for the buildings to be completed i.e. financial guarantees. The letter of credit does not include the buildings.

Mr. Bob Mahachek of Lakeland Construction Finance stated that if the buildings are not completed, he will and foreclose on the property. Mr. Mahachek stated he is not willing to put up a letter of credit for the buildings. The loans are in place and funds are available to complete the buildings. He asked when he would have answers to when the red tags would be removed. Attorney Hoff replied that this would be discussed with the City and Mr. Qualle and the City would have an answer within a week from legal staff. Mr. Mahachek stated that a release could be done on Outlot A to release the mortgage lien.

Mr. Greive clarified that work needs to be done within 180 days of the permit being first issued. Permits can be valid 10-20 years legally through the building code unless a separate policy is set up by the City or building official.

Mr. Qualle stated the first building permit was issued on October 4, 2005. There has been no written or phone conversations for an extension.

Attorney Hoff asked if the City were to lift the red tags, who would be the licensed contractor? Mr. Trebesch responded Bullseye Builders out of St. Paul.

Attorney Kozar outlined 3 items needed from Mr. Trebesch:

1. All the worked performed in the last 6 months for the buildings include who did the work, what work was done, and when the work was completed.
2. All outstanding work to complete the exterior of the buildings and a timeline.
3. Contractors' names and dates of when the development work was completed.

Mr. Mahachek stated his opinion that if the 2nd lift was put on this year it would be a mistake with all the building construction needing to take place in the future.

Mayor McDonald closed the meeting stating he and the Council want the project to be completed as soon as possible and want to move forward while being reasonable and truthful. Council Member Mann stated that although it hasn't been a great year for home sales, it has been a great year for building.

3. **ADJOURNMENT**

**THERE BEING NO FURTHER BUSINESS THE MEETING MCDONALD MOVED,
SECONDED BY MANN ADJOURN THE MEETING AT 4:24 PM.**

Respectfully Submitted,

ATTEST:

Steven Wallner
Clerk-Treasurer

K.J. McDonald
Mayor