

**BROWN DEER PLAN COMMISSION
SEPTEMBER 12, 2005 MEETING MINUTES
HELD AT THE BROWN DEER VILLAGE HALL
4800 WEST GREEN BROOK DRIVE**

The meeting was called to order by Village President Jaberg at 7:00 P.M.

I. ROLL CALL

Present: Village President Margaret Jaberg; Trustee: Jeff Baker; Commissioners: Rick Stone, Alan Nees, Roy Williams, Susan Bellehumeur, David Hinman

Also Present: Russell Van Gompel, Village Manager; Jesse Thyges, Assistant Village Manager/Community Services Director; Nathaniel Piotrowski, Planning/Zoning Specialist; William Dineen, Village Attorney; Chief Steven Rinzel and Lieutenant Bob Halverson, Brown Deer Police Department; Trustees: Springman, Boschert

Excused: Trustee Tim Schilz; Commissioner John Raffensperger

II. PERSONS DESIRING TO BE HEARD

Mark Langholtz, 5954 West Greenbrook Drive, stated that he would object to defining an area for adult businesses in the Village. Mr. Langholtz does not want such businesses in the Village and stated that other nearby communities do not have such businesses.

Barb Fleming, 4995 West Fairy Chasm Court, stated that she was also concerned about adult businesses locating in the Village and commended the Village for its foresight and prudence.

III. CONSIDERATION OF MINUTES: August 8, 2005 - Regular Meeting

It was moved by Commissioner Bellehumeur and seconded by Commissioner Williams to approve the regular meeting minutes of August 8, 2005. The motion carried unanimously with Commissioner Nees abstaining.

IV. REPORT OF STAFF/COMMISSION MEMBERS

Mr. Thyges provided updates on the environmental testing at 7600 North Teutonia Avenue, the status of Concours Motor's Conditional Use Permit, the redevelopment of Walter Kocuja's service station on Bradley Road, and other minor property maintenance complaints within the Village.

Mr. Piotrowski, added that all recent property maintenance requests have been addressed and brought into compliance with Village Code.

Mr. Van Gompel added that the Audi development is moving forward while there was no progress on development at 60th Street and Brown Deer Road and a new sign ordinance was in the preliminary stages of staff review.

Trustee Baker asked about the status of the Lowe's development.

Mr. Thyges replied that the CDA approved a relocation motion for tenants of the site and the Village Board will be considering the motion at its next meeting.

V. UNFINISHED BUSINESS

A) Zoning Code Text Amendments to regulate "Adult Businesses".

Mr. Thyges provided a summary of the proposal and briefly discussed the legal challenge to the fee schedule for adult businesses in the City of Oak Creek.

President Jaberg stated that additional citizen comments were received after an article in the North Shore Herald. Responses were offered to help clear up confusion over the article and the intent of the ordinance. Various pieces of correspondence, received by President Jaberg, were placed in the activity file.

Attorney Dineen stated that staff review had revealed that all potential sites are not encumbered by any overriding agreements which would preclude a business from locating at the site.

Attorney Dineen then led a discussion to finalize draft language within the ordinance.

Attorney Dineen suggested that using the MPAA rating system to define the film content of adult entertainment in Sec. 9-12.02 (b) would not be appropriate since the rating system is designed for parents to use as a guide for children and not for the general public over 18 years of age.

It was consensus of the Plan Commission to not use the MPAA guidelines in the proposed ordinance.

Attorney Dineen asked if Sec. 9-12.06 should include language that limits licensed adult oriented employees to work only at one establishment

Commissioner Bellehumeur asked how long the license would last. Attorney Dineen responded that this license would be one year.

Discussion ensued about the merits of limiting licenses to a single establishment. Chief Rinzel spoke in favor of such a limitation. Attorney Dineen voiced concerns with handling an adult business employee's license differently than a regular bartender's license, since a bartending license applies throughout the whole village.

It was consensus of the Plan Commission not to limit adult business employee licenses to a single establishment.

Attorney Dineen then stated that he thought it was best to leave the current amount of time for application review in Sec. 9-12.04.06 (c) because the Village may face a legal challenge in the future if the review time was extended.

It was consensus of the Plan Commission to leave the current review timeframe intact.

Attorney Dineen then asked if the Commission would like to add "park" to Sec. 9-12.14 as a type of property that needed to be included in a 500 foot buffer from any potential adult oriented business.

President Jaberg and Trustee Baker would like to add "park" to the location section of the ordinance.

Mr. Van Gompel asked for consideration of adding "recreational facilities" to the definition of property types in order to encompass a gymnastic facility on North 55th Street.

Trustee Baker added that such a definition would then include the soccer field north of the old printing facility on 51st Street.

Commissioner Bellehumeur stated that adding a recreational facility definition would create a buffer that would effectively eliminate most all of the potential sites in the Village.

It was consensus of the Plan Commission to include "park" into the definition of property uses around which there should be a buffer. It was consensus of the Plan Commission not to add the term "recreational facility".

Attorney Dineen then recommended adding language in Sec. 9-12.24 (c) that there should be a two foot high stage requirement in addition to a minimum distance of 5 feet from a performer to audience.

It was consensus of the Plan Commission to add a stage height requirement.

Attorney Dineen then recommended to add language in Sec. 9-12.24 (f) stating that performers may not accept gratuity. This also affected the text of Sec. 9-12.24 (g) which referred to gratuity.

It was consensus of the Plan Commission to add language to prohibit the accepting of gratuity and to accept the associated text changes.

President Jaberg asked if an establishment that loses its adult entertainment license could be forced to close for one year instead of six months.

It was consensus of the Plan Commission to change the length of closure upon revocation of a license to 1 year.

Commissioner Nees asked for clarification on Sec. 9-12.01 (1). Attorney Dineen stated that this language attempts to say that the Village currently does not have a mechanism to control adult oriented businesses. Attorney Dineen continued that he did not like the wording of this section but stated that it was acceptable.

Commissioner Nees asked if it was possible to prohibit separate viewing areas in an adult oriented business. Attorney Dineen replied that it could be problematic for the Village to prohibit separate viewing areas.

It was moved by Commissioner Stone and seconded by Commissioner Hinman to recommend the Adult Oriented Business ordinance to the Village Board, subject to the suggested amendments. The motion carried unanimously.

VI. NEW BUSINESS

None.

VII. ADJOURNMENT

It was moved by Commissioner Nees and seconded by Commissioner Stone to adjourn at 7:58 P.M. The motion carried unanimously.

Jesse Thyges
Assistant Village Manager/Community Services Director