

TOWN OF PORT WASHINGTON OFFICE OF THE CLERK

Official Minutes from the Public Hearing of the Town of Port Washington Town Board was held on Monday, October 4, at 7:00 PM at the Town Hall, 3715 Highland Drive, Port Washington, WI.

1. Roll Call:

Present: Mike Didier, Greg Welton, Gary Schlenvogt, Johnathan Woodward – Town Attorney, Rick Fellenz – Building Inspector, Heather Krueger- Clerk, Mary Sampont – Treasurer

Absent: None

Residents: 15, member of the Press: 1

2. Determination of whether proper notices have been given under Wis. Statutes §82.11(1), §82.10(4). Correct notice has been given.

3. Public hearing pursuant to Wis. Statutes §82.11(1) on the application of Robert Jackson, David Sevits, John Krejci, Victor Kozlowski, Randall Freier and Henry Rossi to discontinue a portion of Groeschel Road, described in full as:

All that part of Groeschel Road lying west of Lot 1, Block 4 of Norport Subdivision, as recorded in the Ozaukee County Register of Deeds as Document No. 0166849.

Didier: Public Comments will be heard:

John Krejci, 3556 Groeschel Rd: Would like to know if Didier should recuse himself from voting as his real estate firm had the neighboring property it listed with a real or apparent contract. Didier: I myself had nothing to do with the prior sale, my firm listed the property with a subsequent owner of the land that abuts Groeschel RD. I personally gained no financial interest. The firm had a relationship with the seller, not the buyer or the current owner of the property. And I do not even know who the sellers were other than I think there were a bunch of individuals nor do I know who the current owners are other than Mr Nelson who is here today. Krejci: I would like to discuss procedure, there is a City Resolution to be discussed as well, are we going to proceed? Didier: Yes, as the Chair of this public hearing I intend to proceed regardless of any city resolution. Woodward: we can proceed with the public hearing, merits do not need to be discussed now.

Randall Freier, 1444 Keelson Cove: In the Town of Port Washington Comprehensive Plan, preserve and protect rural character is a goal of the town. Having the Whitetail Subdivision connect to the town road will bring urban traffic. Is this the best interest of the town? Preserve and protect rural environment. Groeschel Rd is not the only possible route for the city to use, there are other roads that border the property. The city is opposed because it may need to change their plans. We are asking the town to keep to the Comprehensive Plan by maintaining a rural character.

Eric Eberhart, City of Port Washington Attorney: The town was sent City of Port Washington Resolution 2021-16 and there are several technical issues with the petition: Legally the town board does not have jurisdiction as this is not a town line road. The petitioners invoked the wrong statute, the petition is defective for a number of reasons:

Groeschel Rd is spelled incorrectly; the legal description doesn't explain the boundaries included, the town would be discontinuing the entire road if granted. The public hearing contains the same incorrect information. The mailings were to be sent by registered mail, not certified. The les pendens was not filed in a timely manner. Regarding the Resolution: the petitioners had prior knowledge as this subdivision was platted in 1956. Road aids have been given to maintain this road. The petitioners have been benefitting from city roads, but now do not want to return the fairness. The law empowers discretion to be in the public interest and it is the petitioners that need to provide a burden of proof that this is best for the community at large not just for residents living on the road.

Krejci: Regarding proof of traffic, there will be an increase of traffic once the road is open. Public interest, there is 1 resident here from the city, its not just the 6 people that filed the petition, there are other city residents interested as well. This hasn't been a passable road you can't travel on the road in 1956, it has not been taken care of by the town or city only by a resident. Regarding fairness, the subdivision will not be land locked, there are other access points. The city interest is who will profit from this development. The town doesn't benefit.

George Baldus, 528 E Norport: I am a city resident and I support the petition to have the road discontinued. I would like to see the neighborhood stay the same for both city and town residents. I would ask the town board to postpone deciding until everything is correct in the petition.

Justin Myers, 3709 E Norport: I am a town resident and live at the end of Norport. I'm here to see what the decision is regarding closing a town road and what precedent it will set for closing other roads that could potentially connect to city property.

Bob Jackson, 3557 Groeschel Rd: Opening the road will be an advantage to the city, it won't help the town in any way. The road has never been used, it has been blocked by a fence and railway ties for years. Randy has been cleaning it up, otherwise it would have grass waist high. In winter the snow is plowed into that section of the road, otherwise it is not maintained.

Sharon Jackson, 3557 Groeschel Rd: It is offensive that the city thinks the petitioners should have been aware that the road would be open at some point, the town does not maintain it, it was our understanding that it would always be a closed portion of the road.

Scott Nelson, representing the Whitetail Subdivision owners' group: The road is not closed, the prior owner had stakes in the ground to keep people out of the field, the owners are now using the road to access the land. It has been platted as a road since the 1956 subdivision was platted.

Bob Jackson: Terrace Drive, Hwy LL, Crestview can all be access points, the subdivision does not have to go through Groeschel. This road has been blocked for a long time. Why is the town interested in changing something that has been there forever?

Baldus: There are other access points the city can use. If water and sewer go through Groeschel it will be a continual loop, Hwy LL would be a better access point.

Eberhart: the town board needs to determine what will serve the public interest. The opposition is mainly speculation only. More access points make it a safer, faster response for emergency vehicles. A title search would show that this road is open and shows the area plotted.

Krejci: the city is not providing evidentiary evidence. You can see the fencing, railroad ties, it has not been open. The fire department would not use Groeschel as a first access point, so there is no evidence that this would be beneficiary.

Nelson: the plat for the subdivision was approved and adopted in 2005, there are small changes to the wetlands, but it has been public for over 15 years. Another access is beneficial to rural areas.

Vic Kozłowski, 1463 Keelson Cove: The traffic on Norport and WI are busy already, this will increase traffic in the town. The trucks are already going through, it's getting busier. It is currently just grass, not a road and I feel it should remain that way.

Didier: if there are no further comments, I will close public comments.

4. Potential action per Wis. Stat. §82.11(1) on whether granting the application is in the public interest.

Didier: this petition was filed by 6 residents petitioners. The town board is aware that this is a road, under the grass is 6 inches of gravel. There are conflicting statements if people use it or not, I am not aware of fencing, but if there was it was not on the road, but may have been put up by the previous owner to keep people out of the field that Groeschel adjoins. It has been used as a road, I have driven on the road.

Schlenvogt: Is there a blockade on the corner of Groeschel and Keelson blocking the road?

Baldus: (a Member of the Public) No, blocked by the field.

Didier: Myers comment was interesting – other residents on roads that adjoin the city can make the same argument, and petition to abandon there road as well to prevent more traffic as the city grows and want all these town roads closed.

Regarding due process of the petition, in my opinion the legal description of the road was questionable, but the board has an obligation to act in a timely manner.

Woodward: The spelling of the road would not matter.

Didier: the road has always been well taken care I think by the adjoining resident/landowner. The town has not spent a lot of money on it, but the town does ditch mowing and snow removal on all town roads, so the town has been maintaining it.

Schlenvogt: the 2035 Comp plan did not mention anything about discontinuing the road.

Didier: No, I don't believe it did. This is a platted road, the town owns the land, which is different than a private road. The appears to me at the time of platting the intention was to continue this road.

Regarding the City resolution 2021-16, it refers to this being a "town line road" which runs on or across the boundary line and into adjoining municipality. This appears to me to NOT be a town line road as Groeshel does NOT cross the municipal boundary it stops at the boundary. I suppose legal precedence could prove my interpretation of a "Town Line Road" different however.

Schlenvogt: the road has been platted since 1956, if someone purchased their property prior to 1956 it may be different, but they bought after it was recorded and so nothing has changed. The road has always been there since they have owned their property as a legal road right of way.

Didier: A road can also be abandoned by default for lack of funds spent on it, but the town did spend funds; limited, but funds have been spent.

Regarding public interest, WI residents as a whole not only city and town residents should be considered as this is a road that is to be used by all, what is the best interest for all?

Schlenvogt: The boundary agreement signed between the city and town in 2004 allows connection.

Didier: In regard to public interest, I can't see a rational reason to abandon a portion of Groeschel Road.

Motion made by Didier to deny the application to abandon the legal description of the portion of Groeschel Rd filed in petition, second by Welton. Voice vote: Aye -3, Nay – 0. Motion passes unanimously.

Motion made by Didier to adjourn public hearing at 8:06 PM.

Heather Krueger – Clerk