

**Plan Commission Sub Committee**

**of the City of Onalaska**

Tuesday, July 19, 2016

1

1 The Meeting of the Plan Commission Sub Committee of the City of Onalaska was called to order  
2 at 4:30 p.m. on Tuesday, July 19, 2016. It was noted that the meeting had been announced and a  
3 notice posted at City Hall.

4

5 Roll call was taken, with the following members present: Ald. Bob Muth, Skip Temte, City  
6 Engineer Jarrod Holter

7

8 Also Present: Interim Land Use and Development Director Katie Aspenson

9

10 **Item 2 – Approval of minutes from previous meeting**

11

12 Motion by Skip, second by Jarrod, to approve the minutes from the previous meeting as printed  
13 and on file in the City Clerk’s Office.

14

15 On voice vote, motion carried.

16

17 **Item 3 – Public Input (limited to 3 minutes per individual)**

18

19 Ald. Muth called for anyone wishing to provide public input.

20

21 **Park Hunter, Pastor of Onalaska United Methodist Church**

22

23 **212 4<sup>th</sup> Avenue North**

24

25 **Onalaska**

26 “Since you have proposed the PILOT, our church has been looking over the continued revisions  
27 of the materials. We still stand by our statement made at the open hearing, which is that the  
28 value of services provided by our congregation to the community far exceeds the amount of  
29 income that you would derive from a PILOT fee to us, whereas a PILOT fee would be a  
30 significant burden to us. I do see that you’re looking at exemptions for religious institutions, and  
31 that’s commendable. But at the first meeting I was also hearing from groups such as the YMCA  
32 and the Humane Society and other not-for-profits in the community, which are important parts of  
33 our community and which would be affected negatively by this. We are still in opposition to  
34 this, and will continue to be so for now. Thanks.”

35

36 **Bill Bader, Pastor of St. Paul’s Evangelical Lutheran Church**

37

38 **1201 Main Street**

39

40 **Onalaska**

41 “First of all, we are very grateful for the years of tax exemption that we have enjoyed so far, and  
42 we hope will continue. We greatly love our community of Onalaska at St. Paul’s, and we just, as  
43 a previous speaker said, wrapped up a Community Days event, which is one of a number of  
44 positive things that I think we contribute to the community. [We contribute] counseling services,  
45 food basket additions and so forth. We’ll put all of those in writing, and Katie sent a listing of ...

Reviewed 7/22/16 by Katie Aspenson

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44 I think last time I spoke last month I wasn't aware of what the PILOT program was about. But  
45 having read over the Q&A I have a better handle on it, and it concerns me. As the previous  
46 speaker said, I think that it would have a very negative overall impact on churches and all  
47 nonprofits and what they contribute to the community. I think we contribute a great deal. We  
48 also run a Lutheran elementary school that I think helps a great deal. There are just a lot of  
49 things that we do in the community that I think would be negatively impacted by the PILOT  
50 program. But we are grateful for the blessings received thus far. Thank you."

51

52 **Cheryl Jostad**

53 **117 Hillview Boulevard**

54 **La Crescent, Minn.**

55

56 "I'm a member of Rivers Harvest Church based in Onalaska. My comments will be more brief  
57 this evening. I would like to suggest that the [Plan Commission] Sub Committee simply throw  
58 out the agenda item and not pass it on to the Plan Commission. I think that there's been a lot of  
59 discussion about the 'right of the city' to impose PILOT agreements. And yet if that was the  
60 case, why haven't they been in effect for hundreds of years? It's a new interpretation. We have  
61 not, despite asking two or three times, what specific statute in the Wisconsin Statutes gives the  
62 City of Onalaska that right. There's never been a specific statute referenced; just a statement [of]  
63 'we interpret this.' So it's becoming that it is a right because everybody says it is. Sometimes  
64 that's how an urban legend grows: somebody says it's true and it seems to become true when it  
65 really isn't true. Secondly, I don't feel that there has been a clear definition of what the  
66 compelling interest is to put a burden on a religious organization. The last Q&A said it was a  
67 compelling purpose to advise tax-exempt agencies that they're using services which they're not  
68 paying for. OK, so it's been advised. That's why we're having all of these meetings. That has  
69 been completed. But the compelling interest – and it clearly states in the Department of Justice  
70 document – that it is squarely on the local municipality or whoever the taxing jurisdiction is. It  
71 is squarely on that jurisdiction to prove that it's a compelling interest and not just a desire to have  
72 a new revenue stream. So that's why I ask [that you] throw it out now. Don't spend all the time.  
73 You all are spending time. Katie is spending a lot of time. Don't spend a lot of time going  
74 around and around about something which has been stated is a right when actually there isn't  
75 even a Wisconsin Statute you can refer to, or a federal statute that says, 'go ahead and tax non-  
76 taxable agencies.' Thank you."

77

78 **Andy LeFebre, Pastor of Rivers Harvest Church**

79 **1001 Quincy Street**

80 **Onalaska**

81

82 "I also love my city and I love the people who work for the city, but I think it's a bad idea and  
83 I've stated that in a letter earlier. We still don't know the statute, number one, and secondly,  
84 who brought up the idea as far as ... We already have an agreement, our church personally. But  
85 who brought up the idea to spread it out over all the churches and their whole facilities? I know

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86 maybe now it's being reduced, but who are the staff members? That's what it referred to in the  
87 paper, that there were staff members. Can that be answered [regarding] the staff members that  
88 are involved in this and really want this to happen? [Also], if there are Council members, can we  
89 hear who they are, just so we know? Is that possible?"

90

91 Ald. Muth said these questions cannot be answered during the public input session.

92

93 **Mary Jo Hefti**

94 **N6949 Garves Coulee Road**

95 **Bangor**

96

97 "I've been a member of Rivers Harvest for 20 years. I have worked most of my life, starting at  
98 age 16. I have been taxed by all the agencies, and I feel that when I take my hard-earned money  
99 that's been taxed once and I give it out of my generosity to pay it forward to the less fortunate  
100 and to the needy and then find out that that is being taxed, that's actually being taken out of their  
101 pockets. That absolutely is unethical, and it's wrong. What it will do is it will force them to go  
102 to a government agency for help rather than receive the help from good-hearted, generous people  
103 who want to give their hard-earned money to the needy and those who are less fortunate. In that  
104 sense I think it's wrong in every sense of the word. We don't need more government. We need  
105 people who are needy to keep their pride and not have to go to a government agency and sign up  
106 and try to get money from them when there are churches and other nonprofits that are supported  
107 by generous people to help them out. That was one of the things I wanted to say, and the other  
108 thing was I was reading in the second paragraph [where] it says, '*The purpose of a PILOT*  
109 *agreement between the] city and a tax-exempt agency is to assist in the city's burden of*  
110 *providing city services.*' From what I've seen or from what I've read, the City of Onalaska is  
111 quite wealthy for its size. Is there really a burden there? [Is there] such a burden that you have  
112 to take from the needy and the less fortunate? I don't understand it. As a Christian I believe that  
113 God expects us to help others and to pay it forward. That's what we're doing. But it sounds like  
114 the government wants to step in and take that portion that we're able to give and take it for  
115 themselves. To me that's absolutely wrong, so I oppose your PILOT program."

116

117 **Shannon McKinney**

118 **No address given**

119 **La Crosse**

120

121 "I have had the opportunity [to serve with] three or four of the city's nonprofit organizations.  
122 When I first heard about the PILOT Payment in Lieu of Taxes program I have to admit that I was  
123 confused. How can a governmental agency require a payment from an institution that has been  
124 designated to be free from taxation – a nonprofit? Furthermore, when I talked to the City of  
125 Onalaska, I was told that the State of Wisconsin had given them the ability to enter into  
126 agreements with exempt agencies. But after a little bit of research this afternoon, it became clear  
127 to me that PILOT programs are the newest invention, the newest ruse, by city governments to get

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128 more money from their city. The city cannot legally force a nonprofit organization to pay taxes.  
129 In fact, there's nothing on the books in Wisconsin law that allows them to do so. So any  
130 agreement with a nonprofit must be voluntary. Voluntary. It has to be voluntary. Has the City  
131 of Onalaska said anything to anybody about its nonprofits making voluntary payments in lieu of  
132 taxes? It has to be voluntary. There is no law to force it. The very nature of an agreement is  
133 that it is made voluntarily. Ms. Aspenson confirmed to me today the City of Onalaska has only  
134 in the last one to two years entered into these kinds of contracts – maybe one or two contracts.  
135 When you hinge the acceptance of a Conditional Use Permit on someone agreeing to pay you  
136 money through a contract, you no longer have a freewill contract. What you have is coercion.  
137 You have, in essence, taken a bribe. Since you could not mandate that nonprofits pay this money  
138 by law, you are withholding a permit in order to make them pay. This kind of coercion  
139 invalidates the contract since contract was made under duress trying to get that contract or trying  
140 to get that freewill permit or trying to get the permit. Ms. Aspenson assured me [the city's] legal  
141 counsel said it was lawful, but what I think this amounts to is a bribe. You can't use money as  
142 the reason to withhold permits from an institution that is tax-exempt. It's my opinion that the  
143 City of Onalaska is setting itself up for lawsuits over this issue unless it makes it clear to  
144 everybody that this is voluntary. That is what my research found out. It's been talked about all  
145 over Wisconsin. City governments have been researching ways to get more money, and this was  
146 an idea, and up until this point it can't be mandated. I think that it needs to be stopped at this  
147 point, and the legality of this needs to be examined. Thank you.”

148

149 **Charlie Handy**  
150 **928 King Street**  
151 **La Crosse**

152

153 “I'm here as a member of the Board of Control for Luther High School in Onalaska. I can only  
154 speak for myself. The Board of Control has not taken any specific action on this proposal. In  
155 my reading of the proposal I'm fairly comfortable with how it is drafted. We have a core of  
156 duties that we take care of at Luther High School, and we have voted a few times in the last  
157 couple years not to take into Luther High any for-profit activities. We've had a few requests –  
158 drivers education schools and things like that. I'm fairly comfortable that we are going to  
159 continue with our core duties, and so we would not run into any concerns with the way the  
160 ordinance is drafted at this point for Luther High School. My concern really comes into that  
161 portion of Luther High School which is heavily funded through a volunteer organization, and  
162 that is the Good Steward Retail Shop. Again, that shop is in the City of La Crosse, so it's not  
163 affected by your ordinance. But the concept of the ordinance and the concept of how the Good  
164 Steward Resale Shop is run is where we run into some concerns with the Payment in Lieu of  
165 Taxes program. That organization does have some paid employees for a portion of the time just  
166 to organize and manage the volunteers. That's where we kind of run into the potential for a  
167 PILOT as an organization that might seem to compete with other stores that are resale stores that  
168 are making a profit. I think that's where our concern is with the ordinance as it exists.  
169 Obviously, our concern in that case would fall with the City of La Crosse. As far as the core

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170 work of Luther High School and also St. Paul's in Onalaska, just so you know, if the ordinance  
171 would change obviously there would be a concern where we may fall into being required to pay  
172 a PILOT. And yet, what I want to say is the amount of value that's provided by both the  
173 religious organization and also the schools, the latest figures are somewhere between \$8,000 and  
174 \$12,000 per student that we save the taxpayers of the School District of Onalaska by providing  
175 that education for those students per year. A Payment in Lieu of Taxes versus that \$8,000 to  
176 \$12,000 per student doesn't even compare. Those are the comments that I would like to make.  
177 I'd like to thank you for being very open and transparent with this whole thing. The amount of  
178 information you've gotten out there is wonderful. There's a significant amount of public  
179 interest, obviously, and that means you've done a good job getting the word out there. I would  
180 just ask that everybody take the time to read the ordinance, to read the ordinance that's already  
181 on the books and the one that you're proposing. Find the differences, and that's really where this  
182 debate needs to be: in the differences. Thank you."

183

184 Ald. Muth called three times for anyone else wishing to provide public input and closed that  
185 portion of the meeting. Ald. Muth then asked that Item 6 be addressed first.

186

187 **Consideration and possible action on the following items:**

188

189 **Item 6 – Discussion and consideration regarding the Public Forum on June 16, 2016 and**  
190 **the draft Payment in Lieu of Taxes (PILOT) ordinance**

191

192 Katie noted that in May the city sent out letters to all tax-exempt property owners with a copy of  
193 the draft PILOT ordinance and invited the agencies/businesses to attend a public forum on June  
194 16. The city did not send letters to federal, state and local governments, school districts, and  
195 utilities/railroads as they already are taxing jurisdictions or exempt from local property taxes and  
196 instead pay special state taxes. Katie said the purpose of the PILOT agreement is to assist the  
197 city's burden of providing city services which benefit tax-exempt organizations such as street  
198 lighting, street cleaning and maintenance, police and fire protection, and snow removal. Katie  
199 said she had a list of the following four main topics to discuss either at today's meeting or the  
200 July 26 Plan Commission meeting:

201

- 202 • Modifying the instances where PILOTs may be initiated. They currently may be initiated  
203 when there is rezoning, a variance request, a Conditional Use Permit request, a  
204 Development Agreement, the purchase of taxable land to convert to tax-exempt property,  
205 or a new building or building expansion/addition that requires a Site Plan Review.
- 206 • Modifying the area to which the PILOT would apply. Currently it would apply to an  
207 entire property. Another option would be only the portion of the property that triggered  
208 the need for a PILOT.
- 209 • Modifying the multiplier amount. Currently the city's mill rate would be multiplied by  
210 the assessed value of the property. Another option would be utilizing the Police, Fire and  
211 Streets (essential services) portion of the General Fund.

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- 212           • Modifying the requirement for a PILOT and routinely ask for tax-exempt properties to  
213           volunteer to make payments.

214

215 Katie said all four discussion topics had arisen during the June 16 public forum as well as  
216 different Plan Commission Sub Committee meetings. Katie then asked the Plan Commission  
217 Sub Committee for a recommendation.

218

219 Motion by Jarrod, second by Ald. Muth, to forward without recommendation to the July 26 Plan  
220 Commission meeting discussion and consideration regarding the Public Forum on June 16, 2016  
221 and the draft Payment in Lieu of Taxes (PILOT) ordinance.

222

223 Skip said, "I would just like to reiterate what I said at last month's meeting, and that is based on  
224 the June 16 meeting the citizens of the city do not want this, and I think we should kill it right  
225 here."

226

227 Jarrod said, "I think the whole Plan Commission should weigh in on this matter. I don't believe  
228 the [Plan Commission] Sub Committee with the three individuals here should make the decision.  
229 I think the Plan Commission should be the one that would have all its membership and make a  
230 recommendation. That way then, all the Plan Commissioners can have a say in the matter."

231

232 Ald. Muth said, "I would agree with Jarrod's comments. I think this is a very important issue,  
233 and I think it should go before the full [Plan] Commission. We are looking at it, and I guess at  
234 this point I'm not giving my opinion. But I agree that we need to go forward with the Plan  
235 Commission and let the whole commission make the decision."

236

237 On voice vote, motion carried, 2-1 [Skip Temte].

238

239 **Item 4 – Review and Consideration of a Certified Survey Map (CSM) submitted by Charlie**  
240 **Handy on behalf of La Crosse County, 400 4<sup>th</sup> Street North, La Crosse, WI 54601 (property**  
241 **owner) to combine 5 parcels into two (2) lots, one lot (23 acres) and one outlot (3.36 acres)**  
242 **to be dedicated to the public located in the City of La Crosse and the City of Onalaska**  
243 **including 6500-6502-6506-6510 State Road 16, La Crosse, WI 54601, State Road 16, La**  
244 **Crosse, WI 54601 and Berlin Drive, Onalaska, WI 54650 (Tax Parcels #18-4458-0, 17-**  
245 **10560-60, 17-10560-50, 17-10575-30, and 17-10560-10)**

246

- 247           1. CSM Fee of \$75.00 + \$10.00 per lot x 2 lots = \$95.00 (NOT PAID).
- 248
- 249           2. Recorded copy of Final CSM to be submitted to City Engineering Department.
- 250
- 251           3. New lot pins required. Intermediate lot stakes required for all lots over 150' in depth.
- 252
- 253           4. CSM shall note all easements.
- 254

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- 255 5. Public utilities and street installed in Outlot 1 to be adequately sized to serve City of  
256 Onalaska development to east.  
257
- 258 6. City of Onalaska to be allowed to connect future City street to street dedicated as part of  
259 Outlot 1.  
260
- 261 7. Any future improvements to these parcels will be subject to additional City permits (i.e.,  
262 building permits, zoning approvals).  
263
- 264 8. All conditions run with the land and are binding upon the original developer and all heirs,  
265 successors and assigns. The sale or transfer of any or all portion of the property does not  
266 relieve the original developer from payment of any fees imposed or from meeting any  
267 other conditions.  
268

269 Katie said the site is located in the La Crosse County Landfill area and International Business  
270 Park II, and she noted that committee members' packets include a letter from Charlie Handy,  
271 who is the applicant. Katie said the properties located within 250 feet of the properties in  
272 question include a variety of commercial/industrial businesses in the La Crosse Industrial Park,  
273 La Crosse County Landfill and agricultural land. The Comprehensive Plan identifies this area as  
274 Commercial. The district is intended to accommodate large- and small-scale commercial and  
275 office development. A wide range of retail, service, lodging and office uses are appropriate in  
276 this district. The purpose of the CSM is to facilitate the project labeled as The International  
277 Business Park II. The park will be one large, 23-acre lot adjacent to the existing International  
278 Business Park and the La Crosse County Landfill, and a small portion located in the City of  
279 Onalaska. The CSM shows a single lot with a Light Industrial use and Outlot 1 mapped for  
280 dedication to the public for road and utility purposes. The applicant intends to install the road  
281 and utilities in Outlot 1 in late 2016/early 2017 in order to invite a large business to locate in the  
282 La Crosse/Onalaska area for job creation and tax base generation. Katie said staff has compiled  
283 eight conditions of approval, and she noted that the CSM Fee has now been paid.  
284

285 Motion by Skip, second by Jarrod, to approve with the eight listed conditions a Certified Survey  
286 Map (CSM) submitted by Charlie Handy on behalf of La Crosse County, 400 4<sup>th</sup> Street North, La  
287 Crosse, WI 54601 (property owner) to combine 5 parcels into two (2) lots, one lot (23 acres) and  
288 one outlot (3.36 acres) to be dedicated to the public located in the City of La Crosse and the City  
289 of Onalaska including 6500-6502-6506-6510 State Road 16, La Crosse, WI 54601, State Road  
290 16, La Crosse, WI 54601 and Berlin Drive, Onalaska, WI 54650.  
291

292 Jarrod described this area as "unique" in that the La Crosse International Industrial Park is served  
293 by a City of Onalaska water main. Jarrod said the water main located in the public street likely  
294 will be dedicated to the City of Onalaska, which would maintain it.  
295

296 On voice vote, motion carried.

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297

298 **Item 5 – Review and Consideration of a Certified Survey Map (CSM) submitted by Duane**  
299 **Schulze, 2009 Charles Avenue, Onalaska, WI 54650 regarding 2009 Charles Avenue,**  
300 **Onalaska, containing 0.68 acres and two (2) lots (Tax Parcel #18-4197-0)**

301

302 1. CSM Fee of \$75.00 + \$10.00 per lot x 2 lots = \$95.00 due before final approval of CSM  
303 by the City (NOT PAID).

304

305 2. Property owner to remove detached accessory structure prior to recording CSM with the  
306 La Crosse County Register of Deeds.

307

308 3. Park Fee of \$922.21 per residential unit. Park Fee to be paid prior to issuance of a  
309 building permit.

310

311 4. Recorded copy of Final CSM to be submitted to City Engineering Department.

312

313 5. New lot pins required. Intermediate lot stakes required for all lots over 150' in depth.

314

315 6. CSM shall note all easements (i.e. power line easement).

316

317 7. Future lateral to be installed for Lot 2 at the cost of the property owner.

318

319 8. Any future improvements to these parcels will be subject to additional City permits (i.e.,  
320 site plan approvals, building permits, zoning approvals) and additional City fees (i.e.,  
321 parks fees, green fee).

322

323 9. All conditions run with the land and are binding upon the original developer and all heirs,  
324 successors and assigns. The sale or transfer of any or all portion of the property does not  
325 relieve the original developer from payment of any fees imposed or from meeting any  
326 other conditions.

327

328 10. Any omissions of any conditions not listed shall not release the property owner/developer  
329 from abiding by the City's Unified Development Code requirements.

330

331 Katie said the existing zoning on the parcel in question is Single Family Residential. The  
332 intention is to divide this property into two lots and construct a single-family residence on the  
333 current vacant portion of the parcel. Katie noted there is an existing single-family residence  
334 located on Lot 1, and there also is an existing garage that spans Lot 1 and Lot 2. Katie said staff  
335 is requiring that the garage be removed prior to finalizing the CSM. Katie said this [CSM] does  
336 conform with the city's Comprehensive Plan, which is to be Mixed Density Residential. This  
337 district is intended for residential units. The zoning of the land with 250 feet of the proposed site  
338 includes single family residential single and/or duplex residential, and Public & Semi-Public.

Reviewed 7/22/16 by Katie Aspenson

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339 Katie said staff recommends approval with the 10 listed conditions.

340

341 Motion by Ald. Muth, second by Skip, to approve with the 10 listed conditions a Certified  
342 Survey Map (CSM) submitted by Duane Schulze, 2009 Charles Avenue, Onalaska, WI 54650  
343 regarding 2009 Charles Avenue, Onalaska, containing 0.68 acres and two (2) lots.

344

345 On voice vote, motion carried.

346

347 **Adjournment**

348

349 Motion by Ald. Muth, second by Skip, to adjourn at 5:01 p.m.

350

351 On voice vote, motion carried.

352

353

354 Recorded by:

355

356 Kirk Bey