

1. Call to Order

Attorney Ekes called the meeting to order at 3:45 p.m., at the Caledonia Village Hall, 5043 Chester Lane, Racine, Wisconsin. Present were

Members: Ted Schlitz, Danny Dragic, Francis Petrick, Mark DeCheck arrived at 3:58 p.m.

Absent: None

Village Staff: Clerk Karie Torkilsen, Administrator Tom Christensen, Detective Melissa Stardy arrived at 3:53 p.m. Also present was Attorney Elaine Attorney Ekes

2. Review of Sex Offender Ordinance, Adopted Map, and Board Responsibilities.

Members were sworn in prior to the start of the meeting.

Attorney Ekes walked the members through the Ordinance, the map and some sample documents pertaining to procedure and began with the terms of Ordinance section 11-2-16. Village of Caledonia was one of the first adopters of a sex offender Ordinance in Wisconsin. This area of the law is a new area of regulation, so intermittently the Ordinance is updated and revised. The most recent revisions of the Ordinance came after a decision from when the Eastern District of the Federal Court of Wisconsin addressed the Village of Pleasant Prairie's Ordinance in April of this year, and was ultimately challenged. Civil rights lawyers out of Chicago are currently litigating against sex offender laws in this area and there are about five suits pending currently. Village of Pleasant Prairie's case was settled after the "Hoffman Decision" came down in April (from the Hoffman vs. Village of Pleasant Prairie case). Attorney Ekes referenced other municipalities that were sued.

The Ordinance begins with recitals, findings and intent, which is considered support if Caledonia's Ordinance is ever challenged in the future. There is a main focus on the "Hoffman Decision", which is informative in directing Municipalities in regards to regulations in their Ordinance. Like Pleasant Prairie's Ordinance, the Village of Caledonia has an original domicile restriction that states that if you didn't live here when you were convicted of that crime, you cannot move back here unless you meet an exception. When a regulation is instituted, there must be balance to prevent affecting the banishment, while also protecting children and where they gather. This will have to be reviewed case by case per community; there isn't a set percentage in allowance of residencies. For the original domicile restriction in Caledonia, the Village Board has made the policy decision to add the due process, so information could be provided, but the original Ordinance was mostly kept. The reasoning for the retention of that Ordinance is that the Village Board and Legislative & Licensing felt that Sex Offenders do best when surrounded by a support system, and felt there would be less risk of relapse if allowed to live by or cohabitate with that support. Caledonia has now incorporated into the review process, and instituted an appeal procedure.

Attorney Ekes highlighted background information provided in the binder that includes three articles of studies. The articles discuss and review the rights of sex offenders, an

overview of sex offender management and also an article on sex offenders and their impact on property values. She stated that Caledonia is a diverse mix of urban and rural, and felt that offenders were more likely to locate in the urban areas to utilize resources, such as public transportation. Attorney Ekes asked for the Board to consider that public services rely on property taxes, as well as property value, which sex offenders can directly affect and wanted to ensure the Board understood that information.

The findings and intent of this Ordinance is meant to protect and regulate, and not to impose a punishment, as the offender has already resolved the charges. This regulatory Ordinance is meant to protect where children congregate from opportunities to offend.

Attorney Ekes directed the committee to Sub B for definitions, and stressed its importance because it dictates how the Ordinance will be interpreted. For purposes in distributing the Ordinance, the definitions include: Child, Crime against children, What a designated offender is, Protected locations, What a residence is and What a juvenile is. For the designated offender, Caledonia has a broad definition, "It's a person that's been convicted of a crime against children" which is the encompassing definition and it's a laundry list of offenses. Attorney Ekes specified that someone who has been adjudicated for a crime against children, is a juvenile and juveniles are not convicted of crimes, they're an adjudicated delinquent of them; this is important because precision is necessary for the Ordinance. We regulate those who are or were required to register as a sex offender because we have 15 year registrants or lifetime registrants and both are targeted. From an enforcement standpoint, it's easier to keep track of offenders if they're on the registry. Stardy is our conduit with the Police Department in administrating the enforcement of this Ordinance. Before the offender is brought to the Board, the Administration will decide if the offender fits the definitions of the Ordinance.

Attorney Ekes explained the map and its restrictions. She specified that an offender isn't banned from being in a restricted area (i.e. traveling to work); they are only prohibited from residing in that area. In-home daycares with no license will not be restricted. An offender may not establish residence within 1500 ft. from a restricted area, or an existing designated offender. This restrictive distance is measured off of property lines, and is provided by the Village Engineer for precise measurements.

Exemption requests will be seen through the original domicile offense, in compliance with the safety zones, even though they weren't domiciled in the Village. Petrick wanted to know if the offense had been committed in Oconomowoc, could they move to Caledonia. Attorney Ekes responded that they are prohibited, but can appeal. Domicile is dictated by time of the offense and where they were living. The offenders' are supposed to notify the Village 28 days prior to establishing residence, although that is a rarity and usually requires the Police Department tracking them down. Dragic wanted to know if the offenders were under supervision, and Stardy replied that none of them are. There are exceptions that don't require exemptions for residency approval. Exceptions might include: Those grandfathered in before the Ordinance was established are not required to move; a designated offender who is a juvenile is placed with a guardian, and has the right to live in that residence; if the residence predates the restricted zone (a daycare is built in the area) the offender is not required to move; the residence is the primary residence of the offenders spouse, parent, or adult child, may live there if spouse, parent or adult child established residence 2 years prior to the conviction. There is an exception that is required by Statute, if the designated offender is convicted as a sexually violent offender,

if they're subject to supervised release or reside where they're court ordered to, it can overrule the Ordinance. There is also an exception aptly named "Romeo and Juliette" which is a close in age exception, where if the individual meets certain criteria under the Statutes there isn't a restriction on living requirements, and often are not registered as a sex offender. Property owners are prohibited from leasing to those who violate the Ordinance; the landlord or the offender may be cited.

The Board appointed a Chair Person.

Motion by Schlitz to nominate Dragic as Chair Person, Motion Seconded by Petrick. Motion carried.

3. Discussion And Possible Action On Administrative Procedures Under The Ordinance Including Meeting Schedule, Deadlines For Applications And Application Form.

The Chair person is the contact for the Clerk's office to coordinate with, when an appeal is filed, and to move forward with scheduling, as well as running the hearings/meetings.

Petrick wanted to know if the landlord was required to run a background check to make sure the resident isn't an offender in order to adhere to the Ordinance. Attorney Ekes said there is not a requirement for a landlord to check, but it is public information.

The Board discussed the format of an Appeals Application. Stardy wanted to know if we could add a question to the application, to ask about specific charges. This question stems from issues surrounding offenders living here without proper notification. She felt the questions were a test of honesty, and felt transparency was uncommon in her interactions with offenders. Attorney Ekes felt we could broaden the sexual offenses question. Further discussion continued on that question. Ekes felt that with time we could change the form or the framing of the questions to fit the narrative, if there is confliction when going through appeals. Discussion about who fills out the form and what happens if it's incomplete. They will be flagged by administration and decided by the Clerk's office in tandem with the Attorney and Board. A letter will be generated notifying them of the incomplete form. There are instances where the Board might bring them forth for maximum due process if there are multiple incomplete forms sent back from one individual. There will be a \$25.00 filing fee required, Attorney Ekes said that after the form is completed, Stardy would perform her background checks and investigation work before it is brought to the Board.

Dragic asked about due process for those who are repeat submitters of incomplete forms and are still living in the area. Attorney Ekes said we might run into that, and we might have issued them tickets in interim. We may have to speed information up to get the definitive answer in order to take action. But again, this will be taken case-by-case so there isn't a black and white rule. Attorney Ekes stated that the form can be revised throughout the process.

Petrick wanted to know if the records were discoverable and subject to open record. Attorney Ekes said in a large part yes, but in a redacted form. It was also discussed to always have hard copies of the packet and collect them back after the meeting to eliminate any instances where the Board members may be put at risk.

Attorney Ekes referenced the Board of Appeals schedule and recommended a set monthly meeting day, but only meeting when needed. Ekes recommended that the notice be posted 7 days before. The Committee agreed on a meeting schedule of the 2nd Thursday of each month, when necessary, at 3p.m. December, 14, 2017, potentially to be the first meeting date.

The filing deadline is 30 days prior to the next scheduled date. Stardy was concerned that her investigation work often takes longer, but conceded that it would be fine.

The Board will consider any oral, written, or emailed statements from any person at the hearing or received before the hearing, and there will be a record of that information. The hearing will be taped, because if someone doesn't agree with the Board's decision, they can appeal to Circuit Court. We would then transcribe the recording for a Judge's review. The Board would decide by majority vote to either grant or deny an exemption. All the meetings will be set for closed discussion. Attorney Ekes will be there for guidance in procedural issues. Any decision would have to be reduced to writing, and any aggrieved person would have 30 days from filing of final decision to appeal in the Circuit Court. The review in Circuit Court would be a review of the information presented to the Board, and the court would decide if the Board exercised judgement rather than will. For individuals who violate the Ordinance, there can be a fine imposed of up to \$500 per day. Stardy has issued multiple fines to homeowners and offenders, which are not being paid, because they have "hold opens". "Hold Opens" are if there are no further violations in a year, the fine is dropped.

4. Discussion Regarding Applicability Of Open Meetings Requirements And Public Records Laws.

Attorney Ekes stated to the Board that all the records that are generated or received are considered public records, with some exceptions. The members are required to maintain the records of their office, as they may be subject to a public records request. Notes are not considered public record, as they are personal notes. Attorney Ekes also explained that the Board is subject to Open Meeting Requirements which means that any two members communicating would be considered a quorum. This also ties into the requirement of posting notice for the meeting. Chance meetings don't qualify as a quorum as long as there is no discussion in regards to the Board. Petrick was concerned about being on the Health Board with DeCheck, and Attorney Ekes assured her that there could be a disclaimer placed at the bottom of the agendas to address the possibility of a quorum and specify there will be no business conducted from that Board.

5. Adjourn

Motion by Petrick to adjourn. Seconded by Dragic. Motion carried. Meeting adjourned at 5:18 p.m.

Respectfully submitted,

Joslyn Hoeffert
Deputy Clerk