

**Village of Weston, Wisconsin
OFFICIAL MEETING MINUTES OF THE BOARD OF TRUSTEES**

Monday, July 18, 2016, at 6:00 p.m.

A. Opening of Session.

1. Meeting called to order by President Ermeling at 6:00 p.m.
2. Pledge of Allegiance to the Flag.
3. Clerk will take attendance and roll call.

Roll call indicated 7 Board of Trustees' members present.

Trustee	Present
Ermeling, Barb	YES
Berger, Scott	YES
Ostrowski, Kevin	YES
Schuster, Fred	YES
Ziegler, Jon	YES
White, Loren	YES
Mark Porlier	YES

Village Staff in attendance: Guild, Jacobs, Higgins, Hodell, Donner, Weinkauff, Wodalski, Crowe, Tatro, Wehner and Lenhard. Everest Metro Chief Sparks and SAFER Deputy Fire Chief Finke were also in attendance. There were approx. 25 other audience members present.

4. **Request for silencing of cellphones and other electronic devices.**
Ermeling requesting the silencing of cellphones and other devices.

B. Correspondence and comments from the public.

5. **Acknowledgement of scheduled visitors.**
Ermeling acknowledged the Boy Scouts in attendance.

C. Presentations.

6. **Recognition of Tamera Hansen's community service.**
Guild and Ermeling recognized Tamera Hansen for her service to the Community Life and Public Safety Committee.

D. Hearings.

7. **Open Hearings and hear comments from the public and Board of Trustees.**
Ermeling opened hearings

Audio tape recordings of the full testimony for each hearing is on file in the Clerk's Office. Files are named vb071816-1, vb071816-2 and vb071816-3. Exhibits A-D and 1-28, which were made part of this record are also on file in the Clerk's Office.

- **Operator License for Jesse Bartnik.**
Jesse Bartnik not was not present for the hearing. Weinkauff said he was notified of hearing. No further action is required. The license was previously denied by the Board.
- **Class B Beer License for Crafties, LLC, 4103 Schofield Avenue.**
Keith Rybacki, IMR BP, explained that this business would be a one of a kind craft beer serving room where customers can taste one ounce samples before purchasing the beer. He is also hoping that customers will buy other items from his store such as pizzas and snacks. This will be small and safe. This is not a big bar atmosphere. This is a different concept. The capacity is 13 people. The one-ounce sample

will be free with the hope that the customer will buy the craft beer if they like it. They began the purchase process for all the equipment. They also hired employees for the business. The license was denied based on traffic issues and he does not understand the denial. The traffic concerns were addressed. He respectfully requests the Board to reconsider the denial of the license. Schuster asked if all employees will enforce the capacity of 13 customers at one time. Keith said yes. Ermeling said the beer sampling can be done under the current license for IMR. Julie Rybacki said she supports this and feels this is a cutting edge idea. Irv Rybacki said Keith is a good business man doing this to enhance the business. Evan Johnson, 7805 Callon Ave, said the Camp Phillips/Schofield Avenue intersection is very busy and not safe. He also feels the Rybacki's want to put gambling machines in there. He does not feel this is a legitimate business. Schuster said he asked Mr. Rybacki on 3 separate occasions about the gambling machines and he has always said no to putting them in. Evan said once the license is issued he can put the machines in. There was a short discussion on the pay out of the machines and it being illegal. Sharon Rybacki said this is a whole different business and feels this will enhance the current business. Kim Rybacki said her brother Keith has a good reputation and is regarded highly in the business world. He's got the intelligence to not break the law. He is only looking to enhance the business. Evan said he was already breaking the law when he had the machines in the store. Ermeling said she is also concerned with other convenient stores wanting to do the same thing.

- **Alpine Mobile Home Park License, 1919 Schofield Avenue.**

Greg Stacker and Lee Turonie with Pietz, VanderWaal, Stacker & Rottier, said they were representing The Alpine Mobile Home Park. Mr. Turonie said according to Chapter 46 of the Village's ordinance the Mobile Home Committee is the body to make decisions regarding the decision of mobile home parks and he is concerned the Village Board may not be the appropriate body to make the decision on the license. He also said the Village is issuing licenses for license terms that it is not allowed to. Marathon County provided an inspection report for Alpine where they identify four issues and state that Alpine has 11 more months to hear those issues. He said the Village reliance on its nuisance ordinance is unenforceable and going to be very troublesome. The Constitutional due process is not satisfied by the Village's current procedure. The remainder of the Village's complaint against Alpine is denied and they intend to introduce evidence specifically refuting the Village's accusations. (A copy of a letter addressed to the Village from Lee Turonie, dated July 18, 2016 is attached and made part of the record). Testimony continued regarding a letter sent to the mobile home park earlier this year. It was indicated that pictures of the park, taken by the Village, were not labeled. An open record request was made for all mobile home complaints and there was only one concerning Alpine. There was a Short discussion on the law firm representing both SAFER and Everest Metro Police Department. Village Attorney Yde, with Strasser & Yde Law Firm, said the village's ordinance is inconsistent with the state statute. The Village is proceeding under state statute on this issue. Ostrowski feels we should send this issue to the Mobile Home Committee.

Motion by Ostrowski, second by Porlier to refer this to the Committee. Q/ Attorney Yde feels this would be an issue since the Village ordinance violates state law at this time. Ermeling said the ordinance is old and needs to be revised. Attorney Yde said state law provides for more due process.

Yes Vote: 2	No Votes: 5	Abstain: 0	Not Voting: 0	Result: Failed
Trustee	Voting			
Ermeling, Barb	NO			
Berger, Scott	NO			
Ostrowski, Kevin	YES			
Schuster, Fred	NO			
Ziegler, Jon	NO			
White, Loren	NO			
Mark Porlier	YES			

Testimony Continued.

Building Inspector Tatro reviewed his Report on Alpine Mobile Home Park, dated June 27, 2016. Staff has had multiple discussions with the Mobile Home Operator over the last couple of years. Staff is recommending denial of the license because there are multiple outstanding issues.

Motion by Schuster, second by Ziegler to approve taking a five-minute recess.

Yes Vote: 7 No Votes: 0 Abstain: 0 Not Voting: 0 Result: PASS

Trustee	Voting
Ermeling, Barb	YES
Berger, Scott	YES
Ostrowski, Kevin	YES
Schuster, Fred	YES
Ziegler, Jon	YES
White, Loren	YES
Mark Porlier	YES

Testimony continued between Alpine’s attorney, Attorney Yde and Building Inspector Tatro. (This testimony begins on the second audio named “**vb071816-2**”).

Motion by White, second by Porlier to approve taking a five-minute recess.

Yes Vote: 7 No Votes: 0 Abstain: 0 Not Voting: 0 Result: PASS

Trustee	Voting
Ermeling, Barb	YES
Berger, Scott	YES
Ostrowski, Kevin	YES
Schuster, Fred	YES
Ziegler, Jon	YES
White, Loren	YES
Mark Porlier	YES

Testimony continued between Alpine’s attorney, Attorney Yde and Planning and Development Director Higgins (This testimony begins on the third audio named “**vb071816-3**”).

Higgins reviewed a letter that was sent to Park Operator of Alpine Mobile Home Park. She commented that staff tried to work with the Mobile Home Park instead of writing citations. Testimony continued between the Attorneys and Higgins.

Barbara Rolan testified against the complaint. She also had new photos of the Park and those photos were made part of the record and marked as Exhibits 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, and 19.

Attorney Yde reviewed the exhibits and asked Barbara Rolan questions. Testimony continued between Alpine’s Attorney, Attorney Yde and Barbara Rolan.

Richard Roshotik, a tenant of Alpine Mobile Home Park, was invited to speak. He said he has lived in the mobile home park for 24 years and has had no problems, except for noise that comes from Wiggly Field. He said the new management has done an awful lot of work. He is not aware of any problems with any of the tenants. Testimony continued between Attorney Yde and Mr. Roshotik.

Testimony continued between Attorney Yde and Building Inspector Tatro regarding permits.

Testimony continued between Assistant Planner Wehner, Alpine’s Attorney and Attorney Yde regarding permits.

Testimony continued between Alpine’s Attorney and Building Inspector Tatro, regarding building permits.

Testimony continued between Alpine's Attorney and Julie Stoltz, friend of Ken Ruether, regarding building code violations and permits.

8. **Close Hearings.**

Ermeling closed the hearings for Crafties and Alpine Mobile Home Park at 9:24 p.m.

D. Consent Items for Approval

9. **Ordinance No. 16-033 to approve the rezoning of land from AR Agriculture Residential to LI Limited Industrial, on 3.857 acres of land located in the SW ¼ of the SE ¼ of Section 23.**
10. **Approve Resolution No. 2016-013 adopting road right-of-way dedication for Weston Avenue identified in the proposed CSM map for 8505 Progress Way located in Section 23.**
11. **Acknowledge the summary of the 5/19/2016 – 5/21/2016 Spring Bulk-Item Drop-Off.**
12. **Approve the reinstallation of a stop sign on Community Center Drive at Birch Street.**
13. **Appointment of Robert Kienbaum to the Community Life & Public Safety Committee.**
14. **Approve the Operator Licenses.**
15. **Accept resignation from Tamera Hansen.**
16. **Approve June 1, 2016 Board of Trustee Minutes.**
17. **Approve June 6, 2016 Board of Trustee Minutes.**
18. **Approve June 20, 2016 Board of Trustee Minutes.**
19. **Approve June 14, 2016 Board of Review Minutes.**

Motion by Schuster, second by White to approve Consent Items D9 to D19.

Yes Vote: 7 No Votes: 0 Abstain: 0 Not Voting: 0 Result: PASS

Trustee	Voting
Ermeling, Barb	YES
Berger, Scott	YES
Ostrowski, Kevin	YES
Schuster, Fred	YES
Ziegler, Jon	YES
White, Loren	YES
Mark Porlier	YES

20. **Items removed from Consent Approval (if any).**

There were no items removed from Consent.

E. Reports from Committees, including approval of draft meeting minutes (if any).

21. **Community Life, and Public Safety.**
22. **Community Development Authority.**
23. **Everest Metro Public Safety.**
24. **Finance.**
25. **Parks and Recreation.**
26. **Personnel.**
27. **Plan Commission.**
28. **Property & Infrastructure.**
29. **SAFER Board of Directors.**
30. **SAFER Fire Commission.**
31. **Zoning Board of Appeals.**

Motion by White, second by Ostrowski to acknowledge Items E21, E25, E26, E27 E29 and E30.

Yes Vote: 7 No Votes: 0 Abstain: 0 Not Voting: 0 Result: PASS

Trustee	Voting
Ermeling, Barb	YES
Berger, Scott	YES
Ostrowski, Kevin	YES
Schuster, Fred	YES
Ziegler, Jon	YES
White, Loren	YES
Mark Porlier	YES

F. Reports from Departments (Directors may be dismissed following reports).

32. Clerk.

Weinkauf said staff has been busy preparing for the August 9th Partisan Primary Election.

33. Everest Metro

Sparks said his report is attached to meeting agenda packet.

34. Finance.

Jacobs reported the Everest Metro audit should be approved next week.

35. Operations.

No comments.

36. Parks & Recreation.

No comments.

37. Planning & Development.

No comments.

38. Public Services.

Donner reported project activity will begin on the Mesker/Colleen and Ross Avenue lift stations. The Services division has been working on all the medians and the replacement of mulch has been completed.

39. S.A.F.E.R. District

Finke said there have been no major incidents to report. There have been some small fires in the new mulch. The department is working on implementing a new phone app called PulsePoint. They are also working on some outside funding for use of this app.

40. Technology Services.

No comments.

G. Regular New Business.

41. Recommendation from Clerk to deny the Operator License for Jesse Bartnik.

No action required.

42. Recommendation from staff to approve the Class B Beer License for Crafties, LLC.

Motion by Ziegler, second by Schuster to approve the Class B Beer license for Crafties, LLC, contingent on not allowing any gaming/gambling devices in the establishment. Q/ Schuster asked how long it would take to enact an ordinance to disallow gaming/gambling devices within the Village. Attorney Yde will look into seeing if this is something the Village could do. Schuster then withdrew his second on the motion. Motion by Ziegler, second by White to approve the Class B Beer license for Crafties, LLC, contingent on not allowing any gaming/gambling devices in the establishment. Q/White wanted a point of clarification added to the record to include that Ziegler and White voted to approve the license at the last meeting. He said Mr. Rybacki had stated that all 7 of the board members voted against it.

Berger is opposed to this because he feels many more requests will come to the Board like this from other convenient stores. He said there is enough places in Weston with alcohol. Ermeling is opposed and feels this is not something the Village should promote. She said the current license allows them to do sampling of beer inside the convenient store. Ziegler said he included in his motion to not allow the gambling machines. Ermeling said once he has the license the Village can't prevent him from putting machines in there. There was a short discussion on issuing amusement licenses and having a local ordinance on gambling machines.

Yes Vote: 3 No Votes: 4 Abstain: 0 Not Voting: 0 Result: DENIED

Trustee	Voting
Ermeling, Barb	NO
Berger, Scott	NO
Ostrowski, Kevin	YES
Schuster, Fred	NO
Ziegler, Jon	YES
White, Loren	YES
Mark Porlier	NO

43. Recommendation from staff to deny the license for Alpine Mobile Home Park.

Motion by Schuster, second by Berger to deny the license for Alpine Mobile Home Park. Q/ Ermeling said the Board was not made aware of the current condition of the park. She is concerned with the denial of this license at this point. Porlier said there seems to be some communication issues between the Mobile Home Park Operator and Village staff. Jacobs said Alpine's 2015 personal property tax is delinquent in the amount of \$20.18. Barbara Rolan said she would pay that and Jacobs said he would give her a receipt after the meeting. Yde suggested that if the Board is going to revoke the license they give them 45 days or longer so that people have time to move. *Schuster and Berger withdrew their original motion.* Schuster said the park has been neglected for a number of years and there was no reinvestment for many years. He also said we need to set limits for completion of work. Attorney Yde said it was a better option to give the park a 6-month license instead of revoking their license even though the statutes don't say that can be done. Guild suggested giving the park one year to bring things into 100 percent compliance. Staff will do quarterly inspections on the progress. White suggested 90 percent compliance instead of 100 percent. Guild suggested holding a June 5, 2017 hearing. Yde said whenever the Board has the evidence to revoke the license they can do that at that time. Schuster said citations will now be issued as requested. *Motion by Schuster, second by Porlier to renew the license for Alpine Mobile Home Park through June 30, 2017, and anytime the park is not in compliance the Board will move forward to revoke the license.*

Yes Vote: 6 No Votes: 1 Abstain: 0 Not Voting: 0 Result: PASS

Trustee	Voting
Ermeling, Barb	YES
Berger, Scott	NO
Ostrowski, Kevin	YES
Schuster, Fred	YES
Ziegler, Jon	YES
White, Loren	YES
Mark Porlier	YES

44. **Recommendation from Clerk to deny the Operator Licenses for Alyssa Schmidt and Tory Lee.**

Motion by White, second by Ostrowski to deny the Operator License for Alyssa Schmidt due to the fact she has four drug/alcohol offenses in the last five years on her record.

Yes Vote: 7 No Votes: 0 Abstain: 0 Not Voting: 0 Result: PASS

Trustee	Voting
Ermeling, Barb	YES
Berger, Scott	YES
Ostrowski, Kevin	YES
Schuster, Fred	YES
Ziegler, Jon	YES
White, Loren	YES
Mark Porlier	YES

Motion by White, second by Berger to deny the Operator License for Tory Lee due to the fact he checked “No” on his application and has multiple arrests /convictions, along with an outstanding warrant on his record.

Yes Vote: 7 No Votes: 0 Abstain: 0 Not Voting: 0 Result: PASS

Trustee	Voting
Ermeling, Barb	YES
Berger, Scott	YES
Ostrowski, Kevin	YES
Schuster, Fred	YES
Ziegler, Jon	YES
White, Loren	YES
Mark Porlier	YES

H. Report from the Administrator.

45. S.A.F.E.R. Charter agreement.

Guild said legal counsel has reviewed the charter agreement. There were significant errors in the document and once corrected the document will be distributed.

I. Convene into closed session under Wisconsin State Statutes 19.85 (1) (c) for the purpose of considering the employment, compensation, or performance evaluation data of any employee over which the governmental body has jurisdiction or exercises responsibility:

46. Consider compensation and performance evaluation data of the Village Administrator.

47. Reconvene into open session and take action on items discussed in closed session, if necessary.

The Board members did not convene to closed session.

J. Remarks from Trustees (No Board action will be taken for this agenda item).

Ziegler and Berger will both be absent from the August 1st meeting.

- K. Remarks from the President (No Board action will be taken for this agenda item).**
No comments.
- L. Discuss items to be included for next agenda (No Board actions will be taken for this agenda item).**
No comments.
- M. Set next regular meeting date for Mon, August 1, 2016.**
- N. Adjourn.**

Motion by Schuster, second by Ziegler to adjourn the meeting at 10:07 p.m.

Yes Vote: 7 No Votes: 0 Abstain: 0 Not Voting: 0 Result: PASS

Trustee	Voting
Ermeling, Barb	YES
Berger, Scott	YES
Ostrowski, Kevin	YES
Schuster, Fred	YES
Ziegler, Jon	YES
White, Loren	YES
Mark Porlier	YES

Sherry Weinkauf, Clerk

PIETZ, VANDERWAAL, STACKER & ROTTIER, S.C.

ATTORNEYS AT LAW

530 JACKSON STREET

P. O. BOX 1343

WAUSAU, WISCONSIN 54402-1343

TELEPHONE

(715) 845-9211

FAX

(715) 842-9317

SHANE J. VANDERWAAL
GREGORY J. STACKER
STUART R. ROTTIER
LEE D. TURONIE
JAMES R. KURSZEWSKI

JOHN W. KELLEY
COLIN D. PIETZ
PETER C. GUNTHER
OF COUNSEL

E-MAIL

turonie@pvslaw.com

July 18, 2016

Village of Weston
Board of Trustees
5500 Schofield Ave.
Weston, WI 54476

HAND-DELIVERED

Re: Public Hearing on the Mobile Home Park License for Alpine Mobile Home Park

Dear Members of the Board of Trustees:

Please be advised that this law firm has been retained by Alpine Mobile Home Park ("Alpine") to represent them in matters related to their Mobile Home Park License from the Village of Weston ("Village"). We are aware that this matter is scheduled for a public revocation hearing at the Weston Village Hall on July 18, 2016 at 6:00 p.m. This letter summarizes some, but not all of the legal issues that Alpine is challenging.

1. Only the Village's Mobile Home Committee may enforce mobile home park licensing issues. Municipal Code of the Village of Weston, Wisconsin ("Code") § 46.102.

The Mobile Home Committee is created by Village ordinance and therefore meets the definition of a body required to give open meetings law notices pursuant to Wis. Stat. § 19.82(1). There have been no notices of any meetings of the Mobile Home Committee to enforce Code ch. 46 on mobile home park licenses. It is unclear whether the Village has simply not met with the appropriate body on mobile home park licenses this entire time or that it has been continually violating the open meetings law.

The Village Board of Trustees ("Board") in enacting ch. 46 of its Code delegated all enforcement of mobile home park licensing to the Mobile Home Committee. Code § 46.102. As a result that is the only Village body with such authority. The Board does not possess any such authority. This is important because any Village actions that are contrary to its own ordinances are void as *ultra vires*, or void as beyond its particular authority. *Wisconsin Elec. Power Co. v. Outagamie County*, 2008 WI App 75, 311 Wis. 2d 746, 752 N.W.2d 388. *See also, Wagner v. Town of Menasha*, 207 Wis. 2d 643, 559 N.W.2d 923 (unpublished, Ct. App. 1996) (Court reversed municipality's decision not to renew a mobile home park license because municipality did not follow its own ordinance procedures in order to do so.)

That is to say, a body other than the Mobile Home Committee cannot make any decisions regarding a mobile home park license that would be other than on its face unenforceable.

2. The Village cannot issue a mobile home park license for a term of less than one (1) year. Wis. Stat. § 66.0435(6).

“Renewal of license. Upon application by any licensee, after approval by the licensing authority and upon payment of the annual license fee, the clerk of the licensing authority shall issue a certificate renewing the license for another year, unless sooner revoked. The application for renewal shall be in writing, signed by the applicant on forms furnished by the licensing authority.”

Pursuant to Wis. Stat. § 66.0435(6), Alpine applied for a renewal license including payment of the annual fee and such application was approved by the Village. Under those circumstances, the statutory authority for municipalities to require and issue mobile home park licenses uses the mandatory “shall” to direct the municipal clerk to issue “the license for another year.” *Id.* The municipal clerk is a ministerial position in municipalities, not a discretionary position such as a board member (boards are legislative bodies). The exercise of ministerial duties by the clerk, such as issuing the mobile home park license for another year, is not discretionary.

Code ch. 46 cannot deviate from the statutory language on the license issuance process. Section 66.0435 is a specific grant of authority to municipalities in Wis. Stat. Ch. 66. Wisconsin Cities and Villages have home rule, where they can create ordinances that vary from state statutes only regarding the village and city charter ordinance chapters of Wis. Stat. chs. 61 & 62, not Wis. Stat. ch. 66 on general municipal law.

It was improper for the Village to issue Alpine a mobile home park license for less than a year in duration. Any attempt by the Village to enforce an “expired” license for a shorter period of time can be met with a declaratory lawsuit by Alpine that they in fact were issued an annual license by the Village as required by the statute.

3. Marathon County has given Alpine the right to cure its identified health concerns within the next eleven (11) months.

The Marathon County Health Department issued Alpine a “Mobile Home Park Establishment Inspection Report” signed by Sanitarian Sara Brown on June 6, 2016. The report also contains the statement that “the violations in operating procedure or physical arrangement indicated below must be corrected by the next routine inspection or by a date specified in this report.” The report then identifies only four (4) observed violations and does not list a date specified for correction.

The routine County health inspection is made on an annual basis. Therefore, Alpine has another eleven (11) months to correct the four (4) identified health concerns of Marathon County. This report is not a sufficient basis on which to revoke Alpine's license. In fact, the brevity of this report undermines the credibility of the Village's own complaint regarding any health issues.

4. The Village reliance on its nuisance ordinances is unenforceable.

Municipalities may regulate public nuisances, but not private nuisances. *City of Milwaukee v. Milbrew, Inc.*, 240 Wis. 527, 533, 3 N.W.2d 386 (1942); *But see* Code § 46.113. The Village may only pursue Alpine for perceived public nuisances. Meanwhile, the Village's Code ch. 50 on nuisances is forty (40) pages long, including twenty-nine (29) pages devoted to "property maintenance" alone. Many of these alleged violations by Alpine amount to nothing more than appearance factors, which are not properly public nuisance issues. Furthermore, Alpine is screened from view of the public street and other properties by fencing. Who is the alleged victim of these "public nuisance" appearance issues?

"The existence of a nuisance depends upon whether there is a physical injury to property or occupant resulting from a use, and a municipality's interest is aroused only when the injury is substantial, the facts are weighty and important, and the public is affected."

Milbrew, at 531. Alpine has state and federal constitutional safeguards against the overbroad misuse of nuisance allegations. *Id.* at 532-533. It is not to be tolerated under the laws in this country that a municipality should create a mere declaration that something is a nuisance just because a person or the Village might perhaps find some offense to the present conditions. *Id.* at 533. In other words, it is not permissible for the Village to create and enforce nuisance ordinances that would place nearly every property in the Village into theoretical violation. *Id.* Yet such is the case with the Village's overbroad nuisance chapter.

Public nuisance ordinances can only be enforced where some person has a tangible, substantial injury and all potential violators must be treated with the same degree of fairness. *Id.* at 535. The court in the *Milbrew* case overturned a public nuisance ordinance conviction despite the prosecution having several witnesses who claimed to be "offended" by a local smell-producing business. This was in sharp contrast to the people who lived in the area, as there was no evidence that local residents were seeking to move away from that facility. *Id.* at 536.

In other words, the Village, or the Village's Administrator on behalf of the Village, cannot just declare the Village's mobile home parks offensive and use that as a reasonable basis to either prosecute alleged public nuisance violations or revoke a mobile home park license. *See Guild, Daniel*, Letter from the author to the owners/operators of mobile home parks in the Village of Weston, November 20, 2015:

“In the process of familiarizing myself with the Village, it did not take long to realize that many of the mobile home park properties are maintained poorly. It is my opinion, that my use of the term ‘poorly’ is a severe understatement. Some of these properties, I could describe as a horrible eyesore. Some of these properties, I could describe as an embarrassment. Some of these properties, I would find it to be morally repugnant to rent to fellow human beings. Some of these properties have been a blight on this community for far too long.”

This statement has detrimentally affected the Village’s position in regard to the enforcement of its already overbroad nuisance ordinances.

Aesthetics are not regulated by public nuisance ordinances, only tangible injuries are public nuisances, and overbroad ordinances together with clearly biased official statements make the Village’s enforcement efforts against Alpine look legally unreasonable.

5. Constitutional due process is not satisfied by the Village’s current procedure.

Alpine was given a notice of a public hearing regarding their mobile home park license. They were not given a complaint, although they later acquired one due to their own diligent actions. The information packet for the Board that was posted to the Village website was also not delivered to Alpine.

The Village’s complaint contains numerous unspecified allegations. Other “complaints” are referred to but not included or identified. Numerous pictures appear in the Board’s information packet for the hearing without any labels or identifiers.

Revoking a license under these circumstances will not satisfy the due process protections that are guaranteed to Alpine by the state and federal constitutions.

6. The remainder of the Village’s complaint against Alpine is denied.

Alpine intends to introduce evidence specifically refuting the Village’s accusations.

Importantly it must be understood that Alpine contains a variety of older mobile homes. These existing mobile homes are not subject to the Wisconsin Uniform Dwelling Code. Wis. Stat. § 101.65(1)(a). The U.S. Department of Housing and Urban Development only enforces Manufactured Home Construction and Safety Standards for units built after 1976. Finally, these same mobile homes most likely predate any Village zoning ordinances and therefore may continue as prior nonconforming uses that are completely legal. Wis. Stat. § 62.23(7)(h).

Village of Weston
July 18, 2016
Page 5

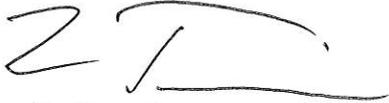
Alpine made a public records request of the Village for copies of all complaints received regarding the four (4) mobile home parks in the Village in the past few years. Alpine received records going back to January 2010 and there is only one complaint related to Alpine. However, that complaint dated March 3, 2014 and addressed to Mr. Gordon Seewald concerns only the interior of his unit and is not a complaint against the Alpine Mobile Home Park.

Only the current mobile home park licensing year is relevant. For any complaints to be relative to this year's license consideration they must be concerning this licensing year and not any past years. Former licenses that have expired are not relevant to a revocation or nonrenewal process. Wis. Stat. § 66.0435(2)(d); see *Williams v. City of Lake Geneva*, 2002 WI App 95, 253 Wis. 2d 618, 643 N.W.2d 864. The Board's information packet contains allegations as to past irrelevant information and also contains completely irrelevant information to a mobile home park license, such as the Plat of Survey documents. (Boundary disputes, if any, are purely private causes of action and do not involve municipalities in any regulatory capacity. Wis. Stat. ch. 893.)

Without waiving any additional defenses, based on the above arguments Alpine contests any Village action to nonrenew or revoke its mobile home park license at this time.

Sincerely,

PIETZ, VANDERWAAL, STACKER & ROTTIER, S.C.

A handwritten signature in black ink, appearing to read 'LDT', with a long horizontal flourish extending to the right.

Lee D. Turonie
LDT/ldt