

TOWN OF ST. GERMAIN
ST. GERMAIN, WISCONSIN 54558
MINUTES SEXUALLY ORIENTED BUSINESS COMMITTEE MEETING
May 7, 2020
Revision 1

1. **Call to order:** Chairman Len Larsen called the meeting to order at 7:06 p.m.
2. **Roll Call, Establish a Quorum:** Len Larsen, Ted Ritter, Jim Swenson, Sally Reuling, Leslie Hiller, Josh Reese, Kelly McGill. Bob Schell was also in attendance.
3. **Open Meeting Verification:** Len Larson noted that the meeting agenda had been posted at three locations in town (Post Office, Camps Grocery Store, and the Community Center) on Sunday, May 3, 2020 before 4 p.m. Ted Ritter also posted the agenda on the town website.
4. **Discussion/ Action Topics:**

a.Recording Secretary: Leslie Hiller made a motion for Kelly McGill be the recording secretary for the Sexually Oriented Business (SOB) committee. Jim Swenson seconded. By a voice vote: Yes – 7; No – 0. Motion carried unanimously.

b.Define Committee Mission Statement/Appoint Committee Duties: Mr. Larsen first thanked the town board for their assistance with the SOB committee. Mr. Larsen then read the resolution passed at the Annual Elector Meeting on April 21, 2020 and discussed the different sections of the resolution. This resolution was passed Yes – 42; No – 2.

WHEREAS The Town of St. Germain currently has no ordinances to prohibit the operation of Sexually Oriented Business in any zoning districts in the town of St. Germain; and WHEREAS the Supreme Court of the United States has ruled towns may adopt local ordinances that regulate the time, place, and manner in which such businesses are operated without violating the First Amendment. WHEREAS Federal, State, and local courts have supported zoning restrictions of Sexually Oriented Businesses based on the prevailing cultural sentiments of the community and the efforts of a town to minimize the negative effects of these businesses (such as lowered property values or drug use) and are not motivated by solely the adult content of that business. Therefore, be it Resolved that We the Electors Authorize the town of St. Germain to pursue restrictive zoning ordinances that will limit the establishment and operation of Sexually Oriented Businesses in the majority of our zoning districts in accordance with the boundaries of the Federal, State, and Local laws; and Due to the complexity of drafting legally enforceable SOB

Ordinances, We the Electors Authorize the Town of St. Germain Board to secure specialized legal services in drafting said SOB ordinances, to assure that Federal, State, and local statutes are in compliance for such ordinances; and Therefore, be it resolved that the St. Germain Town Board may appoint a Citizen Advisory Committee to assist in the development of Town Ordances in regards to permitting Sexually Oriented Businesses; and Finally, be it resolved that we the Citizens of St. Germain acknowledge that an Ordinance drafted in regards to Restricting Sexually Oriented Businesses, as in all other current Town Zoning Ordinances, may require levy funds at a future point in time if said SOB Ordinance is ever challenged in Court of law.

Mr. Larsen then discussed each section of the resolution. Beginning his research in March, Mr. Larsen has spoken to members of zoning boards, the Vilas County Supervisors, and Town Chairmen, and many others from within a 50 mile radius. He ascertained that St. Germain is vulnerable to SOBs because the town does not have any ordinances or restrictions pertaining to these businesses, and thus he wrote the resolution for presentation at the Elector meeting April 21, 2020. In summary, the town resolved to move forward in a timely manner on enforceable, legal SOB ordinances. Mr. Larsen mentioned Oneida County's ordinance, which has a clear, enforceable purpose and intent. Mr. Larsen then read part of the Oneida County Ordinance 9.55 Adult Oriented Business:

Purpose and Intent. It is the purpose of this ordinance to regulate the location of sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the county, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the county. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.

Mr. Larsen reminded the committee based on the resolution that the committee is not there to draft ordinances but to advise the town board and to help procure legal services to draft ordinances and regulations because the issue is very complex. Referring to the last paragraph of the resolution about the requirement to potentially levy funds, Mr. Larsen said that any money spent on an attorney who specializes in this area would be the best money the town has ever spent in order to restrict SOBs in the business areas. Mr. Larsen hopes that the ordinances and regulations will be so well written that the town will never have to defend

them in court. SOB's will look at the regulations and zoning ordinances in St. Germain and go somewhere else.

c. Discussion: Leslie Hiller spoke concerning the need to retain a competent attorney as soon as possible. She discussed two phases in dealing with the SOB issue. Phase 1: Get restrictions on the books as quickly as possible, such as no alcohol can be consumed and no tips allowed, and get these on the books so we have something in place while the committee and town board discusses a Phase 2, which would be zoning. We have nothing on the books currently and the town is very vulnerable and a target for SOB's. Mr. Ritter discussed that zoning must be a part of it, permissible uses, and zoning is a priority also. Both agreed that restrictions and zoning ordinances are critical.

6. DUTIES: Mr. Larsen discussed duties to be assigned to committee members. These duties include: restrictions, signage, zoning, and coordination.

a. SOB Restrictions: Leslie Hiller and Sally Reuling will research SOB restrictions. They will review the Oneida County and Minocqua Ordinances, as well as the Rhinelander ordinance and restrictions. An example of a restriction would include no alcohol may be consumed on the premises. The restriction should not say you cannot serve alcohol because then customers will bring it in with them. This happened in a SOB in the Fox Valley. The town thought they had prohibited alcohol use, but they did not use the word consume.

b. Signage: Ted Ritter and Josh Reese will research signage issues. Having signs for an SOB in the business district of St. Germain would be a definite negative for the downtown area. The example was given of the Bucktail Club signs, which are numerous around Eagle River and Hwy 45. What are the rules for signs along state highways like Hwy 70? Leslie Hiller mentioned looking at current St. Germain sign ordinances, and Mr. Ritter explained that he has worked on a proposed town sign ordinance. Mr. Ritter noted that St. Germain currently does not have zoning ordinances for signage. There is a draft ready to be presented to the town board, but it has not been assigned a priority yet with so much else pending. Mr. Ritter will send a draft of the proposed St. Germain sign ordinances to Mr. Reese.

c. SOB Zoning: Ted Ritter, Jim Swenson, and Len Larsen will continue to investigate, review, and understand the way other surrounding communities and counties, like Rhinelander, Minocqua, and Oneida County, have structured their SOB zoning ordinances. Once legal counsel is retained, they will be able to look at this angle in coordination with the legal expert to make sure St. Germain has an enforceable SOB zoning ordinance. Mr. Larsen reviewed the Oneida County zoning ordinance section 9.55 (#29-2005, 2-2009)

Location of Sexually Oriented Businesses 1. A person commits a violation of this ordinance if that person operates or causes to be operated a sexually oriented business in any zoning district other than District 10 General Use, as defined and described in the Oneida County Zoning and Shorelands Protection Ordinance. A sexually oriented business shall be considered a permitted use in District 10 –

General Use Zoning District. 2. A person commits a violation of this ordinance if the person operates or causes to be operated a sexually oriented business within 500 feet of: a. A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities; b. A public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary CHAPTER 9 ARTICLE 5 – ADDITIONAL TYPES OF USES Article 5-33 schools, continuation schools, special education schools, junior colleges, and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school; c. A boundary of a single family residential district, multi-family residential district, rural residential district or residential retail district as defined in the Oneida County Zoning & Shoreland Protection Ordinance.

Mr. Larsen also pointed out in the Oneida County zoning ordinance the clause that states:*Applicability. Any sexually oriented business as defined in section 9.55 of this ordinance lawfully operating before February 26, 2006 shall be deemed a legal pre-existing use, is not subject to the requirements of section 9.55, and may be continued although such use does not conform with the provisions of section 9.55, subject to the conditions of this subsection. Nothing in this subsection shall be construed as allowing the establishment of a new sexually oriented business on the premises or within the structure of a legal pre-existing use.*

Mr. Larsen also talked about Three Lakes with their ordinance and stated that so far, Three Lakes and Minocqua have had no issues with SOBs challenging their ordinances. Mr. Larsen also mentioned the Minocqua Adult Oriented Establishments Ordinances Sections 14-274 through 14-289.

d. Coordination: Len Larsen will be center part of the wheel coordinating with the committee as they carry out their duties.

e. Legal Counsel Search: As the resolution passed by the Electors stated, “*Due to the complexity of drafting legally enforceable SOB Ordinances, We the Electors Authorize the Town of St. Germain Board to secure specialized legal services in drafting said SOB ordinances, to assure that Federal, State, and local statues are in compliance for such ordinances,*” competent legal assistance is required with an attorney who specializes in this area. As a private citizen, Mr. Larsen discussed that he spoke with two attorneys who have written ordinances for communities and counties in this area. Mr. Andrew Jones, legal office in Milwaukee, wrote the Oneida County zoning ordinance, and Mr. Greg Harrold wrote the Minocqua ordinances. In Mr. Larsen’s conversations with Mr. Andrew Jones, Mr. Jones proposed over the phone that Phase 1 would be exploration and investigation looking at zoning, structure of our town, our zoning district. Larsen pointed out that we are scattered, with residential areas all over, so what zoning restrictions would work. According to Mr. Jones, Phase 2 would be

implementation and involve zoning. Mr. Jones would work with Vilas County as well. Mr. Jones estimated that Phase 1 would take 8 – 12 hours, and Phase 2 around 8 hours for an approximate total of 20 hours at a municipal rate of \$250 per hour. The second attorney that Mr. Larsen spoke with was Greg Harrold, who did not mention the number of hours required, but his fee would be \$200 per hour.

f. Discussion concerning legal counsel: Leslie Hiller commented that we need to get this done as quickly as possible because the town is vulnerable and a target. Another SOB business could potentially be looking right now at opening a business here because the town does not have any restrictions. Sally Reuling pointed out that if one attorney is busy and cannot submit a written proposal within our time frame or they cannot be available for several weeks or months, then we may need to go with who is available and both sound competent in this area. Mr. Ritter discussed the requirement for a written proposal from both attorneys for their estimated time and fees so that he and Mr. Swenson can take this back to the town board. The exact amount of any expense must be in a written proposal for the town board to review. So the attorneys would need to get a written proposal to Mr. Larsen. Ritter said the board meets often, and he thinks it could be done in a timely manner, but a written proposal is absolutely required when the town is being asked for funding. This would need to be put on an agenda prior to any town board meeting. So that timeline would need to be addressed. Mr. Larsen said he would attempt to get a written proposal from both attorneys by next Wednesday, May 13, to present to the committee on Thursday, May 14. Mr. Ritter suggested that a motion be made concerning the above. Motion: Josh Reese made the motion that Len Larsen is to pursue two written proposals, one from Mr. Jones and one from Mr. Harrold, for SOB legal work and then bring those proposals back to the committee for review. Then the written proposals for any potential legal counsel can be submitted to the town board by Mr. Ritter and Mr. Swenson. Leslie Hiller seconded the motion. Roll Call: Ted Ritter yes, Sally Reuling yes, Josh Reese yes, Len Larsen yes, Kelly McGill yes, Leslie Hiller yes, Jim Swenson yes. Motion carried 7 yes and 0 no. All were in favor and none opposed.

7. Comment by non-committee member: Mr. Bob Schell wanted to comment that he thanks the committee for their work and all of the research they have conducted.

8. Future Meeting Date: Thursday, May 14, 2020 at 6:45 p.m. Mr. Larsen and Mr. Ritter will be present in the community center and the other committee members and others may attend by zoom due to COVID.

9. Adjourn: Motion to adjourn made by Len Larsen at 7:53 p.m. Sally Reuling seconded.