

VILLAGE BOARD MINUTES
Special Meeting
TUESDAY, JUNE 29, 2021
6:30 PM
COMMUNITY CENTER, MUNICIPAL BUILDING
210 COTTONWOOD AVENUE, HARTLAND, WISCONSIN

Call to Order

Roll Call

Present: Trustees Anson, Dorau, Meyers, Wallschlager, Ludtke, President Pfannerstill

Others Present: Interim Administrator Bailey, Police Chief Misko, Clerk Igl, Village Attorney de la Mora, residents.

1. Pursuant to Village of Hartland Ordinance Section 66-12 (e), the Village Board will hear the appeal of Caleb Torres to be exempted from the moratorium regulating residency in the village.

Attorney de la Mora asked whether Mr. Torres or anyone representing Mr. Torres were present. Neither Mr. Torres nor a representative were present. Attorney de la Mora distributed correspondence he received earlier on June 29, 2021 from Mr. Torres as well as his response. The correspondence was marked as Exhibit 1 for the record and the correspondence was reviewed by the Village Board members.

Attorney de la Mora outlined the Village Board's options. One option presented was to interpret the request of Mr. Torres and postpone the matter although Attorney de la Mora felt the basis for postponement was not clear. He stated that he had met with the aunt of Mr. Torres after receiving correspondence that Mr. Torres was no longer represented by Attorney Bucher. The aunt had informed him that they would be seeking other legal counsel and Attorney de la Mora believed that Mr. Torres or Mr. Torres along with legal counsel would like to proceed with the appeal.

Another option presented was for the Village Board to dismiss the appeal on the basis that Mr. Torres did not appear for the appeal hearing. Attorney de la Mora stated that Mr. Torres had met with the Police Chief stating that he was required to meet face to face with the department. At that time, Mr. Torres was informed that he would not qualify to live in the Village of Hartland even though he had previously lived in the Village. The request was then made for an appeal.

Attorney de la Mora stated that a third option would be that the Village Board take testimony to the extent that staff can provide it based on the background and for the Village Board to draw a conclusion for the testimony. It was stated that comments will not be taken verbally; written

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comments may be submitted to the Village Board members to be distributed to the entire body. Attorney de la Mora recommended that the board consider doing what they have done previously which was to receive testimony from the individual and witnesses on behalf of the appellant and information from the Police Department and/or other necessary sources. It was stated that there is public interest in this matter, however, comments should be relevant to testimony taken or information provided to the Village Board. Any written comments should be directed to the Village Clerk to be distributed to the Village Board and Attorney de la Mora suggested a deadline of noon on July 9 be set.

Motion (Pfannerstill/Ludtke) to direct the Village Attorney to work with M. Torres and/or his attorney and that Mr. Torres and/or his legal counsel are the only individuals to have correspondence with the Village on this matter. Carried (7-0).

Motion (Pfannerstill) to allow postponement for a month with the hearing to take place within 30 days. Motion failed for lack of a second.

Motion (Wallschlagler/Meyers) for the Village Board to make the decision tonight and not to postpone the hearing for 30 days. Trustee Dorau asked when Attorney de la Mora received the email from Mr. Torres and the response was that the email was sent to the attorney at 7:31 a.m. on June 29, 2021. Trustee Ludtke stated that she felt it was unprofessional for correspondence to be sent 12 hours before you are to appear at a hearing when there was ample time prior. Vote taken; motion carried (7-0).

Police Chief Misko was sworn in by Village President Pfannerstill. Chief Misko referenced Village Ordinance 66-12 which established the Sex Offender moratorium which set in place provisions that no sex offenders be allowed to reside in the Village until the saturation level reaches 1.1 or lower. The calculation provisions and appeal process included in the ordinance were outlined for the Village Board as well as the definition of a "designated offender". It was stated that the ordinance establishing the Sex Offender moratorium was adopted in September of 2018. Exhibit 2 (Sec. 66-12 of the Municipal Code) was entered into the record.

Chief Misko presented an email which included saturation levels at multiple points in time as well as a copy of the spreadsheet to track saturation levels which was developed at the time the ordinance was created. These documents were entered into the record as Exhibit 3. The numbers as of June 28, 2021 was 29 sex offenders with a saturation level of 5.13.

Chief Misko stated that he had face to face interaction with Mr. Torres on September 8, 2020 at which time Mr. Torres advised the Chief that he was a sex offender and intended to move into

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the Village. Chief Misko submitted a copy of the report from that interaction as Exhibit 4. The report was reviewed by the Village Board members.

Attorney de la Mora asked Chief Misko whether he had any prior dealing with Caleb Torres and the response was no. Attorney de la Mora asked Chief Misko whether he had looked at any records related to Mr. Torres before that time and the response was no.

Chief Misko stated that on that date he had been informed by a Police Department Clerk that an individual was in the lobby wishing to speak to him. Chief Misko verbally identified the individual as Caleb Torres who informed him that he had lived at 310 Hartridge Drive at the time of his sex offense in 2015. Mr. Torres stated that he was convicted in March of 201, and did some prison time in Lincoln Hills until spring or summer of 2018. At that time, Mr. Torres moved in with his grandmother in the City of Oconomowoc however he was in violation of the Oconomowoc sex offender ordinance so wanted to move back in with family on Hartridge Drive. Chief Misko informed him that he would be in violation here as well. Chief Misko explained to Mr. Torres that the Village's ordinance does not have an original domicile provision and informed him of the appeal process. An email address was provided and Chief Misko forwarded the ordinance. Mr. Torres stated that he had notified his parole agent and Chief Misko signed off on a document stating that he had met face to face with Mr. Torres and added a note stating that Mr. Torres would be in violation with the Hartland Sex Offender Moratorium if he moved into Hartland.

Chief Misko explained that what Mr. Torres was referring to as original domicile is that in some communities there is an exception that a sex offender is allowed to return to the community that they resided in at the time of the offense. Chief Misko contacted the probation/parole agent (Agent Asen) to inform them of the meeting. The agent asked about original domicile but was told that the Village does not have that provision. Chief Misko had informed Mr. Torres and the agent that Mr. Torres could stay temporarily in Hartland for up to three days per month and no more than thirteen days in a year. Agent Asen was also informed of the right to appeal and emailed a copy of the ordinance.

Attorney de la Mora asked Chief Misko whether he had any further contact with Mr. Torres after that. Misko responded no, that he believes there was some email correspondence but he was not the direct recipient. Attorney de la Mora asked whether the Chief had any other background. Misko responded that Mr. Torres does have criminal history as recent as 2019, was charged and convicted as an adult. Birthdate of Jan. 10, 2000 for Caleb Torres was confirmed.

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2. Following the submission of testimony under oath /evidence, the Village Board will deliberate in open session and render a decision regarding the appeal.

Attorney de la Mora stated that he was present to advise the Village Board, provide background and had nothing else to offer. He stated that the Village Board could make a decision at this time or postpone the decision to allow for written comments to be received.

Motion (Dorau/Ludtke) to deny the appeal of Mr. Torres to move into Hartland. Chief Misko clarified that Mr. Torres was not a resident of the Village of Hartland at the time of the adult charge. Vote taken; carried (7-0).

3. Adjournment

Motion (Ludtke/Dorau) to adjourn at 7:07 p.m.

Respectfully submitted,

Darlene Igl
Village Clerk