

# Village Board Meeting Minutes

Feb. 8, 2016

- 1) Call to Order and Roll Call. – *President Rath called the meeting to order at 6:30 p.m. with roll call:*

***Present***

*Bob Benz*

*Stacy Gedman*

*Joe Hennlich*

*Roger Kaas*

*Joyce Laux*

*David Miller*

*Jim Rath*

***Absent***

*none*

***Others Present***

*Susan Williams, Clerk-Treasurer*

*Randy Friday, Administrator*

*Bruce Genskow, MCO*

- 2) Pledge of Allegiance. – *Recited.*
- 3) Approval of the Agenda. – ***Benz moved to advance agenda item 10) to follow agenda item 4), and the rest of the agenda as presented. Hennlich 2<sup>nd</sup>. Motion carried unanimously.***
- 4) Approval of Minutes: Jan. 25 (Regular Meeting). – ***Benz moved to approve the regular meeting of the Village Board on January 25, 2016 as presented. Kaas 2<sup>nd</sup>. Motion carried unanimously.***
- 5) Registered Citizen Comments on Agenda Items.  
Todd Thiel, W4852 Escarpment Terrace, Sherwood – regarding agenda item 6) voiced support of the Lake Association formation presentation.  
Dennis Allar W4857 Spring Hill Drive, Sherwood – regarding agenda item 6) voiced concerns about the property owners in opposition.  
Faith Emons, N7767 Sundown Court, Sherwood – regarding agenda item 6).  
Tom Sanderfoot, N8045 State Park Road, Sherwood – regarding agenda item 8) b) & c).  
Dave Schmalz, W5884 Sweet William Dr., Appleton – regarding agenda item 8) b) & c) presented the interests of Sanderfoot.
- 6) Presentation: *Palisades Pond – Lake Association:* Consider formation of an Association due to impending dam removal (Roger Kaas; Resident).

Kaas recused himself from the Village Board dais to speak as a resident. He led the Board through a PowerPoint presentation regarding the High Cliff Public Golf Course (HCGC) pond and dam structure between Escarpment Terrace and Spring Hill Drive, stating HCGC informed pond residents they intended to remove the dam. Kaas noted local residents met with a DNR representative where the following options were discussed: (1) Submit a dam transfer request along with dam repair plans; (2) Transfer ownership to another entity that would submit dam repair plans; and (3) Dam removal. (Village Board 2/22/16 Kaas stated this was incorrect, the options were presented to the High Cliff Golf Course from the Wisconsin Department of Natural Resources) Kaas presented two options for consideration to the Board: (1) The Village takes over the dam/pond and takes over current & future maintenance costs; or (2) Formation of a Lake District, in which the property owners pay for improvements. Kaas has circulated a petition with 15 of 21 property owners supporting formation of the District.

*Gedman questioned if HCGC owns the pond and if the DNR has a claim on it. Kaas confirmed HCGC owns the pond and the land under the water, while the DNR regulates the pond.*

Kaas and Thiel noted HCGC did not do the DNR *Dam Transfer* when they obtained the golf course lands. The DNR states whoever the owner is will be required to complete the transfer.

*Miller inquired if establishment of the dam ownership must be done first.*

Thiel stated the DNR will determine the owner. And, because none of the prior changes in ownership included the DNR Dam Transfer form, they can consider those transactions void. Thiel reported the DNR understands what has happened in the past and wants to fix the situation, but ownership will be established after the Transfer Form is completed and proves the dam can be maintained.

*Gedman asked if the dam is rebuilt and the pond established if the DNR is involved. Thiel stated the DNR oversees the dam. Gedman inquired if the property owners can restrict access. Kaas responded there must be public access and that is possible via the Schneider Park parcel.*

*Gedman asked if the dam is removed is there a natural water flow. Kaas responded there is a spring along the Sundown Court edge and water would flow through the mud flats. Gedman inquired of the MS-4 requirements, having a dam provides a better results for flowage to Lake Winnebago. Kaas agreed it does.*

*Hennlich inquired if 15 signatures were in favor of the District formation. Kaas affirmed this. Hennlich inquired about the percentage needed. Kaas responded 51% of all land owners. (Village Board 2/22/16 Kaas stated this was incorrect, in a Village there is no requirement of a petition, the Village Board may approve through resolution, they circulated a petition to demonstrate support)*

*Gedman asked what the homeowners want who signed the petition. Kaas and Thiel replied their first option is for the Village to take it over. Secondly, is to form a Lake District.*

Thiel stated if the pond is no longer there, property owners may expect their tax assessment to be lowered due to the lack of a water feature.

*Hennlich asked if the McMahon stormwater consultant was asked about the role the pond may play in Sherwood's new MS-4 stormwater regulations and requirements. Kaas stated; 'Not yet.'*

*Miller inquired about what happens downstream if the dam is removed. Kaas stated it would be done in stages.*

*Benz questioned Miller's comment regarding dam ownership – Because it appears nothing was done legally, that nobody owns it, and who may own it now and sell it to whomever in the future, that his concern is to clear up the 'legal ownership' question before proceeding. Kaas states HCGC owns it but did not complete the Dam Transfer form. Thiel stated the DNR is holding that form pending the Village/District actions.*

*Benz questioned Hennlich's comment about the MS-4 and the impoundment being in the system and how important this pond is in the system and the McMahon consultant did not have that information at the time of that presentation. He further asked for a professional opinion on the impoundment's significance to the Village's system.*

Friday stated the Village's side of the funding equation is complete. The MS-4 timeline is dependent on when the Village receives State paperwork for grant implementation. Depending on that and the homework the consultant has to do relative to this particular pond that was never built as a stormwater detention pond, the answer of the relative importance of this pond within the entire system may not be known until Summer. Friday will pose this to the consultant.

*Benz questioned the estimated repair/replace cost \$100,000. Kaas replied the costs came from Cedar Corp Engineering. Benz questioned if there are grants for this. There are, but this impoundment is an insignificant part of the DNR's system.*

*Miller asked if the DNR deadline could be extended.*

*Benz stated it is important to the Village and appreciates the work done so far.*

Kaas contacted the assessor regarding effects from removing the water feature on property values. The response was it was difficult to determine without comparables.

Kaas stated the next step is to publish a public hearing. *Friday stated at the very least, it can be set as a placeholder and continued if a final decision is not made.*

*Board directed Williams to research State Statutes to schedule a public hearing.*

*Friday suggested Clerk Williams could send the DNR contact the Draft Minutes to inform them a Public Hearing has been scheduled.*

Kaas returned to the Board dais.

- 7) Report of the Community Development Authority (Jan. 27)
  - a) *Sherwood Cliffs Apartments and Village Hall Senior Living site: RFP for redevelopment.*

*Kaas reported distributing the RFP for the development of the property behind the Village Hall property and the apartment building to approximately 30 developers of Wisconsin.*

- b) *50/50 Business Matching Grant Program – Castle Square Condo Assoc.: Request for match regarding pylon sign (Approved).*

*Kaas stated the Authority heard and approved a grant application from the Castle Square Condo Association for a sign purchase in the amount of \$6,900.*

*Kaas completed his report with information from a Special Meeting earlier this date approving the purchase of N407 Harrison Street. The closing will take prior to June 1<sup>st</sup> once the property has been vacated. This is the final property on this side of Hwy 114/55 purchases for the Downtown Master Plan development the CDA has contemplated.*

- 8) Report of the Plan Commission (Feb. 1)
- a) *CSM#2016-01: Request (Sanderfoot; W5409 Mielke Rd.) to divide out 7.19 ac. from current 15.09ac. parcel on State Park Rd. extension.*

*Friday reported the Commission received and approved a 60-day extension. Friday stated the items b) and c) below are for the same property and the CSM is now extended 60 days in order for those 2 items be considered.*

- b) *Developer Agreement: Consider private water & sewer service Laterals to N8045 State Park Road (see 'a' and 'c').*

*Friday briefly reviewed the Agreement with the modifications presented by the developer and approved by the Commission, contingent upon an approved rezoning application (below).*

*Rath asked Sanderfoot if the intent is to have minimal usage at the garage. Sanderfoot agreed.*

*Laux inquired of Hennlich if the Commission considered different aspects of the concept plan. Hennlich replied the Commission did not and the property will continue to be used agriculturally for at least the next 6 years, per an agreement with the prior owner.*

*Kaas asked if the property is zoned residential and the use is agricultural where in the ordinances is that allowed. Friday replied the Agricultural District by definition in the Zoning Code is a holding district for future development. In this case, the Village gets the zoning it wants as stipulated on the Future Land Use Map and as the Comprehensive Plan dictates. Further, it is commonplace for a municipality to rezone land as residential from agricultural, not that the use changes immediately, for instance in the case of the Dave Petrie farm and barn.*

*Miller stated the vacant land behind his home (Wittman) is zoned Residential and being farmed.*

*Friday shared that the Assessor has told Staff that land use (Ag.) trumps zoning from an assessment perspective, as it is a traditional precursor to development.*

- c) *RP#2016-01: Request (Sanderfoot; W5409 Mielke Rd.) to Rezone 15.09ac. parcel at N8045 State Park Rd. from Agricultural to R-1 Single-family zoning.*

*Friday informed the Trustees a Public Hearing has been set for Feb. 22<sup>nd</sup> to discuss the rezoning petition.*

- d) *State Park Estates IV – Drainage easement removal (Lots #110 thru 114; RBH Development).*

*Developer is requesting the vacation of the easement to make the lots marketable. Friday reports the Village Attorney was consulted and all the owners must agree to the vacation, agree to hold the Village harmless, and pay for costs of the vacation (Village Attorney, etc.).*

- e) *Site Plan Amendment: Request to place drive-thru and remove one parking stall at Castle Square Condos Assoc.*

*Friday presented the potential site plan amendment, adding a drive-thru, eliminating a parking stall, and paving between Knight Drive to the parking lot within 24 months of opening. While conceptual at this time, the buyer is negotiating with the bank on this foreclosed property.*

- 9) Report of Village Officers.
  - a) Village President
  
  - b) Clerk/Treasurer
    - i. Review/Approve financial reports.

***Benz moved to approve the financial reports plus the February tax settlement checks per the handout presented. Gedman 2<sup>nd</sup>. Motion carried unanimously.***

- ii. Alcohol Beverage Retail Class ‘B’ (beer) and Class ‘C’ (wine) License – ‘The Chubby Seagull’ (GK Ventures, Inc.).

***Miller moved to approve the Class ‘B’ and Class ‘C’ License for The Chubby Seagull, GK Ventures, Inc. Laux 2<sup>nd</sup>. Motion carried unanimously.***

- iii. Appointment of Agent (Benjamin King) – ‘The Chubby Seagull’ (GK Ventures, Inc.).

***Hennlich moved to approve the Appointment of Agent Benjamin King for The Chubby Seagull, GK Ventures. Kaas 2<sup>nd</sup>. Motion carried unanimously.***

- 10) Village Engineer and/or Utility Operator: Project Update(s).

Genskow informed the Board of the following items:

- Water service leak at Shennigans repaired by Hietpas.
- Auto accident damage to manhole at Pigeon Rd./Park Drive repaired by Great Lakes.
- Genskow explained the *Water Loss Report* for 2015 is a nominal 12%, with the January, 2016 loss is at 24%, likely due to the Shenanigan’s loss beginning in December.
- Inflow and infiltration rate at High Cliff State Park was previously 5 gals/minute. A cement barrier installed to retard I&I has been removed. Hennlich, former-Park Superintendent, will contact to discuss grading and/or culvert placement to help divert water away.

- 11) Village Administrator: Project Update(s).

*Friday and Staff met with Cedar Corp Engineers to discuss FY2016 paving projects. Palisades Circle, Forest Lane, Golf Course Road from Palisades to the Condos, Park Drive, and a culvert crossing Stommel at the cell tower site are the areas of work this year. Bidding materials are being worked on and contract awards should come by end-March.*

*Friday and Cedar Corp will assess and provide a thorough 5 year roadway program.*

*Friday will be attending a TIF conference Wednesday through Friday in Wisconsin Dells.*

12) Old Business: None.

13) New Business: None.

14) Complaints and Compliments:

*Kaas reported receiving multiple calls about the concession cart purchase for Wanick Park. The concerns were if the idea was properly thought out, what kind of revenues are expected and how the local businesses may be effected.*

*Hennlich and Miller stated receiving the same kind of calls. Friday reported receiving no calls. Gedman stated one neighbor asked about it.*

*Friday asked if Gedman, as Village Board representative to the PRUT Board, would help the Rec. Programming Coordinator determine projections. Gedman will provide assistance.*

*Rath suggested the service clubs could offer manpower to reduce labor costs.*

*Benz stated his concern is more the competition for Dick's, the Chubby Seagull and Froggs.*

*After Hennlich received a call, he went to Dick's and spoke with Nathan Vanden Wymelenberg. Nathan stated this will not affect their business at all and their store embraces the idea.*

*Hennlich stated receiving complaints about the Hawkinson property appearing as a junk yard. Kaas inquired if he receives regular citations and Friday responded yes.*

*Friday reported items are moved to and from the property. However, without a property maintenance ordinance, the Village can only enforce grass cutting and parking.*

*Kaas, Miller and Rath agreed establishing a property maintenance ordinance should occur.*

*Friday asked if that was a consensus of the Board; Rath, Kaas, Miller, Hennlich and Laux directed Friday to draft the document and take to the Plan Commission.*

15) Correspondences:

a) *Incorporation of a portion of the Town of Menasha as the Village of Fox Crossing (Dept. of Administration; Feb. 4).*

16) Closed Session: Per Wis. Stats. §19.85(1)(e), a governmental body may move to Closed Session when deliberating or negotiating the purchase of public properties, investing public funds, or conducting other public business whenever competitive or bargaining reasons require a Closed Session.

***Benz moved to go into Closed Session: Per Wis. Stats. §19.85(1) (e) at 9:07 p.m. Laux 2<sup>nd</sup>. Motion carried unanimously.***

***Miller moved to return to Open Session at 9:43 p.m. Laux 2<sup>nd</sup>. Motion carried unanimously.***

17) Open Session: The Village Board may act on the aforementioned topic(s).

18) Adjournment. – *Rath hearing no objection adjourned the meeting at 9:43 p.m.*

Respectfully submitted for review and approval by Susan Williams, Clerk.