

TOWN OF BROOKFIELD
TOWN BOARD
FEBRUARY 21, 2006

The regular meeting of the Town Board was held on Tuesday, February 21, 2006 in the Erich Gnant Room of the Town Hall, 645 N Janacek Road, Brookfield, WI.

Chairperson Keith Henderson called the meeting to order at 7:05 p.m. with the following people present: Supervisors: John Schatzman, Robert Flessas, Patrick Stroebel and Dan Shea, Attorney James Hammes, Administrator Richard Czopp, Building Inspector Gary Lake and the Town Clerk Jane Carlson to record the minutes.

APPROVAL OF AGENDA

Supervisor Flessas move to approve the agenda as presented, seconded by Supervisor Schatzman, voted on, and carried unanimously.

APPROVAL OF MINUTES

Supervisor Shea moved to dispense with the reading of the minutes of the February 7, 2006 Town Board meeting and approve them as presented, seconded by Supervisor Stroebel, voted on, carried unanimously.

Supervisor Flessas moved to dispense with the reading of the minutes of the February 13, 2006 Special Meeting of the Town Board and approve them as presented, seconded by Supervisor Schatzman, voted on, carried unanimously.

PUBLIC COMMENT

Bob Baird commented on a non-agenda item the Fire Department.

OLD BUSINESS

- a. RECONSTRUCTION OF STATE HWY 59
Supervisor Schatzman moved to approve the attached Resolution Authorizing Memorandum of Understanding for the Town's local cost share with the reconstruction of State Highway 59 from State Highway 164 to Calhoun Road, seconded by Supervisor Shea, voted on, carried unanimously
- b. REDEVELOPMENT OF MENARDS
Supervisor Schatzman moved to remand back to the Plan Commission the conceptual approval of the redevelopment of Menards, seconded by Supervisor Flessas, voted on, carried unanimously

NEW BUSINESS

- a. AMEND ORDINANCE 5.04(1)
Supervisor Shea moved to approve Amending Ordinance Section 5.04 (1) of the Town Code Employment Status of the Fire Chief, seconded by Supervisor Schatzman, voted on, carried unanimously.
- b. E-BAY ACCOUNT
Supervisor Flessas moved to have the Clerk and/or administrative staff work with Board members on setting up an eBay company account, along with policies and procedures for

selling surplus items and ways to notify Town residents and the public what equipment or materials are for sale, seconded by Supervisor Schatzman, voted on, carried unanimously.

c. BARTENDER LICENSES None.

DEPARTMENT, BOARDS, COMMITTEE/COMMISSIONS RECOMMENDATIONS

None.

VOUCHERS

Supervisor Flessas moved to approve the vouchers as presented in the amount of \$140,200.04 seconded by Supervisor Shea, voted on, and carried unanimously.

Included in the approved vouchers were:\$26,300.18 to Brookfield Convention and Visitor's Bureau for 2005 4th qtr. Room Tax; \$23,145.00 to Ewald Automotive Group for PD Ford Expedition; \$12,877.076 to Graef, Anhalt, Schloemer & Assoc for engineering services; \$5,129.11 to Ray O'Herron for PD taser and supplies and \$2,285.63 to Scott Oil/Heating co for vehicle fuel.

COMMUNICATIONS AND ANNOUNCEMENTS

The attached list of correspondence was reviewed by members of the Board, with the following comment.

3. Chairman Henderson commented that a letter should be sent to Matt Rech thanking him for service.

Supervisor Flessas said that he would like on the agenda for the next meeting, an update on the Farmers Market recommendations.

CLOSED SESSION (8:32 P.M.)

Supervisor Stroebel moved to adjourn into Closed Session, according to Section 19.85(1)(g) Wisconsin Statutes to confer with legal counsel concerning strategy to be adopted with respect to litigation brought on by Kathryn Klipfel, seconded by Supervisor Flessas, voted on, carried unanimously.

OPEN SESSION (9:38 P.M.)

Supervisor Flessas moved to adjourn into Open Session, according to Section 19.85(2) Wisconsin Statutes, for any necessary action resulting from the Closed Session, to continue the meeting and to adjourn the meeting, seconded by Supervisor Schatzman, voted on, carried unanimously.

There being no further business Supervisor Flessas moved to adjourn, seconded by Supervisor Schatzman, voted on and carried unanimously. The meeting adjourned at 9:39 p.m.

Respectfully submitted,
Jane F. Carlson, Town Clerk

STATE OF WISCONSIN : TOWN OF BROOKFIELD : WAUKESHA COUNTY

**RESOLUTION AUTHORIZING
MEMORANDUM OF UNDERSTANDING**

WHEREAS, the State of Wisconsin Department of Transportation ("DOT") has requested the Town of Brookfield ("Town") to participate in the reconstruction of State Trunk Highway 59 (Greenfield Avenue) in accordance with the DOT's local cost share policy; and

WHEREAS, the local cost share participation policies apply only to collector roads; and

WHEREAS, the Town Board has extensively reviewed the DOT's request and has determined the following:

1. The local cost share study (I.D. 2300-01-00) conducted by the DOT in 2000 for the purpose of establishing whether the local cost share policy applied to the reconstruction project was based on data that was not retained by the DOT. The Town requested that the data used by the DOT in reaching its conclusion that Greenfield Avenue was a collector road be made available so that the Town could review the data independently. The Town was advised by the DOT that the data that supported the DOT's conclusions had not been retained and, therefore, could not be reviewed or examined. The Town then requested that the DOT conduct a second study at DOT's expense since it was impossible to verify the accuracy of the first study, but this request was refused.

2. The Town is of the opinion that Greenfield Avenue is not a collector road subject to the local cost share policy but, rather, a regional road that would be excluded from the requirement of local cost share participation as a condition of reconstructing the State Highway

59. However, even if the Town were to accept the conclusion of the DOT study which designates Greenfield Avenue as a collector road, the DOT did not follow its own policy regarding local cost share participation. That is, the DOT policy requires that all affected communities agreed to participate in the local cost share program if the project is to proceed. The DOT policy further provides that if one or more communities decline to participate in the local cost share program, then the program will be cancelled. In 2001, both the City of New Berlin and the Town advised the DOT that they elected not to participate in the local cost share program. However, the DOT, rather than canceling the project, proceeded with the planning and implementation of the reconstruction project even though such actions were contrary to its own policies.

3. Information provided to the Town by the DOT, including planning documents, established that reconstruction of Greenfield Avenue will require the reconstruction of 31,835.32 lineal feet of road surface. The local cost share to be assessed to the affected municipalities, assuming the local cost share policy were to apply, is \$4,886,601.00.

4. The frontage of Town properties, as determined by the DOT information is 1,794.62 feet or, in other words, 5.64% of the total frontage of Greenfield Avenue to be reconstructed by the DOT.

5. Assuming the local cost share program applied to the reconstruction of Greenfield Avenue, if the local cost share were allocated based on a proportionate share of the frontage in each of the affected municipalities as has been past practice, the Town's local cost share would be \$275,466.63 or in other words 5.64% of the total local cost share to be allocated to the communities having frontage on Greenfield Avenue.

NOW, THEREFORE, the Town Board of the Town of Brookfield resolves as follows:

1. That although the local cost share program does not apply to the reconstruction of Greenfield Avenue because it is not a collector road, in the spirit of intergovernmental cooperation the Town agrees to participate in a reasonable share of the reconstruction cost subject to the following terms, conditions, and limitations:

- a. The Town's participation shall be limited to 5.64% of the local share cost, as determined by the DOT, provided, however, that the maximum contribution shall not exceed \$275,466.63.
- b. The Town's obligation would be paid in five to ten year annual installments with the first installment being due in 2007.
- c. The Town's obligation shall be reduced upon annexation of any of the Town lands having frontage on Greenfield Avenue. The reduction shall be effective upon annexation of any Town properties having frontage on Greenfield Avenue, and the amount of the reduction shall be in proportion to the amount of frontage annexed.
- d. Any annexations of Town lands will reduce the payment by the amount of taxable income lost.
- e. That in the future, when the Town requests grant funds from the DOT to reconstruct Brookfield Road due to the increased traffic caused by this project or other DOT projects, the grant will be approved.

2. The Town Chairman is authorized to execute a Memorandum of Understanding, or similar letter of intent, that would commit the Town, in principle, to participate in the reconstruction costs involving the reconstruction of Greenfield Avenue in accordance with the terms of this resolution. The Town's obligation, by contract, shall not be final and effective until a final contract is prepared, presented to, and approved by the Town Board.

PASSED AND APPROVED this 21st day of February, 2006.

TOWN BOARD, TOWN OF BROOKFIELD,
WAUKESHA COUNTY, WISCONSIN

BY: s/ Keith Henderson
KEITH HENDERSON, Chairman

BY: s/ Robert W. Flessas
ROBERT W. FLESSAS, Supervisor

BY: s/ Patrick Stroebel
PATRICK STROEBEL, Supervisor

BY: s/ John R. Schatzman Sr
JOHN R. SCHATZMAN SR, Supervisor

BY: s/ Dan Shea
DAN SHEA, Supervisor

ATTEST:

BY: s/ Jane F. Carlson
JANE F. CARLSON, Clerk

CORRESPONDENCE

February 21, 2006

1. The Wisconsin Taxpayer, Dec. 2005.
2. Waukesha County Zoning Ordinance 160-91.
3. Letter to Tom Witkowski re Police & Fire Commission appointment.
4. Invoice from Grota Appraisals for February 2006.
5. Waukesha County Executive Office Recycling dividend check letter.
6. Resignation letter from Jeremy Blair.
7. Letter from Sanitary District No 3 regarding acquisition of sewer treatment capacity for the southwest corner of Greenfield Av & Johnson Rd.
8. Letter from the City of Brookfield regarding proposed land use plan for Greenfield Av.
9. Letter of introduction to Mo's Restaurants.
10. Local Road & Streets Council newsletter, Winter 2005.
11. WE energies informational meetings for March 2006.
12. Letter from Clear Channel regarding Wisconsin Act 81.

February 17, 2006

MEETING NOTICES

All meetings will be held at the TOWN HALL, 645 N Janacek Road, Brookfield, WI:

TUESDAY, FEBRUARY 21, 2006

7:00 P.M.

**SANITARY DISTRICT
NO 4**

AGENDA:

1. Call to Order.
2. Approval of Agenda.
3. Approval of Minutes.
4. Citizen comments: Three-minute limit.
5. Old Business. None
6. New Business. None
7. Approval of Vouchers and Checks.
8. Communications and Announcements.
9. Adjournment.

TUESDAY, FEBRUARY 21, 2006

**IMMEDIATELY
FOLLOWING THE
SANITARY DISTRICT NO 4
MEETING**

TOWN BOARD

AGENDA:

1. Call to Order.
2. Approval of Agenda.
3. Approval of Minutes.
4. Citizen comments: Three-minute limit.
5. Old Business:

- a. Discussion and necessary action regarding the State's Proposal for the Town's local cost share with the reconstruction of State Highway 59 from State Highway 164 to Calhoun Road.
 - b. Discussion and necessary action regarding redevelopment of Menards.
6. New Business:
- a. Discussion and necessary action amending Ordinance Section 5.04(1) of the General Code of the Town of Brookfield creating position of full-time Fire Chief.
 - b. Discussion and necessary action regarding setting up an account to sell surplus equipment on E-Bay.
 - c. Approve bartender licenses.
7. Department, Boards, Committee/Commission Reports/Recommendations:
8. Approval of Vouchers and Checks.
9. Communications and Announcements.
10. Adjourn into **CLOSED SESSION**, according to Section 19.85(1)(g) Wisconsin Statutes to confer with legal counsel concerning strategy to be adopted with respect to litigation brought on by Kathryn Klipfel.
11. Adjourn into **OPEN SESSION**, according to Section 19.85(2) Wisconsin Statutes, for any necessary action resulting from the Closed Session, to continue the meeting and to adjourn the meeting.
12. Adjournment.

Jane F. Carlson
Town Clerk

PLEASE NOTE: It is possible that members of and possibly a quorum of members of other governmental bodies of the municipality may be in attendance at the above meetings to gather information. No action will be taken by any governmental body other than that specifically noticed. Also, upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information or to request such services contact the clerk's office at the above location.