

TOWN OF BROOKFIELD
TOWN BOARD
OCTOBER 3, 2006

The regular meeting of the Town Board was held on Tuesday, October 3, 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 7:07 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 moved to approve the agenda as presented, seconded by Supervisor Shea, voted on, and carried unanimously.

APPROVAL OF MINUTES

Chairman Henderson said that the minutes of September 19, 2006 under New Business, Brook Park Pond Erosion in the sixth sentence the word *does* should be deleted, the word happen should be *happens* and a comma inserted after the word expense and the comma removed after the word so.

Supervisor Shea said that the Supervisor that seconded the motion to go into closed session was not him and that the record should be checked and the minutes corrected.

Supervisor Shea moved to dispense with the reading of the minutes of the September 19, 2006 Town Board meeting and approve them as corrected, seconded by Supervisor Flessas, voted on, carried unanimously.

PUBLIC COMMENT None.

OLD BUSINESS None.

NEW BUSINESS

a. BREATHALIZER EQUIPMENT

Daniel Fouliard 2115 N Bartlett Ave said that he would like to propose an ordinance that would require all Class A Liquor License establishments those being ones that sell beer over a bar to have a breathalyzer on premise and post in the bathrooms that it is available. The reason is to help people know when they reach the limit of .08.

Supervisor Flessas asked Mr. Fouliard if he had approached any bars to ask them to voluntarily put it in their establishments.

Mr. Fouliard said no.

Supervisor Schatzman said he would like to hear from liquor establishments to find out their point of view.

Supervisor Stroebel asked why it should not be a state issue and why the Town of Brookfield and what the cost would be.

Mr. Fouliard said that the cost would be minimal; the cost comes when someone drinks and drives and has an accident.

Chairman Henderson said that the discussion is about a legal substance and requesting to shift the blame of a person's responsibility to someone else.

Supervisor Stroebel moved to not pass an ordinance because it is an individual responsibility, the motion dies for a lack of a second.

No action taken.

b. HUMANE ANIMAL SERVICE AGREEMENT

Supervisor Stroebel moved to approve the 2007 Animal Service Agreement with Elmbrook Humane Society, seconded by Supervisor Shea, voted on, carried unanimously.

c. MUNICIPAL COURT SYSTEM

Chairman Henderson said that it is budget time and a question came up to whether the court system is running efficiently. He asked Judge JoAnn Eiring to let the board know where the court is now.

Judge Eiring said that she would like to know if there are any issues.

Supervisor Flessas said that he has some issues but, wants to preface it with his issues are not an attack on Judge Eiring. He would like to amend the ordinance to require the judge to be a licensed Wisconsin Attorney, reduce the term from 4 years to 2 years, reduce the compensation to \$5,000.00 or less and have a provision that in the event there are not lawyer candidates the Town Board can appoint an attorney for a 2 year term, even if the person is not a Town resident. The reason is the Town is no longer a rural area which he feels the legislation for municipal judge is based after. There are a number of surrounding communities that require the judge to be an attorney. He feels a non lawyer judge is unqualified to handle decisions that are based upon the law. A non lawyer can commit legal error causing an appeal to circuit court which would cost the Town money for the defense. He thinks a litigant could make an equal protection argument against the Town arguing they have not been afforded qualified protection under the law because the case is being heard by a non lawyer. The term reduction would create a checks and balance system. He said he thinks that in the communities that require an attorney to sit as judge the Town's judge would not be allowed to fill in for them. Lawyers as members of the state bar are held to a higher standard than lay people.

Supervisor Schatzman asked the Judge how many cases are dealt with in a typical year and how many cases have moved to circuit court because of judicial error.

Judge Eiring said there are about 2200 cases per year and that none of the cases in the Town have gone to circuit court on judicial error. She said that there has been an appeal of her decision that went all the way to the Supreme Court and that her decision was upheld. She also said that she substitutes in the City of Milwaukee more than she sits in for the Town court and they require attorneys. She also has sat in 10 communities around the area. Of the number of communities in the area that require attorneys, 10 are one court with one judge which is the Western Waukesha Court.

Supervisor Shea said that obviously other attorneys have run and JoAnn Eiring has defeated them which means, the voters have shown the board what they want so, why would the board want to go against the general public.

Supervisor Flessas said the issue is not JoAnn, but the ordinance and how as a community it decides to place a standard on the municipal judge.

Supervisor Shea said that he feels if the community wanted that standard they would vote to put that person in the position.

Supervisor Stroebel said that any time there is an election people should evaluate the candidates and their background and expertise. If someone feels it is important to be an attorney to be a judge they should run as an attorney pointing it out and let the electors decide. If there were issues in the past then it certainly would require a second look but, he does not see any problems.

Judge Eiring said that of all the cases over the last fifteen years she can only remember 3 cases that went to appeal. She said that the types of cases heard by a municipal judge are ordinance violations, traffic cases they are not hearing cases for murder, felonies or crimes of any kind. By statute when you are elected to the position you have to be educated and do continuing education. In the state of Wisconsin approximately half of the municipal judges are non attorney. Regarding the term the shorter the term the more political it becomes. Twelve years ago at the annual meeting the people voted to have the term a 4 year term because they did not want it to become a political situation.

Jay Walt 1250 Boxwood Court said that when the court was created the community resembled what it is today. To make the term a two year term makes it political because the people interested in the position of judge would be campaigning requiring the existing judge to continually campaigning to run again. With regards to the salary the Judge does not set their salary the people have or the boards do. If there comes a time when the judge is not available or a qualified candidate is not available the Board can then look a making a change if it is needed. In absence of cause or reason for change there should be no action taken.

Dean Filandrinois 395 Kristin Court said he was unaware that the judge was not an attorney nor was it a requirement. He feels that as the Town grows the standards should

be changed.

Dan Fouillard 2115 N Bartlett Ave, Milwaukee said that Supervisor Flessas is focusing in on the danger to the community that someone might take the position of judge if the current judge is not available and not be qualified. The Town could compromise and allow the existing judge based on tenure to continue but require any future candidates to have the qualification.

Harrinder Gill 21060 Heatherview Drive said that the Town could exempt the present judge until they no longer want the position, and look into term limits for all elected offices, and qualifications in the future.

Supervisor Schatzman said he would like more input from the residents the people that make the decisions and feels no action should be taken until the resident's request a change.

Attorney Hammes said that it should be noted that the legislature allows municipal judges to serve in that capacity without having a law license. If there is a complaint that someone is going before a municipal judge and did not know they were a not lawyer it is permitted by statute.

Supervisor Flessas moved that the ordinance for the Town of Brookfield regarding the municipal court be amended as follows: to require that the municipal judge be a licensed Wisconsin attorney, the term be reduced from 4 years to 2 years, compensation be reduced to \$5,000.00 or less, and set a provision that in the event that there are not lawyer candidates the Town Board can appoint an attorney for a 2 year term even if the lawyer is a non town resident. The motion died for lack of a second.

Supervisor Flessas moved to table and further discuss the issue at the next meeting as an agenda item, the motion died for a lack of a second.

Supervisor Schatzman moved to table until a time determined by the Chairperson, the motion died for a lack of a second.

Supervisor Flessas asked that this be placed on the agenda for next Town Board meeting.

Chairperson Henderson said that it should be noted to be on the agenda and he will review it.

Supervisor Shea said that he had a question regarding the fact that there was a motion to table and be brought back and it failed then how can it be discussed at the next meeting

Attorney Hammes said that to have it on the next agenda since the motion failed it would be up to the discretion of the Chair to put it on the next agenda or any other agenda if something new or different comes up.

Chairperson Henderson said that he will review it to see if there is some reason to put it on an agenda.

- d. BARTENDER LICENSES None.

DEPARTMENT, BOARDS, COMMITTEE/COMMISSIONS RECOMMENDATIONS

None.

VOUCHERS

Supervisor Stroebel moved to approve the vouchers as presented in the amount of \$130,415.97, seconded by Supervisor Schatzman, voted on, and carried unanimously.

Included in the approved vouchers were: \$25,591.27 to Veolia ES Solid Waste Services (formerly Onyx) for refuse/recycling and yard waste services; \$23,048.34 to Wausau Insurance Co for auto, property and general liability insurance; \$22,169.27 to Oshkosh Capital for 2005 Ambulance lease payment and \$7,160.83 to Cramer, Multhauf & Hammes for legal services.

COMMUNICATIONS AND ANNOUNCEMENTS

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

Chairman Henderson noted item number 4.

CLOSED SESSION 8:05 P.M.

Supervisor Stroebel moved to adjourn into Closed Session according to Section 19.85(1)(e) Wisconsin Statutes for the purpose of negotiation of Town owned land, whenever competitive or bargaining reasons require a closed session, seconded by Supervisor Shea, voted on, carried unanimously.

OPEN SESSION 8:30 P.M.

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

Supervisor Flessas moved to reject the proposal for an Amendment to Contract of Sale from JBJ Development for the purchase of the Town land west of the Town Hall site, seconded by Supervisor Shea, voted on, carried unanimously.

There being no further business Supervisor Shea moved to adjourn, seconded by Supervisor Flessas, voted on and carried unanimously. The meeting adjourned at 8:35 p.m.

Respectfully submitted,

Jane F. Carlson
Town Clerk

CORRESPONDENCE
October 3, 2006

1. The Wisconsin Taxpayer, July 2006.
2. Focus, Sept 12, 2006.
3. Update from Brookfield Chamber Rep, Gloria Albrecht.
4. Letter from Chairman Henderson to the city of Brookfield.
5. Community Development Symposium, Nov 2, 2006.
6. Letters from Time Warner regarding new channels and Fox 6 negotiations.
7. Graef, Anhalt, Schloemer newsletter, Summer 2006.

September 28, 2006

MEETING NOTICES

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

TUESDAY, OCTOBER 3, 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. New Business None.
6. Old Business None.
7. Approval of Vouchers and Checks.
8. Communications and Announcements.
9. Adjournment.

TUESDAY, OCTOBER 3, 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: None
6. New Business:
 - a. Discussion and necessary action regarding breathalyzer requirements for premises.
 - b. Discussion and necessary action regarding Humane Animal Service Agreement.
 - c. Discussion and necessary action on the Municipal Court system.
 - d. 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:
 - a. Section 19.85(1)(e) Wisconsin Statutes for the purpose of negotiation of Town owned land, whenever competitive or bargaining reasons require a closed session.
11. Adjourn into **OPEN SESSION**, according to Section 19.85(2) Wisconsin Statutes, for any necessary action resulting from the Closed Session and to adjourn the meeting.
12. Adjournment.

TUESDAY, OCTOBER 3, 2006

IMMEDIATELY BUDGET WORKSHOP
FOLLOWING THE
TOWN BOARD MEETING

AGENDA:

1. Confirmation of meeting notice.
2. Discussion and review of the 2007 Budget.
3. 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.