

TOWN OF BROOKFIELD
TOWN BOARD
MAY 15, 2007

The regular meeting of the Town Board was held on Tuesday May 15, 2007 in the Erich Gnant Room of the Town Hall, 645 N Janacek Road, Brookfield, WI.

Chairperson Keith Henderson called the meeting to order at 7:00 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 Stroebel, voted on, and carried unanimously.

APPROVAL OF MINUTES

Chairman Henderson said that in the May 1, 2007 meeting minutes on the first page under Chairman's Report, the seconded sentence the word call should be *calling* and in the second paragraph, the seconded sentence the words *took a* needs to be inserted between committee and look.

Supervisor Flessas moved to dispense with the reading of the minutes of the May 1, 2007 Town Board meeting and approve them as corrected seconded by Supervisor Shea voted on, carried unanimously.

PUBLIC COMMENT None.

OLD BUSINESS

a. APPOINTMENTS FOR ENGINEER, COMMITTEES, COMMISSIONS AND BOARDS

Supervisor Schatzman moved to accept the recommendation of Administrator Czopp and approve Strand as the engineering firm, seconded by Supervisor Flessas, voted on carried unanimously.

Supervisor Shea moved to approve Chairperson Henderson's recommendation for appointment of Kevin Van Kirk to Architectural Control Committee and Plan Commission, Jere Jelinek to Board of Review, Lynn Reynolds and Len Smeltzer to Plan Commission, Terence Pringle to Police & Fire Commission and Gordon Gaeth and James Sommer to Board of Appeal and Irene Whalen as Alternate Member on Board of Appeals, seconded by Supervisor Schatzman, voted on, carried unanimously.

b. RESOLUTIONS TO WIS. DOT REGARDING BLUEMOUND ROAD SAFETY IMPROVEMENT PLAN

Supervisor Schatzman moved to adopt Resolution No 07-05-01 a Resolution Approving A New Access Driveway To Janacek Road From Eble Park with the four (4) points, to send to Waukesha County, seconded by Supervisor Shea, voted on, passed 4 – 1 with Supervisor Flessas voting nay.

Supervisor Schatzman moved to adopt the attached Resolution Recommending Amendments To The Wisconsin Department Of Transportation's Safety Improvement Plan with the nine (9) amendments, seconded by Supervisor Stroebel. A friendly amendment was made by Supervisor Flessas to add a tenth (10) item to the amendments, of provide a frontage road from the relocated stop light west to the Motel 6, seconded by Supervisor Shea. The motion with the amendment was voted on and carried unanimously.

c. PICNIC PERMIT

Supervisor Flessas moved to approve a picnic permit for Marx Park only on Thursdays from May 17, 2007 through August 16, 2007 for Elm Grove Men's Softball League from 5:00 p.m. until 9:00 p.m., seconded by Supervisor Stroebel, voted on, carried unanimously

NEW BUSINESS

a. WAIVER GRANTED FOR 3 DOGS

Chairman Henderson said that the board just received a letter from DeWitt, Ross & Stevens that they should be aware of.

Attorney Hammes summarized that the letter is to the Board and suggest that if the matter is going to be reopened for reconsideration it be set over for the opportunity for the property owner's attorney to be present to discuss the issues.

Ellen Punzel, 4780 Catherine Court handed out information and requested that the board read it.

Supervisor Schatzman said based on the fact that the Board has received information to review he moved to table, died for lack of a second.

Attorney Hammes said that the permit was granted so procedural the way to go about this probably is that the board would need to reconsider to bring the issue back on the floor.

Chairman Henderson asked that to reconsider doesn't that have to occur right after the motion.

Attorney Hammes said that in a normal situation that is correct but the Board is being asked to revisit it by request and they can only consider what was granted. He explained that the motion that was approved and adopted was to grant a waiver to Marie Ferber that would permit her to have three dogs with the condition that in two years the Elmbrook Humane Society review the situation and confirm that the following current safety measure and services are still in place. The invisible fence around premise is functioning, the yard is being professional cleaned for waste removal, the dogs are supervised when left outdoors, the indoor kennel and play area are maintained, the dogs are bathed and groomed once per month by a professional grooming service, the personal training they received is followed and the dogs stay in their yard and do not become a neighborhood nuisance.

Chairman Henderson said that waiver has been granted with those conditions and as long as they are met the waiver would remain in affect.

Mrs. Punzel asked if that means something tragic has to happen in order to solve her problem.

Attorney Hammes said that the issue is that there was a waiver to allow three dogs on the property as opposed to two dogs. If talking about something tragic that might happen it could whether there are two dogs, or three. If two dogs are only allowed, it might be the ones that someone else might not prefer to be kept but, the board can only address the number of dogs not the propensity. The Town has an ordinance that says you can not have a vicious dog whether it is one, two or three. If there is one a complaint needs to be filed with the police department.

Mrs. Punzel asked which dog the additional permit was given for.

Attorney Hammes said that a permit is not given for a specific dog, it is for allowing more than two.

Supervisor Flessas said that if someone would request to have three dogs and the board said no only two the dog that you do not like could be one of the two that remains.

Mrs. Punzel said that she has issue with both that there are more than two dogs allowed and that she feels one is aggressive and wants to know which dog did not have the permit.

Chairman Henderson said that a particular dog not having a permit is not the issue.

Attorney Hammes said that the Town ordinance states that no person shall own, harbor or keep any dog, cat or other animal in a domesticated environment which (a) habitually pursues any vehicle upon any public street etc (b) assaults or attacks any person (c) is vicious and that means showing that a dog or other animal has bitten, attacked or injured another person (d) habitually barks and so forth or (e) is not licensed. He said that if there is a situation where a property owner has a single dog that meets those requirements they can not keep that dog in the Town. The remedy is not to come to the Town Board and say that this dog is vicious or that one is and this is what happened. A complaint has to be filed with the police department, they will investigate it and if concluded there is sufficient evidence that an event of this type has occurred, a citation will be issued. The person will then be prosecuted and the court can order the removal of the dog.

Mrs. Punzel said that she is not aware of the dog having bitten any person.

A member of the audience asked what happens if the conditions for granting the waiver that Attorney Hammes read were not consistently met.

Attorney Hammes said that is something that the Humane Society would look at and review at the end of two years. But, certainly if there is an issue about the conditions brought to the Humane Societies attention sooner and determined to be fact they would bring it back to the Town.

Ms. Marie Ferber said that all the conditions are being met.

Mrs. Punzel said that she feels there should not have been a waiver granted.

Supervisor Flessas said that the conditions must be met and asked if the invisible fence is operating.

Chairman Henderson said that it has been stated that the conditions are being met.

Mrs. Punzel asked what happens if the power goes out.

Attorney Hammes said that it has a battery back up.

Chairman Henderson said that the conditions that have to be met are in the minutes and if they are not met the Humane Society needs to be contacted and they will investigate it. If they determine that the conditions have not been met they will contact the Town and the waiver can be revoked. If that does happen the property owner will have to keep only two dogs and we do not have any say which two remain. However if there is an ordinance violation such as the dog bites someone then the police are involved and determine whether it goes to court and whatever is decided by the court is what has to be done.

He explained that there are two options if there is a violation of the conditions for the waiver the Humane Society is contacted. If there is a violation of the Town ordinance the police department is contacted.

Mrs. Punzel stated that one of the dogs was in her yard last weekend so she should call the Humane Society and explain that to them.

Chairman Henderson said that would indicate that the invisible fence is not working.

Attorney Hammes said that it is a little after the fact and is something that should be complained of when it occurs. Then they can determine if the fence is not working, they do not have their collar on, or the setting is to low.

Supervisor Schatzman asked Attorney Hammes if either party could file for civil action.

Attorney Hammes said yes they can.

Ms. Ferber asked what a vicious dog is.

Attorney Hammes said that it would have to be a dog that has bitten, attacked or injured another person. Also each case has to be evaluated because someone can not intentionally agitate an animal.

He said that the bottom line is that a waver for three dogs was granted with conditions and if someone feels there is a violation a complaint should be filed with Humane Society. If a person feels there is a vicious dog situation a complaint needs to be filed

with the police department. If either party believes they are being harassed they can seek legal advice to help them in that situation.

Chairman Henderson said that there is no action by the board.

b. PICNIC PERMIT

Supervisor Flessas moved to approve a picnic permit for Marx Park only on Thursdays from May 17, 2007 through August 16, 2007 for Greg Ronhouse's team in the Elm Grove Men's Softball League from 5:00 p.m. until 9:00 p.m., seconded by Supervisor Shea, voted on, carried unanimously

c. PICNIC PERMIT

Supervisor Schatzman moved to approve a picnic permit for Marx Park, on Saturday, June 16, 2007 for Alfred Keller from 12:00 noon until 10:00 p.m., seconded by Supervisor Shea, voted on, carried unanimously

d. BARTENDER LICENSES None.

DEPARTMENT, BOARDS, COMMITTEE/COMMISSIONS RECOMMENDATIONS None.

VOUCHERS

Supervisor Stroebel moved to approve the vouchers as presented in the amount of \$85,942.57, seconded by Supervisor Shea, voted on, and carried unanimously.

Included in the approved vouchers were: \$29,431.04 to Brookfield Convention & Visitors Bureau for 1st qtr room tax; \$8,500.00 Virchow, Krause & Company for auditing service; \$7,075.05 to Scott Oil/Heating Co for vehicle fuel; \$6,790.00 to 5 Alarm for FD turn out gear and \$5,186.17 to General Fire Equipment Co., Inc. for PD and FD equipment.

COMMUNICATIONS AND ANNOUNCEMENTS

The attached list of correspondence was reviewed by members of the Board with comment on the following:

Chairman Henderson noted numbers 5, 11 and 12.

There being no further business Supervisor Stroebel moved to adjourn, seconded by Supervisor Flessas, voted on and carried unanimously. The meeting adjourned at 8:08 p.m.

Respectfully submitted,
Jane F. Carlson, Town Clerk

CORRESPONDENCE

May 15, 2007

1. Waukesha County Section Network Annual Meeting invitation.
2. Letter from Elmbrook Humane society regarding fundraising event.
3. Invitation to Elmbrook Humane Society event.
4. Our Waters from UWM.
5. Letter from Paul Kolaga regarding Gumina Rd property.
6. Brookfield Regency Registry, May-June 2007.
7. Wisconsin Dept of Transportation Acronyms & Abbreviations.
8. Wis Dept of Transportation master schedule for construction.
9. Letter from Jeff Speaker regarding Waukesha County Cooperation Council.
10. Minutes from WCCC subcommittee meeting Mar 21, 2007.
11. Commendation letter from Wis Hills Middle School.
12. Open House schedule from Rep Rich Zipperer.
13. Newsletter and survey from Rep Rich Zipperer.

May 11, 2007

MEETING NOTICES

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

TUESDAY, MAY 15, 2007

7:00 P.M.

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. Recommendation and approval for appointments of the engineer and to the Town Committees, Commissions and Boards.
 - b. Approval of Resolutions with regards to the Wisconsin Department of Transportation's proposed Bluemound Road Safety Improvement Plan.
 - c. Approval of Picnic Permit for Marx Park on Thursday May 3, 2007 through August 16, 2007 for Roger A Dudek's team in the Elm Grove Men's Softball League from 5:00 p.m. until 9:00 p.m.
6. New Business:
 - a. Discussion and necessary action regarding the wavier granted allowing 3 dogs at 4760 Catherine Ct.
 - b. Approval of Picnic Permit for Marx Park on Thursday May 17, 2007 through August 16, 2007 for Greg Ronhouse's team in the Elm Grove Men's Softball League from 5:00 p.m. until 9:00 p.m.
 - c. Approval of Picnic Permit for Marx Park on Saturday, June 16, 2007 for Alfred Keller from 12:00 noon until 10:00 p.m.
 - d. Approve bartender licenses.
7. Department, Boards, Committee/Commission Reports/Recommendations: None.
8. Approval of Vouchers and Checks.
9. Communications and Announcements.
10. Adjournment.

TUESDAY, MAY 15, 2007

IMMEDIATELY

SANITARY DISTRICT

**FOLLOWING THE
TOWN BOARD
MEETING**

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:
 - a. Update on the Compliance Maintenance Annual Report and approval of resolution submitted by District Superintendent.
7. Approval of Vouchers and Checks.
8. Communications and Announcements.
9. Adjourn into **CLOSED SESSION**, according to Section 19.85(1)(g) Wisconsin Statutes for conferring with legal counsel with respect to possible litigation in which the District is involved in with the City of Brookfield.
10. 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.
10. Adjournment.

THURSDAY, MAY 17, 2007

5:30 P.M.

MUNICIPAL COURT

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.