

**BROWN DEER VILLAGE BOARD
JUNE 20, 2005 MEETING MINUTES
HELD AT THE BROWN DEER VILLAGE HALL
4800 WEST GREEN BROOK DRIVE**

The meeting was called to order by President Jaberg at 7:02 P.M.

I. Roll Call

Present: Village President Jaberg; Trustees: Baker, Boschert, Kundinger, Schilz, Springman

Absent: Trustee Krueger

Also Present: Russell Van Gompel, Village Manager; Jesse Thyges, Assistant Village Manager/Community Services Director; William Dineen, Village Attorney; Larry Neitzel, Superintendent of Public Works; Kathy Kasza, Village Treasurer/Comptroller; Arnie Gutkowski, Director of the Brown Deer Public Library; Chief Steven Rinzel, Captain Shawn Noel; Brown Deer Police Department

II. Pledge of Allegiance

III. Persons Desiring to be Heard

A) Dan Krueger – North Shore Technology Committee

Mr. Krueger provided an overview of the committee's activities, and discussed the goal of establishing a consistent approach to technology throughout the North Shore communities.

Trustee Schilz inquired about the comparability of Brown Deer to other North Shore communities. Mr. Krueger explained that Brown Deer is comparable to most communities, however, there are exceptions. Mr. Van Gompel provided the example of Brown Deer using a different software package for the Village server.

Other Persons desiring to be heard included:

Theophus Knight, 7651 North Sherman Boulevard, voiced concerns with dandelions growing in the median of Sherman Boulevard, and also spoke in favor of additional funding for Brown Deer schools.

Betty Bennett, 6209 West Plaza Circle, discussed a letter that was submitted to the Board regarding citizens concerns with the proposed delivery hours for the Lowe's home improvement store. Ms. Bennett also voiced concerns with the last minute change to the original proposed delivery times.

Don Uebelacker, 6195 West Plaza Circle, voiced concerns with the proposed lumber yard delivery times of the Lowe's home improvement store.

IV. Consideration of Minutes: June 6, 2005 – Regular Meeting

It was moved by Trustee Kundinger and seconded by Trustee Springman to approve the minutes of the June 6, 2005 regular meeting, with the noted correction. The motion carried unanimously.

V. Committee Reports

A) Building Board – Trustee Krueger

No report.

B) Beautification Committee – Trustee Kundinger

Trustee Kunding reported on the Adopt-a-Flowerbed activities and provided an update on the Committee's awards program.

C) Park and Recreation Committee – Trustee Springman

Trustee Springman stated that no meeting was held, but reported on the pond diving board project, the status of registration for Park and Recreation programs, and the progress of preparing the 4th of July festivities.

D) 4th of July Committee – Trustee Krueger

President Jaberg provided an update on the organization efforts for the 4th of July event and parade.

E) Ad Hoc Pond Committee – Village President Jaberg

President Jaberg reported that the Pond Committee meeting was cancelled due to a scheduling conflict with a school district meeting.

F) Traffic and Public Safety – Trustee Kunding

No meeting. Trustee Kunding reported on a meeting with Mr. Van Gompel and Chief Rinzel to discuss the viability of the Traffic and Public Safety Committee.

G) Library Board – Trustee Baker

Trustee Baker reported that the library is researching alternative funding sources.

H) Community Development Authority – Village President Jaberg

President Jaberg stated that the most recent action items were approved at the last Village Board meeting.

Mr. Van Gompel stated that staff is working with the Community Development Authority on a potential wireless internet network within the Original Village area.

I) Plan Commission – Village President Jaberg

1) Conditional Use Permit Application for a “Drive-up Facility” (automatic teller machine) at Tri-City National Bank at 4485 West Bradley Road

Mr. Thyges discussed the proposal and President Jaberg summarized the discussions at the public hearing.

Trustee Baker asked about security measures for the people servicing the ATM. President Jaberg discussed the condition requiring the applicant to meet with the Police Department.

President Jaberg asked about the property owner's acknowledgement of the project. Mr. Thyges discussed the recording process and that approvals were received from the property owner.

Trustee Schilz asked if the Building Board could review the aesthetics of the proposal. Mr. Thyges discussed the Building Board's powers of architectural review. Attorney Dineen discussed potential review criteria.

Mr. Van Gompel touched on the photographs of another Tri City National Bank ATM that included a

brick façade and sloped roof. Mr. Van Gompel also discussed the importance of aesthetics due to the proposal being located within a redevelopment project plan area.

Trustee Schilz inquired about the potential to condition a requirement of a brick façade. Attorney Dineen stated that the Village Board has the power to mandate façade improvements.

President Jaberg suggested holding the matter over until Building Board has reviewed the aesthetics of the proposal. Trustee Kunding agreed that Building Board review is needed prior to action by the Village Board.

It was the consensus of the Village Board to hold the matter over until the Building Board has reviewed and approved the design of the proposed "Drive-up Facility" (automatic teller machine) at Tri-City National Bank

2) Conditional Use Permit Application for "Outdoor Seating" at 4134 West River Lane, requested by Poco Loco Restaurant

President Jaberg summarized the proposal and the discussions at the public hearing. Mr. Thyges discussed the details of the proposal.

President Jaberg inquired about the maximum capacity of the outdoor seating area and review of the style of fencing. Mr. Van Gompel stated that the capacity is governed by building codes and that the draft permit requires approval of the fencing by the police department.

Dean Gardner, with Poco Loco, discussed a possible revision to the proposal by utilizing a hedge row in stead of fencing in certain areas and altering the fence height from 6-feet down to 4-feet in height.

Trustee Boschert voiced concerns with granting approval without a site plan, and suggested review by the Building Board.

Trustee Schilz stated that the additional review timeframe may interfere with utilizing the outdoor seating area during the summer months.

President Jaberg requested further review of the proposal due to the changes involving the use of hedges instead of fencing.

It was the consensus of the Village Board to hold the matter over until the Building Board has reviewed and approved the design of the proposed fencing to surround the "Outdoor Seating" at 4134 West River Lane, requested by Poco Loco Restaurant

3) Conditional Use Permit Application for "Outdoor Seating" at 3900 West Brown Deer Road, requested by Habanero's Mexican Kitchen Restaurant

President Jaberg summarized the proposal as well as the discussions at the Plan Commission level.

Trustee Springman asked about the hours of operation. President Jaberg discussed the hours that are set forth by the Development Agreement.

President Jaberg suggested holding the matter over until Building Board has reviewed the aesthetics of the proposal.

It was moved by President Jaberg and seconded by Trustee Baker to approve the Conditional Use Permit Application for "Outdoor Seating" at 3900 West Brown Deer Road, requested by Habanero's Mexican

Kitchen Restaurant. The motion carried unanimously.

4) Supplemental Development Agreement for Appleton Angels Christian Preschool, LLC, 9019 North Deerwood Drive.

President Jaberg summarized the proposal as well as the discussions at the Plan Commission level. Mr. Thyes discussed the operational details of the proposed business.

Trustee Springman inquired about the maximum capacity of the facility and signage. Attorney Dineen stated that was governed by State Statutes, and the Fire Code. Mr. Thyes clarified the types of signage that are to be established to direct traffic.

Trustee Boschert asked about school bus traffic and van traffic. President Jaberg summarized the previous discussions on the matter and the site diagram which delineates the areas for parking and drop-off.

Dion Watton, Manager of the Brown Deer Business Park, commented on how traffic would be controlled by the business owner as well as business park staff.

Trustee Kundingger voiced concerns with the proposed location of the day care center.

It was moved by President Jaberg and seconded by Trustee Baker to approve the Supplemental Development Agreement for Appleton Angels Christian Preschool, LLC, 9019 North Deerwood Drive. The motion failed 3 – 3, with Trustees Schilz, Boschert, and Kundingger voting in opposition.

J) Finance and Public Works Committee – Trustee Krueger

1) Drainage Ditch Rehabilitation Policy

Trustee Kundingger summarized the proposed amendment to the policy and the discussion at the committee meeting.

It was moved by Trustee Kundingger and seconded by Trustee Boschert to approve the amendment to the Village's Drainage Ditch Rehabilitation Policy. The motion carried unanimously.

2) Purchase Police Department 800 MHz Radio and 911 Systems

Trustee Kundingger summarized the matter for the Board. Captain Noel discussed the specific details of the proposal and the emergency capabilities of the systems.

Trustee Baker asked for clarification of how the purchase was budgeted. Mr. Van Gompel discussed the budget and clarified the funding for the purchase.

Trustee Springman asked if any grants were utilized for this purchase. Captain Noel clarified the funding for this purchase.

It was moved by Trustee Kundingger and seconded by Trustee Boschert to approve the purchase of the Police Department's 800 MHz Radio and 911 systems in the amount not to exceed \$265,000. The motion carried unanimously.

3) Easement Agreement with YMCA

Trustee Kundingger summarized the matter, and discussed the placement of Village identification signs on

the YMCA property. Mr. Van Gompel briefly discussed the easement documentation.

It was moved by Trustee Kunding and seconded by Trustee Schilz to approve the easement agreement with the YMCA for the placement of a Village sign. The motion carried unanimously

4) Consideration of Vouchers

It was moved by Trustee Kunding and seconded by Trustee Boschert to recommend that the Village Board approve for payment 47200 to 47233, Check Numbers 47234 to 47308, Check Numbers 47309 to 47356, Check Numbers 47383 to 47443, Check Numbers 47444 to 47473 in the amount of \$652,997.57 and to ratify for payment, invoices due on or before June 20, 2005, in the amount of \$8,747.23, aggregating a total amount of \$661,744.80. The motion carried unanimously.

Trustee Kunding also reported on the following items from the Finance and Public Works Committee meeting; the plan to coordinate street repairs with water main replacements, and that Jim Buske provided an update on the Village's working agreement with Ayres and Associates engineering firm.

K) Personnel Committee – Trustee Baker

Trustee Baker reported that there was no meeting held.

VI. Unfinished Business

A) Liquor License Applications for 2005-2006

Mr. Van Gompel discussed Family Table restaurant's application to change the agent on the liquor license, and reviewed the requirements to change the agent.

It was moved by Trustee Springman and seconded by Trustee Kunding to appoint a new agent for Family Table restaurant, and to approve the liquor license for 2005 – 2006. The motion carried unanimously.

Mr. Van Gompel discussed Poco Loco restaurant's application to change the agent on the liquor license, and reviewed the negative recommendation of the change of agent to Mr. Epstein. Attorney Dineen discussed the annual renewal and expiration dates as well as the re-application process if a license does expire.

It was the consensus of the Village Board to hear from Dean Gardner, of Poco Loco. Mr. Gardner discussed Mr. Epstein's background, and spoke in favor of Mr. Epstein.

Mr. Van Gompel reviewed the history of the initial application and agent change request, the substitute application, and reasons for denial of Mr. Epstein as the agent on the liquor license.

Police Chief Rinzel discussed the background of Mr. Epstein, and voiced concerns with Mr. Epstein acting as the agent for the liquor license.

Mr. Gardner stated that another potential agent will be brought forward. Mr. Van Gompel discussed the timeframe for the submittal of the new agent's information and recommended the Village Board take no action on the matter at this time.

It was the consensus of the Village Board to take no action on the matter.

B) Withdrawal from the Milwaukee County Federated Library System (MCFLS)

Mr. Van Gompel discussed the latest funding proposals from MCFLS. President Jaberg summarized the potential alternative funding measures, and stated that this meeting is the last opportunity for the Village to withdraw from MCFLS before the July 1st deadline.

Trustee Baker discussed the Library Board's opinion to stay with MCFLS as a way to lessen the financial shortfall.

Trustee Kunding spoke in favor of approaching other library systems and voiced concerns over the potential \$94,000 shortfall in funding. Mr. Van Gompel stated that state law requires libraries within Milwaukee County to participate in MCFLS. Arnie Gutkowski, Director of the Brown Deer Public Library, discussed the potential for a regional study being conducted to create a regional approach to the library system.

Trustee Boschert asked if any communities left MCFLS. Mr. Gutkowski stated that no communities have withdrawn from MCFLS.

Trustee Schilz voiced concerns with the unfunded state mandate, but that the Village will have to work with MCFLS for the foreseeable future.

It was the consensus of the Village Board to take no action on the matter.

VII. New Business**A) Francis Patrick, 7926 North Sherman Boulevard, Attached Garage Addition**

Mr. Van Gompel discussed the proposal and the required approval from the Village Board due to its location within a Redevelopment Project Plan area

It was moved by President Jaberg and seconded by Trustee Schilz to approve an Attached Garage Addition for Francis Patrick, 7926 North Sherman Boulevard. The motion carried unanimously.

B) Approval of 4th of July Concession Vendor and Waiver of Peddler and Food License Fees

It was moved by President Jaberg and seconded by Trustee Springman to approve the 4th of July Concession Vendor and Waiver of Peddler and Food License Fees. The motion carried unanimously.

C) Consideration of 4th of July License and Permit Applications and Waiver of Village of Brown Deer License and Permit Fees

It was moved by Trustee Schilz and seconded by Trustee Kunding to approve the 4th of July License and Permit Applications and Waiver of Village of Brown Deer License and Permit Fees. The motion carried unanimously.

D) Resolution No. 05- , "Initial Resolution Authorizing the Borrowing of Not to Exceed \$9,100,000; Providing For the Issuance and Sale of General Obligation Securities Therefore; and Levying a Tax in Connection Therewith"

Kathy Kasza discussed the proposal and stated that the matter was reviewed by the Village's financial advisor. Mr. Van Gompel added that the proposed resolution is similar to past activities along with clarifying the amount that could be borrowed under the proposed resolution.

Attorney Dineen asked if the resolution was prepared by Quarles and Brady. Mr. Van Gompel stated that the majority of the resolution was prepared by the Village's bond counsel, with minor additions by Staff.

President Jaberg asked for clarification of the amount of bonding. Ms. Kasza discussed each portion of the proposed bonding amount.

Trustee Baker asked if the Village should authorize a higher amount of potential bond issuance, in case of unforeseen circumstances. Mr. Van Gompel provided the history of bond issuance within the Village and stated that the amount proposed is adequate.

It was moved by Trustee Kunding and seconded by Trustee Springman to adopt Resolution No. 05- , "Initial Resolution Authorizing the Borrowing of Not to Exceed \$9,100,000; Providing For the Issuance and Sale of General Obligation Securities Therefore; and Levying a Tax in Connection Therewith". The motion carried unanimously.

E) Badges for Village Trustees

Mr. Van Gompel discussed the past policy and the recommendations, from the Village's insurance carrier, of discontinuing the use of badges for Village Trustees.

President Jaberg discussed the practices of other communities and the potential for abuse.

Trustee Kunding spoke in favor of badges for the Trustees due to tradition and symbolism and the need for a clear policy on the matter.

President Jaberg and Trustee Springman stated that the old badges should have been turned in after a trustee's term had expired

Trustee Baker reiterated that recommendation from the Village's insurance carrier of collecting all old badges.

Attorney Dineen stated that there has not been any action taken by the Village Board on this topic since 1998, and asked if Trustee Schilz would turn in his badge. Trustee Schilz declined to turn in his badge.

A discussion ensued regarding potential policy changes of the issuance or non-issuance of badges to Village Trustees.

President Jaberg voiced concerns with spending tax payer money on badges.

Trustee Springman spoke in favor of issuing photo identification cards and formalizing a policy to clarify the matter.

It was moved by Trustee Kunding and seconded by Trustee Boschert to direct Staff to purchase a badge for Trustee Kunding and to discontinue the purchasing of any further badges. The motion failed on a vote of 3 -3 with President Jaberg, and Trustees Baker and Springman voting in opposition.

VIII. Committee Appointments

President Jaberg discussed the appointees to the Ad hoc Committee to study the Village's committee structure.

It was moved by President Jaberg and seconded by Trustee Springman to approve the appointments to the Ad hoc committee as presented. The motion carried unanimously.

Village President's Report

President Jaberg reported on the following:

Attending the ICC meeting and discussing MMSD matters within the North Shore communities.

IX. Village Manager's Report

Mr. Van Gompel reported on the following:

Attending the Wisconsin City Manager's Conference, and discussed the E-government presentation and potential for implementation within the Village.

The reports generated by the Police Department's speed board.

The TID agreement with Lowe's Home Centers, Inc. and also discussed the issue of delivery times for the lumber yard.

XI. Recess into Closed Session pursuant to §19.85(1)(c)(g) Wisconsin Statutes for the following reasons:

(c) Considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility.

(g) Conferring with Legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation on which it is or is likely to become involved.

Mr. Van Gompel stated that a closed session was not needed for item §19.85(1) (g).

It was moved by Trustee Baker and seconded by Trustee Springman to recess into closed session pursuant to §19.85(1) (c) Wisconsin Statutes at 10:16 p.m. The motion carried unanimously.

XII. Reconvene into open session

It was moved by Trustee Springman and seconded by Trustee Baker to reconvene into open session at 11:15 p.m. The motion carried unanimously.

XIII. Adjournment

It was moved by Trustee Springman and seconded by Trustee Schilz to adjourn at 11:17 p.m. The motion carried unanimously.

Russell Van Gompel, Village Manager