

**BROWN DEER VILLAGE BOARD
NOVEMBER 21, 2011 MEETING MINUTES
HELD AT THE BROWN DEER VILLAGE HALL
4800 WEST GREEN BROOK DRIVE**

The meeting was called to order by President Krueger at 6:30 P.M.

I. Roll Call

Present: Village President Krueger; Trustees: Baker, Boschert, Oates, Schilz, Springman

Absent: Trustee Weddle-Henning

Also Present: Russell Van Gompel, Village Manager; Matt Janecke, Assistant Village Manager; Chief Steven Rinzel, Brown Deer Police Department; Bridget Souffrant, Treasurer/Comptroller; John Fuchs, Village Attorney; Nate Piotrowski, Community Services Director

II. Pledge of Allegiance

III. Persons Desiring to be Heard

Brian Bublitz, an employee for the Brown Deer Public Works Department, asked if he and others present could be heard under the Personnel Committee report. His request was granted by Village President Krueger.

IV. Consideration of Minutes: November 7, 2011 – Regular Meeting

It was moved by Trustee Springman and seconded by Trustee Oates to approve the minutes of the November 7, 2011 regular meeting. The motion carried unanimously.

V. Committee Reports

A) Building Board – Trustee Weddle-Henning

No meeting.

B) Beautification Committee – Trustee Oates

No meeting.

C) Park and Recreation Committee – Trustee Springman

Trustee Springman reported an additional \$5.00 fee will be added to the swim lesson fee to cover the American Red Cross costs of using their swim program. This fee was not incorporated into the registration fee in the past.

D) 4th of July Committee – Village President Krueger

President Krueger stated the committee had decided on “United We Stand” as a slogan for the 4th of July Parade in 2012. A contract was finalized to provide the fireworks display for 2012; the display will be similar to 2011 but with a few twists.

E) Traffic and Public Safety Committee – Trustee Boschert**1) Ordinance No. 11-,"An Ordinance to Amend Chapter 62, Article IV, Division 1, Section 62-102 (b) of the Village Code Related to Skateboards on Sidewalks in Commercial and Manufacturing Districts".**

Chief Rinzel reviewed the ordinance, noting that skateboarding was not allowed on any sidewalk or commercial property; however, this ordinance will allow skateboarders to travel only on approved sidewalks and trails such as the Oak Leaf Trail. Trustee Springman asked how right-of-way will be determined amongst other recreational users of the trail. Attorney Fuchs clarified by saying the larger of the recreational uses will yield to smaller, in the sense that a bicyclist will yield to a skateboarder and a skateboarder will yield to a pedestrian.

It was moved by Trustee Boschert and seconded by Trustee Springman to approve Ordinance No. 11-, "An Ordinance to Amend Chapter 62, Article IV, Division 1, Section 62-102 (b) of the Village Code Related to Skateboards on Sidewalks in Commercial and Manufacturing Districts." The motion carried unanimously.

2) Amendments to the Fee Schedule for Background Checks and Solicitor's License

Chief Rinzel provided background information for this item by saying his department has an overwhelming amount of background requests, especially now due to the new law pertaining to concealed carry. He continued to say officers were spending more time on fingerprinting than normally should be considered for a department of this size.

It was moved by Trustee Boschert and seconded by Trustee Oates to approve the Amendments to the Fee Schedule for Background Checks and Solicitor's Licenses. The motion carried unanimously.

Chief Rinzel gave an update on the redrawing of the sex offender map for the village. The map displays areas where registered sex offenders can live in the Village. The map had to be redrawn because of the Oak Leaf trail and the restrictions which are placed on registered sex offenders. Currently, registered sex offenders who live within the allowable distance to the Oak Leaf Trail are "grandfathered" to live and remain at their current location. A map will be displayed on the Village's website under the Police Department's page.

F) Library Board – Trustee Baker

Trustee Baker gave a report from the library board by saying the HVAC project has been completed and the recent Friends of the Library auction raised \$2,500, with all contributions supporting the Brown Deer Library.

G) Community Development Authority – Village President Krueger

President Krueger provided update and said most of the discussion took place during closed session. He reported a new shop will be occupying the last remaining tenant space at 7979 North Sherman Boulevard. The shop will be called "Shop on Sherman" and will provide convenience store type retail. Trustee Oates asked what had been there before. Mr. Piotrowski reported nothing had been there previously.

Present Krueger continued his report by saying HH Gregg Appliances & Electronics will be occupying 37,000 of the 50,690 square feet of the former Marshall's building. Trustee Oates asked why only 37,000 square feet and what will happen with the remaining space. Representatives from HH Gregg Appliances & Electronics responded by saying their stores typically do not occupy anymore space than that, and the owner has had conversations with other potential tenants to occupy the remaining space.

H) Plan Commission – Village President Krueger**1) Amendment to the Conditional Use Permit – 5125 West Brown Deer Road**

Mr. Piotrowski gave the history of the amendment and stated the new location for the propane storage container will be located on the southern edge of the property against the car wash. He also made mention that the location was approved by the Police Department, Fire Marshal, and the Plan Commission.

It was moved by Village President Krueger and seconded by Trustee Schilz to approve the Amendment to the Conditional Use Permit for a Service Station, Convenience Store and Auto Laundry at 5125 West Brown Deer Road. The motion carried unanimously.

2) Conditional Use Permit – Day Care Center at 5600 West Brown Deer Road

Mr. Piotrowski reviewed the proposal and informed the board of the conclusions from the Public Hearing regarding the Day Care Center. He continued to introduce Ms. Jeanie Hughes, the proposal applicant, and stated the Plan Commission approved the proposal unanimously.

Trustee Oates asked if Ms. Hughes had experience running a day care center. Ms. Hughes responded by stating she was currently running a day care center for 16 children out of her home. This would merely be an expansion of her current business. Trustee Oates asked if Ms. Hughes' day care center will be providing transportation. Ms. Hughes replied she will provide transportation. Mr. Piotrowski stated that the property does not allow for overnight parking.

Trustee Springman asked how many providers she plans to have. Ms. Hughes replied that she will have eight providers to cover two shifts.

It was moved by Village President Krueger and seconded by Trustee Schilz to approve the Conditional Use Permit for a Day Care Center at 5600 West Brown Deer Road. The motion carried unanimously.

3) Permanent Development Agreement for a Business Office at 8669 North Deerwood Drive

Mr. Piotrowski reviewed the proposal.

It was moved by Village President Krueger and seconded by Trustee Boschert to approve a Permanent Development Agreement for a Business Office at 8669 North Deerwood Drive. The motion carried unanimously.

4) Permanent Development Agreement for Outdoor Seating at 4301 West Bradley Road

It was moved by Village President Krueger and seconded by Trustee Schilz to approve a Permanent Development Agreement for Outdoor Seating at 4301 West Bradley Road. The motion carried unanimously.

I) Finance and Public Works Committee – Trustee Oates

Trustee Oates gave the details for items one through six.

1) Resolution No. 11–, “A Resolution Assessing the Electric Energy and Maintenance Costs of the Arbon Drive – W. Green Brook Drive Street Lighting System”

It was moved by Trustee Oates and seconded by Trustee Boschert to approve Resolution No. 11-, "A Resolution To Assess the Electric Energy and Maintenance Cost of the Arbon Drive – W. Green Brook Drive Street Lighting System". The motion carried unanimously.

- 2) **Resolution No. 11–, "A Resolution Assessing the Electric Energy and Maintenance Costs of the Brown Deer Business Park Subdivision Street Lighting System"**

It was moved by Trustee Oates and seconded by Trustee Boschert to approve Resolution No. 11-, "A Resolution To Assess the Electric Energy and Maintenance Cost of the Brown Deer Business Park Subdivision Street Lighting System". The motion carried unanimously.

- 3) **Resolution No. 11–, "A Resolution Assessing the Electric Energy and Maintenance Costs of the Brown Deer Corporate Park Subdivision Street Lighting System"**

It was moved by Trustee Oates and seconded by Trustee Boschert to approve Resolution No. 11-, "A Resolution To Assess the Electric Energy and Maintenance Cost of the Brown Deer Corporate Park Subdivision Street Lighting System" The motion carried unanimously.

- 4) **Resolution No. 11–, "A Resolution Assessing the Electric Energy and Maintenance Costs of the North Kildeer Court – W. Brown Deer Road Street Lighting System"**

It was moved by Trustee Oates and seconded by Trustee Boschert to approve Resolution No. 11-, "A Resolution To Assess the Electric Energy and Maintenance Cost of the N. Kildeer Court – W. Brown Deer Road Street Lighting System" The motion carried unanimously.

- 5) **Resolution No. 11–, "A Resolution Assessing the Electric Energy and Maintenance Costs of the Opus North Subdivision Street Lighting System"**

It was moved by Trustee Oates and seconded by Trustee Boschert to approve Resolution No. 11-, "A Resolution To Assess the Electric Energy and Maintenance Cost of the Opus North Subdivision Street Lighting System" The motion carried unanimously.

- 6) **Resolution No. 11 –, "A Resolution Assessing Electric Energy and Maintenance Costs of the Park Plaza & Addn. #1 Subdivision Street Lighting System"**

It was moved by Trustee Oates and seconded by Trustee Boschert to approve Resolution No. 11-, "A Resolution To Assess the Electric Energy and Maintenance Costs of the Park Plaza and Addn. #1 Subdivisions System". The motion carried unanimously.

- 7) **Resolution No. 11 –, "A Resolution Authorizing the Borrowing of \$277,000 from the State Trust Fund Loan"**

It was moved by Trustee Oates and seconded by Trustee Boschert to approve Resolution No. 11-, "A Resolution Authorizing the Borrowing of \$277,000 from the State Trust Fund Loan". The motion carried unanimously.

- 8) **Resolution No. 11 –, "A Resolution Correcting the Abandoning of a Sanitary Sewer and Water Main Easement in the 4300 - 4400 Block of W. Bradley Road"**

It was moved by Trustee Oates and seconded by Trustee Boschert to approve Resolution No. 11-, “A Resolution Correcting the Abandoning of a Sanitary Sewer and Water Main Easement in the 4300 – 4400 Block of W. Bradley Road”. The motion carried unanimously.

9) Consideration of Vouchers

It was moved by Trustee Oates and seconded by Trustee Boschert to approve the Consideration of Vouchers. The motion carried unanimously.

J) Personnel Committee – Trustee Baker

1) Personnel Manual

Mr. Van Gompel reviewed the actions taken by the Personnel Committee regarding the Personnel Manual and asked that the Village Board to only consider this matter tonight and to take action on this item at the December 5th Village Board meeting . The most notable change to the manual was the moving from eight hour work day to a 40 hour week in regards to overtime pay. He also stated this is the standard put forth by the Federal Labor and Standards Act. Village employees in attendance were Brian Bublitz – Department of Public Works, Debbie Gerth – Administrative Services, and Ray Diedrich – Department of Public Works.

Mr. Bublitz commented that his department works hard at saving the village money by researching and finding cheaper prices for such things as fill materials. He also stated that Public Works employees do not get rich from overtime pay, but it is nice to be compensated for a hard work day.

Ms. Gerth noted she answers phone calls from residents and says rarely are their complaints about the conditions of the roads after a significant snow fall. She continued to explain her experiences with other municipality’s road conditions on her drive into work after a major snow storm.

VI. Unfinished Business

VII. New Business

A) Resolution No. 11-,”A Resolution Awarding the Sale of \$1,430,000 General Obligation Corporate Purpose Bonds”

Bradley Viegut, representing Robert W. Baird & Co., presented the results and outlined the details of the competitive bids received from BOSCO, Inc. and Robert W. Baird & Co.

It was moved by Village President Krueger and seconded by Trustee Schilz to approve Resolution No. 11-, “A Resolution Awarding the Sale of \$1,430,000 General Obligation Corporate Purpose Bonds”. The motion carried unanimously.

B) Liquor License Agent Change for Courtyard by Marriot, 5200 West Brown Deer Road

It was moved by Village President Krueger and seconded by Trustee Schilz to approve the Appointment of Nicole Rae Miller as Agent for the Class “B” Intoxicating Liquor License and Class “B” Beer License by W2007 BRV Realty, L.P. d/b/a Courtyard by Marriot located at 5200 West Green Brook Drive. The motion carried unanimously.

C) Special Holiday Hours Request for Old Navy

Mr. Janecke reviewed the proposal and noted that representatives from Old Navy were in attendance to answer questions the board may have.

Trustee Oates expressed his displeasure with this request by saying corporate retailers continue to make opening times for “Black Friday” earlier and at what point does this stop. He continued to express his frustration with hours of operation on Thanksgiving Day. Attorney Fuchs noted that the ordinance allows for businesses to be open on Thanksgiving but it restricts operating a retail business between the hours of 11:00 p.m. to 6:00 a.m., which the request is addressing. Jamie Soper, Store Manager for Old Navy located at 9094 North Green Bay Road, mentioned she gives employees the opportunity to volunteer to work on Thanksgiving Day because they are compensated with double time pay. Village President Krueger reminded the Village Board of the request granted for Kohl’s Department Store.

It was moved by Village President Krueger and seconded by Trustee Springman to approve the Special Request from Old Navy for Special Holiday Hours. The motion carried 5-1, with Trustee Oates voting in opposition.

D) Market Place Fifth Supplemental Agreement

Mr. Piotrowski gave the details of the agreement and introduced representatives from HH Gregg Electronic & Appliance.

A discussion ensued between the Village Board and representatives from HH Gregg about the aesthetics of the building and the operation of the electronics retail business.

It was moved by Village President Krueger and seconded by Trustee Springman to approve the Market Place Fifth Supplemental Development Agreement for the Market Place Shopping Center. The motion carried unanimously.

VIII. Committee Appointments

It was moved by Village President Krueger and seconded by Trustee Oates to re-appoint Matthew Patrick to the 4th of July Committee. The motion carried unanimously.

IX. Village President’s Report

Village President Krueger reported on the following:

Discussion with Chief Whitaker on the funding formula for the North Shore Fire Department.

X. Village Manager’s Report

Mr. Van Gompel reported on the following:

Acceptance from two senior dispatch officers to continue employment with the Village and transfer to the newly created front desk clerk positions.

The results from the November 15th Election Referendum

XI. Recess into Closed Session pursuant to §19.85(1) (c) (e) (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.
- (e) Deliberating or negotiating the purchasing of public properties, the investing of public funds, or the conducting other specific public businesses, whenever competitive or bargaining reasons require a close session.
- (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 in which it is or is likely to become involved.

It was moved by Village President Krueger and seconded by Trustee Springman to recess into Closed Session at 8:09 p.m. The motion carried unanimously.

It was moved by Trustee Springman and seconded by Trustee Boschert to reconvene into Open Session at 9:24 p.m. The motion carried unanimously.

XII. Reconvene into Open Session for Possible Action on Closed Session Deliberations

A) Update on Original Village Streetscape Project/Report on Potential Litigation

It was moved by Trustee Boschert and seconded by Trustee Oates to authorize the initiation of a court action for the purpose of declaring the Village's ownership rights in the right-of-way areas that have not been voluntarily offered for acquisition for the Original Village Streetscape Project. The motion carried unanimously.

B) Personnel Manual

No action taken.

XIII. Adjournment

It was moved by Trustee Boschert and seconded by Trustee Schilz to adjourn at 9:25 p.m. The motion carried unanimously.

Russell Van Gompel, Village Manager