

**BROWN DEER VILLAGE BOARD  
JULY 23, 2015 MEETING MINUTES  
HELD AT THE BROWN DEER VILLAGE HALL  
4800 WEST GREEN BROOK DRIVE**

The meeting was called to order by President Krueger at 6:00 P.M.

**I. Roll Call**

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

Also Present: Michael Hall, Village Manager; John Fuchs, Village Attorney; Erin Hirn, Assistant Village Manager; Michael Kass, Chief of Police; Nate Piotrowski, Director of Community Development; Matthew Maederer, Director of Department of Public Works; Susan Hudson, Treasurer/Comptroller; Brian Van-Klooster, Library Director; Fernando Moreno, Zoning Specialist

**II. Pledge of Allegiance**

**III. Persons Desiring to be Heard**

None.

**IV. Consideration of Minutes: June 15, 2015 Regular Meeting**

*It was noted by Trustee Springman that Trustee Baker was listed as excused when he was present during the board meeting. It was moved by Trustee Schilz and seconded by Trustee Boschert to approve the amended minutes from the June 15, 2015 - Regular Meeting. The motion carried unanimously.*

**V. Unfinished Business**

None

**VI. New Business**

**A) Resolution No. 15-, "In the Matter of a Resolution Rescinding a Portion of the Plat Agreement for the Gerbing Farm Subdivision"**

Mr. Piotrowski explained the desire of the plot owner in the Gerbing Farm Subdivision to build a house made of material that is not listed in the original 1956 Platt Agreement due to economic hardship. The owner, Mrs. Bingen, of the two lots previously owned by Lois Dolan, would prefer to build the house out of vinyl siding which did not exist when the original Platt Agreement was created. The staff views vinyl siding as a durable quality product. Currently, out of the 50 homes that are in the subdivision, 6 are vinyl, 11 stone, 9 brick, and 24 wood siding. Out of the 24 wood homes, 8 are in need of repair. Mr. Hatchel (6608 W Clover Leaf Lane) spoke up regarding the issue. He did not believe extreme hardship was not the case in this situation and believes the subdivision standards should be enforced. He was not concerned about homeowners who added on to their houses with vinyl, but with new houses being built solely with vinyl. He fears the structure of the home is not consistent with the look of the neighborhood.

President Krueger inquired on the rules of the Platt agreement. Attorney Fuchs stated that per state statute regarding land restriction in regard to the agreement would not be enforceable if they unreasonably restrict the alienation of land. He also made mention that he thinks the board should be cautious because this has not been previously enforced in the neighborhood and it could be considered alienation since it's been over 50 year and also it might be against public interest. On the other hand the other side would be Mr. Hatchel could make a claim because that is not what he agreed to when he originally bought his house. Attorney Fuchs suggested if we don't rescind the Platt agreement that we should have a formal discussion regarding the issue. Mr. Piotrowski then clarified the process that takes place before going to

the Building Board to help understand how a Platt Agreement could be unrecognized.

Trustee Boschert asked Mrs. Bingen whether she was aware of the Platt Agreement at time of purchase. She inquired of any property restrictions at time of purchase and none were acknowledged. Attorney Fuchs explained that title companies usually list the documents, but do not always include the document in a Schedule B. Trustee Boschert also asked how this would impact the value of home in the neighborhood. Mr. Piotrowski believes that the Platt Agreement is a well-intended document to limit the deterioration of homes; however, if an agreement was made today might have more options regarding building material. It is hard to claim that one vinyl home will be detrimental to the property value. Trustee Oates stated that it is hard to determine the future when developing agreements; however, his experience in title companies gives him reason to think the document was available and the neighborhood has a right to live within their initial standards.

Trustee Schilz spoke up since he has a home in that neighborhood. His house is constructed of brick and wood on the front and original aluminum siding on the other three sides from the early 1970's. He is concerned about how strict our Building Board is on businesses that come into the community and how lenient it seems we are being on this design. He then suggested the same standard should be met regarding the face of the house having brick, stone, or wood. Trustee Baker inquired whether the land owners were building for sale or building for ownership? Mrs. Bingen informed the board that she was building with the intention of selling.

Trustee Baker expressed the need for one to develop keeping the spirit of the neighborhood in mind and inquired what the economic hardship was and what the monetary difference would be if she was to change the vinyl siding on the front of the house to something more in line with the neighborhood. Mrs. Bingen then expressed that vinyl costs \$100/sq. ft. whereas wood costs \$160/sq. ft. and if the house was all in brick the total would increase her costs by 150%. The house will be listed at \$275,000 and the economic hardship comes because she is a small company of two people and in order to recoup the expenses she cannot afford that risk. She did acknowledge the difference between her house and the others in the neighborhood and would be willing to change the front façade to masonry of some sort. If the board's decision is to have her make the house out of the Platt Agreement required material she may have to sell the property without finishing.

*It was moved by Trustee Boschert and seconded by Trustee Awe to deny Resolution No. 15-, "In the Matter of a Resolution Rescinding a Portion of the Plat Agreement for the Gerbing Farm Subdivision". The motion carried 6-1, with President Krueger voting in opposition.*

## **B) Needs Assessment of Buildings – Bray Presentation**

Bray Architects gave a presentation reviewing the needs assessment of Village Hall, Public Works building, and Library. The needs showed a need to increase the public works and health department and to rearrange both village hall and the police department. The solutions portion of this discussion will take place during the board meeting on August 3, 2015. Trustee Oates asked how we were configuring space requirements. Mr. Hacker explained how we took the current square feet ask staff how it is being used and if it's adequate and then using design plan standards for making recommendations. This is done to help plan for what would be needed whether or not a new building was created. Mr. Piotrowski then reiterated that the spaces were really discussed by the steering committee for this feasibility study and wasn't just an individualized response. Trustee Boschert said after the tours there were many spaces found in both the police department and public works that did not look sufficient or well utilized. Trustee Awe inquired on the police department numbers since they didn't seem to need more space even though throughout the tour it looked cramped. Mr. Hacker explained how it just needed to be reconfigured instead of expanded and this is what conversations are starting to be discussed. Mr. Maederer explained how this assessment is only to show the mechanics and needs of each building.

**C) Recommendation on a Rezoning of Property at 4141 West Woodale Avenue, Tax Key Number 086-8887-003 from PD-Planned Development to R3- Single Family Residential**

Mr. Piotrowski explained a lot JFS currently owns that is currently zoned as planned development; however, they no longer are interested in redevelopment and are hoping to sell. The property would be more marketable if it was changed to single family residential. The Planning Commission reviewed the proposal and recommended it to the board. Their only questions were the need for JFS to have further parking and also what amount of homes could be built on the property. JFS has determined that they have more than enough parking and the lot would be able to fit one house that could also be built as a duplex.

*It was moved by Trustee Springman and seconded by Trustee Baker to approve Recommendation on a Rezoning of Property at 4141 West Woodale Avenue, Tax Key Number 086-8887-003 from PD-Planned Development to R3- Single Family Residential. The motion carried unanimously*

**D) Update on State Budget's Effect on the Village of Brown Deer**

Mr. Hall reviewed how items in the recently passed state budget affect our municipality:

- Decrease of \$4,000 in Recycling Grant funding will be minor because of our reserves.
- Future Bike and Pedestrian paths no longer required during construction/DOT projects.
- Prevailing wage law will create a saving for the village.

-Hotel room tax will start in 2017 and will have a 5 year transition period until it gets down to 2010 amounts. A committee will have to be made of one board member and one hotel manager gathering about 4-6 people who will make the final decision how the money is spent for tourism only. These are including the magazine, Eat & Greet, Vibes, etc. Trustee Schilz suggested we use part of this money to advertise the rock climbing wall we have in the Brown Deer High School gymnasium.

-Code compliance halt in connection with a sale. Much discussion ensued regarding the affect this will have on the Brown Deer housing stock.

**E) Withdrawal of Food Licenses Issued to Celebrations, 4740 West Bradley Road**

Issue did not need to be discussed since Celebrations fulfilled their obligation before agreed upon end date.

**F) Liquor License Agent Change – Courtyard by Marriott, 5200 West Brown Deer Road**

Mr. Hall stated that the Village received a change of agent for the “Class B” liquor license issued to Hawkeye Hotels, d/b/a the Courtyard by Marriott located at 5200 West Brown Deer Road. President Krueger asked if there was a background change conducted. Chief Kass confirmed that the agent has had a background check.

*It was moved by President Krueger and seconded by Trustee Schilz to approve the Liquor License Agent Change for Courtyard by Marriott, 5200 West Brown Deer Road. The motion carried unanimously.*

**G) Ordinance No. 15-, “An Ordinance Creating Section 14-26 of the Brown Deer Village Code Relating to and Prohibiting the Sale of Powdered Alcohol”**

Attorney Fuchs suggested that we create an ordinance restricting the sale of powdered alcohol until the state has created a law enforcing regulation on the substance. Currently, there are no regulations. Trustee Boschert asked if once the state has decided on some type of regulation, will the board have to go back and change the ordinance. Attorney Fuchs confirmed that the ordinance may have to be revisited when that time comes. Trustee Oates asked if the police would be able to enforce this ordinance. Attorney Fuchs explained that the Brown Deer police would then be able to ticket the sale and purchase of powdered alcohol. Trustee Schilz then inquired about the affects it would have in our fine schedule.

Attorney Fuchs explained how there is a general fine section where the officers would be able to write in the ticket amount and prohibit its possession or use. Chief Kass explained how this happened before there was a state law on synthetic marijuana.

*It was moved by Trustee Springman and seconded by Trustee Baker to approve Ordinance No. 15-, “An Ordinance Creating Section 14-26 of the Brown Deer Village Code Relating to and Prohibiting the Sale of Powdered Alcohol”. The motion carried unanimously.*

**H) Ordinance No. 15-, “An Ordinance Amending Section 36-2 of the Brown Deer Village Code Relating to the Municipal Judge”**

Attorney Fuchs explained that through consolidating the court we did not create a charter ordinance for the judge to have a three-year term. Through state law, if there is not a charter ordinance, the required term is four years.

*It was moved by Trustee Boschert and seconded by Trustee Schilz to approve Ordinance No. 15-, “An Ordinance Amending Section 36-2 of the Brown Deer Village Code Relating to the Municipal Judge”. The motion carried unanimously.*

**I) Street Lighting Maintenance Agreement with Outdoor Lighting for September 2015 through August 2019**

Mr. Maederer discussed how Outdoor Lighting has been our street lighting maintenance since the 1970’s. They just got finished with a three year contract and they are up for renewal and the village would like to renew our contract to a four year contract. Trustee Oates asked if we could put this out to BID to see if we could save costs. Mr. Maederer explained that this was put out to BID for the 2009-2013 contract per the board’s decision. Mr. Piotrowski also explained that street lighting is covered by special assessment coming out of the street lights account. Trustee Oates explained that some of the money comes out of general fund and it would be beneficial to the taxpayer to obtain competitive bids. Trustee Boschert asked if the new Bradley Road lights were covered. Mr. Maederer confirmed that once the new lights are put in they will be included. Trustee Boschert also asked about a sodium vapor to LED lighting transfer. Both Mr. Maederer and Mr. Piotrowski confirmed that this conversation has been had and there is potential for this to occur once a light goes out. Trustee Schilz asked whether they are audited yearly. Mr. Maederer confirmed that we only receive a bill when a repair is made and is documented and given to the board each year. Mr. Piotrowski said that if there is a repair done in any location that is not covered under special assessment, for instance Bradley Road, we can provide that documentation if desired.

*It was moved by Trustee Springman and seconded by Trustee Baker to approve a street lighting maintenance agreement with Outdoor Lighting for September 2015 through August 2019. The motion carried 6-1, with Trustee Oates voting in opposition.*

**J) Ordinance No. 15-, “An Ordinance to Register Vacant and Foreclosed Properties in the Village of Brown Deer, Milwaukee County, Wisconsin”**

Mr. Piotrowski described the challenges of finding owners of vacant buildings. One of the goals of the community services department is to have a vacant property registration to gather this data. Once this information is gathered, it will increase property maintenance and decrease safety concerns that come with vacant building. Many other municipalities have a program similar to this and the Village of Brown Deer would charge \$100.00 annually for registering vacant property. Trustee Boschert questioned how we would enforce this process. Mr. Piotrowski explained that there would be a lot of research looking at newspapers, Sheriff’s sales listings, GIS database, auctions, and sending letters to realtors and banks to make them aware of this ordinance. The second method would be when doing complaint checks in the field to follow up with getting ownership information. Trustee Boschert asked if this included those going

through a foreclosure. Mr. Piotrowski explained this would not be done if someone is still residing in the house. Attorney Fuchs explained this is to find out what the properties are and make sure they are safe and not hindering the quality of the housing stock. There may be some questions if we subject foreclosures to this because of the current code enforcement law; however, due to safety factors there is reason to believe there is adequate need to collect this information.

Trustee Schilz asked if the 90 day regulation to register would start as of today. Mr. Moreno further explained how he will enforce this ordinance. Mr. Piotrowski explained that this would apply to commercial and residential; however, only vacant buildings and not vacant parcels. Trustee Schilz also brought up with whether this charge would be per building or per vacancy. Mr. Piotrowski informed the board they would only register completely vacant buildings and the charge would be per building. Trustee Oates voiced his concerns of the public believing we are only doing this to recoup money and also that the village would request houses to register that might not be vacant. Trustee Springman explained that this ordinance is only for those not keeping the vacant property up to standards. Mr. Piotrowski explained this is to establish a connection and make sure that bank owned properties and commercial properties are taken care of. Discretion will be made depending on the circumstance and require the residence or commercial unit to be completely abandoned. Trustee Schilz expressed his satisfaction with this ordinance to create a dialogue and make sure that lawns stay well-kept and village maintains knowledge of these vacant lots. Trustee Boschert also thought this would continue the safety of the community and let the police department know which locations to watch. Trustee Baker also congratulated staff for their attempt to create steps towards an item the board had mentioned being a community need in the past. Trustee Awe made a question regarding making changes to the fee based on how quickly they produce the information. Attorney Fuchs said that we will make a resolution regarding the fee and therefore it does not need to be changed

*It was moved by Trustee Springman and seconded by Trustee Awe to approve Ordinance No. 15-, “An Ordinance to Register Vacant and Foreclosed Properties in the Village of Brown Deer, Milwaukee County, Wisconsin”. The motion carried 6-1, with Trustee Oates voting in opposition.*

*It was moved by Trustee Springman and seconded by Trustee Baker to adopt a resolution “setting the fee at \$100.00 unless registration occurs within 90 days of vacancy/foreclosure”. The motion carried 6-1, with Trustee Oates voting in opposition.*

**K) Ordinance No. 15-, “An Ordinance to Amend Various Sign Regulations within Section 121, Article VIII of the Brown Deer Village Code”**

Mr. Piotrowski discussed our previous sign regulations and how technology is changing and so are the views and uses of signage. Electronic message centers will be held in 10 second increments instead of 10 minute increments, which is within International Sign Association and other municipality standards. Monitoring light brightness standards, which mirror our village sign, are included in these changes as well as allowing message signs to be 10% larger than their current size and methods of measuring messages on the signs.

*It was moved by President Krueger and seconded by Trustee Schilz to approve Ordinance No. 15-, “An Ordinance to Amend Various Sign Regulations within Section 121, Article VIII of the Brown Deer Village Code”. The motion carried unanimously.*

**L) Review and Recommendation of a Permanent Conditional Use Permit with Central States Tower LLC for a Cellular Tower, Antennas, and Equipment Shelter at 5600 West Bradley Road**

Mr. Hall explained the need to review and recommend the permit for the cell tower at the library.

*It was moved by Trustee Springman and seconded by Trustee Baker to approve Review and Recommendation of a Permanent Conditional Use Permit with Central States Tower LLC for a Cellular Tower, Antennas, and Equipment Shelter at 5600 West Bradley Road. The motion carried unanimously.*

**M) Review and Recommendation of a Revised Certified Survey Map for a Land Division at 6700 West Brown Deer Road**

Mr. Piotrowski described the confusion between the village and PAK Technology and there was a 55 foot difference between the site plan and their understanding. This was reviewed and approved by PAK Technology, Aldi, and the Village of Brown Deer.

*It was moved by Trustee Springman and seconded by Trustee Awe to approve Review and Recommendation of a Revised Certified Survey Map for a Land Division at 6700 West Brown Deer Road. The motion carried unanimously.*

**N) Resolution No. 15-19, “Approval of and Submittal of the CMAR for the Activities of 2014”**

Mr. Maederer reviewed the CMAR activities and explained the CMOM changes and updates regarding sewer projects and pipe lining. The rating has recently changed which has positively affected the Village by giving us all A's. We have been mostly in line with Hales Corners with the exception of televising; however, with the purchase of new equipment it should increase. In summary, public works is going to continue as outlined by annual rehab projects, PPI projects, lateral replacements, and lining the sewers.

*It was moved by Trustee Schilz and seconded by Trustee Oates to approve Resolution No. 15-19, “Approval of and Submittal of the CMAR for the Activities of 2014”. The motion carried unanimously.*

**O) June 2015 Vouchers**

*It was moved by President Krueger and seconded by Trustee Boschert to approve the June 2015 Vouchers. The motion carried unanimously.*

**VII. Village President’s Report**

None.

**VIII. Village Manager’s Report**

None.

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

*It was moved by Trustee Springman and seconded by Trustee Awe to recess into closed session at 9:12 p.m. The motion carried unanimously.*

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

**1. Compensation and organization of Police Department**

- (e) **Deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session.**

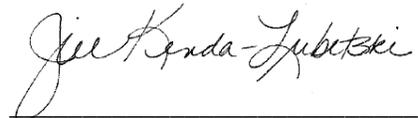
**1. Investing TIF Money**

**X. Reconvene into Open Session for Possible Action on Closed Session Deliberations**

*It was moved by Trustee Springman and seconded by Trustee President Krueger to reconvene into open session at 9:44 p.m. The motion carried unanimously.*

**XI. Adjournment**

*It was moved by Trustee Baker and seconded by Trustee Springman to adjourn at 9:45 p.m. The motion carried unanimously.*



Jill Kenda-Lubetski, Village Clerk