VILLAGE OF GERMANTOWN
VILLAGE BOARD MEETING MINUTES
July 21, 2014

CALL TO ORDER: The meeting was called to order at 7:12 p.m. by President Wolter

ROLL CALL: President Wolter, Trustees Daniels, Hughes, Kaminski, Vanderheiden, Warren, Werderman and Zabel. Trustee Baum was absent. Also present: Administrator Schornack, Attorney Sajdak, Planner Retzlaff, Park & Rec Director Casperson, Engineer Bischke, Fire Chief Weiss and Clerk Goeckner.

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was recited.

PRESIDENT'S REPORT: Participated in seminar presented by Dennis L. Rubin, former Fire Chief of Washington DC, Boston and other locations. Representatives of several other communities participated. Excellent presentation.
Attended Taste of Germantown put on by Kiwanis. Well represented and another great event.
Clerk's office taking applications for District 2 Trustee vacancy. Village Board will hold interviews on August 4th with placement on Village Board that evening.
Dheinsville Park will hold a Bier Garden event – watch for further information and join if you are able.

ANNOUNCEMENTS OF FORTHCOMING EVENTS OF PUBLIC INTEREST & COMMITTEE REPORTS: Upcoming meetings were announced as well as other items of interest by Trustees.

CITIZEN INPUT/PUBLIC APPEARANCE on items not subject to a public hearing:
The following persons spoke regarding the Donges Bay Road and pathways project:
Holly Basting – N104 W16053 Donges Bay Road, Germantown
Bridget Poetzl – N104 W15447 Donges Bay Road, Germantown
Judi Kind – N109 W17334 Virginia Ave, Germantown
Steven Wesolowski – W169 N10427 Pheasant Run, Germantown
John Penkal – N104 W16075 Hedge Way, Germantown
JR Manning – N104 W16417 Donges Bay Road, Germantown
Ronald Gene Oliver – N103 W14930 Windsong Circle E, Germantown
Scott Coulthurst – N106 W16272 Fieldstone Pass, Germantown
Lynnae Langmann – N99 W21950 Indian Parkway, Germantown – also spoke regarding signalization item of July 7th and requested Minutes of July 7th be reviewed and corrected. Also complimented Trustee Baum for voting against the signalization at Mequon & Eisenhower.
Justin Goede – N104 W16005 Donges Bay Road, Germantown
Bernard Wood – N104 W15652 Donges Bay Road, Germantown

CONSENT AGENDA:
A. Minutes – July 7, 2014
B. Accounts payable/payroll

1.	July 10, 2014	Accounts Payable	$	337,582.76
2.	July 15, 2014	Payroll (hourly & salary)	$	334,591.57

CONSENT AGENDA continued:

C. Operator Licenses: July 22, 2014 - June 30, 2015:
Jessica M. Koepp, Cassidy R. Liederbach, Cynthia C. Nelson, Jonathan A. Nelson, and Wendy S. Sarwas

The following items were forwarded from the Public Safety Committee with a unanimous recommendation:

D. "Class A" Fermented Malt Beverage and Intoxicating Liquor License August 1, 2014 – June 30, 2015: **(New/Transfer)** Sycon Inc., Zohaib Hussain Syed, 4137 W Martinton Drive, Franklin, WI, d/b/a Willow Creek BP, W201 N10451 Appleton Avenue, Germantown, WI 53022 [Recommended Approval]

E. Application for Dance License, Germantown Historical Society, N128 W18780 Holy Hill Road, Germantown, WI – September 27 & 28, 2014, 11:00 a.m. – 11:00 p.m. [Recommended Approval]

F. Application for Dance License, St. Boniface Congregation, W204 N11940 Goldendale Rd., Germantown, WI, tent in parking lot – August 29 & 30, 2014, 4:00 p.m. – 11:00 p.m. and August 31, 2014, 10:00 a.m. – 10:30 p.m. [Recommended Approval]

The following items were forwarded from the Public Works Committee with a unanimous recommendation:

G. Payment of Invoice to D.F. Tomasini in the amount of $9,611.50 for Emergency Repair of Police Department Water Lateral. Funds to be allocated from Acct. #40-521-570-8210 [Recommended Approval]

H. Adoption of Donges Bay Road into Years 2015 & 2016 Local Road Improvement Projects [Recommended Approval]

I. Eliminate the Donges Bay Road/Pilgrim Road Intersection Elements Design as Part of The Donges Bay Road Improvements [Recommended Approval]

Motion (Vanderheiden/Warren) to approve Consent Agenda Items A-I. Trustee Zabel requests to pull Item A. Trustee Kaminski requests to pull Item I. **By roll call vote, excepting Items A & I, carried.**

Item 'A' - Discussion of July 7, 2014 Village Board Minutes. Clerk recalls the discussion and suggests a revision to state: 'The following persons spoke regarding New Business Item 'D' regarding SEWRPC STP-M funding and the legality of being on this agenda.
MOTION (Zabel/Kaminski) to approve Minutes of July 7, 2014 with revision as stated by the Clerk, carried.

Item 'I' – Discussion of Item 'I' to Eliminate the Donges Bay Road/Pilgrim Road Intersection Elements Design as Part of The Donges Bay Road Improvements
MOTION (Zabel/Kaminski) to eliminate the intersection from this project and go with the recommendation as stated in Item 'I' of the Consent Agenda, carried.

UNFINISHED BUSINESS:

A. In The Matter Of The Complaint Against: Maple Road, LLC, Holder Of "Class B" Alcohol Beverage Licenses For Buzdum's Pub & Grill, Radomir Buzdum, Agent, Premises At W188 N10515 Maple Road, Germantown, Wisconsin; Hearing Pursuant To Wis. Stat. § 125.12(2) And §§12.02(1) And (12) Of The Municipal Code Of The Village Of Germantown, Wisconsin

UNFINISHED BUSINESS continued:

1. Rules Of Evidence, Burden Of Proof, Impartial Decision-Maker And Other Procedural Matters.
2. Hearing Pursuant To Wis. Stat. §125.12(2)(B)1. Or 2. And 3.

Attorney Sajdak explained the Agent's attorney, Andrew Arena, was present and has provided to him most of the information requested. A receiver has been appointed for the property and is authorized and directed to collect the rents and authorized to distribute them as payment for a list of various items, one of which is real estate taxes. The receiver has been directed to take care of outstanding property taxes as part of that order. Trustee Zabel asked if the payment of taxes would come first. Attorney Sajdak stated the court doesn't specify an order of which of the items on the list must be paid first. The list includes payment to the management company, paying for repairs, insurance, taxes, utilities, payment of litigation costs that might arise such as if they need to evict the tenants. Anything after that would be turned over to the plaintiff to apply to the mortgage. The receiver is Colliers, a well-known and respected management sales group. Attorney Sajdak would suspect an emphasis will be on the real estate taxes because for them that is an impediment for the sale. Unless a repair is necessary. Attorney Arena handed out documentation regarding the commercial lease entered into. Next the lender will move on the default judgment and it will move to foreclosure auction. Back taxes will have to be paid to move forward with a sale to happen. Discussion of Village options and rights, including possibility to request the court to set aside funds to go toward taxes. Discussion of time frame and possibility by year end likelihood of taxes to be paid. Prior concerns of where funds are going are alleviated by having a receiver appointed. Licensing is discretion of Village Board.

B. Action on Buzdum's License (Approval or Non-Renewal) The Village Board May Enter Closed Session During The Meeting Pursuant To Wis. Stat. § 19.85(1)(A) To Deliberate Upon Any Proposed And Submitted Stipulated Disposition And/Or Upon A Failure To Appear Or The Conclusion Of A Hearing To Discuss Its Determination, And To Reenter Open Session At The Same Place Thereafter To Act On Such Matters As Discussed Therein As It Deems Appropriate

MOTION (Kaminski/Warren) to approve the Maple Road, LLC, "Class B" Alcohol Beverage License For Buzdum's Pub & Grill, Radomir Buzdum, Agent, Premises At W188 N10515 Maple Road, Germantown, Wisconsin, July 22, 2014 – June 30, 2015, carried.

MOTION (Zabel/Vanderheiden) to go to New Business Item 'F' next. Discussion. **2 in favor (Zabel, Vanderheiden), 5 opposed, motion fails.**

PUBLIC HEARINGS – 7:00 P.M. OR LATER –***The purpose of said hearing(s) is to hear any and all parties, their attorneys or agents, for or against the application(s) filed by the petitioner(s).***

A. Tim & Robert Aiken, Property Owners and applicant to Rezone property from the A-1: Agricultural District & the Rs-2: Single-Family District to the Rs-1: Single Family Residential District pursuant to Section 17.14 of the Village Zoning Code on the property of Tax Key No. GTNV 144-989 located at N120 W14454 Freistadt Road.

PUBLIC HEARINGS continued:

Planner Retzlaff presented information regarding the application for Rezoning and CSM. Plan Commission recommendation is to approve with one condition of technical change.
President Wolter opened the Public Hearing at 8:40 p.m.
No one spoke regarding the application.
President Wolter closed the Public Hearing at 8:41 p.m.

B. Karen Martinson, Operator and agent for James Barry, Property Owner and applicant for a Conditional Use Permit for the operation of an Indoor Recreation Center (the "Play Zone") pursuant to Section 17.33(3)(h) of the Village Zoning Code on the property of Tax Key No. GTNV 201-964 located at W188 N11927 Maple Road Suite 10.

Planner Retzlaff presented information regarding the application for a Conditional Use Permit to operate an indoor recreation center.

President Wolter opened the Public Hearing at 8:44 p.m.
No one spoke regarding the application.
President Wolter closed the Public Hearing at 8:45 p.m.

NEW BUSINESS:

A. Tim & Robert Aiken, Property Owners, Application to Rezone Property at N120 W14454 Freistadt Rd; **Ordinance No**. -14 to Amend the Official Zoning Map of the Village of Germantown Zoning Code

MOTION Kaminski/Daniels) to approve the application as recommended, carried.

B. Tim & Robert Aiken, Property Owners, 2-Lot Certified Survey Map **(CSM)** for property at N120 W14454 Freistadt Road (Tax Key No. 144-989)

MOTION (Kaminski/Daniels) to approve as recommended, carried.

C. Karen Martinson, Operator and Agent for James Barry, Property Owner, W188 N11927 Maple Road Suite 10, Conditional Use Permit **(CUP)** No. -14 for Operation of an Indoor Recreation Center (the "Play Zone")

MOTION (Daniels/Warren) to approve the application as recommended, carried.

D. Kiwanis Club of Germantown – Addendum to Application for PUBLIC Grant Program – Coin Operator Machine License

MOTION (Hughes/Kaminski) to approve as requested. Discussion regarding GGF consideration of change to permitting for coin operated machines. **MOTION (Zabel/Kaminski) to postpone this item for review at General Government and Finance, carried.**

E. Fire Department Request to Purchase New Rescue Fire Engine

Fire Chief presented information on the request to purchase a new rescue fire engine. Discussion of items being reviewed for necessity, only 1 bid on this item, is all equipment needed included. **MOTION (Kaminski/Vanderheiden) to approve the purchase of the requested vehicle for a total cost of $771,062 condition on Attorney Sajdak's review and approval of the contract, by roll call vote, carried.**

NEW BUSINESS continued:

F. Selection of Donges Bay Road Pavement and Drainage Template Elements

Engineer Bischke presented information regarding this item. The item will be broken into four separate items with four separate motions.

Pavement thickness:

MOTION (Zabel/Kaminski) to adopt the mainline and EBS pavement thicknesses recommended in R. A. Smith National's PTSR, carried.

Drive Lane Width:

MOTION (Hughes/Warren) to adopt (two) 2 x 12' drive lane widths along the mainline. Trustee Zabel stated information he has stating two 11' lanes with two 6' shoulders are acceptable. Staff recommends 12' lanes. Discussion and concerns: 40 mph and drivers traveling a lot faster, higher speed more room needed, safety, road edge breakage over time reducing lane size, can consider lowering the speed. 11' standards could be lived with. **MOTION (Zabel/Kaminski) to amend the earlier motion to two 11' lanes on West of Pilgrim Road and two 12' lanes East of Pilgrim Road, to keep at the current footprint, replicating what is there.** Discussion: Trustee Warren stated this is the time, for the incremental cost to go the additional foot for safety reasons well worth the cost. Trustee Daniels – 12' is safer for our residents.
Engineer Bischke explained process in engineering. President Wolter – The road already there is working – good compromise to handle each section separately. Not experiencing accidents regularly. If there is a safety issue then lower the speed. Trustee Kaminski – I can support the 11' to make room for the path on the north.
Motion to amend, 5 in favor, 2 opposed (Warren, Hughes), carried.
Original motion as amended, carried.

Shoulder Width:

Engineer Bischke – Staff recommendation is for (two) 2 x 6' shoulder widths, 4' paved and 2' gravel, along the mainline. **MOTION (Vanderheiden/Zabel) gravel shoulder with a minimum of 2' and a maximum of 6' depending on the geographical design of what is there.** Discussion: shoulders currently inconsistent, gravel provides better run off, consistency easier for contractor and less costly for village, wider shoulder protects road from edge break down and extends longevity of road, protecting investment, wider shoulder provides ability for motorists to pull over. Discussion of options of various widths and widths in other areas. Attorney repeated motion and stated there seemed to be some confusion. Further discussion on width of pavement vs. width of gravel. **MOTION (Kaminski/Hughes) to amend the motion to 1' of pavement if it is a 2' minimum and 6' maximum, the remainder would be gravel.** Discussion of East and West and any difference, Pilgrim Road has sidewalk abutting pavement, bike path is right on road, asphalt is more of an impervious surface, provides better lateral support long term making it worthwhile. Road edge breakage reduced by the edge now being part of shoulder, extends life of road 5-10 years, also a safety issue when vehicles go off edge and have to come back on, difference in depth.
Motion to amend, 4 in favor, 3 opposed (Vanderheiden, Zabel, Wolter), carried. Original motion as amended, carried.

NEW BUSINESS continued:

Ditches:

Engineer Bischke – Staff recommends adopting 18" minimum depth, 4H:1V maximum foreslope, and 3H:1V maximum backslope. Allow alternative for ditch enclosures fronting resident parcels at resident expense, which shall require permits under Section 8.03 Driveways and Culverts of the Municipal Code.

Discussion of current ditch depth, French drains, possible options, necessity of localized changes in certain areas, possible requirement of storm sewers could require enhancement of some ditches by widening and deepening to the 18" with enclosed pipe in the road, depending on draining patterns – can't tell until design is complete. Concern of underdrains not doing the job necessary. **MOTION (Hughes/Daniels) to approve staff recommendation of 18" minimum depth, 4H:1V maximum foreslope, and 3H:1V maximum backslope. Allow alternative for ditch enclosures fronting resident parcels at resident expense, which shall require permits under Section 8.03 Driveways and Culverts of the municipal Code.** Discussion: concerns of complaints by residents about ditches, similar to others in Village. French drain options, draining highly problematic, need for design before determining where ditches needed. Possibility of holding a public information meeting to show options and recommendations after design complete. Discussion of road longevity in relation to ditches and drainage, no one wanting to change their ditch, possible failure of road. Trustee Kaminski suggested putting the saved money from not doing the ditches in a fund to pay for the road repairs later when it fails due to ditch issues. Discussion of cost to close the ditches, requirements of MMSD, results of this, water backup and spill over. **Motion, 2 in favor (Warren/Hughes), 5 opposed, motion fails.** It would stay as is based on that vote unless engineering needs a vote. Engineer Bischke suggested it be left to his discretion as to what needs to be done then present it to a public information meeting. **MOTION (Kaminski/Zabel) to leave ditches as they are or as close as they are as we proceed with the design process for the road.** Engineer Bischke stated he would have to violate that in some places due to design. **5 in favor, 2 opposed, (Hughes, Warren) carried.**

G. Donges Bay Road Pathways

Parks & Recreation Director Casperson – Recommendation from Park & Recreation Commission to include an 8' asphalt path separated by a grass terrace on the North of the road extending the entire section of the project and removal of the existing southern paths. Commission feels current pathway has deteriorating sections and areas causing safety concerns and fail to meet ADA standards. Discussion: Area to complete, historical site possibilities, width of path, land availability, current path location, speed of passing traffic, engineering possibilities, various uses of path necessitate width, question of path on both sides of road. **MOTION (Kaminski/Daniels) put a path on the north side, not less than 6' and preferably 8', going from Heritage to Pilgrim Road, carried.** Residents expressed other concerns, however the motion did not involve the items mentioned in these concerns.

NEW BUSINESS continued:

H. Recommend Award of Contract – R.A. Smith National to Convert Donges Bay Road Drawings from Facilities Development Manual to Local Standards

Engineer Bischke presented information regarding the contract and expressed concern of staff and timing to complete other Village projects. He will provide oversight on this project. Section IV, page 3 of the contract: Base contract is $16,700, add Items A+$1800, B+$2100, C+$2700 times 3 ($8,100), G+$3300, H+$4700, I+$6000 for a total of $42,700 and request rounding to $45,000 for the contract. We would not be doing Items D, E or F. President Wolter verified the plans are already 60% complete with Village paying for that based on STP funding etc. for a $270,000 cost, however those plans won't be used, but downsized. **MOTION (Kaminski/Daniels) to approve R.A. Smith National to convert the Donges Bay Road project, not to exceed $45,000, subject to Attorney Sajdak's review.** Trustee Zabel commented on timing of projects and workload. Engineer Bischke stated TID #6 work was phased into two projects, chart discussed only showed one phase. Trustee Kaminski expressed preference to retain our engineer on TID #6 and continue with R.A. Smith on Donges Bay Road project, who has already gone so far into this project. **Roll call vote, 6 in favor, 1 opposed (Zabel), carried.**

ADJOURNMENT

There being no further business, the meeting was adjourned at 11:06 p.m.

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Barbara K. D. Goeckner MMC/WCPC
Village Clerk