VILLAGE OF GERMANTOWN
VILLAGE BOARD
MEETING MINUTES
September 17, 2012

CALL TO ORDER: The meeting was called to order at 7:05 p.m. by President Wolter.

ROLL CALL: President Wolter, Trustees Baum, Daniels, Ewert, Hughes, Kaminski, Vanderheiden, Werderman and Zabel. Also present Administrator Schornack, Attorney Sajdak, Planner/Zoning Administrator Retzlaff, DPW Ludwig, Engineer Bischke, Deputy Fire Chief Maury and Deputy Clerk Micka.

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was recited.

PRESIDENT'S REPORT: President Wolter reported that he had attended the Life Church groundbreaking ceremony yesterday, along with Trustees Daniels and Vanderheiden. He provided background information on the agenda item amending Section 9.19 of the Municipal Code relating to the regulation of election campaign signs. President Wolter reported that the budget review for 2013 has started, and he welcomes input from residents and encouraged them to attend the meetings.

ANNOUNCEMENTS OF FORTHCOMING EVENTS OF PUBLIC INTEREST / COMMITTEE REPORTS: Trustee Zabel reported that the General Government and Finance Committee will meet Tuesday, September 18th at 5:00 p.m.; Trustee Ewert reported that the Public Works and Highways Committee will meet Tuesday, October 2nd at 5:00 p.m.; and Trustee Werderman reported that Public Safety Committee will meet on Monday, October 1st at 5:00 p.m.; Historic Preservation Commission will meet on Monday, October 15th at 6:00 p.m.; and the Fire Safety Fair is Saturday, October 6th from 10:30 a.m. to 3:30 p.m.

CITIZEN INPUT / PUBLIC APPEARANCE on items not subject to a public hearing:

The following spoke against approving changes to Section 9.19 of the Municipal Code relating to election campaign signs:

Sarah Larson, W159 N9737 Butternut Road;
Daniel Wing, N116 W16044 Main Street;
Terry Bessler, W157 N9780 Glenwood Road;
Lynn Schauer Bednarz, W156 N10121 Pawnee Ct; and
Lynnae Langmann, N99 W21950 Indian Parkway.

The following spoke in favor of approving changes to Section 9.19 of the Municipal Code relating to election campaign signs:

Kiernan Butz, W147 N10867 Heritage Parkway;
Lisa Laskowski, N101 W21628 Birch Lane;
Tom Lohr, Armada Drive; and
Joan Butz, W147 N10867 Heritage Parkway.

The following addressed the Board with comments and concerns regarding changes to Section 9.19 of the Municipal Code:

Curt LeSage, Jr., W174 N9802 Wendy Lane; and
Matthew Larson, W159 N9757 Butternut Road.

Andy Pelkey, N112 W21830 Mequon Road, addressed the Board regarding the agreement with Accurate Appraisals. He is a property owner in Germantown, is a software developer and owns Assessment Technologies along with Mike Grota. He requested the Board to postpone action on approval of the agreement with Accurate Appraisal until he has reviewed the assessment data he had requested.

CONSENT AGENDA:

A. **MINUTES:**
1. Regular meeting of August 20, 2012
2. Special Meeting of August 1, 2012

B. **ACCOUNTS PAYABLE/PAYROLL:**

1.	August 25, 2012	Accounts Payable	$1,177,074.61
2.	August 28, 2012	Payroll (hourly)	$ 216,680.88
3.	August 31, 2012	Payroll (salary)	$ 75,564.11
4.	August, 2012	Accounts Payable	$ 89,146.08

C. **OPERATOR (BARTENDER) LICENSES:**
1. New for the period ending June 30, 2013.
2. New application recommended for denial by the Police Chief.

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

D. **AWARD OF CONTRACT, FIRE STATION #1 – DRIVEWAY APPROACH.**

E. **TOWEL AND FLOORMAT CONTRACT AUTHORIZATION.**

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

F. **AMENDMENT TO “CLASS B” FERMENTED MALT BEVERAGE AND INTOXICATING LIQUOR LICENSE – KIM & JON LLC, D/B/A KJ’S BAR & GRILL – Outside Premise Extension on Saturday, September 29th Beginning at 2:00 pm., N112 W21209 Mequon Road, Kim Gamroth, Agent.**

G. **APPROVAL FOR REPLACEMENT OF GERMANTOWN FIRE DEPARTMENT UNIT 1785.**

H. **FIRE DEPARTMENT PURCHASE FOR NARROW BANDING, AND PAGER/RADIO/BATTERY.**

Motion Vanderheiden, second Ewert, to approve the Consent Agenda Items A through H.

Trustee Baum requested that Item C, Operator (Bartender) Licenses, be pulled from the Consent Agenda.

Trustee Kaminski requested that Item G, Approval for Replacement of Germantown Fire Department Unit 1785, be pulled from the Consent Agenda.

Roll call vote on Consent Agenda removing Items C and G:

Ayes: Baum, Daniels, Ewert, Hughes, Kaminski, Vanderheiden, Werderman, Zabel, Wolter.

Nays: None.

Motion carried. Ayes: 9. Nays: 0.

OPERATOR (BARTENDER) LICENSES: New for the period ending June 30, 2013 to: Sarah L. Bailey, Erin E. Coleman, Nicholas G. Doedens, John H. Flegiel, Alexander J. Gintner, Jayme L. Hoff, Jeffrey A. Jacobs, William R. Kroening, Jr., Vicki L. Linton, Stacy A. Maertz, Casey A. Mortl, Kayla T. Mulhern, Jennifer E. Murray, Jason W. Ohm, Janet L. Parkison-Miller, Annette C. Robenhorst, Jessica M. Schedler, Dona Schneidervin, Nicole M. Selsing, Jerry E. Truchan, Asif A. Vadsaria, Gary L. Vilar, Michael R. Weber, and Ashley A. Welnicke.
New application recommended for denial by the Police Chief: Kenneth Boivin.

The handout explaining the reason for the recommendation for denial of the license for Kenneth Boivin was reviewed by the Board.

Motion Baum, second Kaminski, to approve issuing Operator (Bartender) licenses for the 24 applicants and denial of the application for Kenneth Boivin.

Motion carried without negative vote.

APPROVAL FOR REPLACEMENT OF GERMANTOWN FIRE DEPARTMENT UNIT 1785: Deputy Fire Chief Maury reviewed the request to replace Unit 1785. The new vehicle replaces a 1995 Ford F50 and they are requesting the full $45,000. The Board stated that the approval is for the purchase of the vehicle only, and approval for the decals and lights will need to go to the Public Safety Committee for approval.

Motion Kaminski, second Baum, to approve the purchase for the replacement of Fire Department Unit 1785 at a cost not to exceed $31,478.

Roll call vote:

Ayes: Baum, Daniels, Ewert, Hughes, Kaminski, Vanderheiden, Werderman, Zabel, Wolter.

Nays: None.

Motion carried. Ayes: 9. Nays: 0.

APPOINTMENTS – COMMISSIONS/BOARDS/COMMITTEES:

***Library Board* -** Trustee Appointment

President Wolter recommended the appointment of Trustee Daniels to the Library Board.

Motion Zabel, second Vanderheiden, to approve the appointment of Trustee Daniels to the Library Board. Motion carried without negative vote.

Board of Review - 1 Citizen Alternate – 5 Year Term (no appointments).

Ethics Board - 1 Citizen Member – 3 year Term and 1 Citizen Alternate – 3 Year Term (no appointments).

Utility Advisory Committee - 1 Citizen Financial/Accounting Appointee – 3 Year Term and 1 Citizen Engineer/Mechanical Appointee – 3 Year Term (no appointments).

<u>NEW "CLASS A" FERMENTED MALT BEVERAGE AND INTOXICATING LIQUOR LICENSE – COLGATE GAS, INC., D/B/A COUNTY LINE BP, N96 W21962 County Line Road, Didar Singh, Agent:</u> ***Motion Hughes, second Baum, to approve the "Class A" Fermented Malt Beverage and Intoxicating Liquor License for Colgate Gas, Inc., d/b/a County Line BP.***

Discussion followed on the concerns that were brought forward from residents at the last meeting. The new owner addressed the concerns at the Public Safety Committee meeting, is renovating the building, owns another gas station, and pledged to be a good neighbor.

Lakhbis Singh, W150 N7248 Paseo Lane, Menomonee Falls, one of the owners, was present to answer questions from the Board. He stated they are doing major renovations, are installing extra cameras in the hallway, and that they will be good neighbors.

The Board questioned why there were not operator licenses for approval, and the owner stated that they will look for employees after approval of the license.

Deputy Clerk Micka questioned the motion brought forward from the Public Safety Committee with the contingency that if there are three liquor related violations before the license is up for renewal, there will be a recommendation to revoke the license.

Discussion followed on the conditions from the Public Safety Committee.

Motion Vanderheiden, second Ewert, to remove the condition of revoking the license after three liquor license violations. Motion failed. Ayes: 3. Nays: 6 (Baum, Daniels, Hughes, Kaminski, Zabel, Wolter).

Motion to approve the license as amended carried without negative vote.

Motion Ewert, second Zabel, to reconsider Ordinance **#19-12, adopted on August 20, 2012 amending Section 14.09 of the Municipal Code as it relates to temporary swimming pools.**

Trustee Ewert had made a motion at the last meeting that temporary pools be located 15 feet from the lot line, and since then has received phone calls asking for a compromise of ten feet.

Motion carried without negative vote.

Motion Vanderheiden, second Zabel, to move to New Business, amending Section 9.19 of the Municipal Code relating to regulation of Election Campaign Signs. Motion carried without negative vote.

<u>ORDINANCE – Amending Section 9.19 of the Municipal Code of Germantown Relating to the Regulation of Election Campaign Signs:</u>

The Board discussed the comments during Public Input; General Government & Finance Committee recommended approval of the changes in the ordinance; the amendment will not allow signs in right-of-way; and if adjacent property owners have the right to grant permission for campaign signs in right-of-way.

Motion Vanderheiden, second Baum, to adopt the ordinance amending Section 9.19 of the Municipal Code of Germantown relating to the regulation of election campaign signs.

A long discussion followed:

- DOT rules on signs in right-of-way;
- Guidelines for sign placement;
- Section 9.19(2)(f) regarding enforcement authority;
- Clarifying language in the ordinance;
- Possibility of a lawsuit;
- GIS Map information; and
- Sign provisions in Section 17.46 of the Zoning Code.

Attorney Sajdak discussed his recommendation to change the ordinance as presented. Village Code prohibits all signs, except for subdivision signs; if political signs are allowed in the right-of-way, then commercial signs could be allowed. He stated that permitting signs in right-of-way changes the character of the right-of-way, since it is public. He recommended that Section 9.19(2)(f) be changed to authorized Village personnel for enforcement authority. He stated that the best solution to all the confusion is that no signs are allowed in right-of-way.

Roll call vote:

Ayes: None.

Nays: Baum, Daniels, Ewert, Hughes, Kaminski, Vanderheiden, Werderman, Zabel, Wolter.

Motion failed. Ayes: 0. Nays: 9.

<u>PUBLIC HEARINGS:</u>

THE PURPOSE OF SAID HEARING IS TO HEAR ANY AND ALL PARTIES, THEIR ATTORNEYS OR AGENTS, FOR OR AGAINST THE APPLICATION FILED BY BECKY RAU, AGENT FOR RAO FARMS, LLC; BECKY AND KAILAS RAO, PROPERTY OWNERS, FOR A CONDITIONAL USE PERMIT FOR THE OPERATION OF A COMMERCIAL HORSE STABLE IN THE A-1, AGRICULTURAL DISTRICT PURSUANT TO SECTION 17.12(2)(DD) OF THE VILLAGE ZONING CODE, ON THE PROPERTY LOCATED AT N136 W21342 BONNIWELL ROAD (PARCEL ID #063-989).

Planner Retzlaff reviewed the application for a conditional use permit for a proposed commercial horse stable from Becky and Kailas Rao, property owners, on a 46 acre parcel at N136 W21342 Bonniwell Road. The adjacent 250 acres is owned by the Rau's, and access would be to and from Bonniwell Road. The application allows for up to 12 horses on the existing facility on the property. The permit would allow for boarding, training, and riding lesson. Concerns on manure disposal and storage were discussed, along with the number of animals, adequate supervision and security.

The Plan Commission recommended approval of the application subject to seven conditions. Mrs. Rau was present, and agreed to the seven conditions.

President Wolter declared the public hearing open at 9:00 p.m.

There being no-one present speaking either for or against the proposed conditional use permit, the public hearing was declared closed at 9:00 p.m.

PUBLIC HEARING:

THE PURPOSE OF SAID HEARING IS TO HEAR ANY AND ALL PARTIES, THEIR ATTORNEYS OR AGENTS, FOR OR AGAINST THE APPLICATION FILED BY DAVID KETTEMAN, AGENT FOR KOCH PIPELINE COMPANY LP, AND FLINT HILLS RESOURCES PINE BEND LLC, OPERATOR, AND WISCONSIN CENTRAL LTD., PROPERTY OWNERS, FOR A CONDITIONAL USE PERMIT FOR THE INSTALLATION AND OPERATION OF A 70' GRAVITOMETER COMMUNICATION TOWER ON A PORTION OF WISCONSIN CENTRAL LTD. RAILROAD RIGHT-OF-WAY PURSUANT TO SECTION 17.56(4)(B) OF THE VILLAGE ZONING CODE, ON THE PROPERTY LOCATED AT N96 W12730 COUNTY LINE ROAD (PARCEL ID #364-999).

Planner Retzlaff reviewed the application for a conditional use permit to allow for the installation and operation of a 70 ft. tall communication tower in the railroad right-of-way at approximately N96 W12730 County Line Road. Flint Hills Resources Wisconsin pipeline system originates from the Pine Bend refinery located in Rosemount, Minnesota, and delivers refined products including gasoline, diesel fuel and propane to locations throughout Wisconsin. This section of the pipeline system delivers products between bulk terminals located in Waupun and Milwaukee.

The tower is free-standing and mounted on a concrete pad adjacent to an existing equipment building located within a fenced enclosure within the railroad right-of-way. The purpose for the tower is to improve the transmission and communication of data about operating conditions in an existing gas pipeline located within the right-of-way via a remote warning "gravitometer" installed at this site and the Flint Hills Pine Bend LLC terminal in the Milwaukee area.

The Plan Commission recommended approval of the application subject to two conditions.

President Wolter declared the Public Hearing open at 9:05 p.m.

There being no-one present speaking either for or against the proposed conditional use permit, the public hearing was declared closed at 9:05 p.m.

CONDITIONAL USE PERMIT # 6-12 - For the Operation of a Commercial Horse Stable in the A-1 Agricultural District; Becky Rao, Agent for Rao Farms, LLC, Becky and Kailas Rao, Property Owners at N136 W21342 Bonniwell Road:

Motion Zabel, second Kaminski, to approve Conditional Use Permit #6-12 subject to the seven conditions.

Discussion followed on the conditional use permit requirements in the agricultural district and stormwater issues.

Motion to approve carried without negative vote.

CONDITIONAL USE PERMIT # 7-12 – For the Installation and Operation of a 70' Gravitometer Communication Tower on a Portion of Wisconsin Central Ltd. Railroad Right-of-Way; David Ketteman, Agent for Koch Pipeline Company LP, and Flint Hills Resources Pipe Bend LLC, Operator, and Wisconsin Central Ltd., Property Owners, at N96 W12730 County Line Road:

Motion Kaminski, second Ewert, to approve Conditional Use Permit #7-12 subject to the two conditions.

Motion Kaminski, second Ewert, to amend the motion to add condition #3 to state that if the facility is abandoned, they will have one year to remove the tower.

Discussion followed on a provision in the code for abandonment and removal of structures.

Motion to amend carried. Ayes: 8. Nays: 1 (Wolter).
Motion as amended carried without negative vote.

<u>CERTIFIED SURVEY MAP – Approval of a 2.57 acre, 1-lot CSM to combine lots in the Lannon Road Business Center on Kleinmann Drive; Paul Stangl, Agent for SCS LLC and Town Bank, Property Owner:</u> ***Motion Baum, second Zabel, to approve the Certified Survey Map.***

A long discussion followed on access on Maple Road, cross-access, where the sidewalk is installed, and if more information is needed prior to approval.

Attorney Sajdak reviewed the DOT restricted access on Maple Road. Discussion followed on if more research is needed by the Attorney and staff prior to approval.

Motion Zabel, second Baum, to amend the motion and direct the attorney to research the reason for removal of the easement, and final approval is based on the recommendation of the Village Attorney.

Motion to amend carried without negative vote.
Motion as amended carried without negative vote.

<u>APPROVAL OF AGREEMENT WITH ACCURATE APPRAISAL – Assessment Services</u>: ***Motion Zabel, second Ewert, to postpone action on the agreement with Accurate Appraisal for assessment services.***

Discussion followed on Mr. Pelkey's comments, Mr. Danielson from Accurate Appraisal should respond to these comments, and if this should be discussed by Committee.

Administrator Schornack and Attorney Sajdak gave the background on Mr. Pelkey's open records request for information regarding assessment data.

Motion to postpone carried without negative vote.

<u>2013 ROADS – SELECTION FROM GEOTECHNICAL REPORT FINDINGS</u>: Engineer Bischke reviewed the Geotechnical Engineering Report for prospective 2013 Road Improvement Projects. He noted that the findings were based on 114 borings and visual observation of existing pavement conditions. Staff recommended the projects in Table A, and the Public Works and Highways Committee reviewed the list of projects in Tables B – F. The Public Works and Highways Committee recommended the Cedar Lane project in Table B, all the projects in Table C, and all the projects in Table E.

Motion Kaminski, second Zabel, to approve the Cedar Lane project in Table B, and all projects in Tables C and E as capital items for 2013 at a cost of $1.2 million.

Roll call vote:

Ayes: Baum, Daniels, Ewert, Hughes, Kaminski, Vanderheiden, Werderman, Zabel, Wolter.

Nays: None.

Motion carried. Ayes: 9. Nays: 0.

APPROVAL OF AGREEMENT – Kleinmann Drive Road Project: ***Motion Zabel, second Ewert, to approve the Agreement for the Kleinmann Drive Road Project per the Village Attorney's recommendation.***

Discussion followed, noting this development is under foreclosure, a deal was worked out and negotiated with the bank, if the developers agreement is in effect, and control of the project. DPW Ludwig stated that the road was built in 2006, it was substantial, has moved and tore the pavement. He noted that completion of the project clears the area for future development. A long discussion followed on approval of the agreement.

Roll call vote:

Ayes: Baum, Daniels, Ewert, Hughes, Kaminski, Werderman, Zabel, Wolter.

Nays: Vanderheiden.

Motion carried. Ayes: 8. Nays: 1.

APPROVAL OF CHANGE ORDER – Addition of Kleinmann Drive to 2012 Roads:

Motion Kaminski, second Baum, to approve the Change Order for the addition of Kleinmann Drive to 2012 Roads.

Roll call vote:

Ayes: Baum, Daniels, Ewert, Hughes, Kaminski, Vanderheiden, Werderman, Zabel, Wolter.

Nays: None.

Motion carried. Ayes: 9. Nays: 0.

APPROVAL OF JOB DESCRIPTION FOR CIVIL ENGINEER AND AUTHORIZATION TO INCLUDE IN TECHNICAL/CLERICAL UNION AGREEMENT: ***Motion Ewert, second Kaminski, to approve the job description for the Civil Engineer position.***

Discussion followed on placing the position in the Technical/Clerical Union and the salary range for the position.

Roll call vote:

Ayes: Daniels, Ewert, Hughes, Kaminski, Vanderheiden, Werderman, Zabel, Wolter.

Nays: Baum.

Motion carried. Ayes: 8. Nays: 1.

Trustee Baum questioned the responsibility of maintenance for the median at the intersection of Wasaukee Road and Mequon Road, west of Wasaukee Road. He noted that there are significantly tall weeds that are not being cut. DPW Ludwig will check and report back to Trustee Baum.

An announcement was made that Oktoberfest will be held the weekend of September 29 and September 30 at Dheinsville Park.

There being no further business, the meeting was adjourned at 10:10 p.m.

Respectfully Submitted,

Christine M. Micka, CMC/WCMC
Deputy Village Clerk