

VILLAGE OF GERMANTOWN
VILLAGE BOARD MEETING MINUTES
JULY 15, 2013
VILLAGE HALL BOARD ROOM

CALL TO ORDER

The meeting was called to order at 7:04 p.m.

ROLL CALL

Members present: President Wolter, Trustees Daniels, Hughes, Kaminski, Vanderheiden, and Zabel. Members absent but arriving at a later time: Trustees Ewert and Werderman. Member absent and excused: Trustee Baum. Also present were Village Attorney Sajdak, Police Chief Hoell, Park & Recreation Director Casperson, Village Planner Retzlaff and Deputy Village Clerk Lofy.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

PRESIDENT'S REPORT

Nothing reported on at this time.

INFORMATION REGARDING PARADE OF HOMES SCHEDULE

Matt Neumann of Neumann Companies, Inc. presented information on the Parade of Homes event that will be taking place at Blackstone Creek August 17, 2013 through September 8, 2013. The hours for tours are from 12:00 p.m. until 5:00 p.m. on Saturday and Sunday and from 4:00 p.m. until 8:00 p.m. Monday through Friday during the event dates. Six homes located in a cul-de-sac at the north end of the development are open for tours. There is an admission charge for this event.

7:07 p.m. – Trustee Ewert arrived at this time.

An invitation was extended to Village Board members, Plan Commission members and Village staff to attend the preview night on Friday, August 16, 2013. Tickets will be dropped off at Village Hall for this event. The Parade of Homes is expected to attract between 10,000 and 15,000 visitors.

ANNOUNCEMENTS OF FORTHCOMING EVENTS OF PUBLIC INTEREST/COMMITTEE REPORTS

Trustee Zabel announced that General Government and Finance Committee would be meeting tomorrow night at 5:00 p.m. Trustee Ewert announced that the next Public Works and Highways Committee meeting would be on Tuesday, August 6, 2013 at 5:00 p.m.

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

No one spoke.

CONSENT AGENDA:

- A. MINUTES - July 1, 2013**
- B. ACCOUNTS PAYABLE/PAYROLL**
 - 1. June 2013 Accounts Payable \$ 28,909.32
 - 2. July 2, 2013 Payroll (hourly) \$226,664.28
 - 3. July 10, 2013 Accounts Payable \$903,215.23
 - 4. July 15, 2013 Payroll (salary) \$ 76,902.13
- C. OPERATOR LICENSES: JULY 16, 2013 – JUNE 30, 2014**
 - RENEWAL APPLICANTS:** Tammi J. Perkins and Isaac W. Weins
 - NEW APPLICANTS:** Janelle L. Wilson, Andrew J. Astin, Amanda R. Harder, Patrick S. Okeefe, David Kamine and Mike J. Sebern

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

- D. APPROVAL OF DANCE LICENSE AND REQUEST TO WAIVE FEE – GERMANTOWN HISTORICAL SOCIETY FOR OKTOBERFEST – DHEINSVILLE PARK, SEPTEMBER 28 & 29, 12:00 P.M. TO 11:00 P.M.**
- E. APPROVE REQUEST TO FILL VACANCY FOR OFFICER/DETECTIVE – POLICE DEPT.**
- F. APPROVE REQUEST TO REPLACE THE GAS TANK CONTROL SYSTEM – POLICE DEPT.**

Trustee Zabel requested to pull item E.

Motion by Vanderheiden, second by Ewert to approve the Consent Agenda through item F excluding item E.

Roll call vote was taken, all present voted aye. Motion carried.

Item E. APPROVE REQUEST TO FILL VACANCY FOR OFFICER/DETECTIVE – POLICE DEPT.

Police Chief Hoell explained how the detective vacancy will be filled after the retirement of the person currently in that position. With the authority of the Police and Fire Commission, the Police Chief can promote a patrol officer to this position. This promotion will create a vacancy in the patrol officer area. This will cause the department to look into hiring another patrol officer.

Motion by Zabel, second by Vanderheiden to fill the vacant patrol officer position caused by the promotion of one patrol officer to the vacant detective position.

Roll call vote was taken, all present voted aye. Motion carried.

7:14 p.m. – Trustee Werderman arrived at this time.

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).

PUBLIC HEARINGS – 7:00 P.M. OR LATER (continued)

NON-RENEWAL HEARING FOR THE BEAR, INC., d/b/a THE QUILTED BEAR, N111 W18611 MEQUON RD, GERMANTOWN WI 53022 "CLASS B" FERMENTED MALT BEVERAGE AND INTOXICATING LIQUOR LICENSE

The Public Hearing was opened at 7:14 p.m.

Village Attorney Sajdak explained why this non-renewal hearing was taking place for The Quilted Bear. He said that a change in agent at a prior meeting brought up the question of eligibility for this license. This hearing was precautionary, in case the Village Board did not allow renewal of this "Class B" license for The Quilted Bear. Terms and conditions for this license could also be discussed during this hearing.

At this time, Village Attorney Sajdak swore in the following people for the hearing – Michael Rohr (court ordered receiver for The Quilted Bear), Tom Kohl (broker with Boerke Company), Dean and Kathy Kohnke (owners of The Quilted Bear) and Michael Schuman (legal counsel for Dean and Kathy Kohnke). He then proceeded to question Attorney Rohr to confirm that he received a copy of the complaint and that the information contained in it was correct. Attorney Rohr confirmed that he had received the complaint and the information was correct.

Attorney Rohr stated that he was appointed by a Washington County judge on June 7, 2013 to be the receiver for The Quilted Bear and to assist in the sale of it. On June 20, 2013 he talked to Tom Kohl to list the property with the Boerke Company. The Quilted Bear has had three showings in the last three weeks; the first offer came in today.

Attorney Rohr went on to explain the importance of issuing a "Class B" license to The Quilted Bear even though it has been closed since last November. The best use of this property is as a bar, restaurant and banquet facility which needs this license. A Google search only produced two other banquet facilities in Germantown, Bubs and The American Legion Hall. The Quilted Bear is a unique facility that has been in the community since the early 80s. If the license for The Quilted Bear was not renewed it would shrink the pool of prospective buyers and make a sale very difficult. State Statute allows for eligible license renewal in this situation. In a sale situation the establishment can keep the current license and apply for one renewal with Village Board approval. The Public Hearing was closed at 7:25 p.m.

**BETH BURGER, AGENT FOR STEVEN A. DAHLKE, PROPERTY OWNER:
CONDITIONAL USE PERMIT APPLICATION FOR THE OPERATION OF A CHILD
DAY CARE FACILITY FROM A PORTION OF THE EXISTING OFFICE BUILDING
LOCATED AT W172 N13050 DIVISION ROAD PURSUANT TO SECTION 17.09(3) OF
THE VILLAGE ZONING CODE.**

Village Planner Retzlaff presented information on the proposed Conditional Use Permit. The day care would be allowed a maximum of 26 children with 5 staff members. The hours of operation would be 6:00 a.m. until 6:00 p.m., Monday through Saturday. Some interior remodeling and exterior improvements would be required. This facility would also need to be licensed by the Wisconsin Department of Children and Families. Permits and inspections would be required by the Village for work done on the facility. Plan Commission recommended fifteen parking stalls for the day care facility. The parking lot would also need striping and arrows painted for better traffic flow. Plan

PUBLIC HEARINGS – 7:00 P.M. OR LATER (continued)

Commission has recommended approval with conditions.

The Public Hearing was opened at 7:33 p.m.

Pat Josten, W172 N12882 Division Road, appeared in front of the Board. He stated that he owns property to the north and a home to the south of this location. He was for granting the Conditional Use Permit.

The Public Hearing was closed at 7:37 p.m.

UNFINISHED BUSINESS:

RENEWAL OF “CLASS B” FERMENTED MALT BEVERAGE AND INTOXICATING LIQUOR LICENSE FOR THE BEAR, INC. MICHAEL ROHR, AGENT, 975 SATINWOOD COURT, BROOKFIELD WI 53005_D/B/A THE QUILTED BEAR, N111 W18611 MEQUON ROAD, GERMANTOWN, WI 53022. (includes outside porch, gazebo, grass and path approximately 275 ft. x 4 1ft. around the pond to be open until 10:00 p.m.)

Motion by Vanderheiden, second by Kaminski to renew the “Class B” Fermented Malt Beverage and Intoxicating Liquor license for The Bear, d/b/a The Quilted Bear, N111 W18611 Mequon Road, Germantown, WI 53022.

Discussion:

- Renewal is for one license period
- Renewal is in question because the license is not in use, others have had it revoked for this
- Last regular “Class B” license available

Motion by Werderman, second by Daniels to amend the motion to remove the parking area from the included licensed area per discussion and approval at the Public Safety Committee meeting.

Discussion:

- Some parking lots are licensed for the purpose of smoking areas
- Smoking areas need to be designated with chains, signage, etc.
- Parking lots could be licensed for larger events
- Any outdoor extension is only allowed until 10:00 p.m. per Village ordinance
- Any new owner of this property would need to reapply for the liquor license and what areas they wanted to license
- Licensing the whole parking lot is too big of an area
- Allow the whole parking area to be licensed now, buyer would look at it as easier to license in the future
- All options should be left open for successful sale of the property
- Can always narrow down the description on a new license application
- This could be misleading that the whole parking lot can be licensed and later the area would have to be sized down
- This parking lot has a single point of access with no other businesses close by
- Drinking in the parking lot has not been a problem in the past

Vote was taken to amend the motion.

Daniels, Hughes, Werderman and Zabel voted aye. Ewert, Kaminski, Vanderheiden and Wolter voted nay. Motion to amend dies, parking area stays in licensed area.

Discussion:

- Cannot change term of license, approved license would be for the whole licensing period
- Any outdoor extension needs to end at 10:00 p.m. per Village ordinance

Vote was taken on the original motion.

All present voted aye, excepting Hughes nay. Motion carried.

NEW BUSINESS:

BETH BURGER, AGENT FOR STEVEN A. DAHLKE, PROPERTY OWNER: CONDITIONAL USE PERMIT FOR THE OPERATION OF A CHILD DAY CARE FACILITY FROM A PORTION OF THE EXISTING OFFICE BUILDING LOCATED AT W172 N3050 DIVISION ROAD PURSUANT TO SECTION 17.09(3) OF THE VILLAGE ZONING CODE.

Motion by Hughes, second by Ewert to approve the proposed Conditional Use Permit.

Beth Burger answered questions from the Board on designating day care parking, the other business located on the property, lighting and other possible hazards. Village Planner Retzlaff also answered questions on safety

Discussion:

- Signage will be added for parking for day care and parking for the machine shop
- Sidewalk to the proposed day care entrance is hidden
- Heavy trucks from the machine shop and the flow of traffic could be hazardous with children around
- A stop sign could be added to make the flow of traffic better
- Lighting is limited, new lighting is not required

Motion by Werderman, second by Kaminski to amend the motion by adding a condition to the Conditional Use Permit to add more lighting to the building or on a post with Village staff to approve the plan for lighting.

Beth Burger stated that adding more lighting would not be a problem. She was also looking at removing trees that blocked the view of the sidewalk to the entrance of the proposed day care.

Vote was taken to amend the motion.

All present voted aye. Motion to amend carried.

Vote was taken on motion as amended.

All present voted aye. Motion carried as amended.

**Motion by Zabel, second by Werderman to move to item I. under New Business.
All present voted aye. Motion carried.**

RELEASE AND AMENDMENT OF LAND COVENANTS AND COVENANTS AND RESTRICTIONS RELATED TO AND FOR LOTS 14 & 15 OF CSM NO. 5805 (TAX KEY NOS. GTNV 253-986 & 253-987) AND THE GERMANTOWN BUSINESS PARK.

Village Attorney Sajdak explained the estoppel certificate presented to release land covenants and deed restrictions on Lots 14 and 15 in the Germantown Business Park. This came about after the Village agreed to certain incentive packages for TCI which may have triggered a land purchase by Waste Management. Any company purchasing land would want to know what they can and cannot do with it. Waste Management would like to see any agreements and issues covered. This would also clean up titles to these Lots.

Motion by Zabel, second by Vanderheiden to approve the estoppel certificate and the release of land covenants and deed restrictions on Lots 14 and 15 in the Germantown Business Park.

All present voted aye. Motion carried.

**Motion by Zabel, second by Vanderheiden to move to item F. under New Business.
All present voted aye. Motion carried.**

EAB (EMERALD ASH BORER) PRESENTATION BY DNR

Olivia Witthun from the DNR appeared before the Board to present information on the Emerald Ash Borer (EAB) and its effect on the Village of Germantown. Areas all over the state are becoming infested and the Village is five miles from a known infestation. This beetle's larva kills ash trees by burrowing into the tree and stopping the vascular movement inside the tree. At last count in 2007, the Village of Germantown had 817 ash trees in public areas. These trees would cost about \$375,500 to remove and replace. This does not account for privately owned ash trees in the Village. In 2012, \$80,000 was budgeted by the Village for forestry. The signs of an infestation are not usually seen until four years after the beetle has arrived. After seeing the signs ash trees will start to die at the eight year mark. Signs of an infected tree include a thin upper crown, sprouts, bark cracks, "S" shaped tunnels in the tree and woodpeckers around the tree. Failure to prepare for the arrival of the beetle will cost more as dead trees become liabilities. Humans moved the beetle through contaminated firewood. As more trees become infected, cost of removal and replacement will go up. Options to deal with the beetle are as follows - waiting until the tree dies and removing it, removing and replacing a few ash trees at a time or injecting trees to protect them. It is important to replace removed trees to keep the benefits of the trees to the Village. The Village should also look at not planting more than 10% of any certain type of tree to help protect from future outbreaks. Discussion:

- 20% of the public trees in the Village are ash
- Most of the public ash trees are between three and eight inches in diameter
- Treatments for the Emerald Ash Borer work

Discussion: (continued)

- Need to decide if you want to treat trees or remove them
- Each community decides how they want to deal with this
- Any wood needs to be sold and burned locally
- Washington County wood is quarantined
- Should treat trees before they are infected
- Can treat trees with soil drench, systemic treatment or bark spray

**Motion by Zabel, second by Kaminski to move to item G. under New Business because it also includes Olivia Witthun from the DNR.
All present voted aye. Motion carried.**

TREE CITY USA GROWTH AWARD

Olivia Witthun from the DNR presented the Village with multiple awards, street signs and a flag. The Village received these items for being a Tree City for ten years and for qualifying for the Village's first Growth Award by holding TreeStock. The Village also qualified for these awards by having someone designated to care for the trees, spending \$2 per capita on this and having an Arbor Day celebration or proclamation.

**Motion by Werderman, second by Daniels to move to item E. under New Business.
All present voted aye. Motion carried.**

CONSIDERATION OF ANIMAL FANCIER'S LICENSE – JULIE PETERSEN, W204N11367 HILLTOP DRIVE

Trustee Werderman, Chairperson of the Public Safety Committee, asked Trustee Daniels to explain the background of this issue. Trustee Daniels stated that no one was present at the June Public Safety Committee meeting to speak for or against issuing this license. This license was back at the July Public Safety Committee meeting so proper notice could be given to neighbors of this address and again no one appeared. The Public Safety Committee approved the license both times including a condition that she could not add any additional cats.

Discussion:

- She was made aware that she needed an animal fancier's license a while ago, what took so long for her to get one
- She had to satisfy conditions from the first license approval including licensing, spaying or neutering and regular vet visits for each cat
- No one wants to live next to 16 cats
- More cats are seen in the neighborhood, not sure if they are her cats
- Should not deny the license after she met the conditions placed on it
- Should look at the Animal Fancier's license itself not one person's situation
- This license is only good for the cats she currently has, cannot replace them after death
- This was an ongoing process including multiple contacts with Petersen, a citation and court

Motion by Zabel, second by Hughes to approve the Animal Fancier's License for Julie Petersen with original conditions and to add the following conditions, no additional cats over the current 16 and no replacement of cats when they die. All present voted aye, excepting Ewert and Vanderheiden nay. Motion carried.

Motion by Hughes, second by Zabel to move to item C. and D. under New Business.
All present voted aye. Motion carried.

JIM SEDGWICK, VJS DEVELOPMENT GROUP LLC, AGENT FOR GERMANTOWN COMMERCE CENTER LLC, BLACKSTONE CREEK DEVELOPMENT AT N112 W17300 MEQUON ROAD: (1) REVIEW AND ACTION ON A RESOLUTION TO AMEND THE BLACKSTONE CREEK PLANNED DEVELOPMENT DISTRICT (PDD) GENERAL DEVELOPMENT PLAN & CONDITIONS & RESTRICTIONS; (2) 2-LOT CERTIFIED SURVEY MAP APPLICATION TO CREATE A SEPARATE PARCEL IN THE SHOPS AT BLACKSTONE CREEK.

Village Planner Retzlaff presented information on two amendments to the Planned Development District which included a reduction in commercial buildings from seven to six and a new General Development Plan that shows, among other things, a funeral home parcel. Also included was a Certified Survey Map to divide a 9.5 acre parcel in the "Shops at Blackstone Creek". Plan Commission approved all of the above with conditions.

Motion by Zabel, second by Hughes to approve the two amendments to the Planned Development District and the Certified Survey Map with included conditions.

All present voted aye. Motion carried.

JIM SEDGWICK, VJS DEVELOPMENT GROUP LLC, AGENT FOR RIVER LANE HOLDINGS LLC AND DONALD STYLER, PROPERTY OWNER AT W177 N11656 PRESTWICK COURT: (1) REVIEW AND ACTION ON A RESOLUTION TO AMEND THE BLACKSTONE CREEK PLANNED DEVELOPMENT DISTRICT (PDD) GENERAL DEVELOPMENT PLAN & CONDITIONS & RESTRICTIONS; (2) A CERTIFIED SURVEY MAP TO REMOVE UNIT 68 FROM THE GLEN AT BLACKSTONE CREEK CONDOMINIUM.

Village Planner Retzlaff presented proposed Planned Development District changes including lowering the number of condos from 62 to 61, adding one single family lot to go from 74 to 75 lots, removing a portion of the trail and making changes to architecture design. Plan Commission approved the changes except for deleting the portion of the trail. They also made other modifications. The Certified Survey Map was also approved through Plan Commission with minor technical changes.

Motion by Zabel, second by Hughes to approve all of the Planned Development District amendments as modified by Plan Commission including adding the deleted portion of the trail back in and also to approve the Certified Survey Map with minor technical changes which includes showing the easement for the pedestrian path.

Discussion:

- Easements can be shown on Certified Survey Map
- Path is shown on master plan

Vote was taken on motion.

All present vote aye. Motion carried.

Motion by Zabel, second by Vanderheiden to move to item H. under New Business.

All present voted aye. Motion carried.

CONSIDERATION OF VILLAGE STREET TREE PLAN

Park & Recreation Director Casperson presented information designed to be given out to developers and homeowners to recommend where to plant trees to avoid obstructions such as driveways and utilities. This plan was developed by Wachtel Tree Service and approved at the May 15, 2013 Park & Recreation Commission meeting.

Motion by Daniels, second by Zabel to approve the proposed Village Street Tree Plan.

All present voted aye. Motion carried.

At this time the Board moved to the last open session item on the agenda, item B. under New Business

TARANTINO & COMPANY LLC, AGENT FOR GABLES OF GERMANTOWN I LLC, PROPERTY OWNER: A 2-LOT CERTIFIED SURVEY MAP (CSM) TO CREATE A SEPARATE PARCEL IN THE GABLES OF GERMANTOWN LOCATED AT N109 W17075 AVA CIRCLE

Village Attorney Sajdak stated that local code is different than the State Statutes that govern this issue. State Statute requires a subdivision plat when creating five 1.5 acre lots at one time or five 1.5 acre lots in five years on the same property. Local code is even more restrictive than this. Due to these restrictions, the requested Certified Survey Map to create a separate parcel should be rejected and a subdivision plat should be created.

Motion by Zabel, second by Werderman to reject the proposed Certified Survey Map and direct the creation of a subdivision plat following the requirements of Village code.

All present voted aye. Motion carried.

Discussion:

- A subdivision plat requires a more extensive review and more time
- Creating the separate parcel is probably done for financing reasons
- They need to follow a different process but they can still accomplish what they want
- Creation of the lot was by Certified Survey Map so now it needs a subdivision plat to divide again
- Was split into three lots and a road equaling four divisions in 2011

POTENTIAL LAND SALE AGREEMENT(S) IN AND RELATED TO THE GERMANTOWN BUSINESS PARK. THE VILLAGE BOARD MAY ENTER INTO CLOSED SESSION AS PER WIS. STAT. §19.85(1)(e) FOR THE PURPOSE OF DELIBERATING OR NEGOTIATING, WHEN COMPETITIVE OR BARGAINING REASONS REQUIRE A CLOSED SESSION AND THEN MAY RE-ENTER OPEN SESSION TO TAKE SUCH ACTION AS IT DEEMS APPROPRIATE

Motion by Zabel, second by Ewert to adjourn into closed session per the above State Statute, including the land sales representative and excusing Deputy Clerk Lofy.

Roll call vote was taken, all present voted aye. Motion carried.

The meeting was adjourned into closed session at 9:44 p.m.

Respectfully submitted,

Christa Lofy
Deputy Village Clerk

Upon re-entering open session, Motion made by Zabel and Seconded by Hughes to approve a letter of intent for Lots 1 & 3 subject to legal review and approval, and to authorize the Village President and Clerk to execute the same. All ayes on roll call vote.

K. Motion to go into closed by Zabel, seconded Hughes, all ayes on roll call vote. Into closed at 10:31.

Motion by Zabel, seconded by Hughes to adjourn directly from the closed session. Motion carried by voice vote with all voting aye. Adjourn at 10:40.

Brian Sajdak
Village Attorney