

TOWN OF EAGLE  
REGULAR TOWN BOARD MEETING  
JANUARY 21, 2004  
MINUTES

Mr. Wilton called the meeting to order at 8 p.m. The Pledge of Allegiance was recited.

Present: Wilton, Burton, Malek, Orchard, Kwiatkowski. Also present: Atty. Adelman, Treasurer Pasterski, Clerk McMillan.

Minutes- Motion by Wilton, seconded by Malek to approve the minutes from December 17, 2003, as presented. Motion carried.

Clerk's Report- A bartender's license application was received from Eagle Spring Pub for Angela Kowalski. Results from background check have not yet been received. Motion by Burton, seconded by Orchard that the license be granted when the proper documentation for the background check is complete. Motion carried. Town newsletter will be sent out first week of February.

Treasurer's Report- December receivables were \$2,974,526.44. Total held in all accounts as of 12/31/03 was \$3,323,595.94. Reserve at the end of 2003 was \$230,261. Total Town expenses for 2003 were \$1,033,100, which is 97.9% of the budgeted amount of \$1,055,245. Motion by Burton, seconded by Kwiatkowski that the treasurer's report be accepted as presented. Motion carried.

Claims- Claims totaling \$2,827,540.05 were reviewed. Motion by Burton, seconded by Malek that the claims be paid. Motion carried.

Sheriff's Dept.- Mr. Wilton explained the State Dept. of Transportation responded to the letter sent from Capt. Ruff with the Sheriff's Dept., regarding the increase in accidents on Highway 67 at the CTH ZZ intersection. This area is not currently scheduled for improvements for the next six-year period, however the DOT will look at the issue in February.

Library- No report.

Village of Eagle Issues- Mr. Wilton stated he attended the Village meeting held last week, and he believes some of the comments made there were not accurate. He went on to give some of the history of Town and Village relations, followed by an explanation of the current issues. With respect to the Village well site and annexation, he pointed out that the Town Board tried desperately to resolve the matter before it got to court. He added that the Town Board never had any intent to prohibit the Village people from having safe water, but the annexation issue was a problem because the property is located 1 ¼ miles out of the Village, and is not contiguous to the Village border. He stated that the Village Board was approached and presented with the alternative not to annex the 40-acre well property, but instead that a Conditional Use Permit could be granted to allow the well. Village officials turned that idea down and the annexation occurred. The lawsuit followed. During joint meetings set up to try to settle the case, discussions were held about establishing a well agreement as a safeguard for the private wells near the Village's well, as well as a border agreement. Mr. Wilton went on to say that the minutes show that at the April 7, 2003 joint meeting, both boards agreed to the border agreement, but since then things have gone sour. The Village Board subsequently decided not to sign the agreement, apparently upon the advice of their attorney, causing the Town Board to pursue further legal action. Regarding the salt and sand shed, Mr. Wilton stated that the Village has been allowed to use the Town's shed, which represents a huge Town investment, for many years with no monetary compensation. Action was taken to disallow that use by the Village after February 28, which Mr. Wilton explained was not to be mean, but to draw attention. He added that there are many other issues bothering him and many other people, which he will not dwell on at this time. A mediation meeting has been scheduled for January 26 at 6:30 p.m., and his opinion is that if both the Town and Village Boards are willing to give and take, the issues could be resolved quickly. Regarding the recent petition drive, Mr. Wilton stated that this was not done by the Town Board, nor by Town residents. Figures were supplied to some Village residents at their request, and this was acknowledged at the bottom of the information sheet that was given to those residents. He went on to say the well issue has brought all kinds of issues, and shouldn't have happened. He reiterated that there can be resolution at the mediation if there is give and take by both sides. But the Town Board had to take a position and will stand by it, going back to court, including higher courts, if necessary. Their position was don't annex the land, and the Village can have the water, or

annex the land, but give the Town a border agreement. The proposed border agreement still allowed for approximately 300 acres of expansion of the Village, although Mr. Wilton questioned whether there would be enough water for everyone, even with the limits on growth. The floor was then opened to questions and comments. Village Trustee Dan Rockteacher, 133 Eagle Street, spoke to say that the proposed well agreement has been given to Mr. Wilton, but it can't be enforced until the Village Board hears from SEWRPC regarding the impact study. Mr. Wilton responded that it should have been completed in September, but he has not seen a completed agreement, approved by the Village Attorney and ready for signing. He added that he appeared to at a Village Board meeting to inquire about this, but there was conflict about his right to speak there. Atty. Adelman explained that due to the wording of the agreement, it was not necessary to wait for the results of the study in order to complete it. Steve Muth, S105 W37110 Estates Drive, stated that he has been at several meetings, including the meeting where the border agreement was made. He believed when that meeting ended, that it was a done issue, and that the agreement would be signed. He is fearful of the impact of the Village well. The petition to dissolve the Village also worries him, and he encouraged the boards to resolve their differences. Village President Richard Spurrell, 301 South Street, agreed that the Village and Town need to work together, and clarified that after a Village Trustee questioned his right to speak, Mr. Wilton was eventually offered the floor at the Village Board meeting discussed earlier. David Ferraro, S89 W34527 Eagle Terrace, inquired if the board has completed a study to find out what it would mean financially if the Town and Village were to join together. Mr. Kwiatkowski explained that a rough study was done a year or so ago, to see if it would be in the Town or Village's interest to combine and become one municipality, but there didn't appear to be much interest at the time. Regarding the current petition, he stated his view is that it would be premature for the Town to spend the money to do an in-depth study of combination, until it is known what will happen with petition that is being driven by the Village residents. He also clarified that he believes the issue is not the well, but the annexation, which could be a springboard for further annexations which basically reduces the Town's tax base and square miles. Mr. Wilton then explained about Village jurisdiction for 1 ½ miles around their land, and that the border agreement agreed upon would have put the jurisdiction only around the Village center hub, not around the 40 acre well site. Arvy Rasmussen, S98 W36830 Hearthwood Lane, had concerns about the annexation, doesn't want to be part of the Village, and is worried about having water once the Village wells are operating because he has a shallow well. Ron Bowles, S98 W36745 Hearthwood Lane, commented on the agreement struck in the Village of Dunn with all of the landholders in the area, purchasing the development rights, which worked well. He thinks that the Town needs to impede the growth so we don't run out of water. Steve Muth made the point that he was at the Village meeting when the land was being annexed, and raised his hand, but could not get called on until after the vote was taken and the land was annexed. He asked if the water would be blended with water from the existing wells, and was told that it was being looked at, but he has now heard that the existing wells are going to be capped. Village President Spurrell stated that blending is still being looked at, and if funds are available the water will be blended. Mr. Malek stated that he has been a Town resident for almost 30 years. He was concerned when he witnessed the effect of last summer's drought on water levels in ponds as well as the effect on the wetlands, and the Village wells reinforce his concern. He is also concerned for the residents in that area whose shallow private wells are feeding off the same aquifer. Mr. Wilton inquired of the Village Board members present as to the extent of the use of decorative block and the landscaping plan for the well site, to which Mr. Rockteacher replied what is there is it; there were cuts made.

Fire Department/Fire Commission- Atty. Adelman distributed copies of the preliminary rewrite of the changes to the ordinance regarding makeup of the Fire Commission to the board. Motion by Kwiatkowski, seconded by Burton to table. Motion carried.

Lake Management/Lake Patrol – Tom Day explained the reason for the public hearing to be held jointly with the Town of Mukwonago and Waukesha County on February 4. It is part of the process which would allow the hazard rating for dam failure in the Lake District to change. This would allow the district to make a smaller emergency spillway. If the change is approved, projected dam failure break elevations would need to be incorporated into Town ordinances. The Town Engineer will be at the hearing to explain further. The Lake District would have 10 years from the time of adoption to comply with the requirements of the rating. The Lake District is pursuing a chemical treatment plan for 27 acres on the lake. The Town of Troy has approved the sale of their patrol boat to the Town of Eagle.

Park & Recreation- Copies of the year-end Park & Rec budget report were distributed for review.

Business Park- No report.

Garbage/Recycling- No report.

Roads- Mr. Wilton reported that Lewin Lane is still shown on some records with two names. Because of this error, sealcoating of this road was not completed. It must be corrected by resolution. Mr. Kwiatkowski will check the DOT's data on this road. Also, Godfrey Lane should be designated as Godfrey Lane East and Godfrey Lane West. There have been problems with locating certain properties due to use of only one name on this curved road. Motion by Kwiatkowski, seconded by Burton to approve both changes. Motion carried. Mr. Burton reported that 18 culvert permits and 45 utility permits were issued in 2003, for which \$4095 in fees were collected.

Driveway Request: Lot 60, Eagle Terrace- Robert Widowski was present to request that a second entrance/horseshoe driveway be allowed at his new home, which is planned for construction in Eagle's Aire subdivision. The purpose for the horseshoe driveway basically for convenience, due to the distance from the garage to the front door. Motion by Wilton, seconded by Malek that the request be granted. Motion carried. It was clarified there will only be one culvert permit fee charged.

McMiller Sports Center: Shoreland Health & Safety Issues- Brian Rudy was present to discuss lead cleanup/lead testing program as a part of the zoning permit for the proposed bullet catcher at the McMiller facility. Mr. Rudy pointed out this was promised to the residents six years ago. Since the DNR has not acted on this matter, he thought it might be appropriate for the Town to go ahead with it. A price range of approximately \$4000 – \$10,000 was given by a local company for the development of a plan for a lead testing program. Paul Sandgren, Supt. of the Southern Unit of the Kettle Moraine State Forest, was present and stated that he is putting together a project request to develop a lead management plan and also to do some cleanup with state funds. Mr. Kwiatkowski questioned the priorities of the DNR, due to the expansion of the 300-yd.-range project being funded before taking care of the lead programs. Discussion followed regarding the standards for lead in soil. Atty. Adelman stated she has been researching lead violations at other gun ranges and the serious health risks of lead in groundwater. Motion by Kwiatkowski, seconded by Malek to direct the Town Attorney to send a letter to the DNR asking that they move forward on cleaning up and eliminating the hazard they have created at the gun range before they complete the 300-yd. range. Motion carried. Ideas and informational brainstorming regarding conditions for the proposed installation of a proposed bullet catcher/safety baffle will be discussed at the February Planning & Zoning Commission meeting. Mr. Orchard suggested that the company that leases and operates the McMiller range could also be asked to pay for the cleanup.

Attorney's Report- Copies of the latest motion from the Village of Eagle's attorney regarding Eagle v. Eagle were distributed for the board's review. Atty. Adelman has filed the Stiglitz appeal brief with the Court of Appeals. The Town should be receiving \$32,800 soon from the Geilfuss forfeiture for zoning violations.

Chairman's Report- Mr. Wilton reported a Towns Association meeting is scheduled for January 28 at 7 p.m. A mediation meeting with the Village Board will be held on January 26 at 6:30 p.m. Three Planning & Zoning meetings are scheduled for February 2 and 4.

Closed Session- Motion by Kwiatkowski, seconded by Malek to go into closed session pursuant to Sec. 19.85(1)(g) Wis. Stats. to confer with legal counsel concerning strategy with respect to Eagle v. Eagle litigation/mediation. Roll call vote was taken: Wilton- yes, Burton- yes, Malek- yes, Orchard- yes, Kwiatkowski- yes. The motion carried.

After the board reconvened into open session, a motion was made by Kwiatkowski, seconded by Burton to adjourn. Motion carried at 10:23 p.m.

Respectfully submitted,

Sally McMillan  
Town Clerk