

TOWN OF EAGLE
REGULAR TOWN BOARD MEETING
SEPTEMBER 17, 2008
APPROVED MINUTES

Chairman Kwiatkowski called the meeting to order at 7:30 p.m. and led the Pledge of Allegiance.

Present: Chairman Kwiatkowski; Supervisors Malek, West, Davis and Rasmussen. Also present: Treasurer Pasterski, Clerk Pepper, Fire Chief Heim, Attorney Anderson, and Sergeant Nork.

Minutes- Motion by Supervisor Davis, seconded by Supervisor West to approve the minutes of August 18, 2008. Upon voice vote, motion carried. Motion by Supervisor Malek, seconded by Supervisor Rasmussen to approve the minutes of August 20, 2008 with two corrections. First, to add under Citizens Comments, Mr. Steve Muth and his comments regarding Knucklefest and two, under Weed Commissioner to reword a portion of the second to last line to read “and he continues to look for someone to do the cutting”. Upon voice vote, motion carried.

Clerk's Report- Clerk Pepper reported that the Gypsy Moth Training will be held in Brookfield on Thursday, September 18, 2008 from 9:00 am to 12 noon.

Treasurer's Report- Treasurer Pasterski presented the August, 2008 report. Savings balance as of 7-31-08 was \$154,074.12. Total cash was \$717,829.73. Motion by Supervisor Rasmussen, seconded by Supervisor Malek to approve the treasurer’s report. Upon voice vote, motion carried.

Claims- Claims totaling \$293,854.31 were reviewed. Supervisor Malek stated that the memo for check #27932 should read “Lewin Lane”. Motion by Supervisor Davis, seconded by Supervisor Malek to approve payment of the claims, withholding the payment of B.R. Amon until line item approval. Upon voice vote, motion carried.

Payment of claim for B.R. Amon for the 2008 Road Paving Program – Chairman Kwiatkowski explained that the payment to B.R. Amon in the amount of \$222,009.11 has a five percent hold back to ensure that the work provided meets town requirements and to possibly settle claims that have been made in Stonington Subdivision. Typically, the hold back amount equates to two percent. Motion by Supervisor Davis, seconded by Supervisor West to approve the payment of claim in the amount of \$222,099.11 with the five percent hold back. Upon voice vote, motion carried.

Public Comment- Chairman Kwiatkowski explained that public comment was moved up in the agenda to allow residents the chance to voice their opinions prior to Board discussion on any subsequent items. Those wishing to speak will be allowed a three-minute time period, per State Statute, in which to speak. Please state your name and address for the record.

Village of Eagle Police Chief Russell Ehlers reported that the DNR opened rifle hunting in areas south of Highway 18 in Waukesha County, which incorporates the Town of Eagle, of which the Village is surrounded by. His position as Chief is to protect Village residents. The DNR's purpose of opening up rifle hunting is to increase the harvest of deer, mostly due to chronic wasting disease. Chief Ehlers explained that he made a call to a weapons shop in Illinois to questions the ballistics of rifles. The gentlemen at the shop explained that their most popular rifle, the 308 rifle has a distance of approximately 1,000 yards. Chief Ehlers explained that his concern is the distance of the travelled slugs. Some folks who may come to Eagle to hunt may not be familiar with this area. Chief Ehlers recommended approving the proposed ordinance.

Mr. Daryl Baertlein, S90 W34615 Whitetail Drive commented he was glad to see the American Hunter magazine article available at this meeting and added that he also saw the article in the Chief today regarding tonight's meeting. Mr. Baertlein explained that he agrees with Chief Ehlers regarding how far a high powered rifle slug can travel. When shot at a 35 degree angle, rifle slugs can travel 2.65 miles however; all shots are fired at a downward or near level trajectory. A ricocheted slug can travel much farther due to the tumbling effect of the bullet. Mr. Baertlein explained that the Pennsylvania legislation conducted a study, with actual numbers, which prove that the rifle bullet travel distance is more dangerous.

Mr. Jim Conley, W355 S6335 Burr Oak explained that he resides in the Kettle Moraine area, where his backyard abuts the woods. Mr. Conley stated that he is against rifle hunting in the Town. Many people who come here to hunt get lost. The odds of something drastic happening due to rifles are large.

Ms. Pat Bandomir, W365 S8451 Hwy. 67, stated that she lives on the island which is surrounded by DNR property. Ms. Bandomir explained that this is the time of year when she needs to wear her orange jacket and a whistle around her neck. Many times hunters have stopped to ask for directions because they were lost. Many times deer are shot at as they run through her yard. Many times hunters shoot towards her house. Ms. Bandomir explained that she has nothing against guns, just rifles. There are too many kids, animals, and people walking.

In response to Mr. Tom Day, W350 S10115 Highview Road, Chairman Kwiatkowski explained that the proposed ordinance restricts the use of rifles, as described and allows hunting as has been in the past. Deputy Spielvogel explained that enforcement would be coordinated with the DNR. Mr. Day explained that he has lived in the town most of his life. Rifles have never been allowed for safety reasons. Now, because of the chronic wasting disease, the DNR decides it's safe? In his opinion, allowing rifles would not make hunters more successful. Mr. Day added that his concern is for safety.

Mr. Steve Muth, S105 W37110 Estates Drive expressed that he too is opposed to rifles in the Town of Eagle, that the area is too populated. Mr. Muth explained that he has been hunting since he was in high school and he has never needed anything more than a shotgun.

In response to Mr. John Mann, W349 S10110 Bittersweet Court, Chairman Kwiatkowski explained that this proposed ordinance will not affect the state owned McMiller Shooting Range.

At this time, Chairman Kwiatkowski read the proposed Ordinance 08-05, an ordinance to repeal Ordinance No. 91-11 and create Chapter 13 of the ordinances of the Town of Eagle establishing regulations concerning the discharge of firearms and other weapons within the Town of Eagle, in its entirety.

Ms. Catherine Merrain, S65 W35979 Piper Road, expressed that she is not opposed to hunting rather her concern is for safety. Ms. Merrain explained that her opposition to rifles is due to the kettles and peaks in this area. Hunters could be within one-hundred forty-three yards of a home and not even know it. She stated that she has seen hunters crouch down in the kettles. Those upward bullets would travel. Ms. Merrain explained that she read an article from the DNR where it stated that the number of homes that have been shot has nearly tripled in the last three years. The Ice Age Trail is heavily used by hunters. Those hunters can't see houses and there are no warning signs that there are houses nearby. In her opinion, hunters wouldn't want an accident on their consciences. If the Town Board allows rifles, Ms. Merrain stated she would consider moving out of the area.

Mr. Brian Rudy, W398 S10045 CTH Z stated that he has lived in the area for forty plus years. Mr. Rudy explained that in 1967, when the area was even less populated, the DNR passed a rule which disallowed these types of weapons for safety reasons. Next, the temporary gravel pit came to the area, then the McMiller Shooting Range, both of which have added a tremendous amount of noise. Now the DNR has decided to allow these high powered rifles? Mr. Rudy stated that he is neither anti-hunting nor anti-gun but does support the proposed ordinance. Possibly the Town should consider allowing, as a conditional use, sharp shooters as a possible future amendment to the proposed ordinance.

Ms. Jacki Lewis, S90 W34240 CTH NN, expressed that the proposed ordinance is a well thought out improvement and stated she is in favor of it passing. Ms. Lewis raised concern over the "transmission facilities" language in the proposed ordinance. Ms. Lewis explained that the Town does not have these types of facilities and suggested that the language encompass gas pipelines. In regards to the state statute which states that you cannot hunt within 100 yards of a residence, Ms. Lewis expressed that she feels that this is not enough of a distance. Kids play out in yards, away from the residence. Maybe there should be a projectile provision possibly 100 or 200 feet from a property line.

Mr. Carl Seitz, S91 W37851 Antique Lane, explained that on CTH S at HWY 67, there are a column of rocks approximately 1000 yards out where anyone could shoot at any angle or position. With the rising cost of gasoline, hunters from the Milwaukee area will be hunting in areas closer to home. Mr. Seitz suggested that the DNR allow baiting instead. The DNR states that baiting spreads the disease however they have been approaching this from the wrong angle all along. Sharpshooters should be used in heavily populated areas. Mr. Seitz added that he is in support of the proposed ordinance.

In response to Mr. Randall Bowey, S79 W37125 Wilton Road, Chairman Kwiatkowski explained that the proposed ordinance will not affect handguns.

Mr. Rudy added that sharpshooters do put bait down.

Ordinance No. 08-05, an ordinance to repeal Ordinance No. 91-11 and create Chapter 13 of the ordinances of the Town of Eagle establishing regulations concerning the discharge of firearms and other weapons within the Town of Eagle – Chairman Kwiatkowski explained that, in his opinion, there are two items in the ordinance that need to be addressed. The first issue would be to add gas distribution to the ordinance. The second issue would be to discuss the amount imposed for the fine. His concern is that the proposed \$25.00 fine was taken from the old ordinance and suggested increasing the fine, to make it more of a deterrent. Motion by Chairman Kwiatkowski, seconded by Supervisor Rasmussen to adopt Ordinance 08-05 with the addition of gas facility, to open the discussion on the penalties, and to modify the motion after discussion. Discussion followed.

In response to Supervisor West, Chairman Kwiatkowski read 13.07 Exceptions (f), explaining that a hunter may not discharge any shot larger than a #6 on their own property. Also in response to Supervisor West, Attorney Anderson explained that 13.07 Exceptions (e) only pertains to acting in self-defense.

Supervisor West questioned 13.05 Rifle prohibition and 13.03 Discharge near residence, building, highway, or public park. In reference to 13.05 Rifle prohibition, Chairman Kwiatkowski suggested that the language read “.22 caliber rim fire” as opposed to how it currently reads. In reference to 13.03 Discharge near residence, building, highway, or public park, Attorney Anderson explained that a person cannot discharge any firearm from the center of the road or within fifty feet from the centerline of the roadway. For further clarification, Chairman Kwiatkowski drew a diagram of this regulation on the white board.

Supervisor Rasmussen commented that, in regards to 13.10 Penalty, the fine should not be anything less than \$250.00. The fine should be hefty if someone chooses to violate this ordinance. If the DNR wants to solve this problem, maybe they should consider extending the deer hunting season.

Supervisor Davis commented that allowing rifles will not accomplish what the DNR wants to be accomplished. The safety of citizens should come first. Supervisor Davis stated that he is in favor of this ordinance however; transmission facility would be best left as is. Supervisor Davis also agreed that the minimum penalty needed to be increased. In response to Supervisor Davis’ comment regarding transmission facilities, Attorney Anderson suggested that the language read “utility” rather than “electric”.

Supervisor Malek commented that, while he is neither anti-hunting nor anti-gun, he agrees with the ordinance and agrees that the penalty should be \$250.00. In regards to the substation, it was put in as a mixing plant and is void at this time. Chairman Kwiatkowski added that it does have a scenting and that there is still a testing site on Markham Road. Supervisor Malek explained that, citing safety issues, seven residents have spoken in favor of the proposed ordinance. Only two have expressed opposing it. Supervisor Malek explained that he personally has received five calls of concern over rifles.

In regards changing the 100 yard distance from any residence, Chairman Kwiatkowski explained that his concern would be how hunters would know where the property lines are if the lines are not marked and how the distance issue would be enforced.

Supervisor West asked for clarification on the discussion of a sharpshooter. Attorney Anderson explained that the proposed ordinance does not encompass municipality sharpshooters. Chairman Kwiatkowski commented that he would not be opposed to looking at how other municipalities address the issue of sharpshooters. Discussion followed regarding wild dog hunts.

In regards to the penalty, Supervisor West commented that more appropriate fine would be a minimum of \$100.00. The official who writes the citation should be able to determine the fine between \$100.00 and the maximum \$500.00. In response, Chairman Kwiatkowski disagreed and explained that individuals need to be held accountable for their actions. Hunters should be aware of local ordinances before they come here. Supervisor Davis agreed that a fine of \$100.00 would not be a sufficient deterrent.

Motion by Chairman Kwiatkowski, seconded by Supervisor Rasmussen to amend his motion to approve Ordinance 08-05 with three amendments, (1) under 13.01 Transmissions (e) strike the word “electric” and add the word “utilities”, (2) under 13.05 Rifle prohibition, after the words “.22 caliber” and the words “rim fire”, and (3) under 13.10 Penalty, that the penalty be a minimum of not less than \$200.00. Upon voice vote, motion carried.

Sheriff’s Report- Deputy Spielvogel stated that a date and time needs to be set to review the Bond Schedule. Supervisor Malek reported that he has received complaints regarding a parking issue at the Town Park on Wednesday nights at 6:00 P.M. The organized kickball league, which is not organized by the Eagle Park & Recreation, meets at the Town Park and participants have been ignoring the “No Parking on Grass” signs. Chairman Kwiatkowski added that beer cans have had to have been cleaned up after the league’s departure and that alcohol is not permitted in the park. Chairman Kwiatkowski directed the Town Clerk to send a letter to Knuckleheads notifying them that citations will be issued to those in violation.

In response to a resident comment, Deputy Spielvogel explained that residents need to call the Sheriff’s Department if they find someone trespassing on their property. Mr. Rudy added that, if the property abuts the state forest, no trespassing signs must be posted.

Chairman Kwiatkowski explained that he intends to call the Sheriff’s Department requesting more patrol time during the gun season and added that he will provide the department with several copies of the new discharge of firearms ordinance.

Fire Department/Fire Commission- Chief Heim reported that the Fire Department Building Budget is currently at seventy-three percent and that the department is at sixty percent of their target. Chief Heim reported that the referendum for the Fire Department failed and that the department is currently re-working their proposed budget, which reflects a less than 1% increase over last year’s budget. The Fire Commission will be conducting a meeting on Monday where the proposed budget will be reviewed. Chairman Kwiatkowski added that new quotes for insurance will also be reviewed, which will be a substantial savings for the department.

In regards to highway billing, Chief Heim reported that, according to State Statutes, if the department responds to a car crash or a grass fire on a state highway and the bill is denied from the individuals’ insurance company, the department would be eligible for state reimbursement not to exceed \$500.

In regards to staffing levels, Chief Heim reported that five of the forty-two part-time positions have not been filled. Twenty-five percent of the shifts are unfilled on the weekends. Over the last month and one-half, the department has seen five new volunteers. Two additional applications have been received and are being reviewed. Since the publication of Jeff Nelson’s Letter to the Editor, another new application for part-time days has been received.

Supervisor West reported that he received several calls regarding the failed referendum. Chief Heim added that some residents have said that they were disappointed that the referendum failed. Others have said that they thought that their mortgages would increase by 11%. Others have said that they thought the levy would increase by \$697,000. Others have said that they were in favor of the referendum but never came out to vote. Chairman Kwiatkowski explained that the subject of another referendum for Paid-on-Call will be approached in the future.

Library- The circulation statistics and programming information were distributed to the Board. Chairman Kwiatkowski reported that Director Chase was interviewed by the Milwaukee Journal-Sentinel regarding adult Wii gaming. The article should appear in Sunday's paper.

Establishing the 2008 Trick-or-Treat hours for the Town of Eagle – A motion was made by Chairman Kwiatkowski, seconded by Supervisor Rasmussen to set the Trick-or-Treat hours the same as the Village of Eagle. Upon voice vote, motion carried.

Engineering Fees/Golden Ridge Development Co., LLC, Kaerek Homes/Amber Fields/ S90 W35258 C.T.H. NN – Chairman Kwiatkowski explained that the requestors e-mailed him explaining that they would not be able to attend tonight's meeting due to a scheduling conflict. The e-mail indicated that although they dispute the charges, they will send the Town a check for the full amount owed, however asked that the Town monitor the charges from the engineer, making sure that petitioner's are not double charged for services that the County already provides. Chairman Kwiatkowski explained that the Town engineer is hired to act on the Town's behalf; to make sure that developments are developed to town standards.

Lake Management District/Lake Patrol- Sergeant Nork presented his monthly report. Sergeant Nork reported that Officer Charlie Bragger will be leaving the Lake Patrol in June and requested that the Board hire a new officer this winter. Sergeant Nork added that Mr. Jason Steinbrenner intends to complete an application for this position. Supervisor Malek explained that he will be conducting the interviews for this position and requested that the hiring for this position be placed on the next Town Board agenda under Lake Management. Sergeant Nork explained that his annual report will contain a proposal for speed limits. The report will also contain information on the Clean Boat Program. Sergeant Nork explained that the lake patrol is working on getting the current boat stripped down. He will notify Chairman Kwiatkowski when the boat is finished. Sergeant Nork added that the lake patrol will be purchasing new lights for the new boat. These monies have been allocated in the budget. Chairman Kwiatkowski reported that the Town has sent a Letter of Intent to the Town of East Troy indicating the intent to purchase their 2004 lake patrol boat.

Proposal by J&S Carpet Cleaning for carpet in the Town Hall offices – A motion was made by Supervisor Malek, seconded by Supervisor Davis to approve the proposal by J & S Carpet Cleaning to clean the Town Hall office carpet in the amount of \$127.44. Upon voice vote, motion carried.

Village Board Meeting- No report.

Park & Recreation- Supervisor Malek distributed a Park & Rec program update from January through September of 2008. Supervisor Malek stated that the Park & Recreation Department is ahead in the budget by approximately \$6,000, although most of the major income for activities has already been collected.

Garbage & Recycling – Supervisor Rasmussen reported that he anticipates receiving information this week from John's Disposal regarding the 2009 costs for garbage and recycling. In response to Supervisor Malek, Supervisor Rasmussen explained that John's Disposal indicated that each household should be receiving a ten dollar refund and that he will check on how that refund will be dispersed.

Road Matters – No report.

Chairman's Report- Chairman Kwiatkowski reported that he spoke with Dave Dubey from the Town of Mukwonago regarding the Country Bliss Subdivision. Mr. Dubey explained to him that the groundwater in Country Bliss keeps pushing up and collects rather than flowing to river. One solution that has been proposed would be to create a diversion by installing a drainage pipe, allowing the water to drain to Jericho Creek. Mr. Dubey also indicated to him that the DNR and SEWRPC are working with the Town. Chairman Kwiatkowski explained that his concern is how this diversion would impact on watershed and the possibility of pollutants.

Chairman Kwiatkowski reported that he contacted G.A.S. regarding last month's \$50.00 charge for the boat launch. G.A.S. explained that the charge was the result of his, Chairman Kwiatkowski's e-mail to the County and to G.A.S. questioning the process for Stormwater Management.

Attorney's Report – None.

There being no further business on the agenda, a motion was made by Supervisor Davis, seconded by Supervisor Malek to adjourn at 10:04 p.m. Motion carried.

Respectfully Submitted,

Lynn M. Pepper
Eagle Town Clerk