



TOWN OF EAGLE  
REGULAR TOWN BOARD MEETING  
APRIL 15, 2009  
APPROVED MINUTES

Chairman Kwiatkowski called the meeting to order at 8:03 p.m. and led the Pledge of Allegiance.

Present: Chairman Kwiatkowski; Supervisors Malek, West, Davis and Rasmussen. Also present: Treasurer Pasterski and Clerk Pepper.

Agenda – A motion was made by Supervisor Malek, seconded by Supervisor Davis to approve the agenda as presented. Upon voice vote, motion carried.

Minutes- Motion by Supervisor Malek, seconded by Supervisor Davis to approve the minutes of March 18, 2009 with a correction to page 4, item c, last sentence should read "...will however possibly be eligible for other benefits". Upon voice vote, motion carried. Motion by Supervisor Rasmussen, seconded by Supervisor Malek to approve the Joint Meeting Minutes of 3-19-09 with the following corrections: page 3, 7<sup>th</sup> sentence, should read "...several weeks ago which were addressed at the Park & Recreation monthly meetings."; page 4, 1<sup>st</sup> line should read "is"; page 5, 2<sup>nd</sup> paragraph, last sentence, should read "...investigate them and will report back to both Boards at a Joint Meeting." Upon voice vote, motion carried.

Clerk's Report- Clerk Pepper presented the Accounts Receivable Summary Report.

Clerk's Conference – A motion was made by Chairman Kwiatkowski, seconded by Supervisor Rasmussen to grant the clerk's request to attend the Wisconsin Municipal Clerk's Conference in Milwaukee, August 19, 20, and 21, 2009. Upon voice vote, motion carried.

Treasurer's Report- Treasurer Pasterski presented the March, 2009 report. Savings balance as of 2-28-09 was \$95,724.61. Total cash was \$844,885.65. A motion was made by Supervisor Davis, seconded by Chairman Kwiatkowski to approve the Treasurer's Report with the correction of the date. Upon voice vote, motion carried. Treasurer Pasterski reported that, to date, the Town is at 24.8% of their budget. Discussion followed regarding the winter snow removal and the past and current fuel prices.

Claims- Claims totaling \$246,823.90 were reviewed. In response to Supervisor Davis, Treasurer Pasterski explained that the cemetery charge was for a grave that was opened and closed, which included the extra \$75.00 fee for Saturday. The monies expended were collected. A motion was made

by Supervisor Rasmussen, seconded by Supervisor Malek to approve the payment of claims. Upon voice vote, motion carried.

Property Damage Complaint from Troy Drescher - Chairman Kwiatkowski reported that a claim was received from Troy Drescher for damages incurred to their paving bricks. These bricks were located within the Town right-of-way. A motion was made by Supervisor Davis, seconded by Chairman Kwiatkowski to deny Troy Drescher's claim. Upon voice vote, motion carried

Complaint of Regarding a Dirt Bike Trail in a Residential Area - Chairman Kwiatkowski reported that he has spoken with both parties. Mrs. Gilbert is present tonight however; the complainant felt his attendance was not necessary, that his complaint letter was self-explanatory. Chairman Kwiatkowski reported that he explained the procedure to Mrs. Gilbert; that the Town Board will instruct the Building Inspector to contact Mrs. Gilbert to inspect the property. Mrs. Gilbert has the right to deny access however; an inspection warrant will be sought. The Building Inspector's findings will be reported back to the Board. For informational purposes, this activity is considered a recreational facility according to the Town's Zoning Code. Supervisor Davis reported that he drove by the property in question and was unable to see the track from the road. He did however locate an aerial photo of the property on the Waukesha County website and distributed copies of the photos to the Board.

Mrs. Joan Gilbert explained that the track has been in existence for approximately fifteen years and questioned if the use could be grandfathered in. In response, Chairman Kwiatkowski explained that the Town got out of Waukesha County zoning twenty years ago and much of current code was taken directly from the County. Town Attorney Paul Alexy explained that there are provisions for non-conforming uses that were established prior to the zoning code but it only applies to principal uses. Accessories or incidentals are not grandfather status.

Attorney Alexy stated that there are three parts to the filed complaint, the first being the use. Attorney Alexy explained that the second part of the complaint is that there have been earth-altering activities which may be in violation of the land disturbing ordinance. The last part of the complaint is regarding the noise that has been generated by this activity. In response to Mrs. Gilbert, Attorney Alexy stated that there is a difference between occasional uses versus the use of a track.

Chairman Kwiatkowski explained to Mrs. Gilbert that if she chooses to pursue this use, she would need to apply for a conditional use before the Plan Commission and the Town Board. Conditional Uses do require a public hearing where public comment will be received. There are no guarantees that the use will be approved. Chairman Kwiatkowski cautioned Mrs. Gilbert not to use the track for any activities or ride at all on her property until this matter has been settled. Chairman Kwiatkowski added that, for the record, the Town does not go around looking for violations. Action is only taken after a complaint is received.

A motion was made by Supervisor Rasmussen, seconded by Supervisor Davis to direct the Town Building Inspector to inspect the property and to contact Mrs. Gilbert for an inspection date and time. Upon voice vote, motion carried.

Resolution 09-01, a Resolution Establishing a Complete Census Count Committee for the 2010 Census - Clerk Pepper reported that she and Village Clerk Mealy met with a representative from the Census Bureau regarding the upcoming 2010 census. The Census Bureau is asking municipalities to adopt a resolution in support of the census and the distribution of census information. A motion was made by Chairman Kwiatkowski, seconded by Supervisor Rasmussen to adopt Resolution 09-01, a resolution

establishing a complete census count committee for the 2010 census. Upon voice vote, motion carried.

A motion was made by Chairman Kwiatkowski, seconded by Supervisor Malek to appoint Clerk Pepper as the Census Committee Member. Upon voice vote, motion carried.

Resolution 09-02, a Resolution Opposing the Proposed Changes to the Prevailing Wage Law - A motion was made by Supervisor West, seconded by Supervisor Malek to approve Resolution 09-02, a resolution opposing the proposed changes to the prevailing wage law. Upon voice vote, motion carried.

Proposed Reimbursement to the Village of Eagle for 50% of the Recreation Director's Wage for the Presidential Election Day - Chairman Kwiatkowski explained that this agenda item is in response to the allegation that was made at the Joint Village/Town Board Meeting. Supervisor Malek explained that the Town houses the Park & Recreation Department and that there are extra automatic costs, which easily offsets the claimed damages. The Town Clerk, Deputy Clerk, and Treasurer all partake in Park & Recreation phone calls as well as give information or direction. The Town does not ask for compensation for this and it is ridiculous for the Village to claim damage. For the record, the Eagle Historical Society Bake Sale was housed in the Park & Recreation Office on Election Day. The Park & Recreation Director took part in the election by giving residents directions on where they, as a Town or Village resident, should go to vote.

A motion was made by Supervisor Malek, seconded by Supervisor Rasmussen to deny the Village's claim for compensation. Upon voice vote, motion carried.

Sheriff's Report- No report.

Library- No report.

Fire Department/Fire Commission- Chairman Kwiatkowski reported that he was unable to attend the last Fire Commission Meeting but was however able to obtaining the Accounts Receivable and Accounts Payable reports for Board distribution.

Chairman Kwiatkowski reported that Scherrer Construction, the construction company who built the most recent Fire Department Building addition, did take a look at the construction problems that have been occurring. Scherrer Construction did verbally acknowledge that the trusses were not properly anchored to the header. Three days later, a letter was received from Scherrer stating that they would correct the problem and repair the drywall at the cost of \$1,800. The letter did not acknowledge faulty construction. The Building Committee made a recommendation to send a letter to Scherrer Construction stating that this was not acceptable.

Village Board Meeting- Supervisor Davis reported that he was unable to attend the recent Village Board Meeting because he was in attendance at the April 9, 2009 Southeastern Wisconsin Regional Plan Commission Meeting, SEWRPC held in the Town of Mukwonago.

Lake Management District/Lake Patrol- Supervisor Malek reported that there is no information to provide because the Management District meets on the third Tuesday of the month, which this month, falls after the Town Board Meeting.

Mr. Tom Day stated that he would like to thank those people that attended the meeting with SEWRPC. There were approximately forty-five to fifty people in attendance, ten of which were from the Town of

Eagle.

In regards to item 17a on this agenda, Mr. Day reported that he placed it on the agenda a bit prematurely. He thought it would have passed both governing bodies however; the matter is still in the Senate. Mr. Day requested that this item be placed on the next Town Board agenda.

A motion was made by Supervisor Davis, seconded by Supervisor West to table this item to next month. Upon voice vote, motion carried.

Park & Recreation- Supervisor Malek distributed the Kettle Moraine Days brochure. Supervisor Malek stated that he and Recreation Director Heywood attend the Kettle Moraine Days Committee Meeting on April 7, 2009. The Park & Recreation Department was asked to sponsor the Team Softball Tournament, as a source of fundraising. In addition, the Department also signed up for a fundraising booth.

Regarding the Park and Recreation proposed By-Laws, Supervisor Davis questioned if the Chairman of the Committee should be on a rotating basis between the Town and Village. In response, Supervisor Malek stated that the Committee, as well as the Village felt that rotating the Chairman position could put a newly elected Trustee or Supervisor into that role and the Committee didn't want to do that.

In regards to Facility Use, specifically the reserving of the fields, Supervisor Davis asked that this be phrased differently. Supervisor Davis suggested that the Park & Recreation Department submit their field schedule for the season and this schedule should be posted so that when someone reserves the park pavilion, they know if fields are available for their use. Supervisor Davis also suggested that the Recreation Director coordinate and organize these reservations. Supervisor Malek added that the Village originally had it stated that the Recreation Director had no say over the use of the fields and agreed that one person should coordinate the schedules. Chairman Kwiatkowski suggested that Supervisor Davis e-mail his suggested verbiage to Recreation Director Heywood and Supervisor Malek.

In regards to the Financial Policy, Chairman Kwiatkowski explained that the Park & Recreation Committee does not have the authority to approve expenses. Chairman Kwiatkowski suggested rewording it to say "The Eagle Park & Recreation Committee's responsibility is to review budgeted expenses and recommend them for approval by the Town and Village Boards."

In response to Attorney Alexy, Chairman Kwiatkowski explained that the duties and job description for the Recreation Director have already been established by both the Town and Village Board. Attorney Alexy cautioned that the language in the fourth paragraph of the Financial Policy, as it is read, implies that the action is binding and suggested rephrasing this as well. Attorney Alexy also cautioned that a liability issue arises for those who pay a fee for the use of the Town Park Pavilion or fields.

A motion was made by Chairman Kwiatkowski, seconded by Supervisor Malek to table the approval of the Park & Recreation By-Laws to evaluate and further clarify the Director's duties and responsibilities and the facility use. Upon voice vote, motion carried.

Garbage & Recycling – Supervisor Rasmussen reported that he received a call from resident Amy Thew regarding yard waste pick-up. Supervisor Rasmussen stated that he contacted Brian at John's Disposal regarding possible options. One possible option would be for John's to set a date for a spring

and a fall pick-up. This would be charged back to the resident's as a part of their garbage bill at the end of the year. Another option would be for John's Disposal, at no charge, to park a truck in the Town Hall parking lot for one given afternoon. Other options include resident's dropping off their yard waste at John's Disposal in Whitewater, free of charge or for resident's to contact John's to arrange for a special pick-up, ranging from \$35 to \$100 depending on the load. John's Disposal does ask that, whichever option, residents place their leaves and grass in clear plastic bags and that brush be bundled in four foot lengths.

Mrs. Amy Thew, Jacks Bay Road brought a copy of John's Disposal's schedule, which the Town of Eagle is not currently on. Mrs. Thew explained that a spring and fall pick-up would be beneficial to those who work and are, due to John's hours of operation, unable to drop off at John's location in Whitewater. Mrs. Thew suggested that benefits to a pick-up schedule would perhaps reduce burning and illegal dumping. Supervisor Malek brought up the idea of possibly using the Village of Eagle's compost site. Discussion followed regarding contacting the Village in regards to using the Village's compost site.

Discussion took place regarding the option of placing a truck in the parking lot for a given afternoon. Chairman Kwiatkowski questioned if an attendant would need to be placed in the lot during these hours, to prevent anyone from disposing of items such as concrete, bailing wire, and posts. A suggestion was made that residents be advised, through the Town newsletter of the availability to drop off items at the John's Disposal site in Whitewater.

It was the consensus of the Board that the Town representative request to be placed on the next Village Board agenda to discuss the use of the Village compost site.

Business Park – Chairman Kwiatkowski reported that Waukesha County did contact him regarding a potential building site for railroad access and that the Town of Eagle was mentioned. The Town's site however failed because it was not close enough to the freeway

Road Matters – Supervisor West reported that only two culvert permits were issued last year, one for CenturyTel and one for WE Energies.

Chairman's Report- No report.

Public Comment – Mr. Nick Wambach, W344 S10609 Island View Lane explained that in addition to the two permits, two new houses on the lake were started last year, bringing the permit total to four.

Mr. Matt Thew reported that he contacted the Department of Natural Resources regarding a muskrat problem that he has been having. The DNR recommended shooting them with either a pellet gun or a BB gun. Mr. Thew stated that he checked the Town's Firearms Ordinance but does not see pellet or BB guns listed. Attorney Alexy replied that the Ordinance does not specify.

There being no further business on the agenda, a motion was made by Supervisor Davis, seconded by Supervisor West to adjourn at 9:22 p.m. Motion carried.

Respectfully Submitted,

Lynn M. Pepper  
Eagle Town Clerk