

1. Call to Order

President James Wagner called the Village Board meeting to order on June 15, 2010 at 7:31 p.m.

2. Roll Call

Trustees present: Arnie Fickau
 Elliot Bakst
 Jim Decker
 Mark Penzkover
 Dennis O’Bryan
 Darlene Johnson
 James Wagner, Village President

Also present: Bruce Kaniewski, Village Planner
 Jeff Rolfe, Fire Chief
 Fred Winchowky, Police Chief
 Nick Weber, Library Director
 Paul Moderacki, Administrator/Clerk-Treasurer
 Shawn Reilly, Village Attorney
 Dean Falkner, Wastewater Superintendent
 Kurt Peot, Village Engineer
 Tom Brandemuehl, Public Works Supervisor
 Ivan Zaremba, Water Dept. Supervisor

3. Pledge of Allegiance

The Village Board recited the Pledge of Allegiance to the American flag led by Boy Scouts Ryan Dietz and Eric Decker from Troop 229 and Boy Scout Mitchell Haase from Troop 152.

4. Statement of Public Notice

The meeting was posted and noticed according to law.

5. Announcement of Closed Sessions Pursuant to Wisc Stats 19.85(c) and (g)

President Wagner announced that the Board will adjourn into closed session later in the meeting pursuant to Wisconsin Statutes 19.85(c) and 19.85(g).

6. Minutes of the June 1, 2010 Board Meeting

The minutes from the June 1, 2010 regular Village Board meeting were not complete and will remain on the agenda.

7. Treasurer, Mileage, Police, and Library Reports for May 2010

President Wagner noted receipt of the Treasurer, mileage, Police, and Library Reports for May 2010 and placed them on file in the Clerk’s Office.

8. Comments from the Public

No comments from the public.

9. Committee Reports

A. Finance

1) Vouchers Payable

Motion by Bakst/Decker to approve vouchers payable from various funds in the sum of \$723,139.06 was carried unanimously.

2) Resolution 2010-13: A Resolution to Amend the 2010 Schedule of Fees for the Village of Mukwonago

Item tabled until after action on Ordinance 832.

B. Health and Recreation

1) Possible Customized Play Structure in Mukwonago – Mark Olver

Item will remain in Committee.

2) Eagle Scout Project Related to Veterans Memorial – Mitchell Haase

Mitchell Haase, Boy Scout from Troop 152, presented to the Board plans for a walkway and garden and seating areas around the Veterans Memorial near the Village Police Department. Materials and labor will be donated. He still needs approval from the Boy Scout council. Motion by Penzkover/Decker to approve the Eagle Scout project for a walkway and garden and seating areas around the Veterans Memorial near the Village Police Department as presented by Mitchell Haase, contingent upon the approval of the Boy Scout Council, was carried unanimously.

3) Field Park Ball Field Lighting Project – Conceptual Lighting Design and Possible Bidding Options

Item will remain in Committee.

C. Judicial

1) Complaint on Snowmobile Noise and Request to Close Snowmobile Trails

Item will remain in Committee.

2) Ordinance No. 827: An Ordinance to Create Article VII Under Section 22 of the Village of Mukwonago Municipal Code Relating to Weights and Measures Regulations

Motion by Johnson/Decker to adopt Ordinance No. 827: *An Ordinance to Create Article VII Under Section 22 of the Village of Mukwonago Municipal Code Relating to Weights and Measures Regulations* was carried unanimously.

3) Ordinance No. 828: An Ordinance to Create Section 37 of the Village of Mukwonago Municipal Code Pertaining to the Joint Mukwonago Fire Department Organization and Membership

Motion by Johnson/Penzkover to adopt Ordinance No. 828: *An Ordinance to Create Section 37 of the Village of Mukwonago Municipal Code Pertaining to the Joint Mukwonago Fire Department Organization and Membership* was carried unanimously.

4) Ordinance No. 829: An Ordinance to Amend and Recreate Section 38 of the Village of Mukwonago Municipal Code Pertaining to Fire Prevention, Protection, and Control

Item will remain in Committee.

5) Ordinance No. 830: An Ordinance to Create Section 43 of the Village of Mukwonago Municipal Code Relating to Housing Discrimination

Item will remain in Committee.

6) Ordinance No. 831: An Ordinance to Create Section 54-4 of the Village of Mukwonago Municipal Code Relating to a Smoking Ban in Compliance with 2009 Wisconsin Act 12

Motion by Decker/Penzkover to adopt Ordinance No. 831: *An Ordinance to Create Section 54-4 of the Village of Mukwonago Municipal Code Relating to a Smoking Ban in Compliance with 2009 Wisconsin Act 12* was carried on a vote of 5 ayes and 2 nays (Johnson and Fickau voted no).

7) Ordinance No. 832: An Ordinance to Create Article IX Under Section 82 of the Village of Mukwonago Municipal Code Relating to Winter Speed Limits on Phantom Lake

Motion by Johnson/Decker to adopt Ordinance No. 832: *An Ordinance to Create Article IX Under Section 82 of the Village of Mukwonago Municipal Code Relating to Winter Speed Limits on Phantom Lake* was carried unanimously.

8) Resolution 2010-13: A Resolution to Amend the 2010 Schedule of Fees for the Village of Mukwonago

Item brought back from the table. Item will remain in Committee.

9) 2010-11 Applications for Renewal Class A Fermented Malt Beverage License

Motion was made by Johnson/Fickau to grant the 2010-11 renewal Class A Fermented Malt Beverage licenses to the following establishments:

- 5 Star Stations (Darwin D. Greenwald – Agent), 909 Greenwald Court, d/b/a 5 Star Citgo
- 5 Star Stations (Darwin D. Greenwald – Agent), 301 Main Street, d/b/a Mukwonago Clark
- 5 Star Stations (Darwin D. Greenwald – Agent), 407 South Rochester Street, d/b/a Mukwonago Express Mart
- 5 Star Stations (Darwin D. Greenwald – Agent), 1060 North Rochester Street, d/b/a North Star Shell
- BJ's BP Inc. (Baljit S. Gill – Agent), 122 Arrowhead Drive, d/b/a BJ's BP
- GK Gas LLC (King Gurinder S. Phul – Agent), 201 North Rochester Street, d/b/a Village Mini Mart
- Khasria Two Inc. (Harjinder S. Khasria – Agent), 710 Main Street, d/b/a Village Pumper Two

Motion was carried unanimously.

10) 2010-11 Applications for Renewal Class A Fermented Malt Beverage and Intoxicating Liquors License

Motion was made by Johnson/Decker to grant the 2010-11 renewal Class A Fermented Malt Beverage and Intoxicating Liquors licenses to the following establishments:

- Gerald M. Anich, 411 Main Street, d/b/a Anich's Liquor & Beer Store
- Ultra Mart Foods, LLC (Gordon Graf – Agent), 1010 North Rochester Street, d/b/a Pick'n'Save #6384
- Wal-Mart Stores East LP (Archie Pulliam – Agent), 250 East Wolf Run, d/b/a Wal-Mart Supercenter #1571
- Walgreen Co. (Brian Marinello – Agent), 212 N. Rochester St., d/b/a Walgreens #07039

The granting of the licenses shall be contingent upon the successful and favorable inspections by the Waukesha County Health Department. Motion was carried unanimously.

11) 2010-11 Applications for Renewal Class B Fermented Malt Beverage and Reserve Intoxicating Liquors License

Motion was made by Johnson/Decker to grant the renewal Class B Fermented Malt Beverage and Reserve Intoxicating Liquors license to the following establishments:

- The Boneyard Pub and Grille, LLC (James F. Jones – Agent), 215 Bay View Road Suite D, d/b/a The Boneyard Pub and Grille
- El Pueblo Inc. (Ana Alarcon – Agent), 355 Bay View Road, d/b/a Antigua Real
- Pam’s Fine Wines LLC (Pamela L. Kollaszar – Agent), 100 Main Street Suite 2, d/b/a Pam’s Fine Wines

Motion was carried unanimously.

12)2010-11 Applications for Original or Renewal Class B Fermented Malt Beverage and Intoxicating Liquors License

Motion was made by Johnson/Fickau to grant the 2010-11 renewal or original Class B Fermented Malt Beverage and Intoxicating Liquors license to the following establishments:

- American Legion Community Post #375 (Lester F. Jacobs – Agent), 627 CTH NN East, d/b/a American Legion Community Post #375
- Half-Time Sports Grille, Inc. (Mark A. Weiss – Agent), 325 Bay View Road Suite E, d/b/a Half-Time Sports Grille
- Memet Islami, 927 Main Street, d/b/a Blue Bay Restaurant
- Jay’s Lanes, Inc. (Jeffrey R. Jay – Agent), 326 Atkinson Street, d/b/a Jay’s Lanes
- Sandra M. Miller, 701 Main Street, d/b/a Sandy’s Miller Time
- Pelisteri Enterprises Inc. (Agim Zejneli – Agent), 507 Main Street, d/b/a Zeneli’s Family Restaurant
- Stevens Management Inc. (Dennis M. Stevens – Agent), 215 North Rochester Street, d/b/a Fork in the Road

Motion was carried unanimously.

13)2010-11 Application for Renewal Class B Fermented Malt Beverage and Class C Wine License – Mario’s Natural Roman Pizza Inc. (Matthew Reitman – Agent), 225 Bay View Rd. #500, d/b/a Mario’s Pizza

Motion was made by Johnson/Fickau to withhold the 2010-11 renewal license application for a Class B Beer and Class C Wine license for Mario’s Natural Roman Pizza Inc. (Matthew Reitman – Agent), 225 Bay View Rd. #500, d/b/a Mario’s Pizza for the following reasons:

1. Failure to pay outstanding personal property tax bills to the Village of Mukwonago.
2. Failure to comply with Wisconsin Statute 125.04(5)(a)4 requiring that the applicant be in good standing for sales tax purposes according to the letter from the Wisconsin Dept. of Revenue dated June 7, 2010.

The Clerk’s Office shall give the applicant notice of non-renewal of the licenses and an opportunity to rebut the charges. If the applicant does not rebut the charges and comply with the reasons given for denial with the Clerk’s Office by June 30, 2010, the application shall be considered denied. Motion was carried unanimously.

14)2010-11 Renewal and New Applications for Operator’s License

Motion by Johnson/Decker to grant the 2010-11 renewal and new Operator’s licenses to various individuals according to the list from the Clerk’s Office dated June 11, 2010 and submitted to the Village Board was carried unanimously.

D. Public Works

1) Update and Discussion of the Construction of a Salt Shed – DPW

Item will remain in Committee.

2) Request for Reduction in Utility Bill Charges Due to Broken Water Pipe – 955 Main St. Unit A – Jessica Zhu, Amazon Real Estate Management LLC

Item will remain in Committee.

3) Direction for Work on CTH NN Multiuse Trail

Motion by Fickau/Decker to authorize Ruekert & Mielke to prepare bid documents for the construction of the multi-use trail along the north side of CTH NN from Fairwinds Subdivision to STH 83 was carried on a vote of 5 ayes and 2 nays (Bakst and Decker voted no). Motion by Johnson to reconsider the motion to authorize Ruekert & Mielke to prepare bid documents for the construction of the multi-use trail along the north side of CTH NN from Fairwinds Subdivision to STH 83 failed for lack of a second.

4) Minor Estates Storm Water Solutions and Estimates

Motion by Fickau/Penzkover to authorize Ruekert & Mielke to bid the project regarding build a berm between Minors Homestead and Field Park Subdivisions in an amount not to exceed \$9,999.99 was carried on a vote of 6 ayes and 1 nay (Johnson voted no).

5) Request to Authorize Administrator to Sign Change Orders up to \$25,000

Motion was made by Fickau/Decker to authorize the Village Administrator to sign change orders for projects in the amount of \$25,000 or less. Such change orders shall also contain the signature of at least one Public Works Committee member. Motion was carried unanimously.

6) Resolution No. 2010-12: A Resolution in Compliance with the Compliance Maintenance Annual Report of the Department of Natural Resources (Taken out of order)

Motion by Fickau/Decker to adopt Resolution 2010-12: A Resolution in Compliance with the Compliance Maintenance Annual Report of the Department of Natural Resources was carried unanimously.

7) Wastewater Treatment Department Report

Motion by Fickau/Decker to authorize Ruekert & Mielke to organize and bid the project regarding improvements to the ultraviolet disinfection system at the Wastewater Treatment Facility was carried unanimously.

10. Plan Commission

A. Access Easement to Black Bear Lift Station

Motion was made by Fickau/Decker to accept the Plan Commission recommendation to grant the access easement by Dewey Farm, LLC to Citizens Bank of Mukwonago. The approval shall be subject to an addition to be included in the document stating that in the event the grantor's property is developed and Marsh View Drive is extended, then the location of the access easement may be changed upon mutual agreement of the parties. Motion was carried unanimously.

B. Black Bear Development Agreement

Motion was made by Penzkover/Decker to accept the Plan Commission recommendation to approve the Black Bear Developer's Agreement. The approval shall be subject to approvals by the Village Engineer, Planner, Zoning Administrator, and Administrator. Motion was carried unanimously.

C. Modifications to the Black Bear Site Plan for Grading Site, Directions of Two Pads, Lift Station Location

Motion was made by Penzkover/Decker to accept the Plan Commission recommendation to approve the site plan modifications for the Black Bear Residential Development. The approval shall be subject to the approval by the Wisconsin Department of Natural Resources. The approval shall also be subject to the approval of new elevation plans by the Village Zoning Administrator. Motion was carried unanimously.

D. Certified Survey Map – Black Bear Development on the East End of Black Bear Blvd. – Charlie Miller, Citizens Bank of Mukwonago

Motion was made by Fickau/Decker to accept the Plan Commission recommendation to approve the Certified Survey Map for the Black Bear development. The approval shall be subject to the following conditions:

1. Prior to Village officials affixing signatures to the CSM, construction drawings for Black Bear Residential Development shall be submitted to and approved by the Village Department Heads and Village Engineer.
2. Prior to Village officials affixing signatures to the CSM, documents conveying the rights and conditions for the easements must be prepared and submitted to the Village for review.

Motion was carried unanimously.

E. Site Plan and Architectural Review of Proposed School District Office Building for the Property Located West of Clarendon Avenue School and, Facing CTH NN, to the South of the Existing Parking Lot

Motion was made by Penzkover/Decker to accept the Plan Commission recommendation to approve the amended site plan and architectural review of the proposed school district office building for the property located West of Clarendon Avenue School and, facing CTH NN, to the South of the existing parking lot was carried unanimously.

F. Architectural Review of Proposed Patient Service Center for the Property Located at 225 Eagle Lake Ave. – Bradley Sabre, Aurora Health Care

No action taken.

G. Authorization of the Extension of Lease Agreement with Crown Castle

Motion by Decker/Penzkover to accept the Plan Commission recommendation to approve the Authorization of the Extension of Lease Agreement with Crown Castle was carried unanimously.

H. Site Plan and Architectural Review of Proposed Funeral Home for the Property Known as MUKV 2009 968 and Located on the East Side of CTH ES Just North of Bay View Rd. – Russell Karasch, Keystone Funeral Home Design Build (Applicant) and Steve Schmidt, Schmidt & Bartelt, Inc. (Property Owner)

No action taken.

11. Village Administrator

A. Village of Mukwonago Obtaining Waterstar Designation of Silver

Moderacki gave a report that the Village of Mukwonago became the first Village in the State to become a Water Star charter member of Silver status for all the efforts the Village has made to preserve the Mukwonago River. No action taken.

B. Mukwonago Improvement Committee – Downtown Revitalization Initiative

Moderacki gave an update of the Mukwonago Improvement Committee. No action taken.

C. League of Wisconsin Municipalities Regional Dinner Meeting Update

Moderacki attended the League of Wisconsin Municipalities Regional Dinner along with four trustees. The League reported on various topics such as the smoking ban, mental health parity, levy limits, transportation aids, expenditure restraint, and the maintenance of effort law pertaining to expenditures for Police, Fire and EMS. No action taken.

12. Village Attorney

A. Contract for Construction Manager for Mukwonago Community Library Expansion Project

Reilly gave an update of the status of the contract for Construction Manager for the Mukwonago Community Library Expansion Project. No action taken.

B. Potential Attorney Client Conflict Waiver Authorization

Motion by Decker/Bakst to authorize the Village Administrator to sign the Conflict Waiver Authorization from Attorney Samuel Hall of Crivello Carlson Attorneys was carried unanimously.

13. Village President

A. Schedule Village Board Committee of the Whole Meeting Regarding Storm Water Utility

President Wagner scheduled a Committee of the Whole meeting on August 2, 2010 at 7:00 p.m. so the Board may gain all information and make inquiries to the prior Adhoc Storm Water Committee and the engineers relating to the proposed Storm Water Utility.

B. Acceptance of Letter of Resignation from Plan Commission – John Bronk

Motion by Bakst/Decker to accept the Village President's recommendation to accept the letter of resignation by John Bronk from the Planning Commission was carried unanimously.

C. Appointments – Plan Commission, Fox River Commission, Board of Building and Zoning Appeals Second Alternate

Motion by Bakst/Decker to accept the Village President's recommendation to appoint Dean Falkner to the Southeast Wisconsin Fox River Commission was carried unanimously. Planning Commission Citizen Member and Board of Building and Zoning Appeals Second Alternate appointments will remain on the agenda.

14. Convene into Closed Sessions

Motion was made by Decker/Johnson to convene into closed sessions at 8:39 p.m. pursuant to Wisconsin Statutes **19.85 (1)(c)** (*Considering Employment, Promotion, Compensation or Performance Evaluation Data of Any Public Employee Over Which the Governmental Body Has Jurisdiction or Exercises Responsibility*) to discuss Water Department and Wastewater Department Superintendent Roles and Responsibilities and an update on the medical history of an employee and **19.85 (1)(g)** (*Conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved*) to discuss Village of Mukwonago vs. Greenwald Family Limited Partnership litigation. Motion carried unanimously upon roll call vote.

Discussion held in closed session. Closed session adjourned at 9:10 p.m.

15. Reconvene into Open Session

Motion by Fickau/Bakst to reconvene into open session was carried unanimously.

A. Water Department and Wastewater Department Superintendent Roles and Responsibilities

Motion by O'Bryan/Bakst to proceed with the reorganization of the staffing of the Water and Wastewater Utilities as recommended by the Personnel Committee and discussed in closed session was carried unanimously.

B. Update Medical History

No action taken.

C. Village of Mukwonago vs. Greenwald Family Limited Partnership

No action taken.

16. Adjournment

Motion by Bakst/Fickau to adjourn the Village Board meeting at 9:11 p.m. was carried unanimously.

Respectfully Submitted,

Steven A. Braatz, Jr.
Deputy Clerk