

MINUTES OF SPECIAL VILLAGE OF BELLEVILLE BOARD MEETING  
HELD MONDAY, AUGUST 16, 2010 AT  
7:00 P.M. VILLAGE HALL - 24 WEST MAIN STREET

1. Call to order - The meeting was called to order by Village President Terry Kringle at 7:00 PM.
2. Roll call by Clerk – Trustees present were: John LaFay, Ben O’Brien, Terry Kringle, Jim Schmitz, Gary Ziegler, Deb Kazmar and Bonnie Wilcox

Visitors: Jean Christensen-Library, Herb Blaser, G.S. Donovan, Darlene Hendrickson, Rick Francois, Jean Tretow, Julie Bigler, Jeremy Martin, Dave Pauli, Jill Wennesheimer-ADA Chair, and Dave Eustice.

3. The Clerk stated that the meeting has been noticed as required by law.
4. Visitors Who Would Like to Speak Now - None
5. Visitors Who Would Like to Speak On an Agenda Item – no discussion.
6. **Consent Agenda: Trustee Ziegler made a motion to approve the consent agenda items as follows; seconded by Trustee Kazmar. Motion carried.**
  - a. Approval of Minutes (August 2, 2010)
  - b. Approval of Treasurer’s Report for July 2010
  - c. Approval of Operator’s License Application for Megan L. Schraufnagel (The Nest)
  - d. Approval of Operator’s License Application for Tyler S. Bollig (The Dam Bar)
  - e. Approval of Operator’s License Application for Michael J. Daugherty (The Dam Bar)
  - f. Approval of Street Use Permit Application for Francois Sales & Service, Frederick Street (Main to Pearl), for August 25, 2010
7. Committee Reports – No discussion.
8. President’s Report – No report.
9. Administrator/Clerk/Treasurer’s Report – None.

10. **Unfinished Business:**

**a. Lake Restoration Project**

- i. **Project Update** – Alternative north berm study has been started.

Fundraising Committee: would like to know what if a major donor wanted their name on a project feature? Minimum would be \$250,000 donation. Decisions would come back before the Village Board. No objections were heard to allowing naming.

- ii. **Project Change Orders** – None.

- iii. **Concept for Dam Restoration. Jeff Hruby, Montgomery Associates:**  
Hruby reviewed the options for increasing spillway capacity. Estimated cost for option 1 (building a berm in Community Park) is \$160-200,000; for option 2 (includes dam modification) there are two alternatives. Alternative A estimated cost would be \$397,000 - \$480,000. Alternative B is \$520,000 - \$630,000. With alternative A, there would be continuous flow; opening gates will help flush sediment. Water on alternatives A and B would be diverted from over the top of the dam. Alternative A may be cheaper and look more like present dam system. A maximum of 10 feet of sheet pile would be exposed. Alternative B would essentially be a new river route. The design costs for Alternative B would also be higher. Advance wants to start on the dam early. Option 2 should be bid out if selected, as it is specialty work. Both alternatives A and B handle about the same amount of water. Option 2 has less impact to the park and avoids stormwater impacts there. Public Works Committee will discuss this further on August 30 and invite public input (also will discuss impacts to the park). Decision expected at the September 7 Village Board meeting. Pros and cons will be discussed.

**b. Proposed Ordinance Amendments:**

- i. **Proposed Ordinance 2010-06-01: An Ordinance Amending Title 2 Chapter 6 (ADA)** – All concerns were addressed with the committee chairwoman and Village attorney. A clean copy will be ready for approval at the next Village Board meeting.
- ii. **Proposed Ordinance 2010-06-11: An Ordinance Creating Title 7 Chapter 2 Section 19 Relating to Licensing and Regulation of Beer Gardens** – August 18 License Advisory Commission meeting to be held.
- iii. **Proposed Ordinance 2010-06-12: An Ordinance Creating Title 7 Chapter 2 Section 20 Relating to Licensing and Regulation of Sidewalk Cafes** – August 18 License Advisory Commission meeting to be held.
- iv. **2010-07-05: Creating Section of Title 2 Chapter 4 - Police Discipline Committee** – President Kringle had concerns about the Police Discipline Committee being both “judge and jury”. He preferred to see “Village President” removed from the “purpose” section. Attorney JoAnn Hart: it was question of whether the chief himself or committee could vote to bring a charge forward. In this case, committee would bring charges forward and it would be the obligation of the board to consider. Committee will make decision to discipline. If the Village Board chooses to discipline an officer, only the committee has the authority to make the decision (for non-probationary officers). Village Board cannot take that action. The Police Discipline Committee is the only entity that may suspend, remove, etc. a non-probationary officer. This is required by Wisconsin statutes. Once the committee makes its decision, the union can bargain for right for arbitration.  
  
Hart said she and Attorney Dregne are not reading the statute broadly that any

aggrieved person can come before the discipline committee. If a complaint against the chief, it would come to the board to forward to committee. Citizen complaints go to chief; chief complaints go to Village Board. The Village Board would investigate only – not the committee. Committee would hold a hearing and take information as presented in an adversarial setting. Defendant has the right to legal representation. Committee can also have an attorney. The intent of the statute is to avoid politicizing the office so officers are not subject to elected officials' decisions. It does not impact department operations. If a Police Commission system would be chosen, then must allow any aggrieved person to file a complaint. Discussion of staggered terms for committee members. Will eliminate the three one-year terms. Last sentence: "made" will be changed to "determined". **Trustee Wilcox made a motion to accept the Police Discipline Committee Ordinance with changes as discussed; seconded by Trustee Ziegler. Motion carried.**

- c. **Employee/Policy Handbook Revisions (Second Review. Invited: Attorney JoAnn Hart)** – [After other open session items on agenda]. Discussion of JoAnn Hart memo dated March 15, 2010. Clarification from Hart: an employee that does not have a written contract or just cause status (under statutes i.e. police officers or by an employee handbook) is considered at-will. They do not have a property interest in their job. Unless there is an arbitration clause for appeal of Village Board decision, the Village Board must have a hearing with written notice with opportunity to confront witnesses in a termination case - if the employee does not have at-will status. The point is to avoid constitutional problems. An at-will employee would not have the right to appeal an employment decision to circuit court. If the Village did not follow a required process, that failure can result in a decision being overturned and the cost of all litigation being borne by the Village (litigant's costs as well). The reason for dismissal would not be relevant.

Kringle: current policy would rise to the level of a contract; therefore by making changes to the manual the Village is not following procedure. Hart: they recommend changes are made in conjunction with next round of pay and benefits changes – decisions are unilateral, but it changes terms of employment. This avoids due process violation. The handbook has always stated that there could be changes, which could be done in conjunction with benefit consideration.

President Kringle: questions regarding changing to at-will employer. Hart: at-will does not necessarily remove seniority. Currently, once a probationary period is passed employer can only terminate for just cause. Wisconsin has many statutory protections for employees. It creates a cause standard for termination. President Kringle: wants an environment that employees can not worry about their employment. It is the supervisor's responsibilities to deal with employees fairly and follow the process. It is a fairness issue. Trustee LaFay: wants a performance-based environment in at-will culture and a process to follow. Trustee Wilcox: it will be a huge change; this may not be the time to change. **President Kringle made a motion to eliminate just-cause from handbook and go to at an at-will employer status; seconded by Trustee LaFay.** Hart recommended streamlining and simplifying the just-cause process regardless. **Motion failed 6-1 with Trustee LaFay voting yes.**

- d. **Approval of Award for Gazebo Construction** – Little is in contact with two interested bidders, but bids have not been received yet. There have been questions about the need to remove the existing concrete pad.
- e. **Proposed Dane County Radio Project Alternatives** – An update of the latest Dane County Cities and Villages Association meeting was provided.

11. **New Business:**

- a. **Application of 2009 Debt Service Fund Balance for Lake Restoration Project** – Trustee Schmitz made a motion to approve the application of \$122,609 from Debt Service Fund Balance to the Lake Fund. Seconded by Trustee Wilcox. Motion carried.
- b. **Approval of Resolutions for 2010 Borrowing** (Invited: Greg Johnson, Ehlers): A memo was distributed explaining what each borrowing includes, briefly summarized below.

Johnson: Several questions need to be answered, including Cosgrove’s payments intentions plus Bell West plat approval. The hope was to sell all financing at the same time. Financing must be executed by first week in October to provide financing for payment on the 2009 bond anticipation note (BAN) due November 1, 2010.

Financing amounts could be adjusted prior to sale if decisions are known. This 2010 borrowing would put the Village at 80 percent of debt capacity, a little over the 75 percent recommended by Ehlers.

- i. **Resolution 2010-08-04: Authorizing the Borrowing of Not to Exceed \$455,000; and Providing for the Issuance and Sale of Special Assessment B Bonds Therefor.** This would permanently finance the Bell West non-TID portion of the note from the 2009 short-term financing, which matures November 1, 2010. Ideally, all three developer’s plats would be complete and b-bonds could be issued as permanent financing. It appears only Bell West’s final plat may be approved before the sale date (or it will need to be financed with the Bond Anticipation Note). **Trustee Ziegler made a motion to approve Resolution 2010-08-04; seconded by Trustee Schmitz. Motion carried.**
- ii. **Resolution 2010-08-05: Authorizing the Borrowing of Not to Exceed \$325,000; and Providing for the Issuance and Sale of Water Revenue Bond Anticipation Notes Therefor.** The debt is for water utility share of the Highway 92 project. This does not count toward debt limit. It is a short-term revenue debt, which does not impact the limit on outstanding debt. It will allow for water rate increases to take effect. It preserves debt capacity and allows evaluation of the water rate increase impact. **Trustee Ziegler made a motion to approve Resolution 2010-08-05; seconded by Trustee O'Brien. Motion carried.**
- iii. **Resolution 2010-08-06: Authorizing the Borrowing of Not to Exceed \$620,000; and Providing for the Issuance and Sale of Bond Anticipation Notes Therefor** – The debt finances the Baker’s Woods non-TID portion.

Plats will not be completed before sale date, so interim financing must be extended. Also, Cosgrove must decide whether to pay his assessment (non-TID) share otherwise it must be financed. Ideally, all three developer's plats would be complete and b-bonds could have been issued as permanent financing. Financing must be sold by the first week in October because of payment obligations. **Trustee Schmitz made a motion to approve Resolution 2010-08-06; seconded by Trustee Kazmar. Motion carried.**

- iv. **Resolution 2010-08-07: Authorizing the Borrowing of Not to Exceed \$1,495,000; and Providing for the Issuance and Sale of General Obligation Public Improvement Bonds Therefor** – This will finance the lake construction, lake restoration contract, old library maintenance and dam repair. **Trustee Ziegler made a motion to approve Resolution 2010-08-07; seconded by Trustee Kazmar. Motion carried.**

- c. **Adoption of Special Assessment Report/Resolution (2010-08-08) for J&J / Baker Far West Development** - Attorney Matt Dregne: Discussion of cost allocation between the developers. Agreements say "Attachment D" will be the guide for allocating costs. Special assessments have been prepared that will work with different financing scenarios (see Ehlers discussion). Financing costs have been built into special assessment amounts accordingly to the attachment D.

Special assessment schedule: final date for adoption is September 24; October 6 is sale date. He is recommending acting on Baker's Woods' assessment as nothing is expected to change. It is looking positive that Bell West plat will be approved, so this can wait until action is taken. Re: Shamrock – Cosgrove indicated they will pay up their assessment share up front. Dregne is recommending that the report be approved and adopt Resolution 2010-08-08. The Village should place a lien and get that in place for the Baker's development. It was considered whether the Village could do BANS now, then amend special assessment reports later after plats are recorded. Bond counsel said this is not an option. Must do BANS, levy special assessments, then release lien, record plat and obtain a new lien for b-bonds at such time. This presents a small risk, but it could be set up as a closing to offer the Village protection. He does not believe the Village can wait any longer.

Payments can be made in installments. Payments start 2013. This is in the non-TID area. In regards to TID costs, the resolution says the installments are due first in 2012. Payments correspond to the Village's debt schedule (already set). It is hoped the TID district will generate enough to pay the installments, or can fall back on special assessment liens. This meeting's action would adopt a special assessment against Baker's and give a right to pay in installments. The lien acts like a mortgage interest in the property. It is not cash.

**Trustee Ziegler made a motion to approve the special assessment report; seconded by Trustee LaFay; Motion carried with Trustee Wilcox abstaining.**

**Trustee O'Brien made a motion to approve Resolution 2010-08-08; seconded by Trustee Kazmar. Motion carried with Trustee Wilcox abstaining.**

- d. **Proposed Purchase of Services Agreement with Dane County for \$150,000 for**

- the Lake Fund** – Trustee Wilcox made a motion to approve; seconded by Trustee Kazmar. Motion carried. The agreement is paperwork required by Dane County so that the county can donate \$150,000 toward the lake restoration project.
- e. **Utility Billing Adjustments for Construction-Impacted West Side Properties (Prisk/Grant)** – Four properties on Prisk are without direct water access due to construction. The question is how to deal with the billing. Jerry Butts took reading at the beginning; a reading will be completed at the end. President Kringle is recommending forgiving the amount. We will have to check with the Public Service Commission on rules. Trustee O'Brien made a motion that from the first to second reading the three homes supplying water are forgiven for the expenditures; seconded by Trustee Kazmar. This may be revisited after discussion with the PSC. Not all properties are metered. Sewer can be forgiven by the Village. Question about which homes receive water. What about fire protection fee? Five homes are impacted. Butts felt that averaging the bills was the fairest way to adjust. **Trustee O'Brien withdrew his motion; Trustee Kazmar agreed.** Public Works Committee will consider the issue on August 23; the properties will be notified that an adjustment of some kind will be made.
- f. **MSA Task Order for UW-Clinic Site Plan Review (#372037)** – Trustee Ziegler made a motion to approve task order 372037, with all costs billable to UW-Health; seconded by Trustee LaFay. Motion carried.
12. ADJOURN TO CLOSED SESSION for discussion of: a) **Purchase of Cosgrove Wetlands / Stewardship Grant Award;** b) **Development Agreement for Bell West** and c) **Discussion of Union Negotiations with Attorney** per Wis. Stats. 19.85(1)(e) and per 19.85(1)(g). Not held. No discussion.
13. **Other Business:** Future meeting dates were noted.
14. **Adjournment** – Trustee Kazmar made a motion to adjourn; seconded by Trustee Wilcox. Motion passed unanimously. The meeting was adjourned by President Kringle at 10:05 PM.

*By April Little, Administrator/Clerk/Treasurer*

*These minutes were approved by the Belleville Board of Trustees on September 7, 2010.*