

**VILLAGE OF FREDONIA  
VILLAGE BOARD MEETING  
August 23, 2007**

The regular village board meeting was called to order at 7:00 p.m. by President Short. Present: Joe Short, Jill Bertram, Fritz Buchholtz, Don Dohrwardt, and Larry Waskiewicz. Also present: Nancy Washburn, John Depies, Mary Jane Depies, Attorney Bob Feind, Kendall and Carla Thistle, and Charles and Sharon Lapicola. Arriving later: Ron and Diane Schmit.

### **Pledge of Allegiance**

The Pledge of Allegiance was recited.

### **Approve Minutes**

Minutes of the August 9, 2007, village board meeting were approved as presented on a **MOTION** by Dohrwardt, seconded by Buchholtz, and carried with Waskiewicz abstaining.

### **Approve Payment of Bills**

With the additional list presented, the General Fund, Water and Sewer bills were approved for payment on a **MOTION** by Bertram, seconded by Dohrwardt, and approved with Waskiewicz abstaining.

### **Treasurer and Utility Reports**

The July Treasurer and Utility reports will be presented at the next meeting.

### **Operator License**

An operator's license for Suzanne Hilber was approved on a **MOTION** by Waskiewicz, seconded by Dohrwardt, and carried.

### **Special Gathering Beer License**

Although the state does not require a license for a municipality, to prevent any problems with the beer distributor, a **MOTION** was made by Waskiewicz, seconded by Buchholtz, to approve a special gathering beer license for the Village of Fredonia Parks Committee for September 8, 2007, for the Celebrate Fredonia event. Motion carried.

### **Use of Fireman's Park for Celebrate Fredonia**

Per the request of the Fredonia Parks Committee, a **MOTION** was made by Dohrwardt, seconded by Bertram, to allow the use of Fireman's Park by the Parks Committee for September 7<sup>th</sup> through 9<sup>th</sup>, 2007, for Celebrate Fredonia. Under the General Rules and Regulations for use of Fireman's Park, item 5, 13, 14 and 21 was stricken, item 6 "the night of use" was stricken, item 7 "adults 30 years old or older" was changed to "legal guardian". With these changes, approval for use of the park was granted when the motion carried.

### **Unfinished Business – Depies Property**

The August 20, 2007, letter from John Depies to the Village of Fredonia was reviewed. John Depies again stated that he has never said that he would litigate the matter and has not contacted any attorney or retained any legal counsel. Depies stated that he is trying to work with the parties involved and will provide a written letter to the village on this. He will also write the DNR and address their misstatements from their letter read at the last meeting. Depies again stated that he has never said he is exercising his option to litigate, however he stated that litigation always remains an option. Attorney Feind suggested that the letter from John Depies be made a part of these minutes. Feind stated that the issue of litigation is a serious matter and when threatened with litigation there are certain things the village needs to do. One, they need to notify their insurance agent immediately. At that point, the insurance company can become involved as they may want to conduct their own defense. Also, every year when the audit of the village occurs, the village attorney must send a letter to the auditor to report any threatened or impending

lawsuit. If significant, the auditor must report it in the financial statement of the village. Feind stated that on July 27, 2007, his office received three phone calls from John Depies, and he feels they threatened litigation. Excerpts from the phone calls include “you are in serious trouble and I am going to exhaust all resources to take appropriate legal action to address this matter and have restitution and remediation of my farm,” and “want to discuss with you what professional liability and errors and omissions is.” Feind noted that unless instructed by the village, he cannot discuss issues with village residents. He stated that any claim against the village would impact all village residents. The village currently holds a letter of credit from Regency Hills – Village Green. If the village fails to release a portion of this, that could land up in litigation. There is also a request regarding the Thistle property, and how they may be affected by any action taken on the Depies property. All these factors need to be considered when the board decides what action to take. Restricting the flow of property water (changed 9/6/07) to the Depies property, could result in water problems for others. The creek is shown on the map and has been there for many years. Feind requested that all parties submit recommendations in writing to the village who will submit them to the engineers and Public Works Committee. The village should not make any recommendations until this information is submitted and reviewed by our engineers. A **MOTION** was made by Waskiewicz, seconded by Dohrwardt, to attach the letter from John Depies to the Village of Fredonia dated August 20, 2007, and the transcript of the phone calls from John Depies to the village attorney on July 27, 2007, to the minutes of this meeting and that they become a part of these minutes. Motion carried. A **MOTION** was made by Waskiewicz, seconded by Dohrwardt, to ask all parties involved to provide written information to the village describing the situation and the desired outcome, with this information submitted to the village hall for review by our engineer and the Public Works Committee for response. Motion carried.

### **Reduction in Letter of Credit – Village Green Subdivision**

Neumann stated that he has reviewed the lien waivers and they appear proper and signed. He recommended that the contingency be increased to 25% which would allow the letter of credit to be reduced to \$508,330. Waskiewicz questioned if this included the remaining portion of the letter of credit for the Emerald Hills Subdivision. This is shown as a separate line item for the Emerald Hills pond. A **MOTION** was made by Dohrwardt, seconded by Waskiewicz, to approve the reduction in the letter of credit for Village Green to \$508,330. Motion carried.

### **Rummage Sales**

Ron Schmit, 401 Fredonia Avenue, questioned the village’s rummage sale ordinance that only allows seven days of sales per year. He stated that Adell, Belgium, Random Lake, and Saukville do not have any ordinance regulating rummage sales. He felt rummage sales are a fun thing and bring people into the village. He would like the ordinance removed or more days added to it. Schmit stated that his rummage sales do not bother the neighbors and submitted a letter from one of his neighbors stating that he has no objections to the sales at 401 Fredonia Avenue. A **MOTION** was made by Waskiewicz, seconded by Dohrwardt, to put the two letters into the meeting minutes. Motion carried. Dohrwardt felt the ordinance was too restrictive and was put in place because of other problems. He felt rummage sales have become part of America and stated that the board should re-examine our ordinance. Bertram felt some guidelines are needed. Buchholtz suggested allowing rummage sales once per month. In response to questions Schmit clarified that:

- He had spoken to a village trustee and village clerk when the rummage sale ordinance was passed in 2006.
- Had had a rummage sale in April and June – each three days in length.
- Customer is defined as individual coming to a rummage sale.
- No one has complained to him about his rummage sales.

The ordinance regulating rummage sales will be placed on a future agenda for more discussion and possible action. Diane Schmit questioned if they can still have a rummage sale. Waskiewicz noted that they have one day left. He also noted that a lawn mower is a personal household possession and putting it in the front yard with a “For Sale” sign would constitute a rummage sale.

## **Flooding on Thistle Property**

The letter from Carla and Kendall Thistle regarding flooding on their property was reviewed. Items reviewed and discussed include:

- Past and current diagrams of how the water flows.
- Aerial pictures from 2000 and 2005 showing how the land drained itself.
- Four lots in the Emerald Hills Subdivision are landscaped to drain into the wetlands.
- Four field inlets are currently covered with fabric to filter out sediment.
- Two rows of silt fence, required by the DNR, have created a waterway between the two fences.
- Water from the school property flows onto the Thistle property.
- Water from the Thistle property discharges to the 48" culvert under Hwy. 57.
- Water from the Village Green Subdivision flows onto the Thistle property.
- The area from the Village Green Subdivision that flows towards the 48" culvert was decreased from 4.83 acres to 2.49 acres.
- The 2.49 acre parcel has been raised and does not hold as much water as before.

Mary Jane Depies requested a map showing where all the water goes as nothing goes to the creek now. She stated there was more water in the creek in the past. John Depies explained that Mary Jane was now talking about Stoney Creek, not their creek. John Depies also stated that with the top soil being removed in the Village Green Subdivision and the land being compacted, the water does not percolate as well which has caused additional water on his property. Depies stated that the last rain storm killed alfalfa in his field and will drown his crops. Waskiewicz noted that the board is now discussing the Thistle property. Short stated that the village engineers reviewed the plans and the village board has relied on their information. The standards exceed village and DNR specifications. Short stated that the village is willing to facilitate a meeting between the property owners (Thistle, Northern Ozaukee School District, and Regency Hills Development – Village Green) affecting this drainage problem. Kendall Thistle stated that the new design for the storm water drainage swales failed. He questioned at what point they are designed to fail. He stated the requirements obviously do not withhold a 100 year storm. The Thistle letter will be forwarded to the village engineer for review. After more discussion about the flooding on the Thistle property, it was noted that the village will facilitate a meeting between the property owners and engineer. Short noted that this will also be discussed at the next school board meeting.

## **Shared Building Committee**

Waskiewicz reported that the Shared Building Committee met on August 13, 2007, to review schematics of the proposed building. The next meeting will be August 30, 2007. The interior design of the building will be as open as possible to allow changes in the future.

## **Parks Committee – Celebrate Fredonia**

The Parks Committee met August 6<sup>th</sup>, 14<sup>th</sup>, and 20<sup>th</sup> to discuss Celebrate Fredonia. Buchholtz noted that the committee has asked "local heroes" to be involved in the parade – any recent veterans. The U.S. Army helicopter will be at the park from 12:30 p.m. to 2:30 p.m.

**PAYMENT OF BILLS:** The list of bills for Celebrate Fredonia were approved for issuance of checks and distribution as listed on a **MOTION** by Dohrwardt, seconded by Waskiewicz, and carried.

**VOLUNTEER EMPLOYEES:** With the addition of Linda Short, Nathan Short, and Pam Plier, the list of volunteer employees for Celebrate Fredonia was approved with additional employees to be added as needed up to and including the day of the event, with all volunteer employees to sign in and sign out the day of the event on a **MOTION** by Dohrwardt, seconded by Waskiewicz and carried.

**START UP CASH:** Start up cash of \$1,200 for making change in the food and beverage stands with the Parks Committee responsible for the cash and the cash coming from the Celebrate Fredonia account was approved on a **MOTION** by Waskiewicz, seconded by Dohrwardt, and carried.

**CASH ADVANCE FOR FOOD/BEVERAGE STAND PURCHASES:** A cash advance of \$600 (which includes \$550 cash and two \$25 Wal-Mart gift cards) to purchase items for the food and beverage stands for Celebrate Fredonia was approved on a **MOTION** by Waskiewicz, seconded by Buchholtz, and carried.

**CLOSE OF PARK AVENUE:** The Celebrate Fredonia Committee has requested that Park Avenue be closed off for the day with use only by authorized vehicles, handicapped citizens, and fire/ambulance personnel when responding to emergencies. Discussion followed:

- Will this leave enough parking for the event?
- Could only a few parking spaces be reserved for authorized vehicles and handicapped citizens?
- Do other departments handle the calls for Fredonia on the day of Celebrate Fredonia?

This item will be discussed again at the next meeting.

**RESIGNATION OF COMMITTEE MEMBER:** The resignation of Chris Kunstmann from the Parks Committee was regrettably accepted on a **MOTION** by Dohrwardt, seconded by Waskiewicz, and carried.

### **Public Works Committee – August 20, 2007 Meeting**

Minutes from the Public Works Committee were reviewed.

**MARTIN DRIVE PROJECT – PURCHASE OF MATERIALS:** Based on the cost of storage for materials purchased early, there would not be a cost savings.

**ROAD GRADE FOR MARTIN DRIVE:** The committee recommended that a variance be sought for the road grade of Martin Drive rather than change the ordinance.

**RETAINING WALL FOR MARTIN DRIVE:** The committee recommended that a variance be requested to allow a single retaining wall, rather than change the ordinance. Some board members felt it would be better to have a tiered wall, rather than a single retaining wall. Safety and aesthetics were reasons given for the tiered wall. Cost was the reason for a single wall.

**ENGINE BRAKING ORDINANCE:** Ordinance No. 2007-07 creating Section 12-1-12 (g) prohibiting engine braking within village limits except in an emergency was adopted on a **MOTION** by Waskiewicz, seconded by Bertram, and carried.

**TRUCK ROUTE:** Changes proposed to the truck route include changing “Upper Park Road” to “Park Road”, changing “State Highway 84” to “County Hwy. H and A”, changing “S. Milwaukee Street” to “S. Milwaukee Street from Park Street south to Meadowlark Road”, and changing “North Milwaukee Street” to “Martin Drive”. It was noted that Meadowlark Road should also be added to the truck route. These changes will be incorporated into an ordinance for the next meeting.

**VARIANCE:** A **MOTION** was made by Short, seconded by Waskiewicz, to instruct the Director of Public Works to apply for a variance for the Martin Drive project for the road grade and retaining wall (with the variance for the retaining wall to allow either a tiered wall or a single wall). Motion carried.

**AUDIO SYSTEM FOR BOARD MEETINGS:** The committee felt reasonable accommodations have been made, and referred the purchase of an audio system to the Shared Hall Committee.

### **Joint Meeting with Northern Ozaukee School District**

The minutes from the joint meeting with the Northern Ozaukee School District were reviewed.

### **Report from Director of Public Works**

The written report from the Director of Public Works was reviewed. Neumann stated that black top has been added around the concrete pad at the Fire Department. The overhead door has been adjusted and he is working with roofing contractors with roof bids due by August 31<sup>st</sup>.

### **Report from Clerk-Treasurer**

The report from the Clerk-Treasurer was reviewed. Review of the village ordinance on mineral extraction will be added to the next Plan Commission meeting. Discussion then followed on minutes of board meetings. Per Robert Rules of Order minutes record what was done at a meeting, not what was said at a meeting. Board members did not see the need for more detailed minutes than what currently is prepared. Village ordinance allows that anyone can record board meetings as long as it doesn't interfere with the conduct of the meeting. This recording does not become the official record, as the minutes which the board approves, are the official record.

### **District V Clerk's Meeting**

Approval was given for the Clerk-Treasurer and Deputy Clerk-Treasurer to attend the District V Clerk's meeting on September 19, 2007, at a cost of \$25 each for registration, and mileage on a **MOTION** by Waskiewicz, seconded by Dohrwardt, and carried.

### **Return to Agenda Item 13**

**MOTION** by Waskiewicz, seconded by Dohrwardt, to revisit agenda item 13. Motion carried.

**MOTION** by Waskiewicz, seconded by Dohrwardt, to send the letter from Kendall Thistle to the engineer for Mastercraft (LOSIK Engineering), with a copy to the village engineer, for the Mastercraft engineer to answer and respond to all parties involved. Motion carried.

The meeting then returned to agenda item 20.

### **Correspondence**

The letter regarding participation in the Local Update of Census addresses (LUCA) program for the 2010 census was discussed. A **MOTION** was made by Dohrwardt, seconded by Waskiewicz, that the Village of Fredonia participate in the LUCA program and designate the Clerk-Treasurer as the liaison. Motion carried.

Information was also received on the 2007 Ozaukee County 9/11 Commemorative march.

### **2008 Budget**

Committees should start on the 2008 budget, with all budgets submitted to the village clerk by September 17, 2007.

The meeting adjourned at 9:50 p.m. on a **MOTION** by Waskiewicz, seconded by Bertram, and carried.