

**VILLAGE BOARD MINUTES
VILLAGE OF DEERFIELD**

**FOR A MEETING OF THE VILLAGE BOARD OF THE VILLAGE OF DEERFIELD HELD AT THE DEERFIELD
VILLAGE HALL, 4 N. MAIN STREET, DEERFIELD, WISCONSIN ON
MONDAY, JULY 22, 2013 AT 7:00 P.M.**

CALL TO ORDER – NOTING OF ROLL BY CLERK/SIGN IN SHEET

The meeting was called to order at 7:00 by President Frutiger. Roll call: Wilkinson, Tebon, Schreiber, McMullen, Fritz, Hasz and Frutiger. Also present: as listed on the July 8, 2013 Sign in Sheet on file in the Clerk's office.

CONSENT AGENDA

Motion by Wilkinson, second by McMullen to approve the July 22, 2013 agenda as presented. All ayes, motion carried.

A. APPROVAL OF MINUTES FROM JULY 8, 2013

Motion by McMullen, second by Fritz to approve the minutes from July 8, 2013 as amended. All ayes, motion carried.

B. APPROVAL OF VOUCHERS

Frutiger informed the Board that the Finance Committee reviewed and approved payment of the list of vouchers presented. Motion by Wilkinson, second by Tebon to approve payment of check #47679 to #47727 totaling \$91,273.92. All ayes, motion carried.

C. COMMITTEE REPORTS

1. TREE BOARD 7/10/13

Fritz reported that this was the first meeting for the new Tree Board members. John Gall from Wachtel Trees Service was present and gave the Board a brief history of his education and qualifications. Doyle updated the Board on a 50/50 grant the Village received from the DNR and the availability for citizens to view information on Village owned trees via the Village's website. McCredie reported that David Lowrey contact the Village Hall to inform us that he was resigning from the Tree Board.

2. EMS 07/18/13

Frutiger reported that the bargaining committee will be meeting August 14th at 5:30pm in Cottage Grove; On July 24 the Dane County EMS Commission, Dane County EMS Association and Dane Com held a meeting in Cottage Grove at station 1; the run fees owed to the Town of Deerfield for the third quarter, in the amount of \$2,053.06, were approved; McMullen is working with Jefferson Fire to purchase one of their power cots. McMullen informed the Board that the association has agreed to cover the difference if the cost of the cot exceeds the amount approved by the three Boards. McMullen is also working on grant. The next EMS meeting will be August 15th at 6:30pm in Cottage Grove.

3. LIBRARY 07/19/13

Frutiger reported that Liz Zimdar turned in her resignation as she has accepted a full time position with the City of Sun Prairie and that Leah's conference in Chicago went well. The Library Board started work on their 2014 Budget.

4. PLANNING COMMISSION 07/22/13

Tebon reported that the Planning Commission approved fencing for Kurt's Never Inn and discussed two (2) requests, one from Scott Whiting and the other from potential owners of 217 N. Main Street with both being instructed to apply for Conditional Use permits.

5. FINANCE 07/22/13

Frutiger reported that everything on the Finance agenda is also on the Board agenda for discussion.

PUBLIC APPEARANCES

A. PUBLIC COMMENTS

B. PUBLIC APPEARANCES

1. REILLY, PENNER & BENTON – 2012 VILLAGE AUDIT

Tom Wieland and Eric Weninger both from Reilly, Penner & Benton were present to report on the Village's 2012 Audit. Wieland informed the Board that they conducted our audit in accordance with auditing standards generally accepted in the USA and the standards applicable to financial audits contained in Government Auditing Standards and that the Village had a clean audit. Wieland noted that the Village is charging TIF #2; TIF #3, the Water Utility and Sewer Utility amounts for annual administrative charges and that documentation on how these charges are being calculated should be reviewed annually. Wieland also noted that all employee reimbursements need to be approved by a member of management and that the Village Administrators' should be approved by the Village Clerk/Treasurer or the Village Board of Trustees. The Village's actual 2012 revenues exceed the budgeted amount by \$17,782 and the actual 2012 expenses exceed the budgeted amount by \$8010. After the transfers in and out the net change in the Village's fund balance was \$15,302. Wieland recommended that a budget amendment be made to zero out the negative \$1,004 remaining in the PECFA fund.

UNFINISHED BUSINESS, REVIEW & ACTION THERE ON

1. OUTDOOR FENCING - KURT'S NEVER INN

Tebon informed the Board that last fall Tom Zickert, owner of Kurt's Never Inn, came before the commission requesting that he be granted permission to use a wooden fence for his outdoor fencing. The Commission agreed that the wooden ties in with the color of the building and is easy to move around allowing Zickert to use it as needed. The Board questioned if the camera Zickert stated he would install was there.

Motion by Tebon, second by Fritz to approve allowing Tom Zickert/Kurt's Never Inn, 26 N. Main Street to continue using the wooden fence that he currently has for the businesses outdoor serving area contingent upon confirmation that the outdoor surveillance camera is installed and operational. All ayes, motion carried.

2. INTERGOVERNMENTAL AGREEMENT BETWEEN DANE COUNTY AND THE VILLAGE OF DEERFIELD TO PURCHASE NEW ELECTION EQUIPMENT AND SOFTWARE

The Finance Committee reviewed the intergovernmental agreement between Dane County and the Village for the purchase of new election equipment and software and recommended its approval to the Board.

Motion by Tebon, second by Wilkinson to approve the Intergovernmental Agreement between Dane County and the Village of Deerfield to purchase new election equipment and software with the three (3) year equal annual installments. All ayes, motion carried.

NEW BUSINESS

A. RESOLUTIONS

B. LICENSES & PERMITS

C. REVIEW & ACTION:

1. DISCUSSION REGARDING BONDING COMPANY TAKEOVER OF B.R. AMON CONTRACT/2012 STREET PROJECTS; REVIEW/APPROVE STRATEGY AND DRAFT CONTACTS

Attorney Anderson stated that B.R. Amon cannot complete the Village's 2012 Street Project and that Hanover, who is the bonding company for Amon, has taken the project over. Jack Murphy, the representative of the company who works directly with Hanover, came to the Village and performed a walkthrough, with Village representatives, to view Amon's outstanding projects. Murphy had very favorable things to say about the Village and the way we are handling the takeover. Amon's takeover is related to the opening of the 2013 Street Improvement Bids because the work that Amon defaulted on is included in it as an alternate. Anderson is recommending that the Village request Hanover to address the unfinished work as a completion contract rather than a tender agreement. Anderson is recommending a completion contract because this will allow Grade Tech, who is the low bidder of the 2013 Street Improvement project, to just step into Amon's shoes and still remain under the existing contract and bonding company. Tebon questioned if the costs of the additional work that are being done by the Village's Engineer and Attorney will be picked up by Hanover and not back to the Village. Frutiger stated that it was questionable; Anderson stated that there is about \$13,000 in retainage which will be needed to cover defective work and the additional engineer and legal cost. Unfortunately this is not enough to cover all of these costs so the Village will have to make a claim under the policy which Hanover can either adjust or deny. The Village would be responsible for paying Hanover for the work performed, as they are the ones holding the contract with Grade Tech, and if the costs are more than in the original contract it would be adjusted just like a normal adjustment would be done. The other issue that needs to be addressed is the defective work. This work has been being referred to as the warranty work but this is incorrect and should be now be referred to as the 2012 defective work as the actual warranty period hasn't started on the project yet. The defect work consists of failed pavement, removal and replacement of cracked sections of curb & gutter, and re-seeding and mulching of a designated portion of the project, as well as the preparation of the existing asphalt and paving of the surface course which wouldn't have been done until this year. Tebon questioned if Grade Tech would be assuming the five (5) year warranty for the joint work on Liberty that Amon had previously given the Village. Barden explained that the warranty had been a verbal agreement only and a change order had not been done on it. The agreement for the project is set-up so that the warranty does not begin until the work is completed and Barden thought that maybe Grade Tech would honor Amon's warranty.

Motion by McMullen, second by Tebon to approve moving forward with Attorney Anderson's plan to do a completion contract with the bonding company to finish the 2012 Street Improvement projects using Grade Tech and authorizing Frutiger and McCredie to finalize the contract on behalf of the Village. All ayes, motion carried.

2. DISCUSSION OF 2013 STREET IMPROVEMENT BIDS

Barden informed the Board that the bid opening was held last Thursday. The bid was split up into two (2) contracts, A and B, for concrete and asphalt work. A lot of the items listed as the 2012 defective work were also added in as an alternate to contract B, along with the asphalt work. There were two (2) bidders for Contract A, the concrete work, and they were Zenith Tech and Grade Tech. Grade Tech doesn't actually do the concrete work so they have a sub that would come here and do the work for them. Zenith Tech came in well over the engineer's estimate on everything and Grade Tech came in exactly at the engineer's base bid for alternate 1 which is Enterprise Drive and \$800.00 under the estimate for alternate 2 which is the 2012 work. The base bid consists of Gulf Road, InterPane Lane and the parking lot in Firemen's Park which does not include curb & gutter. There were three (3) bidders for Contract B, the asphalt work, which was set-up just like contract A for the base bid and alternate bid. The engineer's base estimate for Contract B was \$180,000.00, \$37,000.00 for alternate 1 and \$69,000.00 for alternate 2. Both Payne & Dolan and Wolf Paving came in over on all those amounts and Grade Tech coming in with around \$170,000.00 for the base, \$35,000.00 for alternate 1 and \$61,000.00 for alternate 2. Barden stated that at this time he would not be making a recommendation for awarding, due to the bonding company issues, but when the time was appropriate he would recommend awarding the bid to Grade Tech and that he felt they were capable of doing the work.

3. DISCUSS/APPROVE COMPOSITION OF COMMITTEE MEMBERS

Frutiger asked if any of the Board members would be willing to give up any of their committee member positions as Hasz, who is a new Board member, was not on any committees. The following Board member agreed to remove themselves:

Tebon - Board of Review

Fritz - BID

McMullen – Cable
Schreiber – Parks

Frutiger informed the Board that John Mathew resigned from the Fire Commission and Jamie Doyle has agreed to fill the position.

Motion by Tebon, second by McMullen to approve appointing Ehren Hasz as a committee member to the Board of Review, BID, Cable and Parks, to appoint Roger Fritz as the Chair of the Parks Committee and to appoint Jamie Doyle to the Fire Commission. All ayes, motion carried.

4. CONSIDER/MOVE TO CLOSED SESSION PURSUANT TO § 19.85(1)(e) FOR THE PURPOSES OF DELIBERATING OR NEGOTIATING THE PURCHASE OF PUBLIC PROPERTIES, THE INVESTING OF PUBLIC FUNDS, OR CONDUCTING OTHER SPECIFIED PUBLIC BUSINESS, WHENEVER COMPETITIVE OR BARGAINING REASONS REQUIRE A CLOSED SESSION AND PURSUANT TO § 19.85(1)(g) FOR THE PURPOSE OF CONFERRING WITH LEGAL COUNSEL WHO IS RENDERING LEGAL ADVICE REGARDING LITIGATION OR POTENTIAL LITIGATION IN WHICH THE VILLAGE MAY BECOME INVOLVED (DEER-GROVE EMS, VILLAGE COMPOST SITE AND BONDING COMPANY TAKEOVER OF B.R. AMON CONTRACT/2012 STREET PROJECTS)

Motion by McMullen, second by Tebon to move to closed session pursuant to § 19.85(1)(e) for the purposes of deliberating or negotiating the purchase of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session and pursuant to § 19.85(1)(g) for the purpose of conferring with legal counsel who is rendering legal advice regarding litigation or potential litigation in which the village may become involved (Deer-Grove EMS, Village Compost site and bonding company takeover of B.R. Amon contract/2012 street projects). Roll call vote: Wilkinson aye, Tebon aye, Schreiber aye, McMullen aye, Fritz aye, Hasz aye and Frutiger aye, motion carried.

5. CONSIDER/MOVE TO OPEN SESSION TO TAKE ACTION ON ISSUES DISCUSSED IN CLOSED SESSION (DEER-GROVE EMS, VILLAGE COMPOST SITE AND BONDING COMPANY TAKEOVER OF B.R. AMON CONTRACT/2012 STREET PROJECTS)

Motion by Schreiber, second by McMullen to move to open session to take action on issues discussed in closed session. Roll call vote: Wilkinson aye, Tebon aye, Schreiber aye, McMullen aye, Fritz aye, Hasz aye and Frutiger aye, motion carried

6. ACTION, IF ANY, AS A RESULT OF CLOSED SESSION

No action taken.

**ORDINANCES
COMMUNICATION
STAFF REPORTS**

A. ADMINISTRATOR'S REPORT

ADJOURN

Motion by Wilkinson, second by Fritz to adjourn at 9:10 pm. All ayes, motion carried.

/S/ Elizabeth McCredie
Village Administrator, Clerk, Treasurer