

Village of Elm Grove Board of Trustee Meeting Minutes

Board of Trustee Call to Order:

The meeting was called to order at 7:38 PM

Roll Call:

- PRESIDENT PALMER
- TRUSTEE CORNELL
- TRUSTEE STUCKERT
- TRUSTEE KOLESKI
- TRUSTEE SCHINDLER
- TRUSTEE MICHALSKI
- TRUSTEE SAYAS

- DAVID DEANGELIS, VILLAGE MANAGER
- HECTOR DE LA MORA, VILLAGE ATTORNEY
- TOM HARRIGAN, ZONING ADMINISTRATOR
- SANDEE POLICELLO, VILLAGE CLERK/DEPUTY TREASURER

The Pledge of Allegiance was recited

- 1.) Public comments – please note comments read into record are included in the minutes. Comments emailed to Village Board members, but not read aloud, are not included.

Ted Eull, 12850 Green Meadow Place – He thanked President Palmer and the trustees for their service to the Village. He said some voters think that the referendum passed and new trustees were elected and therefore, the project is stopped. As far as he knows they are not correct. Others, including maybe some trustees, think that nothing can be changed, the plan was approved and it is written in stone and nothing can be changed. He believes they are mistaken. There is a new Board with three trustees that defeated the candidates that were supporting the plan. The voters spoke clearly that they do not support this plan. He sees an opportunity to negotiate with Mandel and put forward a plan that voters support. If this is not done they will take further action. 1,326 voters sent a clear message. He said it is hard to see how so much money can be given away to Mandel when so many smart people that understand government and development are questioning the plan. There is an opportunity now to change the plan.

Tom Castile, 1865 Hollyhock Lane – He said Ted already said pretty much everything he wanted to say. He said the majority of the population wants a slow down to the Mandel project. They want to renegotiate the development and still get water for the downtown so that it can grow. He would like to see better, smarter tax revenue that can provide relief sooner for public services. He said the Earth day event was fantastic.

Hearing no one else present or on Zoom who wished to speak – the public comment period was closed.

Later in the meeting Mary Inden requested to speak. She said the Elm Grove Business Association had their shred day on Saturday, 9.3 tons of paper were shredded and it was very successful.

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2.) Approval of Agenda

MOTION BY TRUSTEE MICHALSKI, SECOND BY TRUSTEE SAYAS, TO APPROVE THE AGENDA AS PRESENTED.

ALL WERE IN FAVOR. MOTION CARRIED.

3.) Approval of Minutes

- a. 2022-03-28 Board of Trustee DRAFT Minutes.

Trustee Stuckert would like her public comment amended to read as follows: TID will bring municipal water to the Mandel apartment complex, our downtown needs municipal water. However, the Mandel project is the only one at this time to get municipal water. To spend this kind of money and not have one existing resident, condo development or business get municipal water at this time is wrong. It will be at least 2 years before anyone else downtown sees municipal water.

Trustee Koleski brought to the Board's attention page 5, last sentence of the second paragraph, which states: Palmer said the increased cost is caused by the people that tried to stop the project. President Palmer confirmed that is what he said. Trustee Koleski said that is factually inaccurate. President Palmer said he is comfortable with how it reads, you can't correct someone else's direct statement.

Trustee Koleski indicated page 10 e., "part" should read "park". This will be corrected.

Trustee Koleski indicates on page 12, item 16, he is confused about the three motions that were made when the Board returned to open session. President Palmer explained that the first motion was to approve the Wauwatosa Water Agreement. The second motion was to bring the item back for reconsideration. The third motion was to approve the Wauwatosa Water Agreement. This procedure prevents the item from being reconsidered in the future. The new trustees would not have been have to bring this item back for consideration, as they did not vote on the item on March 28, 2022. Trustee Koleski feels this was not done in good faith.

MOTION BY TRUSTEE CORNELL, SECOND BY TRUSTEE MICHALSKI, TO APPROVE THE MINUTES AS AMENDED.

VOTE: NAY-KOLESKI, STUCKERT, SCHINDLER, SAYAS. MOTION FAILED.

Attorney de la Mora explained that the minutes will be taken up at the next meeting. Under Wisconsin law, the only thing that needs to be made a part of the minutes are the actions taken by the legislative body. There is no requirement that the public comment be incorporated. When a body declines to approve the minutes, the only option is to modify the minutes until the body accepts them. He recommended that this be tabled to a date certain. When a body votes to approve minutes, they are agreeing with what happened. For the new trustees, there is a question of their eligibility to vote on the minutes of a meeting prior to the beginning of their term.

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President Palmer said discrepancies between what happened at a meeting and the minutes should be talked about, however, opinions about what happened - that's not the purpose of the approval of the minutes. Minutes reflect the actions taken.

MOTION BY TRUSTEE KOLESKI, SECONDED BY TRUSTEE SAYAS, TO TABLE THE MARCH 28TH MINUTES TO THE NEXT MEETING.

Attorney de la Mora suggested that the motion be amended to include that there be a distribution to the trustees who had not seen the draft of the Wauwatosa Water Agreement so they have the opportunity to review that.

Trustee Koleski said he would like to leave the motion broad like he did because he believes it is beyond just the water.

VOTE: ALL WERE IN FAVOR, MOTION CARRIED.

- b. 2022-04-7 Board of Trustee DRAFT Minutes.

MOTION BY TRUSTEE MICHALSKI, SECOND BY TRUSTEE SAYAS, TO APPROVE THE MINUTES AS PRESENTED.

ALL WERE IN FAVOR, MOTION CARRIED.

- 4.) Report of the Village President - Neil H. Palmer
 - A. Review and approval of Spring 2022 Committee Nominations

MOTION BY TRUSTEE SCHINDLER, SECOND BY TRUSTEE CORNELL, TO APPROVE THE SPRING 2022 COMMITTEE NOMINATIONS.

ALL WERE IN FAVOR, MOTION CARRIED.

- B. Joint Review Board – Report

Minutes included for informational purposes.

- 5.) Report of Fire Chief - David Kastenholtz
 - a. March Fire Department Report
- 6.) Report of Police Chief – Jason Kubiak
 - a. March Police Department Reports

Chief Kubiak provided the 2021 Police Department Annual Report, as well as the March Monthly Report to the trustees. 2021 activity was up by only 1.9%. Serious offenses saw a slight uptick in certain categories, but overall was down 47% as a whole; there

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was a significant decrease in thefts. The department is currently fully staffed. An offer will be made to fill the last dispatcher opening this week.

7.) Report of EMS Director - Dr. Jon Robinson

- a. No report.
Trustee Michalski said it has been approximately six months since they had a report from EMS, he asked if that could happen.

8) Report of Village Manager - David DeAngelis

- a. Review and possible approval of Joint Powers Agreement – County 911
MOTION BY TRUSTEE SAYAS, SECOND BY TRUSTEE MICHALSKI, TO APPROVE THE AGREEMENT BETWEEN THE VILLAGE OF ELM GROVE AND WAUKESHA COUNTY, JOINT POWERS AGREEMENT – COUNTY 911.
ALL IN FAVOR. MOTION CARRIED.
- b. Mr. De Angelis gave an update regarding WE Energies underground installations. Anyone with specific tree trimming concerns can contact the Village Manager.
- c. A request has been received from Horizon to adjust the requirement that all Elm Grove Heights renters be at least 62 years of age. They currently have 38 residents with a capacity of 75. This will be on next month’s agenda.
- d. Mr. De Angelis is recommending several Committee of the Whole meetings be scheduled. This will bring the Board up to speed on upcoming projects.

9.) Report of Village Attorney – Hector De La Mora

- a. Attorney de la Mora met with the new trustees. He will make himself available any time they have questions.

10.) Report of Standing Committees - Please review the minutes on our website for more details.

- a. Plan Commission - Trustee Michalski
Sunset Playhouse had a request to host outdoor concerts. There have been no incidents or complaints in the past and this was approved unanimously. It is recommended that they apply for an amendment to the plan of operation so they don’t have to apply for annual requests in the future.
- b. Library Board - Trustee Sayas
The library facility assessment is well underway; 250 surveys have been returned. This will help plan the library’s future. Salaries were reviewed and starting library pagers were increased from \$8 - \$10. A one-time bonus of \$750 was approved for Sarah for outstanding performance in 2021.

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- c. Public Works - Trustee Kressin
Previous chair, Patrick Kressin is not at tonight's meeting. Trustee Koleski asked about timing between approval and when something goes out for bid; David De Angelis said there is a 2 – 3 week bid window followed by a formal bid opening where they check for accuracy and proper info – that information will go to the Public Works Committee and they will make a recommendation that will go to board. David De Angelis said there are two bids out on street paving projects, Watertown Plank Road and the pathway next to Elm Grove Road. Those are two bids that are coming back on Friday. Trustee Koleski asked if we are required to take the lowest bidder. Mr. De Angelis confirmed that we are required to take the lowest qualified bidder.

- d. Public Safety - Trustee Sayas
No report

- e. Legislative - Trustee Domaszek
No report

- f. Park and Recreation – Trustee Cornell
They had the introduction to the new Recreation Manager, Jon Clemins. The pool house renovations are continuing and should be ready for opening day. They are just waiting on garbage cans, mirrors, lights and plumbing. The new floor was finished today. The exterior public restrooms at the pool house have been completed. The baking contest will return for the 4th of July. The Junior Guild is requesting ponies and they discussed insurance requirements. Mary Inden asked that they reconsider moving the fun run from the path around pond back to the village streets. The Memorial Day parade is happening, the Junior Guild is organizing with it with the Legion Post; applications for floats can be made on the Elm Grove Junior Guild website.

- g. Administrative and Personnel - Trustee Michalski
No meeting, no report

- h. Finance and Licensing - Trustee Haas
There was not a quorum for today's meeting, but there was good discussion. The vouchers and year to date revenue and expenditures were reviewed. The meeting next month will start at 6:30 pm to allow time to go over the audit report, as well as do introductions of the committee members. It was recommended that the vouchers presented be approved.

MOTION BY TRUSTEE KOLESKI, SECOND BY TRUSTEE MICHALSKI, TO APPROVE THE VOUCHERS AS PRESENTED.

ALL WERE IN FAVOR. MOTION CARRIED.

11.) Other Business

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- a. Trustee Sayas announced that the Elm Grove Woman’s Club has trivia night May 5th, they invite the community to attend, tickets are \$25; this raises funds for the club. She said that the Elm Grove Citizens Police Academy Alumni Association finished Dispatch Appreciation Week. Next is Police Appreciation Week May 15 – 21; she encouraged citizens to express their appreciation to our police officers.
- b. Review next steps and process to discontinue the Village’s appeal of the judge’s ruling related to the citizen’s referendum (mandamus action) and related injunction currently in place. (Request by Trustee Stuckert, Trustee Koleski).

MOTION BY TRUSTEE STUCKERT, SECOND BY TRUSTEE KOLESKI, THAT THE VILLAGE OF ELM GROVE DROP THEIR APPEAL OF THE INJUNCTION ISSUED BY JUDGE BOHREN ON DECEMBER 17, 2021, WHICH WAS EXTENDED AND THAT WE TELL THE LEAGUE OF WISCONSIN MUNICIPALITIES THAT WE ARE NO LONGER INTERESTED IN PURSUING THIS.

**VOTE: AYE-STUCKERT, KOLESKI, SAYAS, SCHINDLER; NAY- MICHALSKI, PALMER, CORNELL
MOTION PASSED 4-3**

Attorney de la Mora said there is a hearing on April 28th where the other side is seeking to sanction the Village. He recommends that the Board clarify their intentions to give the Village’s attorney direction. He recommended that the previous motion be reconsidered and take into account all of the information. He recommended the Board meet with the Village’s attorney, Remzy Bitar, to be better informed. The Board can then explain why they do not want to pursue the appeal.

Mr. De Angelis said any penalties assessed in the court case will have to be paid by the Village and will not be paid by its insurance.

MOTION BY TRUSTEE KOLESKI, SECOND BY TRUSTEE STUCKERT, THAT THE VILLAGE NOT APPEAR AT THE APRIL 28TH COURT DATE IN RELATION TO THIS MATTER.

Attorney de la Mora recommended a special meeting of the Board to meet with Attorney Remzy Bitar with distribution of the materials that were filed on Good Friday and served on the Village the following Monday. The Board can then ask specific questions of Attorney Bitar.

**VOTE: AYE – KOLESKI, STUCKERT; NAY – MICHALSKI, PALMER, CORNELL, SAYAS,
SCHINDLER
MOTION FAILS 2 – 5**

President Palmer asked if everyone was comfortable with the direction to staff that they contact Attorney Bitar and get a meeting scheduled as soon as possible to discuss the matter before the court on April 28th and the possible outcomes and challenges, and that staff will get the latest filings to the Board. All were in agreement.

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12.) Adjournment

There was no further business.

MOTION BY TRUSTEE CORNELL, SECOND BY TRUSTEE SAYAS, TO ADJOURN THE MEETING.

ALL WERE IN FAVOR. MEETING ADJOURNED AT 9:55 PM.

Minutes transcribed by: Sandee Policello

Minutes Approved on: May 23, 2022