

Village of Elm Grove Board of Trustee Meeting Minutes

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Board of Trustee Call to Order

The meeting was called to order by the Clerk at 7:31PM.

Roll Call:

PRESIDENT PALMER

TRUSTEE IRWIN

TRUSTEE HAAS

TRUSTEE KRESSIN

TRUSTEE MICHALSKI

TRUSTEE DOMASZEK

TRUSTEE CORNELL

DAVID DE ANGELIS, VILLAGE MANAGER

HECTOR DE LA MORA, VILLAGE ATTORNEY

TOM HARRIGAN, ZONING ADMINISTRATOR

MICHELLE LUEDTKE, VILLAGE CLERK

The Pledge of Allegiance was recited.

- 1.) Public Hearing – None.
- 2.) Public comments

Marge Kozlowski - 1225 Vista View Drive, Brookfield – Representing Elmbrook Senior Taxi. Thank you for the Village support. She gave an update on taxis with CoVID. Ridership is at 40% of the normal number of rides. Performed 225 rides this year. 75% of those rides were seniors. The other quarter were disabled residents. Job training, chores, and medical appointments were the bulk of the need for transportation. Taxis were considered necessary and were able to maintain business. There is one senior taxi service that did not opt into staying open for CoVID. Elmbrook Senior Taxi is disinfecting in-between rides. They are operating as normal. Staff in the office is down. In May, they secured PPE to put them in a good position for now and in the future. They are hoping for a vaccine. Thanks the Village again for the continuing support.

President Palmer indicated they are still looking for someone from Elm Grove to be a member on the Elmbrook Senior Taxi Board. See their website for more info if you are interested or contact Neil directly. This is an essential service.

Mary Inden – 14745 Watertown Plank Road – Mary indicated the Holiday Open House will be happening. No Santa this year. He and the Misses will be flying in on the morning of the 14th. They are going to go out to some of the neighborhoods. She had a question about the Interfluve. She cannot figure out what portion of the creek they will be working on.

Manager De Angelis clarified the portion of the streambank being worked on.

Lisa Becker – 1155 Church Street – Lisa was one of the folks who volunteered to circulate the petition. The petition involves residents input on public works projects over \$1M dollar. It directly involves residents approving these large projects; for example: the Mandel Group project water needs. This would trigger a referendum question. She has not found an equal number of neighbors who approve it

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as who are against it. She indicates this petition and the people she has talked to want these types of items to be put to a vote. The Ordinance seeks to stop the movement this petition is trying to accomplish.

Scott Shulick - 1155 Church Street – He would like to express his support for moving the people’s petition forward. He is in favor of broad and clear support for public projects. He has concerns over the Ordinance. \$1M may seem limiting, but not many projects have crossed the threshold. Clear communication to the people would be put forth to inform the public prior to a vote. If it was so big and so urgent that is required a special election – he feels this would be good. He does not believe the \$5M threshold is a good idea. He believes this grants the Village a blank check. He says the Village can revisit this in the next 5 years to account for inflation. A good way to find out what the people want it to take the item to the electorate.

Bob Chang - 12850 Green Meadow Place – Bob helped circulate petition documents. He did feel there was a great deal of dissention with regard to the project. He thinks this needs to be put to a vote and the constituents need to be listened to.

Jennifer Stuckert - 14949 Juneau Boulevard – Jennifer is a part of the group Elm Grove Charming. She was part of the group that walked around for signatures. She would like to read the original petition. **See attached back of the petition form.**

Wants to know why the item went from \$1M to \$5M. Wants to know if the Village is running around trying to make this fit what the representatives want. They have retained an attorney. Jennifer read the letter from the attorney; **See attached fax from Cramer, Multhauf, and Hammes.**

She has been a resident for over 30 years. She believes Elm Grove is a special place. Rural feel, sense of community, schools, etc. We all have different reasons we were drawn here. Once you are here as a resident, the thing that makes Elm Grove special is that its residents are invested. We are not people who sit by and let things happen and don’t show up for things. Keep Elm Grove charming is one of those groups. A group who is invested in this community. They are not opposed to items – they just want things that sense as a whole and not the developers. The people here today give up their time to serve on these boards. Serve the people of the community. More than 800 people signed this petition. She is asking for respect for the petition. Vote on it as such. No end games. No run arounds. You are part of the community. Do what is right. You have to face your neighbors tomorrow. There are over 800 people who want this. Do what you were elected to do. Represent the citizens of Elm Grove.

John Stollenwerk - 12750 Stephen Place – Three things: Speak regarding the one agenda item. He would like the board to table it. Within the language it talked about politicization. The proposal of the agenda item, which heightened the politicization. We do not need to act on the board agenda item with the \$5M. Let the petition go through. He also circulated the petition.

Jane Bunce - 12925 Meadow Drive – Jane is here as concerned citizen. She understands the board gives a lot of time and effort. This situation has become divisive. Go to common ground. Common ground is that Elm Grove is a special place. We don’t want to change the flavor of the village. Development is going to happen. We know that. There doesn’t need to be a black or white – just something in-between. Don’t change the flavor or the feeling of the Village. She is against high density. Once we change it, it’s

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done. She thanked the board for their time. Her group has also put in time and effort to be proactive and look at the long range outcome of this approach.

Kathryn Gutenkunst – Attorney at Kramer, Multhauf, and Hammes – Her family owned property on Watertown Plank Road. Direct Legislation came into place many years ago and there was a lot of thought behind this. She read the letter faxed to the Village Board. **See attached fax from Cramer, Multhauf, and Hammes.** People expect and want transparency with their government. Ask yourself: when a development comes about – have plans or documents been looked at before they were submitted? Have there been meetings about the items before it was made public? Only 4 limitations: modify and existing ordinance. The submission of this ordinance flies right in the face of Statute 9.20. In the letter, she tried to lay out the timing of the petition submission where the ordinance was created after. The residents secured over 800 signatures during CoVID. She asks that we set aside the ordinance tonight and act on the petition as submitted. She thinks her letter is clear.

Steve Klamer - 12800 Green Meadow Place – Steve lives next to the School Sisters property. The village is attempting to pass an ordinance with a limit for capital expenditures for over \$5M. This is business. The Villages attempt to make their outreach null and void is an outrage.

Jeff Behring – 1100 Red Barn Lane – Jeff stated that he reads all agendas. He wants to know what is going on and stay well informed. Civic engagement makes a community a better place to live. He appreciates everyone's effort in the Village. He thanked the Village for their work. He was pleased the petition was already being taken up for consideration. He was approached by residents regarding this petition. He is in favor of people engaging in civic matters. He asked around when he was deciding what number to choose for the amount on the petition. This was meant to give people say and have direct feedback. This was not directly for the School Sisters Mandel project but it would affect that. He wanted to make sure the petition was done in a high quality fashion. People wore masks, gave out blue pens, the statement was on the back of the petition. He went on to share more information on the petition process. Showed a map where all the people live throughout the Village. This is not just a my backyard group. He encourages the Village to table this ordinance. **See attached Statement to the Board of Trustees from Jeff Behring.**

Mary Inden – 14745 Watertown Plank Road – She has questions. How many projects have we done in the last 15 years that have cost the Village more than \$1M? Were they a need or a want? With the group that is here, she did not sign the petition, but not knowing the answer to the first question would make the \$1M a sticking point. This might be too low for a basic situation for sewer or roads. Maybe a little negotiation. She doesn't know if you can renegotiate a handed in petition. How often can you have a referendum? How much do they cost? Do we have to wait? Can the developer still make money with less than 300 units? Everyone could use more business especially with a year like this. We need more families moving into the Village; shopping, getting gas, etc. Schools will adjust. Let's negotiate. This was shocking to see on the bottom of the page. She has been on the other side of the table and wants the Village to be fair.

Ted Eull – 1610 Legion Drive – Ted echoed comments from others. He also circulated petition papers. He thinks the \$1M is enough. The petition process does not allow a negotiation process. He urged the Village Board to table the item. Wants the Village to look at an Ordinance that gets closer to that \$1M

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mark. Look at the “best interest of the Village”. Hold direct referendum in cases with those larger projects. Thanked the Village Board for their service.

Hearing no one else present who wishes to speak – public comments were closed.

Trustee Domaszek – He remarked on the placement of the item on the agenda being last. He gave some background on his nine years with the Village serving on boards, committees, and commissions. We have never had anyone complain about any Public Works projects. Process, transparency, etc. We have had no issues. He has heard we should have more projects. We send the projects out to bid – to get back the best price possible. He believes the concerns are valid and the concerns from the residents about this specifically relate to the Mandel project. This would be a roadblock that would hurt the Village overall. He would rather have seen some hard data; traffic study, fire, schools, police, etc. He doesn’t want to put an ordinance in place to just stop this project and hurt other items in the long run. If the Mandel project does not submit items in the best interest in the Village – it will be reviewed and changed as needed. There are 5 citizen members of the Public Works Committee that spend an exorbitant amount of time reviewing projects. He listens to everyone who talks to him, even people who he may not agree with or that he does agree with. The petition is not the way to go about this whole situation. We have a process where half the board is up for reelection every other year. Every project he is seeing coming through in the future will meet or exceed the \$1M mark.

Trustee Haas wants to ask the Village Attorney about the compelling statements from Attorney Gutenkunst.

Attorney De La Mora – when he became aware of the filing of the petition. He researched the matter with other attorneys in his lawfirm. He was surprised at the lack of clear guidance in this area. They created an advisory group. He apologies for not getting this to them sooner. He was trying to leave no stone unturned. **See attached memo dated October 26, 2020 from Von Briesen.**

If a higher dollar Ordinance would be authorized – the Mount Horeb case would allow this. We have reviewed the stats and case law. No case or legal authority is on point with this issue. There is no authority prohibiting the village from passing this Ordinance. His firm stated it was lawful. He disagrees with Gutenkunst inferences. There is a provision in section 9.20 which lays out a process/procedure. It states the first thing that needs to happen is that the petition needs to be certified. Once the certification occurs or 15 days pass – the clock starts running for the board. Until that point, the board has no legal impediment. Once the time has passed, the board would then have no choice.

Trustee Haas – disagrees with Hector. A number of speakers spoke about circumventing what is going on. The residents stated this is more about the development about the School Sisters more so than the spending of Public Works monies.

Trustee Domaszek – initially agreed with George, but the more he has learned about it, he has changed his opinion. Based on about 60 cases.

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Trustee Haas – if the petition is not in compliance, we should review this Ordinance.

Trustee Kressin – appreciates the love for the village from the residents. Has been the chair of the Public Works Committee. Zero people have come before them to talk about Public Works expenditures being excessive. We all take our job very serious. There are meetings every single week where all of these items are discussed. He has not seen any of these people at the other meeting with comments. This is the most transparent government you will see. This is why we do this for a volunteer position. They are looking out for their neighbors. No one came to his house when they were canvassing the neighborhoods. He has concerns about how the petition was described to others. To conclude – in the finance committee they are always trying to reprioritize. These things change throughout the year. The road projects run into issues. Having this item only voted on once per year is not realistic. We don't really want to get into a voting things about who gets pathways or road approvals. They try to balance it out for the Village. People have not come to the board about the issue, it has been about a project. To allow School Sisters to hookup to Wauwatosa, this would help the residents of Elm Grove. He would like a real discussion about this. This is why he volunteers – to be able to discuss.

Trustee Cornell – what she keeps coming back to is that this project needs to stand on its own merit. The petition is clouding the actual proposal and not allowing that to actually happen. The Mandel proposal has evolved since the beginning and she believes it will continue to evolve. The developer continues to take feedback. She hopes we can get to a place where this should happen as it should and not with something short sighted.

Trustee Irwin – This evening makes her sad. She sees the audience and zoom. People who are close friends. She agrees with Pat and John. People have no trust in the process or them as people. Her mind is not make up for this project. She has concerns about how the petition was circulated. She has 12 people who called her about the petition and how the message was delivered. She agrees this is not about public works. This is about stopping a project people do not want to happen. She is empathetic. She does not think this petition was done the same way. At the same time, she is not comfortable with the circumventing of the circumvention. She would like the residents to work with Mandel to get what they want. We cannot make everyone happy. Everyone gives a little bit. We all love our Village. She does not support the petition because of how it was circulated. The board wishes there was more trust based on their time spent into this.

Trustee Michalski – the petition would hamstring us in the future. This splash pad total bill was over a million (not including donations). He would be against the petitions plan because of what this would do in the future.

President Palmer – he supports a lot of the comments he has heard. His objection is simple: do what they were elected to do. They are a republic, not a direct democracy. You elect people who represent you. You don't elect them to keep a tally on what they do. Every 2 years people get to judge that. Pat made the comment about transparency. Neil has also had the opportunity to work with other municipalities. And we are transparent. We try many ways to involve the public. Every committee, board, group we have with the exception of personnel – they all have citizen members. They allow public comment far in exceedance with Roberts's Rules. He believes this is the best way for people to understand issues. He does not believe the petition helps us. He has heard from people who have stated

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they will never get a pathway built, because other people in the village may not support a pathway they would never walk on. This will make every project a political battle. That is not a good way to run a local government. He supports the Ordinance listed under new business. He was around when direct legislation was put into place and it turns every public discussion into a war. Before the Mandel project, he had never heard anything about Public Works capital funds being spent inappropriately. The project will stand on its own merit. This project will stand on its own. There are a lot of steps, opinions will be shared, updates will occur. We don't have an application yet. He cannot support the petition process because it undermines the trust of the board to complete the process for approval of projects.

MOTION BY PRESIDENT PALMER, SECOND BY TRUSTEE DOMASZEK, TO APPROVE THE PUBLIC WORKS FINANCING ORDINANCE §30-2 LETTING OF CONTRACTS OF THE VILLAGE OF ELM GROVE.

Attorney De La Mora indicated he circulated sections intended to clarify the proposed Ordinance and include Section 4 and Section 5. **See attached memo dated October 26, 2020 from Von Briesen.**

Trustee Domaszek read Section 4 and Section 5 out loud.

PRESIDENT PALMER AMENDED HIS INITIAL MOTION TO INCLUDE COUNCIL RECOMMENDED SECTIONS 4 AND SECTION 5. TRUSTEE DOMASZEK SECOND THE AMENDMENT.

Trustee Irwin wanted to know about the \$5M limit.

President Palmer explained projects being broken up into different portions; daylighting, bringing water to the downtown, pathways, and other projects allow the \$5M to be a reasonable number.

Trustee Kressin commented about the Tonawanda pathway.

Trustee Domaszek said he looked over projects that were in the \$4M. This would be an already contemplated project.

President Palmer indicated in an earlier iteration for water to be brought to the village – the Village put that to a vote. They were not required to do so, but wanted to see if the residents were interested.

Trustee Haas indicated this would have needed to be financed.

President Palmer continued to state this was an example of the transparency of the issues. This has been rejected virtually everywhere. This makes local government hard to operate.

Trustee Irwin is uncomfortable with the process but agrees with the other comments made.

The motion was called to question.

ALL IN FAVOR. MOTION PASSES.

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3.) Approval of Agenda

MOTION BY PRESIDENT PALMER, SECOND BY TRUSTEE MICHALSKI, TO APPROVE THE AGENDA AS PRESENTED WITH THE ADDITION OF THE NEW BUSINESS.

ALL WERE IN FAVOR. MOTION CARRIED.

MOTION BY TRUSTEE HAAS, SECOND BY TRUSTEE CORNELL, TO MOVE THE ITEM UNDER NEW BUSINESS TO THE BEGINNING OF THE AGENDA.

ALL WERE IN FAVOR. MOTION CARRIED.

4.) Approval of Minutes

- a. 2020-09-08 Board of Trustee DRAFT Minutes

MOTION BY TRUSTEE KRESSIN, SECOND BY TRUSTEE DOMASZEK, TO APPROVE THE DRAFT MINUTES AS PRESENTED.

ALL WERE IN FAVOR. MOTION CARRIED.

5.) Report of the Village President - Neil H. Palmer

- a. President Palmer wants to remind people if you are looking for an opportunity to serve – please consider the Elmbrook Senior Taxi Board.

6.) Report of Fire Chief - David Kastenholtz

- a. September Fire Department Report

7.) Report of Police Chief - James Gage

- a. September Police Department Reports

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

9.) Report of Village Clerk - Michelle Luedtke

- a. Registered voters: 5,017. Absentees Requested: 3,085 (62%). Returned or voted in person: 2,638 (53% turnout so far!)

10.) Report of Village Manager - David De Angelis

- a. Review and possible action on Resolution 102620B regarding Urban Wildlife Abatement and Control Grant.

Village Manager De Angelis indicated we did not opt in for goose removal this year. Based on the number of geese now, it will likely change in the spring of 2021. The deer program was removed last year and is not in the budget for 2021. Private funds may be obtained for deer abatement. If someone

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wants to fund the program, call or email Mr. De Angelis. We net and sharp shoot in this community. Netting deer costs approximately \$400 while sharpshooting costs approximately \$150 to \$175. One location in the last four years allowed for sharpshooting.

MOTION BY PRESIDENT PALMER, SECOND BY TRUSTEE MICHALSKI, TO APPROVE RESOLUTION 102620B REGARDING URBAN WILDLIFE ABATEMENT AND CONTROL GRANT.

ALL WERE IN FAVOR. MOTION CARRIED.

Village Manager De Angelis indicated the Village has wrapped up for the year with public works related items. Some projects are trying to be completed before the snow including the approaches at Elmhurst & Legion and Juneau for the pathway.

The Village striping is done. More will be completed in the spring. We have a price for a street lamp at approximately six thousand dollars. This will be pushed off until next year.

There were some savings in the speed sign budget. We can buy three speed signs - Two for Legion and one for Watertown Plank Road in the next month.

Elm Grove Road had some work completed for a sanitary sewer break. They are currently flattening out the area for better access. For the Committee of the Whole meeting, Mr. De Angelis will be asking about carrying it forward.

Trustee Cornell asked which kind of light was six thousand dollars.

Village Manager De Angelis indicated it was the coach light model.

11.) Report of Village Attorney - Hector de la Mora

- a. Attorney De La Mora had no report at this time.

12.) Report of Standing Committees

a) Plan Commission - Trustee Michalski

- i. President Palmer reported. Acted on demo permit. Also approved a Plan of Operation for Vantage Financial. See Plan Commission minutes on our website for more detail.

b. Library Board - Trustee Irwin

- i. Met on Oct 12. Quick meeting. FOEGL received a donation for \$10,000. November mini book store are cancelled due to CoVID. Donations accepted through Oct 31. Lights of Love will still take place outdoors on November 6th. Statistics – circulation was down 50%. Computer use, reference request, children's, etc. are also down. The EG Library is still a hub for pickups. See the Library minutes on our website for more detail.

c. Public Works - Trustee Kressin

- i. Met Monday Oct 12. Went through a vegetation issue in the right of way.

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- ii. Review and possible action on a Contract for Services between the Village of Elm Grove and Inter-Fluve for the Underwood Creek Streambank Stabilization Project.

MOTION BY TRUSTEE KRESSIN, SECOND BY TRUSTEE DOMASZEK, TO APPROVE A CONTRACT FOR SERVICES BETWEEN THE VILLAGE OF ELM GROVE AND INTER-FLUVE FOR THE UNDERWOOD CREEK STREAMBANK STABILIZATION PROJECT.

ALL WERE IN FAVOR. MOTION CARRIED.

- iii. See the Public Works minutes on our website for more detail.

d. Public Safety - Trustee Cornell

- i. No meeting, no report.

e. Legislative - Trustee Domaszek

- i. Met this month. Have an update for the approval of operating licenses. Ordinance allows the Clerk to approve operator licenses; referring problematic items to the Licensing and Finance Committee.
- ii. Review and possible action on Ordinance for Chapter 171-4 of the Municipal Code regarding the approval of Operator Licenses by the Village Clerk.

MOTION BY TRUSTEE DOMASZEK, SECOND BY TRUSTEE HAAS, TO APPROVE AN ORDINANCE FOR CHAPTER 171-4 OF THE MUNICIPAL CODE REGARDING THE APPROVAL OF OPERATOR LICENSES BY THE VILLAGE CLERK.

ALL WERE IN FAVOR. MOTION CARRIED.

President Palmer added this is the way most communities complete this task. If there is an issue, this will be referred back to the committee and board.

- iii. See the Legislative minutes on our website for more details.

f. Park and Recreation - Trustee Irwin

- i. Met on Oct 15th. Pool report. Committee talked about keeping the pool open longer. Beyond mid-August. Keep it open closer to Labor Day. The potential for five new bench locations. Looking at naming sites with public feedback and Board approval with the recommendation from the Park and Recreation Committee. See the Park and Recreation minutes on our website for more details.

g. Administrative and Personnel - Trustee Michalski

- i. Met Oct 12. Discuss EMS request for a vehicle. This was not approved. Opted to pay for a light bar for his vehicle. Request for Johns Disposal was also discussed. Additional information was requested. Last item was regarding the Village Manager ICMA affiliation. This will save the Village \$1000 to help us balance our budget.

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- ii. President Palmer included information based on a question from social media about leaf pickup. Bags are available at the Village Hall for \$1.00 each with a special sticker. See the Park and Recreation minutes on our website for more details.
- h. Finance and Licensing - Trustee Haas
 - i. In the process of finalizing the budget while trying to maintain the tax levy limit. We have very little net new construction. Proposed budget required cutting a significant amount. There is a list of some of the items we can cut. There will be another Special Finance Meeting on November 4th at 7:00pm. See the Finance and Licensing minutes on our website for more details.
 - ii. Review and Act on Vouchers

MOTION BY TRUSTEE HAAS, SECOND BY TRUSTEE DOMASZEK, TO APPROVE THE VOUCHER LISTS AS SUBMITTED.

ALL WERE IN FAVOR. MOTION CARRIED.

13.) Other Business – None.

14.) New Business - Review and possible action on proposed Public Works Financing Ordinance §30-2 Letting of Contracts of the Village of Elm Grove.

THIS ITEM WAS MOVED TO THE BEGINNING OF THE AGENDA.

15.) Adjournment

There was no further business.

MOTION BY TRUSTEE KRESSIN, SECOND BY TRUSTEE DOMASZEK, TO ADJOURN THE MEETING.

ALL WERE IN FAVOR. MOTION CARRIED. MEETING ADJOURNED AT 9:52PM.

Minutes transcribed by: Michelle Luedtke

Minutes Approved on: