

Village of Fall Creek
Minutes of Special Village Board Meeting
May 25, 2023

1. **Call to Order:** 5:00 p.m., Village Hall Meeting Room, 122 E Lincoln Ave., Fall Creek
2. **Roll Call:** Members Present: Village President Tim Raap, Trustees Ryan Aylesworth, Chester Goodman, Karen Herbison, Karen Hurd, Sheena Kaatz, Matt Mattoon. Members Absent: None. Staff Present: Administrator/Public Works Director Jared McKee, Deputy Clerk Joan Drehmel. Also Present: 10 citizens.
3. **Certify Open Meeting Law Requirements Have Been Met:** A notice of the meeting and the agenda was posted at the three public places and local newspapers were notified.
4. **Adopt Agenda:**
 - MOTION (Kaatz/Herbison) to adopt the agenda as printed. PASSED, without negative vote.
5. **Recognition of Visitors/Citizen Input:**
 - Mark Prankus, 211 E Randall Road, was disappointed in communication regarding the meeting. He understood the open meeting law requirements had been met but felt the property owners affected by the Randall Road project should have been individually notified again.
 - Vern Ming, 133 E Randall Road, requested doing the Pledge of Allegiance because it was Memorial Day weekend. The Pledge of Allegiance was recognized by all present. He had questions regarding when Randall Road was redone and questions about water and sewer laterals, the storm sewer, and his laterals on State Street.
6. **Randall Road & Utility Project, Village Board Discussion on Input Received from Public Hearing:** President Tim Raap stated this agenda item was deferred from the last meeting, with direction given to look for possible additional options. Raap asked if board members had anything they wanted to bring forward. With no comments being voiced, Raap stated there have been some updates since the last board meeting; that he and staff met with both the developer and engineers several times, as well as had meetings with Eau Claire County. Raap said there became a new consideration during the plat review process with the County because of the County's regulations for driveways. Raap asked Administrator McKee to go over the details.

Administrator Jared McKee began by first reminding the board of the strategies discussed at the prior meeting regarding removing the 10% contingency and recategorizing the mobilization costs. He told the board he recalculated the assessments to reflect those two changes. Then the meetings happened with Eau Claire County, and they became desirous to transfer ownership of a section of Randall Road over to the Village (Randall Road from State Street going east two blocks). In exchange for that, the County has proposed to take on the costs for the surface level restoration of Randall Road (road, curb/gutter, sidewalk, driveway approaches), with the Village being responsible for the water, sewer, storm sewer, and engineering. McKee stated this is similar to years ago when the County transferred ownership of a section of Kennedy Street to the Village, basically they provide a good road in exchange for the other party taking over the responsibility.

McKee stated what that looked like practically from the special assessment standpoint is that all the construction costs for road, curb/gutter, sidewalk, and driveway approaches would come off the special assessment calculations because the County would be paying for it. A spreadsheet reflecting the new special assessment numbers was handed out to board members and members of the audience.

McKee noted the downside of this arrangement would be that in 20-30 years the Village would be responsible for paying for the full cost of road replacement. Regarding winter maintenance, no change is expected as the County has agreed to continue to plow, salt & sand the center portion of Randall Road, while the Village will continue to remove snow on the outside lanes.

McKee reported there is an item further down on the agenda that will address the effect this change will have on the Developer. He reported the terms of the Developer's Agreement have been renegotiated to reflect a reduction in the Village incentive to C&M from \$250,000 to \$125,000. McKee detailed the changes to the agreement and stated it was done because some of the costs that were originally anticipated to be the responsibility of the Developer will now be paid by the County. McKee stated C&M showed themselves to be a good partner with the Village in their willingness to accept the revised terms.

7. Consider Final Resolution Authorizing Public Improvements and Levying Special Assessments Against Benefitted Property in the Village of Fall Creek for the 2023 Randall Road Urbanization Project:

- MOTION (Mattoon/Kaatz) to adopt Resolution #2023-0525A, the *Final Resolution Authorizing Public Improvements and Levying Special Assessments Against Benefitted Property in the Village of Fall Creek, Wisconsin for the 2023 Randall Road Urbanization Project* with the revised engineering report and contingent upon the following:
 - a) accepting the offer from Eau Claire County for the jurisdictional change of two blocks of Randall Road from State Street to White Street,
 - b) completion of the Intergovernmental Cooperative Agreement with Eau Claire County for the Road Reconstruction of Randall Road, and
 - c) completion of a revised Developer's Agreement with CMJM Properties as presented, basically reducing the developer's incentive by \$125,000.

Trustee Hurd questioned what the motion meant - if the motion was for special assessments or just the agreements. Raap responded yes, the motion made was for adopting the final resolution which is what levies the special assessments and that the signing of the agreements were added as contingencies. Hurd requested the board discuss using the \$125,000 for reducing the special assessments for the property owners on the north side of Randall, but not for C&M (the property owners on the south side of Randall). Trustee Matt Mattoon said he was absolutely against it because the board has not processed the idea of no longer having special assessments; Mattoon stated many property owners have had to pay special assessments up to this point, there have been no presentations to the board for changing that policy, and the jurisdictional change offered by the County has already lowered the assessments for these property owners. Trustee Ryan Aylesworth stated he did not agree with using the \$125,000 to benefit property owners for only one small section of street, as that money is taxpayers' money that should be used for the benefit of everyone. Trustee Chester Goodman said that the money came from the Village's share and should be used for the Village's share so that all taxpayers would benefit. Village President Raap noted this unexpected deal from the County really lowered the percentages for these property owners. Raap stated we've been talking about trying to get better at special assessments and he's been asking the board to be looking at special assessments for two years; he stated you could also look at using the \$125,000 savings for helping keep special assessments lower for the next project coming up, stating we've already gotten the numbers down significantly for this project and we have to be planning for the future too. Administrator McKee commented that

he was not an attorney, but if the board was considering Trustee Hurd's suggestion they would want to consult an attorney because when a municipality is using the "police powers" to special assess, it has to be equitably distributed so you cannot lower the special assessments on one side of the street and not the other; it would be opening up the Village to a lawsuit that they would not likely be able to defend. Trustee Hurd stated she agreed with the comments made and thought we should go ahead with it as is.

President Raap noted the motion had been made and seconded and asked for a roll call vote: PASSED, roll call vote: Goodman-yes, Herbison-yes, Hurd-yes, Kaatz-yes, Mattoon-yes, Raap-yes, Aylesworth-yes. President Raap offered a point of information that the resolution allows for a repayment term of 20 years, but a resident can choose a shorter period and thereby have less interest costs. The material that will be sent to the affected property owners will give them that information.

8. Consider Award of Contract for Randall Urbanization Project:

- MOTION (Kaatz/Aylesworth) to accept the Village Engineer's recommendation to award the bid to Haas Sons Inc as low bidder in the amount of \$914,902.45 with the contingencies listed in the previous motion. PASSED, roll call vote: Herbison-yes, Hurd-yes, Kaatz-yes, Mattoon-yes, Raap-yes, Aylesworth-yes, Goodman-yes.

9. Consider Loan for Randall Road Urbanization Project, Possible State Trust Fund Loan

Application: President Raap noted as discussed at the 5/8/2023 Regular Board meeting, this is basically a bridge or interim loan to get the project started until reimbursement can be received from the parties that are responsible for their share of the costs (i.e. the County & special assessments). Administrator McKee added it is a State Trust Fund loan for \$700,000.

- MOTION (Mattoon/Aylesworth) to adopt Resolution #2023-0525B regarding a State Trust Fund Loan Application in the amount of \$700,000 for the purpose of financing the Randall Road Urbanization Project. The loan is a 20-year term with interest at the rate of 5%. PASSED, roll call vote: Hurd-yes, Kaatz-yes, Mattoon-yes, Raap-yes, Aylesworth-yes, Goodman-yes, Herbison-yes.

10. Consider Jurisdiction Change for Randall Road:

- MOTION (Herbison/Hurd) granting signature authority to President Tim Raap to execute the jurisdictional change for the two blocks of Randall Road as discussed earlier. PASSED, roll call vote: Kaatz-yes, Mattoon-yes, Raap-yes, Aylesworth-yes, Goodman-yes, Herbison-yes, Hurd-yes.

The board then moved to agenda item #12.

12. Consider Update to Developer's Agreement:

- MOTION (Goodman/Aylesworth) granting authorization to President Tim Raap to sign documents to update the Developer's Agreement to reduce the Developer's incentive to \$125,000 from \$250,000 and to take out the words regarding the Developer doing the reconstruction of the south side of Randall, as the Village is special assessing them that cost as part of a Village reconstruction project instead. PASSED, roll call vote: Mattoon-yes, Raap-yes, Aylesworth-yes, Goodman-yes, Herbison-yes, Hurd-yes, Kaatz-yes.

11. Possible Assignment to Committee

A. Consider Amendments to Village Ordinance Title 2 Government and Administration:

Village President Raap explained the amendments being considered are to put the wording regarding Village Board compensation from our previous ordinance into our new Title 2 Chapter and to provide review/clarification of the procedure to be followed when presenting materials at a public meeting making sure there is sufficient time for staff to get the information on the packet.

- MOTION (Mattoon/Goodman) to refer the matter to the Committee of the Whole. PASSED, without negative vote.
- B. Consider Amendment to Village Ordinance Title 16 Zoning:** Village President Raap explained there have been some recent vacancies in the Downtown District. In the past, there was a building in the Downtown District that changed ownership and was turned into just storage on the lower level and a residential rental on the upper level. The Village lost an opportunity to gain a business in the District because of that transaction and that is not in the best interest of the Downtown District. Raap suggested the ordinance be looked at regarding adding some wording to protect the original intent of that District by clarifying what is and is not allowed. Since the issue relates to zoning, the matter would need to go to the Plan Commission.
- MOTION (Mattoon/Herbison) to refer the matter to the Plan Commission. PASSED, without negative vote.
- 13. Adjournment @ 6:05 p.m.**

Joan Drehmel, Deputy Clerk