

Village of Fall Creek
Minutes for Public Hearing, Regular Village Board & Inland Lake Annual Meeting
August 14, 2023

1. **Call to Order:** 6:00 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: Village Administrator/Public Works Director Jared McKee, Clerk/Treasurer Renee Roemhild. Also Present: 6 citizens, with 4 citizens arriving later.
3. **Pledge of Allegiance**
4. **Certify Open Meeting Law Requirements Have Been Met:** A notice of the meeting and the agenda was posted at three public places and local newspapers were notified. A notice for the public hearing was published twice in the newspaper.
5. **Adopt Agenda:**
 - MOTION (Kaatz/Herbison) to adopt the agenda as printed. PASSED, without negative vote.
6. **Recognition of Visitors/Citizen Input/Correspondence:**
 - Mark Prankus, 211 E. Randall Rd, was disappointed in the level of communication given to the affected property owners regarding the Randall Road construction project.
7. **Approval of Minutes:**
 - MOTION (Mattoon/Kaatz) to approve the 7/10/23 Public Hearing & Plan Commission, 7/10/23 Regular Board, 7/27/23 Community Relations, Recreation & Health Committee, and the 8/7/23 Public Hearing & Plan Commission meeting minutes. PASSED, without negative vote.
8. **Financial Report:**
 - MOTION (Mattoon/Kaatz) to approve the 7/31/23 Budget Comparison Report. PASSED, roll call vote: Goodman-yes, Herbison-yes, Hurd-yes, Kaatz-yes, Mattoon-yes, Raap-yes, Aylesworth-yes.
9. **Approval of Bills:**
 - MOTION (Goodman/Herbison) to accept the Invoice Listing and Payroll Pay Summary Reports of 7/11/23-8/14/23. PASSED, roll call vote: Herbison-yes, Hurd-yes, Kaatz-yes, Mattoon-yes, Raap-yes, Aylesworth-yes, Goodman-yes.
10. **Report of Village Administrator:** Administrator Jared McKee gave his monthly report highlighting the departmental duties accomplished since the last regular board meeting, including noting that State Attorney General Josh Kaul was at Village Hall on August 2nd conducting a press conference regarding funding for NARCAN. Due to that funding, the Fall Creek Police Department and the Fall Creek Area Fire District are now able to carry the nasal spray with them on emergency calls, allowing them to administer the treatment right away, if needed, rather than having to wait until ambulance crews arrive. The ability to take quick action has the potential to dramatically help save lives.
11. **Committee Reports:** President Tim Raap reported on the Plan Commission meetings and stated there will be meetings coming up for the 2024 proposed budget. As the time was 6:30 p.m., the Board went to agenda item # 14.
14. **Amendments to Comprehensive Plan (at 6:30 p.m.)**
 - A. **Public Hearing:** President Raap gave a brief background, stating the Comprehensive Plan was originally adopted in 2009 and the Plan Commission has held meetings over the last year to review the Plan to make sure it was still in line with the Village's goals and to update the funding options. President Raap opened the public hearing. There were no comments, so he closed the public hearing.

- B. Village Board Action re: Adoption of Amendments to Comprehensive Plan:** Raap stated the Plan Commission passed a resolution to adopt the Comprehensive Plan and recommended adoption to the Village Board.
- MOTION (Goodman/Aylesworth) to adopt the Amended Comprehensive Plan. PASSED, roll call vote: Hurd-yes, Kaatz-yes, Mattoon-yes, Raap-yes, Aylesworth-yes, Goodman-yes, Herbison-yes.

12. Unfinished Business

- A. 2nd Reading & Possible Adoption to Amend Ordinance Title 10 Motor Vehicles & Traffic re: Grass, Leaves, Snow Blown in Streets, etc.**
- MOTION (Aylesworth/Goodman) to hold the second reading, correct the formatting error, and to adopt the above ordinance in its entirety, making it a part of the Code of the Village of Fall Creek. PASSED, roll call vote: Kaatz-yes, Mattoon-yes, Raap-yes, Aylesworth-yes, Goodman-yes, Herbison-yes, Hurd-yes. Basically, the amendment states a person is not allowed to deposit grass clippings, rubbish, snow, etc. on Village streets, sidewalks, or public rights-of-way.
- B. 2nd Reading & Possible Adoption to Amend Ordinance Chapter 199 Peace & Good Order re: Age for Purchase & Possession of Cigarettes, etc.**
- MOTION (Goodman/Aylesworth) to hold the second reading and adopt the above ordinance in its entirety, making it a part of the Code of the Village of Fall Creek. PASSED, roll call vote: Mattoon-yes, Raap-yes, Aylesworth-yes, Goodman-yes, Herbison-yes, Hurd-yes, Kaatz-yes. Basically, the amendment corrects the age requirement for a person who wishes to purchase or possess cigarettes.
- C. 2nd Reading & Possible Adoption to Amend Ordinance Title 3 Public Records & Finance re: Claims Against Village, etc.**
- MOTION (Mattoon/Kaatz) to hold the second reading and adopt the above ordinance in its entirety, making it a part of the Code of the Village of Fall Creek. PASSED, roll call vote: Raap-yes, Aylesworth-yes, Goodman-yes, Herbison-yes, Hurd-yes, Kaatz-yes, Mattoon-yes. Basically, the amendment defines the alternate procedure for approval of financial claims against the Village.

13. New Business

- A. Downtown Business District Building & Sign Permit Applications:** Raap reviewed each application and the Plan Commission's recommendations.

Hailey Martin, Restored Co, LLC, 102 W Lincoln Ave, for façade updates and a sign.

- MOTION (Kaatz/Herbison) to approve the applications, with the conditions listed by the Plan Commission. PASSED, without negative vote.

Toby Biegel, Corner Pub, 102/104 E Lincoln Ave. for façade improvements. Raap stated an application for this location was reviewed last month and denied. Administrator McKee stated the current application does not address the work that was done prior to submittal and feels it best to clarify that, stating the Board could address the door and siding changes already done when they make a motion on this application so that the matter is properly recorded.

Discussion took place that it was good to have improvements made to businesses, but also that we have the District Guidelines that other businesses have had to comply with. If deviation from those Guidelines are going to be allowed, then they should be changed to reflect the amended standards.

- MOTION (Aylesworth/Mattoon) to approve the application, with the conditions listed by the Plan Commission and to include approval of the door and siding improvements that were done prior to submitting application. PASSED, voice vote with Raap voting no.

Julie Stautz, Red Fern Café, 125 E Lincoln Ave, for a sign.

- MOTION (Hurd/Herbison) to approve the application as recommended by the Plan Commission. PASSED, without negative vote.

The Board took a quick break, then went to the Inland Lake District Meeting as it was 7:00 p.m.

15. Inland Lake Protection & Rehabilitation District Annual Meeting (at 7:00 p.m.): President Tim Raap opened the Inland Lake Protection District annual meeting.

A. Citizen Input: The Board heard from the following citizens, along with reviewing the correspondence that had been received.:

- Sheldon Walter, 460 W Oak Lane, felt we should be doing better at restoring the pond, suggested taking a survey to see if that is what the people want.
- Dane Zook, 306 E Adams Ave, talked about preserving the pond saying there are opportunities out there such as a group of 7 local lakes that are buying equipment collectively; we could be part of that organization. He mentioned the correspondence he sent to the Board, saying he thought there were better ways of doing the sediment trap.

B. Clerk/Treasurer Report: The Clerk/Treasurer's report referred to the minutes from the last annual meeting and reviewed the finances for year-end 2022 and current year-to-date.

C. Administrator/Public Works Director's Report: Highlights given by Administrator/Public Works Director Jared McKee included the following:

- Sediment Trap: The sediment trap has been cleaned. Currently, we still have sufficient depth at 9 feet.
- Donation: We received a very generous donation from Luther Strasburg for an aerating fountain. The public has given us a lot of positive feedback on this great addition to the pond.
- Algae on the Pond: There have been complaints about the algae on the pond. Much research and time has been spent trying to address this concern. One was reaching out to our DNR Representative Jodi Lepsch regarding realistic options for chemical treatment or vegetation removal. McKee reported Lepsch stated there is just not a lot that can be done for removing organic vegetation from our pond, other than weed harvesting (which we do consistently). Lepsch told McKee she would not authorize chemical treatment, as she felt there was nothing on the market today that would have a high probability of success in our pond because it is an open system with an inlet and an outlet, not a stagnant body of water. McKee said she also pointed out that if we were able to find something that would work, it would change our fishery, which is quite good right now even though the algae on the pond does not look pretty. McKee said even if we were to dredge the pond and take 6 feet out of the bottom of it so the plants wouldn't be able to reach the bottom, we still have very high levels of phosphorus that would have to be treated. McKee stated it was Lepsch's opinion that even if we removed all the vegetation, we would still end up with green blooms because something will grow on that phosphorus in a shallow water lake. McKee said according to Lepsch, the best option is harvesting and recognizing that we have a good fishery.
- Full Dredging of the Pond: McKee reached out to our DNR representative that regulates dredging. He said the representative didn't see anything that would prevent the Village from doing a full dredge. McKee stated he got estimates on probable costs from our Village engineer, which was divided into two locations. From the railroad trestle bridge to the dam (the deepest part), the estimated cost was \$800,000 - \$1,600,000. For the other portion from the RR bridge to Hwy 12, the estimated cost was \$3.5 - \$7 million for a full drain, or more if doing hydraulic dredging. McKee stated the Pond Management Plan does not call out for

full dredging but if this was the direction that the Board would like, he would be happy to continue to research it.

- Fall Creek Pond Management Plan: McKee reviewed points in the Pond Management Plan, a copy is available on the Village website. He especially talked about the maintenance steps outlined. McKee added that he thought Mr. Zook had some interesting ideas about adding a pre-sediment trap farther upstream, where there are narrower channels which would maybe mean better access with an easier ability to remove materials so it could be cheaper. McKee thinks those ideas should be considered.
- Management of Lake District: McKee said there have been comments made regarding the management of the district, specifically that the governing and the annual meeting are being handled incorrectly. He stated this matter was researched over a year ago and we received a verbal response, but he went further this time and asked for a written memorandum from our Village attorneys. Summarizing, it stated as follows:
 - Because the municipality established the district, the governing body (i.e., the Village Board) serves as the District Board of Commissioners. That is the consistent practice the attorneys have seen in Wisconsin.
 - Because of that, the attorneys believe Wis. Stat. §33.28 covering a District Board of Commissioners would not apply.
 - The attorneys felt there was a questionable subsection in Wis. Stat. §33.28(6) which requires quarterly meetings, saying that was put in place to ensure a board actually meets regularly, which is not a concern for a municipal governing body that already meets monthly. The Village Board could choose, out of an abundance of caution, to list an item on their agenda quarterly, pertaining to the district.
 - The responsibilities and powers of the board listed in Wis. Stat. §33.29 does apply (which is being carried out by the Village Board.)
 - The attorneys spoke with the League of Wisconsin Municipalities who agreed with their analysis of the applicability of those statutes.

D. Recognition for Donation for Aerating Fountain: Raap stated we are very thankful for the donation from Luther Strasburg for the aerating fountain and asked Mr. Strasburg, who was in attendance, how he would like it recognized. He stated he would like to have it known as “Lindenthaler Fountain”, in memory of his 2nd great grandfather, Joseph, and other Lindenthaler descendants. One of his grandfather’s sons was one of the founders of the State Bank of Fall Creek, another was one of the starters of the Peace Church in town. Luther said he would like to honor that memory of his family. Discussion took place on the type of memorial to put there.

- MOTION (Hurd/Aylesworth) to name it the Lindenthaler Fountain and to memorialize it with a plaque in honor of the family and include appreciation of the donation from Luther Strasburg. PASSED, without negative vote.

Trustee Matt Mattoon left the meeting.

E. Discuss Ongoing Efforts for Pond Preservation: Several items were discussed.

- Raap stated he would like to see an item regarding the District put on the regular board agenda quarterly.
- Kaatz had questions regarding a feasibility study for full dredging of the pond, the time it would take, and how much it would cost.
- Hurd said she understood why people were upset because the pond isn’t pretty. She stated it was no one’s fault, it is just the result of runoff from the watershed and having a shallow pond, so the sunlight reaches down to the floor of the pond, and it results in all that growth. She said the good news about our growth is that it is mostly duck weed that is non-poisonous, but the concern is that if we remove all the weeds, will a worse aqua growth

grow back? She stated that is the problem that is happening in Lake Altoona right now, they have a blue green cyano algae that causes rashes and is detrimental to public health. Regarding the option of dredging, Hurd stated there would have to be experts that would determine if that would work and that due to the high cost, a referendum should be done to ask the public if they are willing to pay more in taxes in order to pay for it.

- Raap stated when thinking of next steps and what can be done with money the District currently has, he would advocate for trying to do a secondary sedimentary trap. He felt getting information from experts and conducting a Village survey would be the next steps when considering dredging, before going to referendum.
- McKee stated he understood that we would try everything we could to get grant funding, but to give a concept of the impact of that large of an estimated cost, he said it would result in a debt payment that is more than the amount of the Village's entire levy which would mean more than doubling people's taxes.
- Goodman questioned if there were limitations on how often we could do weed harvesting, could volunteers be found to do that, rehabilitation/restoration should be talked about along with dredging, most places have a lake district group that raises money for costs like this, people have overwhelmingly wanted the pond in the past but they will have to decide if they want it enough to spend money for it.
- McKee stated we needed to know the scope of the project, how big the cost would be, in order to give realistic options. He said it was also important to note that it currently is a very good fishery. People will need to decide what is important to them, what they want to maintain, and at what level of cost.
- Aylesworth questioned if it was possible to do enough weed harvesting to make a difference. McKee responded, yes, but that it's a matter of how much time the Board wants dedicated to it. He explained that when the harvester takes its first pass, it draws up a lot of weeds. But once the first pass been made, the paddles on the side of the harvester has churned up the water so the weeds get pushed around and it becomes like mowing a moving lawn. You don't bring up nearly as much in the repeated passes so it's slow work. It takes a lot of staff time, taking them away from other jobs that also need to be done. If the Village could find "volunteers" to do it, they would actually have to be hired for a cheap wage in order to be covered under our liability insurance, but it would bring the cost down. McKee stated you have to decide how much manpower/money you want to spend on it. It's a matter of goals and what the people want. And then to realize that every dollar that is spent for weed harvesting is not being saved for to accumulate for dredging expenses. For years we had been accumulating money and that, along with the grant that Mr. Zook did a good job of getting us from the County, was what made it possible to do the recent partial dredging. The next time we would need to do a partial dredge, we wouldn't have enough money. Another point is that the harvester can't get close to the banks because of the side paddles, so it will always be green there. On dry years when there isn't enough water flow to wash the vegetation out, the pond is going to be green.
- Board consensus was to find out what the people want, so discussion took place on how to do a poll. Discussion also took place on the many financial needs for the Village as a whole, in addition to these desires for pond restoration, and concern that if property taxes get too high, economic growth will come to a standstill because people won't want to move here.

To move the agenda item along, Raap asked for a motion regarding quarterly meetings and stated the first topic could be to bring back ideas regarding the survey and question options.

- MOTION (Aylesworth/Herbison) to add Inland Lake Protection District on the Regular Board meeting agendas on a quarterly basis. PASSED, without negative vote.

C. Establish Budget for 2024 & Set Levy: McKee presented the proposed 2024 budget.

Discussion took place regarding costs for a feasibility study, a survey, and using money from the Inland Lake Fund's current cash.

▪ **MOTION (Kaatz/Goodman) to:**

- approve the 2024 budget as discussed with a \$10,000 increase on the revenue side to Fund Balance Applied and a \$10,000 increase on the expense side to Engineering/Legal, resulting in a balanced budget totaling \$20,560 and
- to set the levy at \$10,000 which is an increase of \$1,000 from last year due to increased maintenance costs.

PASSED, roll call vote: Aylesworth-yes, Goodman-yes, Herbison-yes, Hurd-yes, Kaatz-yes, Raap-yes.

President Raap closed the Inland Lake Protection & Rehabilitation District Annual Meeting at 8:51 p.m. The Board returned to agenda item #13.

13. New Business

B. 1st Reading to Amend Ordinance Title 16 Zoning, re: Dwellings in Commercial and

Downtown Business Districts: Raap reported the Plan Commission held a public hearing on this and it is basically clarifying regulations regarding second-floor dwellings in C1 and the Downtown Business zoning districts.

- **MOTION (Kaatz/Herbison) to hold the first reading as recommended by the Plan Commission.** PASSED, without negative vote.

C. 1st Reading to Amend Ordinance 267 Subdivision of Land, re: Dedication of Lands for

Green Space: Raap reported this came from the Plan Commission and they held a public hearing on this, as well. During the Plan Commission's review of the Comprehensive Plan, it was recognized that storm water requirements from the DNR have changed since the original adoption of the Plan. That change required a developer to allocate a significant amount of land for storm water retention that hadn't been required before. When trying to determine what level of contribution for park land should be required of a developer, the Plan Commission also looked at the Village's Outdoor Recreation Plan, prepared in 2022 by the Wisconsin Regional Plan Commission, which showed that the Village's level of park land per capita was high. Raap stated part of the amendment addresses the amount of land required and part of the amendment cleans up wording to make it clear that if the Board chooses, they may require the developer pay a fee, in lieu of land dedication, that could be used for park improvements.

- **MOTION (Herbison/Hurd) to hold the first reading as recommended by the Plan Commission.** PASSED, without negative vote.

16. New Business Continued: The Board moved to item #16.C. & D. before going to 16.A. & B.

C. Library Strategic Plan/Facilities Report: Library Director Charlene Conradi presented the Fall Creek Public Library's Strategic Plan, highlighting on three strategic goals:

- optimize space utilization to increase the flexibility of facility use and align spaces with programming and community needs,
- foster community partnerships and provide volunteer opportunities for community members, and
- implement marketing and communication efforts that increase awareness of all the library's offerings and promote the library as a place for everyone.

D. Authorization of Library Feasibility Study: Conradi stated they have recently completed a facility assessment which revealed numerous safety hazards, accessibility concerns, and that an increase for space was urgently needed. Space needs projections were assessed at 9,000 - 11,000 square feet; currently they have 3,500 square feet. Conradi continued by stating that before they could be competitive for seeking public facilities grants or launch any capital

improvement campaign, they would need to complete initial planning including a feasibility study and preliminary architect sketches to consider moving the library's physical location. She and Library Board President John Kuehn asked for the Village Board's approval.

- MOTION (Herbison/Kaatz) to authorize the Library Board to move forward with a feasibility study. PASSED, without negative vote.

A. Keller Park Ballfield Update and Recognition of Donations: Tabled.

B. Consider Rescinding Resolutions #2012-0409A & #2022-0411B:

- MOTION (Kaatz/Goodman) to adopt RESOLUTION #2023-0814A which rescinds resolutions #2012-0409A & 2022-0411B which have been superseded by another or that the purpose of the resolution is now complete. PASSED, roll call vote: Goodman-yes, Herbison-yes, Hurd-yes, Kaatz-yes, Raap-yes, Aylesworth-abstain.

E. Bartender Operator License Applications:

- MOTION (Goodman/Kaatz) approving a bartender operator license application for the remainder of the 2023/24 license year for Viksan Kumar and Staci Zeilermeir. PASSED, without negative vote.

F. Amendment to Village Fee Schedule Including Garbage Rates and Items from Title 10:

- MOTION (Herbison/Goodman) to adopt the amendments to the Village Fee Schedule, as presented. PASSED, roll call vote: Herbison-yes, Hurd-yes, Kaatz-yes, Raap-yes, Aylesworth-yes, Goodman-yes.

The Board jumped to agenda item #17 and continued with the remaining items before moving back to the closed session.

17. Committee Recommendations

A. Village Push Notifications: McKee referred to the Community Relations, Recreation and Health Committee's meeting on July 27th.

- MOTION (Aylesworth/Kaatz) to accept the committee's recommendation and hire Kevin Meinholz to implement the push notifications. PASSED, without negative vote.

B. Selection of Pickleball/Basketball Court Placement: Raap reported the Committee of the Whole met at the park and reviewed the site for placement options.

- MOTION (Hurd/Herbison) to authorize Administrator McKee to put out a Request for Proposal (RFP) for the hybrid plan putting the pickleball courts on the east side of N State St and the basketball court on the west side.

Discussion took place regarding concern over kids crossing the road; several members stated they were changing their mind on the location.

Raap called for a voice vote. Motion failed.

- MOTION (Kaatz/Aylesworth) authorizing an RFP for putting the pickleball courts in basically the existing tennis court location, and to send the matter back to the Community Relations, Recreation and Health Committee to continue conversations on how to utilize the space across the road. PASSED, without negative vote.

18. Possible Assignment to Committee

A. Consider Devices Allowed on Village Streets:

- MOTION (Hurd/Herbison) to send to Public Works, Public Safety & Property Committee. PASSED, without negative vote.

B. Keller Park Electrical Distribution Panel/Gate:

- MOTION (Hurd/Herbison) to send to Public Works, Public Safety & Property Committee. PASSED, without negative vote.

C. Title 16 Commercial Parking Regulations: Raap stated this needs to go to Plan Commission to hold a public hearing first and will be coming back to the Board.

16. New Business Continued

E. Move to Convene in Closed Session Per Wis. Stat. 19.85(1)(e) Deliberating or Negotiating the Purchasing of Public Properties, the Investing of Public Funds, or Conducting Other Specified Public Business, Whenever Competitive or Bargaining Reasons Require a Closed Session. At the End of the Closed Session, the Board Will be Going into Open Session to Conduct Further Business

- MOTION (Kaatz/Aylesworth) at 9:33 p.m. PASSED, roll call vote: Hurd-yes, Kaatz-yes, Raap-yes, Aylesworth-yes, Goodman-yes, Herbison-yes.

F. Move to Return to Open Session and Action, if Any, on Matters Discussed in Closed Session:

- MOTION (Goodman/Aylesworth) at 10:04 p.m. PASSED, Raap-yes, Aylesworth-yes, Goodman-yes, Herbison-yes, Hurd-yes, Kaatz-yes.
- MOTION (Herbison/Aylesworth) authorized Administrator McKee and President Raap to proceed with items discussed in closed session. PASSED, roll call vote: Raap-yes, Aylesworth-yes, Goodman-yes, Herbison-yes, Hurd-yes, Kaatz-no.

19. Adjournment: @ 10:05 p.m.

Renee Roemhild, Clerk/Treasurer