

TOWN OF FULTON

Town Board & Fulton Sanitary District #2 Meeting
2738 W Fulton Center Dr.
Edgerton, WI 53534

Thursday, March 15, 2007
7:00 PM

Minutes

1. Call to Order – by Hull at 7:00 pm. Present were Hull, Farrington, Lund, Christianson, Guisleman and Clerk Zimmerman.
2. Confirmation of Meeting Notice – Zimmerman advised the agenda was posted at CKSD, Edg. City Hall and Fulton Town Hall, and the notice was published in the Edg. Reporter.
3. Approval of Agenda - motion by Christianson to approve agenda. Second by Guisleman. Carried 5/0.
4. Approval of Feb. 15, 2007, Meeting Minutes motion by Christianson. Second by Lund. Carried 5/0.
5. Public Participation
 - A. Marilyn Eyster – advised she has been talking with the Janesville League of Women voters, and they said they would be willing to run a candidate forum and could do it on Sun. Mar. 25, at 3:00 pm. She advised they will moderate the forum. She indicated she spoke to all the candidates and they will be here.
 - B. John Eyster – Handed out his written opinion about the open records and meetings, and read it out loud.
 - C. Rob Teubert – wanted to know about Public Participation being moved to the beginning of the agenda and asked how citizens can comment on things on the agenda when they don't know what is going to be said. ull advised he will open the floor for comments but may have to limit the time citizens speak. Guisleman advised this gives the public a chance to comment on items not on the agenda. Teubert asked why it was moved to the beginning of the agenda. Zimmerman advised this gives citizens a chance to speak, and if they need to leave they can. She also advised that per Roberts Rules of Order, citizens are invited to attend the board meetings, and do not have input unless the floor is opened by the Chairman.
 - D. Bob Rippberger – stated that Roberts Rules states if you are going to limit discussion on a particular item, one (the Chairman) must state how long a citizen can talk at the beginning of the meeting.
 - E. Scott Farrington – advised the Towns Association has a meeting tonight, and again strongly urged the board to reconsider our meeting date; but if not, because we pay annual dues, asked if the board would appoint someone to attend the meetings to obtain information and ask questions, then give a report back to our board at our next meeting.
 - F. Mike Guisleman advised we can attend the District meetings, as one is coming up on 3/31. Farrington advised that is the district meeting, but not the local meeting.
6. Recommendations from Planning & Zoning Committee
 - A. Certified Survey Map, 2939 Cox Rd. – Becky Anderson – Ron Combs explained this was the final CSM, which matches the preliminary and stated they are requesting final approval. A citizen asked where the driveway would go. Combs advised the Township issues driveway permits, and she would apply with the Township, and the Town Inspector would give the guidelines. Combs advised it would be 10' from the adjoining property. Motion to approve the recommendation from PZ to approve the final CSM. Second by Lund. Carried 5/0.
 - B. Preliminary Certified Survey map & Certified Survey Map, Ellendale Rd. – Peter Sisco – Combs stated they are combining two lots into one lot and it meets the county's standards, therefore making it a standard instead of sub standard lot. Motion by Guisleman to approve the Preliminary and the final CSM for Sisco. Second by Christianson. Carried 5/0.
 - C. Preliminary Certified Survey Map – Goede Rd. – Genesis 1 c/o Judy Nelson – Combs advised this was to separate 1 acre of the Frank property. He advised when they did the Lakeland Subdivision this is one of the conditions of developer's agreement that this road be built during the 2nd phase. Combs advised this out lot will be used for road purposes only. Combs advised the intersection would have a designated left turn lane, and a right turn lane, also the intersection would be a "type B" intersection which would be a 150' turn lane, so people turning right would have a separate lane to go east. Motion by Lund to approve the Preliminary Certified Survey map. Second by Farrington. Carried 5/0.
 - D. Zoning change/lot division from A3 to RR – 7130 N US Hwy. 51 - Jerry A. Burdick – Combs advised this is to divide it into 2 parcels for a family member. Motion to open a public hearing by Farrington. Second by Lund. Carried 5/0.

Farrington advised his concern was putting RR into a A3 section. Combs advised the lots are smaller but in this area and are zoned A3. Guisleman advised that was his concern also, but RR is directly across the highway, and the nature of the area is RR and it seems like a better fit. Christianson asked about the lots being A3, and asked if they were grandfathered in before the Town had zoning authority. Combs stated he cannot answer why they are zoned A3 today. Hull stated if there was no action previously requested, then they stayed what they were zoned, that is why they are most likely A3. Combs advised these lots don't meet the A3 requirements. Lund said his concern was the shared driveway. Combs advised they only use shared driveways as a last resort. He advised the only thing they are sharing is the access point, and that would be a recorded easement on this driveway. Hull advised they are very large lots, but they do fit into the area. Hull advised there is a shared driveway on Miles Rd., and citizen Rippberger advised there is a shared driveway across the street from there. There were no other neighbor or citizen comments. Motion to close the public hearing by Christianson. Second by Lund. Carried 5/0.

Motion by Guisleman to approve the zoning change and lot division. Second by Christianson. Carried 4/1 (Farrington opposed).

E. Arnold Trust Property, Kidder Road – Development – Joe Keller – Combs advised they had their meeting with CKSD last month and advised they weren't able to come up with an agreeable solution. They proposed leaving a south 28.2 acres on the parcel zoned A1 and restrict it for no buildings leaving it as open space. He said they also have 30 acres of open space along the river for a total of about 55-58 acres of open space. He advised they have also reduced the number of units. He stated the Statute requirements of 750' buffer zone, they have agreed to, and have also agreed to move wells 1000 feet away from the ponds to the property line for CKSD. He indicated they have tried to meet all their conditions and concerns. He advised tonight they are only here for the zoning change to re-zone to R1 and R2.

Motion by Lund to open to public hearing. Second by Farrington. Carried 5/0. Carol Arnold advised she presented a memo earlier tonight on this proposal. She advised the land has been in her family for over 150 years. She advised it was Ag land in the middle of residential land. She advised the soil tests have been completed and approved for residents without basements. She stated that all requirements were met. She advised there will be a deed restriction. She indicated the plan restricts access to Kidder Rd., although there have to be 2 egresses. She referred to a petition from some months ago, concerning the environment and they addressed that. She stated that providing the 750' buffer zone allows for expansion for CKSD for the ponds if needed in the future. She advised it does comply with development plans because it is located in the development zone.

John Grossel – represents CKSD. He stated CKSD remains firmly opposed to the development. He said under Fulton ordinance it is incompatible under zoning code 7.3(1) which is incompatible with existing uses, and under 7.5(4) in relation to the public interest for purpose and intent to the ordinance it is to stand for justice of all parties concerned; the CKSD saw no reason to change their position in unanimous opposition.

A citizen stated the reason they put the 750' buffer to give CKSD their space to minimize any problems in the future. He said with a little over 1 acre per parcel, they are trying to keep it as open and green as they can.

Evan Sayre advised although he doesn't know all the facts, he stated he thinks if CKSD could come to some sort of agreement for the land, it would be logical that they would expand on that property, and develop what land is left.

Lund asked about the depth of the force main, and asked if over time, it has to be dug up. Paul Dries, Strand Assoc. said yes if there is a problem with the main or if it breaks, it might need to be dug up. Combs advised there is an easement there so there wouldn't be development within that easement. Motion by Guisleman to close the public hearing. Second by Lund. Carried 5/0.

Christianson stated he will vote against the rezone, but doesn't like how they have put the weight on the Town Board. He advised he felt the Town Board is a referee for private property verses another local unit of government, and stated he would like to see CKSD get together with Arnold Trust to see if they can purchase the entire parcel. He said if they cannot come to a conclusion, then come back to us so we can figure out how we can treat private property fairly while still protecting the future needs of the sanitation district. Christianson made a motion to deny the rezoning. Christianson stated he wants the minutes to reflect that he expects the sanitation district to get together with Mrs. Arnold and come up with some compensation for her property, even if it involves several appraisals of the property. Second by Lund. Farrington stated all we have had to look at is what the developer map looks like, and the developer doesn't discuss schools, roads, or nearby intersections. Farrington stated he felt this was drawn out too long, and felt it was a stall tactic because it was tabled so many times. Guisleman stated he felt a lot of work has been done with this plan, but he agrees he doesn't want any residential development in that area because if we ever have to expand the plant and can't, to try to find another location would be almost impossible. Hull advised for him it has been a question of weighing the needs of CKSD, and we have to balance their needs against the developmental rights

the landowner has, but advised we don't want to see a town board using a situation like this to inhibit property rights of an owner. Roll call vote; Mike – aye, Brian – aye, Arnie – aye, Scott – aye, Kerry – aye. Carried 5/0.

7. Driveway permit ordinance – Mike advised at last months meeting he suggested to consider returning the driveway permitting process back to Rock County, and stated we requested an opinion of how that process would work from our legal counsel for tonight's meeting. He advised if county has it, the county would have to solve disputes; their ordinance is the same as ours, the county has done our driveway permits previously, and also if there was an error in a permit, any liability issues would be assumed by the county. Scott advised after he reviewed and looked into it, would rather have the Town keep control of it. He said we would be granting the County more authority which he feels they don't need. Scott stated we should keep the income, and review the fees. Christianson asked if Scott last month welcomed getting rid of this. Scott advised he said "it's not much fun", and also said he wanted to put more time and thought into it.

Lund stated the driveways with concrete to the roadway amendment we passed with the fine added is his concern, and asked how we could grandfather them. Guisleman also added that 14 towns currently have the county do their driveway permits. He said it is something we wouldn't be delegating permanently to the county, and if we decide down the road, for some reason it isn't working well, we can assume that responsibility again, but hoped we wouldn't. Scott said he spoke to Hal, and he thought there were 10 towns they did it for. Ken Vietch asked why we want to give the money back to the county, we should keep the money here especially when we look for budget cuts.

Rippberger asked if it is necessary for the town to take the risk of liability. Scott advised there are always liabilities and that isn't an excuse to get rid of it. Harold asked if the town follows the counties restrictions, Hull advised we have the same restrictions. Scott advised our ordinance didn't have a fine for violations and that is why he asked for the amendment. Hull advised if a driveway would need to be repaired, then it would certainly not be allowed to have concrete to the road like it had if it was previously grandfathered. Lund advised he would like to see a grandfather for the driveways that are in now with the concrete. Christianson stated he felt that we have invented a problem, and stated he hasn't seen any figures showing that plows have been damaged from concrete. Christianson said he would like to see the county take it over, and would like to see us rescind the penalty. Hull advised there wasn't a fine for this particular violation. Farrington said he originally suggested two options to the Board, either drop it or give a fine. Guisleman stated to some extent these are two separate issues. He feels for the political strife it has caused this township alone, it is worth the \$1500 loss of income. Motion by Guisleman to return the driveway permitting process to the County. Second by Christianson. Guisleman rescinded his first motion. Motion by Guisleman to repeal chapter 7, section 3a(17) Requirements for issuing driveway permits and give it to the county. Second by Christianson. Roll call vote; Mike – aye, Brian – aye, Arnie – aye, Scott – nay, Kerry – nay. Carried 3/2. Motion by Guisleman to also repeal chapter 7 section 3(q). Second by Christianson. Roll call vote; Mike – aye, Brian – aye, Arnie – aye, Scott – nay, Kerry – nay. Carried 3/2. Scott stated he felt we are doing a drastic move to a small problem and throwing the whole thing away.

8. Strand Engineering Study – Newville Drainage - Hull advised we did this approximately 1 ½ year ago, and advised it was for a starting point of knowing what the problems are at this time in that area. Hull advised there are 4 alternatives in the draft, or to do nothing, which were from a low of \$243,000 to a high of \$493,000. Hull advised he doesn't feel we have the financial resources to accommodate any of these at this time. Hull said in the future we will have a base for development and any future problems we might have. Hull advised there was no further action to be taken on this. Christianson said at some point the corner property that the DOT currently owns, will be developed some day whether it be DOT or who ever, and at that time a private person will take care of a lot of the drainage problems.
9. Waterway blockage – Mark Houfe. Mark Houfe showed a copy of a map and indicated where the wetland was. He advised they installed waterways to control erosion on that land. He advised in 2006 Demrow blocked the waterway so his land couldn't drain. Mark said if you open his waterway, the water will go onto the neighbors. Mark also showed copies of the approved waterway applications.

Tom Sweeney – County Conservationist advised a waterway by definition can be anything from a diffused flow where the water starts to concentrate for runoff of melt water, rain water to a constructed waterway that confines runoff from a field to prevent erosion, and also in some cases a drainage ditch can be construed as a water force. Ken Demrow advised before he blocked this off he checked with Mark Sinefest, from the Conservation Dept. He advised this is man – made, and not natural. He advised Mike told him he could block it off. Lund asked if there was a solution. Demrow said he had it set up to pipe it under ground. Hull advised he would have like to see the drainage start at the other end. Tom Sweeney stated they have an agreement to fix some of the issues but advised there are limitations with a high powered gas line. He indicated once the frost is out of the ground, they will go out, and assess and hopefully have a plan.

Hull advised there are two issues, one is we have the power to resolve this and the other issue is moving top soil. Hull advised he wants to see the continuation with Skar and his sister and have the waterway completely drained out, and hopefully that'll take care of the problems. Lund stated the conservationists need to deed these in the future. Christianson asked why it hasn't been. Sweeney advised anything under \$10,000 is not required to be added on the deeds by state statute. He advised since 1978 they have never run into this problem. Tom stated the agreement doesn't specifically state what type of system would be used, it just said that it would drain. Tom advised the way Mark Houfe is handling it is according to statutes. Tom advised if Skar doesn't work this out, and goes against the agreement, then the Demrows would have to go through the same process. Ken asked if he is blocking a natural waterway and what the board's position was. Hull stated that was the complaint, but when it was dug out, and made deeper, it isn't. Lund asked Sweeney how long it would take to get resolved. Tom said the timeframe is what conditions dictate, and advised they have to be constructing; also we have the ANR pipeline technician out there to establish the position of that pipe. Houfe advised there has been a lot of miscommunication on this. Farrington advised it is best for neighbors to talk to each other, not go to a higher level. Hull advised we could leave it as is and revisit it again after spring. Guisleman asked if we table, what the timeframe would be. Hull stated he would like to see the neighbors work this out and eliminate the problem permanently. Motion by Guisleman to table this for 90 days or until the June meeting, whichever is longer. Second by Lund. Carried 5/0.

10. Bubba D's Liquor License violations – Blaine Larson stated there have been some underage alcohol violations and disorderly conduct violations at Bubba D's this year. He advised Sgt. Mugnani from RCSO is here to comment further, and advised the board needs to decide what to do.

Sgt. Mugnani advised approximately 1-1/2 weeks ago they had what he described as serious incidents at Bubba D's. He advised there was a battery incident there, and explained it. He advised they received an anonymous call and when they arrived approximately 10 minutes later, the bar was closed up. He advised Bubba did cooperate with them, however one of his staff members wasn't cooperative. He advised of several incidents that occurred there. Mugnani said he would like to see some control and would like to see the police called before these things happen, and have employee cooperation. He is concerned with what is going on when they don't call the police, and is looking for pro-activity.

Bubba spoke to the Board and advised he came here 3 years ago and purchased a bar because it was his dream. He advised the Board the bartender who gave the officer the "run around" has been fired, and his manager now is doing a great job. He said he feels he is being harassed by the police.

Hull advised he doesn't think this is a case where the Board wants to take his liquor license away. Hull stated he agrees with Mugnani, to have Bubba be proactive and call when there are problems. Farrington advised he spoke to other agencies, and feels 4 underage alcohol violations is a lot. Christianson asked what Blaine's recommendations were. Blaine stated he feels we need progressive discipline and take action so there are no further incidents. He advised the town has the authority to decide, and from now on all violations should be documented. Christianson made a motion to direct Attorney Dale Pope to send Bubba a letter with documentation of the past violations, and future options that the Town Board may take should additional violations occur in the future. Second by Lund. Carried 6/0.

11. Large Gathering Permit – John Kinnett – Anchor Inn/Breaking the Weather and Catherine Stagmer – MDA Tub Run. Citizen Roger Bunting addressed to Board and advised the Harley thing is a nightmare. He said their quiet time is never observed at 11:00 pm. He feels it is too big, too loud, and too rowdy. Blaine advised there are more and more people getting involved in it. Hull advised we can direct Blaine to have camping restricted to 150' from residences, and to have the noise/music be cut off at a certain time.

Motion by Hull to approve the MDA large gathering permit with the conditions that Chief of Police has authority to work out any problems concerning the neighbors with the staff from the Threshere. Second by Christianson. Hull amended the motion to include billing the MDA for Blaine's services if required. Second Christianson. Carried 5/0.

Blaine advised he has met with Kinnett, and they are all set to go. Motion to approve the large gathering Permit for Kinnett by Christianson. Second by Lund. Carried 5/0.

12. Class B Temporary Beer Permit – Catherine Stagmer – MDA Tub Run – Motion to grant Temporary Class B malt beverage license to the MDA for the Tub Run by Lund. Second by Christianson. Carried 5/0.
13. 2007 Manufactured Home Park Licenses – Christianson asked about inspections, because there have been a lot of complaints about the conditions of some of the trailers. Hull advised this is a public safety issue. Christianson suggested issuing the license on the condition the owner supplies the inspection. Hull stated he feels we should pass them, and have inspectors come in once every 3-4 years. Christianson stated that rather than rubber stamp these licenses, there should be some sort of conditions to get the license especially with manufactured homes. Guisleman asked if we grant licenses, and we later find a violation, can we pull the license. Hull stated yes. Hull

- advised we will put this on the agenda for next month to discuss inspections. Motion by Guisleman to approve the manufactured home licenses. Second by Lund. Carried 5/0.
14. Revaluation for 2008 – Assessment ratio has fallen to 74% - Christianson made motion to direct chairman to begin collecting RFP's for the revaluation. Second Lund. Carried 5/0.
 15. Operator's License – Terrie L. McCarthy – Hull asked if she passed the background check. Zimmerman advised she did. Motion to approve by Christianson. Second by Lund. Carried.
 16. Building Inspectors Report – brief discussion.
 17. Police Report
 - A. Joint Powers Agreement w/911 – Motion to have the Chairman sign the Joint Powers agreement with Rock County by Christianson. Second by Guisleman. Carried 5/0.
 - B. Sealed bid acceptance for 1993 Ford Explorer – Motion to accept the high bid of \$2575.00 for the Ford. Second by Christianson. Carried 5/0.
 18. Water Utility Report – brief discussion.
 19. Lake District Report – Lund advised they appointed a new member and that the annual meeting is 7/28/07
 20. Boat Patrol Report - none
 21. Fire District Report – Hull advised the ordering has started on the new truck
 22. Consolidated Koshkonong Sanitary District Report – brief discussion.
 23. Fulton Sanitary District Report & Auditor's Report motion to approve by Christianson. Second by Guisleman. Carried 5/0.
 24. Board of Review meeting date – June 5th at 8:00 am
 25. Pay Bills
 26. Approve Voucher list & Financial Statement – motion to approve voucher list, financial statement and pay the bills by Christianson. Second by Lund. Carried.
 27. Correspondence – Hull advised we have received a request from both the Edgerton School District and RCSO for no parking signs to be put up on River Oaks Rd., because the school bus will be picking up children there, and cannot turn around in the cul-de-sac if vehicles are parked there. Blaine Larson advised we do not need an ordinance, and he has the authority to do this. Blaine advised he will work on this and get it taken care of.

Hull advised we received a letter from the Unemployment Office indicating that Patti Johnson has applied for unemployment, and benefits will begin on 3/4/07, unless an appeal is received. Hull advised he thought we should appeal because Patti quit. Zimmerman advised she typed up an appeal letter indicating she willfully resigned from her position, and advised she will include a copy of her resignation letter.

Hull advised we received a letter from Sandy Kraft requesting an ordinance to govern visible light pollution created by businesses. Hull advised this will be on the agenda next month.

Hull advised he went to the Towns Association “Meet the Government” day and received information that they are proposing to increase the funding of the Transportation Aids by a little over 5% each year, and we conveyed that we would like that passed onto the Townships, instead of all of it going to Milwaukee. He advised we will have to wait and see what gets done. He also advised the Governor is proposing to put the levy limits back on, but they would increase it to 4%, which would give us more leeway, and one exception was for joint fire departments, and another was for bridge and culvert aids.
 28. Adjournment to adjourn at 10:30 pm by Lund. Second by Christianson. Carried 5/0.

Submitted by,

Connie Zimmerman
Clerk/Treasurer

**Note: These minutes are not official until approved by the Town Board.