

BROOKLYN VILLAGE BOARD MEETING MINUTES
April 13, 2009

Meeting was called to order at 6:34 pm in the lower level of the Brooklyn Community Building by Village President Nadine Walsten with Trustees Todd Klahn, Helen McCord, Tim Belter present. Trustees Schaefer and Bruner arrived at 6:38 p.m. Trustee McCallum arrived at 7:03 pm. Others present: Clerk, Carol Strause, Public Works Director, Bob Anderson, Interim Police Chief, Doug Pettit, Steve Lust, Jan Michaelis, Sandy Mortensen, Nancy Thompson, LaVorn Dvorak, Matthew Klutzke, Atty Michael Christopher.

At 6:34 pm, the meeting was convened to a **PUBLIC HEARING for Chapter 34, Recycling**. No public comments were offered. No written comments were submitted to the Clerk. Trustee McCord moved, second Klahn, carried to close the hearing at 6:35 p.m.

At 6:35 pm, the meeting was convened to a **PUBLIC HEARING for Chapter 45 Floodplain** to include Green County Maps that are effective 5/18/09. No public comments were offered. No written comments were submitted to the Clerk. Trustee Belter moved, second Klahn, carried to close the hearing at 6:36 pm

Trustee McCord moved, second Belter, carried to approve the March 9, 2009 minutes. Trustees Schaefer and Bruner arrived.

Matthew Klutzke, director of **Oregon Youth Center**, gave an update on activities at the center for both youth and adults, including egg hunt, Euchre tournament. Fourteen or fifteen Brooklyn parents have registered their children. Budget amount from Brooklyn is about \$1.25 daily per child. He asked the audience and the Board for ideas and help for future programs.

President Walsten reported how grateful she is to have been re-elected for another two years. The experience of going door to door and speaking with over 200 residents in both counties during the campaign revealed "an overwhelming number of residents" gave positive affirmations to the activities and direction the Village has taken with different initiatives. Walsten said the messages received give clear indication that the residents know what is going on in their Village, like living here and the majority were positive about the entrance sign. Residents felt that the sign indicated a symbol of pride and sense of connection to their community. 2009-2010 Committee sign up sheets were handed out. May 8th is the new official's workshop in Madison sponsored by the League of Municipalities.

Clerk Strause reported on the DNR 2009 Recycling Efficiency Incentive Grant that was approved in the amount of \$712.89. This application is based on the joint contract with the Town of Brooklyn.

Trustee Bruner moved, second Schaefer, carried to approve the **Consent agenda** as follows: payment of invoices as submitted to the finance committee totaling \$519,118.92; approval for Deputy Clerk Brewer to attend U.W.Green Bay Municipal Clerk's Institute July 12-17; approval of a Class A liquor license for Nissin Rodriguez, dba, Brooklyn Mini Mart, 355 N. Rutland Ave; approval to extend Legion Park hours for Bluegrass Festival for June 5-6; approval to allow open burning in Legion Park on June 5-6 to allow camping for Bluegrass Festival; approval for Bluegrass Festival sound amplification permit for June 5-6; set date for open book on May 5th from 4-6 pm and Board of Review May 28, 2009 beginning at 5 pm.

UNFINISHED BUSINESS – Chapter 34 Recycling, hearing held at 6:34 pm. was presented. Section 34.10 wording needs to be changed to clarify curbside collection adding fall leaves and removing yard waste. Section 34.18 needs clearer definition of user responsibilities and Village responsibilities for public facilities and Village parks and/or green space. Trustee Klahn moved, second Bruner, carried to approve Chapter 34 with the above changes.

At 7:10 pm, Trustee Klahn moved, second Belter, carried to convene to **closed session pursuant to Wis Stats 19.85 (1)(c) to discuss police department personnel decisions on hiring of a Police Chief**. The Board estimated reconvening to open session at 7:45 pm. Trustee Bruner moved, second Klahn, carried by roll call vote to reconvene to open session at 8:08 pm.

NEW BUSINESS: Chapter 45 Section 1.5(2)(a) Floodplain Ordinance (hearing at 6:35pm) was presented for amendment to add new Green County floodplain maps that will be effective May 18, 2009. Trustee Schaefer moved, second Klahn, carried to approve as amended. The need for a **complete count 2010 Census committee** was discussed. Clerk Strause explained the process for the volunteer committee members and the need for the information required if the Village feels the census data is inaccurate. Request for volunteers will be advertised in the newsletter

At 8:19 pm, a complaint filed by President Walsten for a **Code of Ethics Violation** by a public official, Trustee Sue Walsten, was read with a briefing given by Village Attorney, Michael Christopher.

President Walsten stated any public comments would be restricted to three minutes as the public comments section was at the beginning of the meeting. Trustee McCallum requested an investigation as not all facts are being presented. Atty Christopher stated this is the first ethics complaint since the Village adopted the Ethics Code in 2006. Chapter 51 does not detail a procedure for managing a violation but the Code requires that the Village attorney investigate the complaint. Christopher read the facts that “are known as of right now” (summarized in April 13 memo by Christopher) and asked the complainant, Pres. Walsten, and Trustee McCallum if they agree to the facts as stated:

1. The Village decided to publish a tri-fold brochure entitled “Beyond the Curb” to list recycling sites and businesses for non-curb-side items to be distributed at a community-wide open house on April 18, 2009. Approximately 250 of these brochures were to be distributed at this event and each household would receive this brochure after the open house.
2. Trustee McCallum (“McCallum”) owns and operates a business called “The Market Place” in the Village. A significant part of her business is to sell items for community residents on consignment. This specific part of her business is called “Trash and Treasures Consignment Store.”
3. On March 19, 2009, the Village Recycling Ad Hoc Committee (the “Committee”) met and finalized the format of the “Beyond the Curb” brochure after making minor changes to it. McCallum attended that meeting, but the issue of including her business in the brochure was never discussed at that meeting, nor in any other previous meetings of the Committee.
4. On or about March 20, 2009, McCallum sent an email to Catherine Murray, a fellow Committee member, who also attended the March 19, 2009 Committee meeting saying that she forgot to bring up at the meeting adding her consignment business to the brochure. Catherine responded in an email on March 21, 2009, saying that she thought that adding McCallum’s consignment business was a good idea.
5. When Walsten was informed of McCallum’s intent to revise the Beyond the Curb brochure, she alerted Brewer that if the Beyond the Curb brochure included McCallum’s business, that Brewer was not to print copies of it.
6. On March 23, 2009, Deputy Village Clerk Brewer (“Brewer”) found at her desk the Beyond the Curb brochure and other items to be distributed at the April 18, 2009, open house. Included in these materials, was a note from McCallum stating that these materials were to be copied before the event. Brewer noted that the hard copy of the Beyond the Curb brochure included the name of McCallum’s business, Trash and Treasure Consignment Store, and it listed under a new heading entitled “Household Items.” Brewer believes that the revised Beyond the Curb brochure was left at her desk on March 20, a day when she was not at work.
7. When Walsten was informed of the revised Beyond the Curb brochure, she decided that including McCallum’s business would violate the Code and shared her conclusion with McCallum. McCallum did not agree that this was an ethical violation. There was another meeting of the Committee on April 1, 2009, but McCallum did not attend that meeting, nor was the issue of including her business discussed.

Christopher asked Walsten and McCallum if these were the facts. Walsten stated the brochure is for a community wide distribution, and depending on the number of residents attending the April 18th open house, the brochures may be sent to each household.

Trustee McCallum stated item #1 is true. except the number to be copied is 200 Beyond the Curb brochures, 200 At the Curb, and 100 coloring pages. Item #2-is true that she does own the business, called The Market Place with the Trash & Treasures Consignment store within it. Item#3 McCallum explained to both Irvin Pauly and Catherine Murray (Recycling Committee members) that she forgot to bring the issue of adding her business to the brochure at the meeting. Pauly stated he didn't have a problem with it. She left a message for Trustee Klahn but did not hear from him. McCallum stated she could not discuss the issue with these people because it could be a walking quorum violation. She also reported having a catalog exchange in the store where there is no money involved. McCallum agreed to item #4. As McCallum was not privy to what Pres. Walsten told Deputy Clerk Brewer, she could not agree or disagree with items #5 or #6. McCallum stated she had given the brochure to be copied to Clerk Strause for copying and her business was listed in the brochure as The Market Place under a new category "household items". Item #7 McCallum stated she is not in violation of the Code of Ethics as she was in the process of contacting all members to let everyone know she added her business to the brochure but could not talk to members to explain this because this would be a violation of the open meeting law by a walking quorum. McCallum stated Pres. Walsten knew she could not attend the meeting on April 1 because she was at the Recreation Committee meeting at the same time helping some youth of the community with a skate board proposal.

Atty Christopher asked board members if they had any questions on the facts. Trustee Bruner asked McCallum: "Did you drop the brochure at the Clerk's office prior to it being voted on with your business name on it?" McCallum: "yes". Trustee Klahn stated McCallum did call and left a message regarding the brochure but felt there was no urgency and the matter would be brought to the Board for approval. Klahn said he did not return her call.

Christopher said the second part of the memo, after listening to the facts with some minor changes, is this a violation of the ethics code? Only these facts are to be considered. A 2005 attorney memo explained incompatible activity. In May 2006, the Board considered a draft ordinance and concluded that the strict language was not sensible. The Board decided at that time that if a board member had an apparent conflict of interest, "all they had to do is abstain from discussion and voting". Then there would be no ethical violation. Ordinance was adopted in June , 2006, with language accepted to this effect. Christopher's opinion is if McCallum had abstained from voting and did not participate in discussion it would not have been a conflict of interest to be included in the brochure. This did not happen because the committee did not discuss this inclusion in the brochure.

Christopher instructed the Board it has to decide if this is a violation by clear and convincing evidence and beyond a reasonable doubt. He then gave his analysis of the submitted documentation and facts as discussed:

This complaint based on a conflict of interest would probably not justify taking action such as McCallum's resignation. However, when there is a code violation, the Board should look at the entire code, the spirit and actual language of the code. Section 51.03 specifically reads "to discharge faithfully the duties of their office regardless of personal consideration, recognizing that the public interest must be their primary concern". Section 51.04 (1)Use of Office or Position. No Village public official may use or attempt to use their position or office to obtain financial gain or anything of value or any advantage, privilege or treatment for the private benefit of that official or his or her immediate family or for an organization with which he or she is associated with.

Walsten was asked for a statement regarding the complaint and what she felt should be done. Walsten's paraphrased statement is as follows:

Walsten initiated adoption of the Ethics Code in the Spring of 2004 after a conditional use permit was reversed which allowed a village official to financially benefit from the reversal. At the July 2004 Board meeting, when Walsten was appointed as Village President, "there were ten to twenty people questioning the integrity of this Board as a result of that occurrence." We are elected

because we are trusted. One of the responsibilities of President, of all of us, is that if we become aware of a possible ethics violation it must be brought up at the next Board meeting. It is basic that you do not do anything as a public official that allows you to personally financially benefit from a decision you make as a trustee. Walsten saw McCallum's email saying she planned to list her business, without approval, I sent her an email pointing out that this would be a conflict of interest; that her business could not be advertised in a brochure as a result of her work as a public official. Advertising of an official's business is not allowed in a brochure funded with tax dollars without approval. There was no response to my email to McCallum regarding this violation. She knew she would clearly and knowingly financially benefit as she stated this in her email. After several days, I called her to discuss this with her and she denied this was an ethical violation, became angry and told me to "get over it, Nadine" and hung up on me. She said she didn't discuss it because she didn't want to "bother" me with it. McCallum knows she can't do this. She is careful not to vote on any invoice she has submitted to the Board. It is unfortunate this comes 6 days after the election, but pettiness or timing is not the point. This is a minor violation but the precedent it sets is not. What bothers me the most is being held out of the process; the deviousness of submitting the brochure with her name on it when if a question of ethics is raised by anyone, you contact the President first. I have no trust in McCallum. This action reinforces why I can't trust what McCallum's decisions or actions are going to be. I do not feel she should be asked to resign. This should be a reprimand. Walsten stated she does not want McCallum to continue on the recycling committee because this incident implicates the committee members if McCallum should remain. The integrity of this committee and the Board will be defended.

McCallum was asked to give a statement and what should be done. Her paraphrased statement is as follows:

McCallum stated she has heard complaints for-two years from Walsten that she is not trustworthy. She stated that she is not obsessed with being a board member and cannot respond instantly to email, reading emails only a couple times a week. Walsten does not listen what she told her. I don't get acknowledgements that I am obeying the rules and State Statutes, only being told of distrust. There was no time to have this discussed during the recycling committee meeting. She spends a lot of time understanding the law, and did not have time in April to deal with this working seventy two hours a week. McCallum stated Walsten has called her untrustworthy, deceitful. Do the people in the Village call me this? Where was the deceit and who was I deceiving? No one. In an April 6th email from Nadine, she stated she would finalize the brochure with Kim. Walsten knew McCallum could not be at the recycling meeting. McCallum stated she does not do personal attacks, speaks to the issue talking to her constituents. She tried to add another venue to the brochure for the people of Brooklyn. By some of the accusations, you don't know me at all. You automatically assumed what I had done. You did not know that I contacted Pauly, Klahn, and Murray; all these personal attacks, you don't listen; I am not that type of person. McCallum stated there was no ethical violation; I wasn't going to vote on it. I wasn't going to enter into the conversation. I was not violating open meeting laws or walking quorum. This accusation was very unfair as I could not discuss the issue until tonight. McCallum asked the Board to forget about this complaint, to work together, and wants the personal attacks stopped. If this is what I get for following the rules, what is the point in this? I will not put up with personal attacks any more. I listen to the community residents.

Trustee Schaefer asked Atty Christopher if there was an open meeting law violation in contacting each recycling committee member asking for permission or gathering opinion. Christopher stated that is not the issue before the board.

Trustee Belter said the brochure was discussed in committee on 3/19 and should have again been discussed at the 4/1 meeting with a recommendation given to the Board. No where was there a recommendation to the Board for this brochure. Trustee Bruner said if McCallum presented the brochure adding Joe Smith that is one thing, but an ethics violation occurred when she added her business

making a unilateral decision without the committee involved. It is probably not a major violation but definitely an ethics violation here. Trustee Klahn said this is disappointing as McCallum has worked on this brochure the last four months to develop. It is disappointing that her business name is on the brochure and it was there to be printed as it was delivered to the Clerk's Office. Trustee McCord stated it was an ethics violation as she felt McCallum was not going to drop her name from the brochure as it was already put in. McCord felt it is not a major violation but is a violation. Schaefer agreed there was an ethical violation that occurred looking at how it took place and the timing, there was ample opportunity to discuss this in committee. Significant, no, but needs to be addressed now to set the record straight so that something more substantial does not take place. Belter questioned why the correct process was not followed and why this issue was not on the committee agenda so that all this could have been avoided. Walsten said there was a time crunch to get printed before the 4/18 recycling open house.

Christopher stated there is no forfeiture in the ordinance. The Board has only three options: reprimand, requesting the trustee to resign from the Board, dismissal of complaint.

Trustee Bruner moved, second McCord stating there has been an **ethics violation committed by Trustee McCallum** of which she should be disciplined by the Board by a public reprimand, identifying the terms of the violation and the nature of the circumstances to be placed in the minutes of this meeting and publicly noticed. Roll call Vote: Klahn, McCord, Bruner, Schaefer, Belter, Walsten. Walsten withdrew her vote. McCallum did not vote. Motion was carried by a 5-0 vote with two abstentions. Atty Christopher was requested to compile the circumstances of the ethics violation.

COMMITTEE REPORTS: Public Works-Anderson gave an updated on the construction at the WWTP. **Well#2** is being upgraded with the pump pulled last week. The well is 670' deep but at 501' some type of bridge/scale build up was encountered that will need to be removed. It is estimated to cost \$31,636 to replace all piping, get rid of blockage, and replace motor which has a bearing out. Pumping is down to 400 gpm and should be 600 gpm. Repair was not budgeted as it was felt to take money from either impact fee account or other water utility reserves. McCallum stated the impact fee money was solely to be used for water tower debt. The resolution creating the impact fee and the impact fee study will be researched. Anderson stated the money was also to be used for maintenance of equipment and capital improvement funds. Walsten asked if this doesn't impact water flow rate requirements for fire. Anderson agreed. "There is no choice, the well needs to be repaired." Bruner moved, second Klahn, carried to repair well #2 at a cost of \$31,636. McCallum asked if any of the original storm water plans have changed in the development area of Kerch and Douglas. There is no place to pump the pond. The water table is much higher because of two 500 year floods back to back. The Union Rd and 92 and Hwy 14/92 will again be discussed at another joint meeting.

Planning and Zoning: Schaefer moved, second Belter, carried to postpone adoption of the fee schedule. **Ordinance:** Chapter 1 was handed out. Belter asked the Board to do their homework and look at the format, lettering, and numbering before the next meeting. **Safety:** Schaefer moved, second Belter, carried to approve per the committee's recommendation adoption of **Vehicle Pursuit Policy & Procedure and Code of Ethics** for the Police Dept. Trustee Bruner left at 9:59 pm. Chapter 35, Bikes, Skates, Skis was recommended by the committee to rescind as most communities do not license bikes. Licenses can still be issued on bicycle safety day. Interim Chief Pettit stated the entire ordinance is covered by State Stats. Schaefer felt that parts of the ordinance should be retained. Klahn moved to postpone, second McCord, carried to list those sections that are referenced by Stats.

Personnel: McCord moved, second Walsten, carried to approve changes to section 8.1 of the personnel manual defining full/part time employees. McCord moved, second Walsten, carried to approve changes to section 2.8 defining eligibility for health insurance as amended define WRS (Wis Retirement System) in full. McCord moved to approve section 8.3 but withdrew her motion to take back to committee. Klahn moved, second McCord, carried to postpone section 8.3 overtime definition until the next meeting. McCord moved, second Belter, carried to approve Section 2.4 Funeral Leave.

EDC-will meet Tues night and discuss downtown revitalization. **Recreation:** McCord moved, second Klahn, carried to appoint Carlene Alvord to the committee. Dime a Dip will be May 7th. Summer recreation is working on programs for the youth. Last movie for the season was held with an average 25 in attendance. Oregon softball league may be using ball diamonds this summer. Committee is working with kids to do fundraisers for skate park equipment. Committee is expanding programs and need two more people on the committee. They would like the ordinance amended to have up to nine members. Work continues on a bike trail. **Finance:** Belter stated the five year capital a project plan will be reviewed and updated with a need to reconcile what is in the plan and what has been done. Belter gave an update on the LGIP insurance on funds invested. The 2007 BAN needs to be refinanced in 2012. Currently only interest is being paid on the loan. Committee will be moving the meeting night to Wed. starting in May.

Blue Grass Committee finalized the band lineup, waiting for website and poster to be updated. Fundraising will begin. **July 4th** will meet soon. **Recycling:** Klahn moved, second McCord, carried to approve the At the Curb brochure recommended by the committee at the March 19th meeting with minor changes.

Oaths of Office for the 2009-2011 terms were given. Clerk Strause gave the Oath to Village President Walsten. President Walsten gave the Oath to Trustees Tim Belter and Todd Klahn. Trustee Wendy Layton was absent. Trustee Traci Schaefer will be leaving the Board effective 4/21/09.

McCord moved, second Schaefer, carried to adjourn at 10:32 pm.

Carol Strause, Clerk-Treas.