

**MUNICIPALITY OF GERMANTOWN COUNCIL
MINUTES OF MEETING HELD MONDAY JUNE 1, 2009**

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The Municipality of Germantown Council met in regular session on Monday, June 1, 2009 at 7:00 p.m. in the Municipal Building Council Chambers.

PLEDGE OF ALLEGIANCE:

The Pledge of Allegiance was recited.

MEMBERS PRESENT:

The following members were present at the Call to Order: Mayor Theodore Landis, Mrs. Jeanne Gentry, Mr. Scott Johnson, Mr. Terry Johnson, Mr. Lynn Koogle, Mr. Jim Lawson, and Mr. Edward Schwaberow.

MEMBERS ABSENT:

None.

ALSO PRESENT:

Also present were Tom Schiff, Law Director; Scott Brown, Police Sergeant; Matt Burns, Police Major; Rebecca Jamison, Finance Director; Anna M. Sizemore, Acting Village Manager/Clerk of Council, Ben DeGroat, Township Trustee; Randy Benson, Township Trustee; Greg Hanahan, Township Trustee; and Bob Rohrbach, Township Fiscal Officer.

MEETING WITH TOWNSHIP TRUSTEES:

Water Issues

Mr. Scott Johnson questioned what the first steps were since establishing a water district.

Mr. DeGroat stated a hearing has been held and the Township is waiting for a final outcome from the Courts.

Mr. DeGroat stated the route would be down the Pike, near Stivers. At any time the Township could add to the water lines with a resolution.

Mayor Landis questioned what the purpose was for forming this new water line.

Mr. DeGroat stated the Township had major concerns for some of the residents in that area.

Mr. Schwaberow stated that Jackson Township would also be involved.

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Mr. Scott Johnson expressed concern regarding the cost of the water line and the revenue the Village will receive.

Mr. DeGroat stated he is hoping to receive a grant that will help with the cost of the water line.

Mr. Koogle stated the Township residents are having a lot of water trucked in.

Greg Hanahan stated the creation of this district is for the Township to bring water in from where it makes sense. He stated water coming from the Village and then to the Township makes sense. He would like to see the Village and the Township work together on projects.

Mr. Schwaberow stated he would like to see the Village and the Township work together on the project. The project would be very beneficial to the Township residents and cheaper for them in the long run. He stated he was unaware of any grants at this time for any projects, but the grants would be helpful.

Mr. Scott Johnson questioned if the project was ready to move forward at this time.

Greg Hanahan stated the Township would be able to move forward at the next Township meeting. He stated they would be going forward and choosing who would be on the Water District Board.

Mr. Scott Johnson asked the Township to please keep the Village informed if they are planning on bringing the water lines this way.

Greg Hanahan stated that Steve Fugate represented the Village very well at a meeting recently. Steve Fugate did a very nice job of convincing the committee to change the scope of the project that was being discussed.

Fire/EMS Levy

Mr. Koogle stated he received a call from a Village resident with a good idea regarding the Fire/EMS Levy. The mailer that is sent out should read exactly how the ballot would read. This should give a full explanation of the Fire/EMS Levy, and alleviate any questions and concerns.

Bob Rohrbach stated that both Council and the Trustees did what they would do during the last Fire/EMS Levy. The same language was used on the ballot in the past, to purchase new fire equipment and trucks. The history of the Council and the Trustees is we do as we say.

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Mr. Lawson stated the Germantown Rescue Squad Inc. is still accepting donations, and many residents believe that those donations should be used to run the Fire/EMS. The bottom line is that the Village residents are still confused, by thinking that the Germantown Rescue Squad Inc. is part of the Fire/EMS.

Mr. Koogle stated the funds that are donated to the Germantown Rescue Squad Inc. will benefit the community, and the funds will stay here in the Village. Unfortunately the funds will not help the Fire/EMS like we need it to . Until residents understand that they are two separate entities, we will have the problem, not only now but in the future also.

Mr. Schwaberow stated the merger was done to benefit the Village by having both Fire and Rescue available during the day. The Germantown Rescue Squad was having difficulties hiring staff to cover all the hours. He stated that this was not a hostile take over, it was done to benefit both the Germantown Rescue Squad and the Fire Department. The merge was to provide good service to the community.

Mr. Scott Johnson stated when he went to vote last time and read the Fire/EMS Levy on the ballot he knew it would not pass. The wording does not state the intent of the Fire/EMS Department.

Mayor Landis agreed with Mr. Scott Johnson regarding the wording on the ballot. The Fire/EMS is not asking for a new firehouse, they are asking for funds to operate.

Swimming Pool

Mr. Scott Johnson stated every year the village supplies all the funds when the pool runs short. When the Village requested funds for the pool from the Township to help with the shortage of funds , the Township denied the Village any funds for the pool

Tom Schiff stated the agreement between the Village and the Township, does not state who is responsible if the pool runs short on funds.

Greg Hanahan stated the request for the Township to support the Village pool was from the residents of the Township. The residents of the Township requested the ½ mill levy.

Mr. Terry Johnson stated at the end of the pool season the Village might ask the Township for funds, if the pool has fallen short on funds.

Mr. Schwaberow stated the Village has suffered and paid money from the general fund to support the pool for many years.

Ben DeGroat stated he would hate to have the Township give money from the Township general fund to help manage a pool that they have no say in how it is managed.

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Mr. Lawson stated he would like to see the Township and the Village split the difference if the pool runs short on funds again next year.

Mr. DeGroat stated if the Village does hire the new pool management company, and the Village provides the Township with monthly reports to see exactly how the pool is doing, the Township might be willing to contribute to the shortage of funds. He expressed concern regarding the concession stand.

Tom Schiff stated he does not read in the contract with the Village and Township, that the Village has complete control over the pool. There is no division of responsibility in the contract as it is written. He stated the contract does not state who will be responsible if the pool runs short or what will happen if the pool makes a profit.

Ben DeGroat stated the Village owns the pool.

Tom Schiff stated if the Township were contributing he would think that the Township would want to have a say in how the pool is managed.

Mr. Schwaberow suggested that the Cemetery gather a list of people who are laid to rest there, and then contact their family members who still live in Germantown asking for their support on the Cemetery Levy.

The Township Trustees adjourned at 7:50 p.m.

The Council and Township will meet on September 14, 2009 at 7:00 p.m. at the Township building.

APPROVAL OF MINUTES:

None.

PUBLIC RECOGNITION:

None.

CITIZEN'S FORUM:

None.

FINANCE DIRECTOR'S REPORT:

None.

ACTING MANAGER'S REPORT:

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Steve Fugate went over the May Water Department report.

Steve Fugate stated that Caldwell Water Tank Company is the bidder who he has been looking at. The tank would be a creamy-white color with black lettering, He is projecting in the low 700 gallons per minute, and this should take care of the problem in the Hillcrest area. He is planning to increase the psi pressure gradually, possibly two pounds of pressure a week.

Steve Fugate stated that once the new tower is complete, the old tank will be shut down to paint the exterior. The exterior paint is lead based and will have to be handled accordingly. The interior of the old tank was painted in 1994, and should have another five years before it will need to be repainted. He stated that the old tower is showing signs of rust, but as of right now there is no structural damage.

Mr. Schwaberow stated the Village is building a fund to have the old tower painted, but the funds are not in order yet. He stated that when the new tower is completed, the tower painting fund should have enough money to complete the painting project.

Mr. Schwaberow questioned Steve Fugate regarding the hours spent on the pool by the Water Department.

Steve Fugate stated the hours have been increased lately but will decrease very soon. The Water Department is dealing with a small leak in the pool. They are also dealing with the gutters on the pool, and checking the chemicals.

Mr. Schwaberow questioned Steve Fugate regarding the meeting with Montgomery County concerning the sewer project.

Steve Fugate stated he was looking into the funds for the sewer project. He stated it had not been determined if the funds were available to complete the project. The County recommended the Village apply for emergency funding for the sewer project. He stated he was looking into a used pump for the Hillcrest pump station.

Mr. Schwaberow questioned Steve Fugate regarding the meters on the East Market Street bridge sewer problem.

Steve Fugate stated he did not get the meters on before the bridge project started. He is planning on installing the meters when the contractor starts working on the opposite side of the bridge that they are working on now. He stated he has not observed any back ups from the manholes on Water Street.

Mrs. Gentry questioned if Steve Fugate had gotten the pump in the Hillcrest Station.

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Steve Fugate stated he had not had the time to complete the installation of the pump at the Hillcrest Station, because the Water Department had been working on projects on the pool. He apologized for not everything being complete; there are not enough men to complete all the work in the Village.

Mr. Schwaberow stated the Village lost \$30,000 on the last pool season with the current management company, and we also had the Village Water Department working on the pool for half the summer. He stated it would be more beneficial if Steve were to contract out the work that is not related to the Water Department.

Mrs. Sizemore stated that Steve Fugate had done a great job with the pool problems.

Mrs. Sizemore stated she spoke with Tom Borck with Poggemeyer regarding the comparison of Dry Run and Butter Street. He should have those comparisons to the Village soon.

Mrs. Sizemore stated the memo that was given to the council members was the only item Randy Bukus had regarding Rudy's restaurant. Poggemeyer did not do a report for the restaurant.

Mr. Schwaberow questioned Mrs. Sizemore if the Street Program had been approved.

Mrs. Sizemore replied that Council had not approved anything yet. She just received the specifications and she will have to put that out for bid.

Mr. Terry Johnson stated he would like Mrs. Sizemore to look into the patio proposal, Mrs. Sizemore replied she would.

LAW DIRECTOR'S REPORT:

Tom Schiff stated he looked into the patio project at Laff's, and the Village does not have to do anything regarding this issue. Ms. Jackie Ritter needs to address the Liquor Board.

Tom Schiff stated the Village has a few openings in committees that need to be filled.

Mrs. Sizemore stated that Senior Oversight, Planning Commission, and Economic Development are the committees that have openings.

Mr. Koogle agreed to sit on the Senior Oversight Committee as the Council Liaison.

POLICE CHIEF'S REPORT:

None.

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FIRE CHIEF'S REPORT:

None.

MAYOR'S REPORT:

Mayor Landis stated the Dial Radio Club will have a demonstration on June 27th and June 28th.

Mayor Landis read a thank you letter from the Dupp's Company for the use of the Council Chambers. They held a meeting here a few weeks back.

Mayor Landis spoke with a representative from DP&L, and the street light contract expires in 2012.

MOTION: Mr. Lawson motioned to have Tom Schiff negotiate with Mrs. Sizemore regarding the Village Managers Position, second by Mrs. Gentry.

Mr. Schwaberow stated that Mr. Fowler was to be interviewed but was not able to make it, and he understood that Mr. Fowler would be rescheduled. He felt that Mayor Landis was jumping the gun and authorizing a contract with Mrs. Sizemore.

Mayor Landis stated he has discussed these issues with Tom Schiff to make sure everything is kept legal, and a special Council meeting was going to be called. At that special Council meeting Mayor Landis was going to ask to go into executive session to interview Mr. Fowler, then come back into regular session. After that Mayor Landis was going to ask for a motion for Mrs. Sizemore to go speak with Tom Schiff. Mr. Fowler has put us off and lied to us; he is tired of waiting. The Village has been without a Manager since December, and the previous Manager did not do what he should have done. Mrs. Sizemore is doing her best and trying to catch up everything, so as far as he is concerned the Council is not jumping the gun. He stated he wants a Manager in that office.

Mr. Schwaberow stated that he does not have the authority to unilaterally direct the Law Director to enter into negotiations with Mrs. Sizemore.

Mayor Landis stated this is not unilateral. He stated if there is no more discussion then we will have roll call.

Mr. Scott Johnson stated the Mayor must have more information then he does, judging on the comments that were just said.

Mayor Landis stated he apologized but was not clear on what Mr. Scott Johnson was referring to.

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Mr. Scott Johnson stated there were accusations as to Mr. Fowler's honesty, and he was not informed of them.

Mayor Landis stated that Mr. Fowler said he had a job, when in fact he did not have a job. Mr. Fowler was asked to interview with Council.

Mr. Schwaberow stated that most of the Council members did not make it.

Mr. Scott Johnson stated Mr. Fowler did have a job when he met with Council.

Mayor Landis stated Mr. Fowler did not have a job; he had resigned from his current position, and was to be getting another job.

Mr. Schwaberow stated that Mr. Fowler did have job, but he did resign. If the Council would interview him, Council could discuss these matters.

Mayor Landis stated he is tired of waiting around, not having a Manager. Mrs. Sizemore is doing an excellent job.

Mr. Schwaberow stated he disagreed, and that Mrs. Sizemore is not doing an excellent job. He stated the Council has the responsibility of this Village to find someone who will do an excellent job.

Mayor Landis stated he was saying his opinion of Mrs. Sizemore and the right person for the Village Manager position is sitting right here. He stated he is in his office everyday and sees Mrs. Sizemore doing a excellent job.

Mr. Schwaberow stated that we have not seen the first report out of this lady. She comes in here tonight with no report, and relies on Steve Fugate and Dennis Watson to inform Council. The Council use to get reports every week, and now we do not. If you want to go about this the right way we could had done this in executive session, but if you want to bring this out to the floor, lets just have it out.

Mayor Landis stated Mr. Schwaberow wants Mrs. Sizemore to attend meetings, and Mr. Schwaberow chastises her when she cannot attend them.

Mr. Schwaberow stated Mayor Landis is correct. We are members of the MVCC.

Mayor Landis stated do you want Mrs. Sizemore to go to meetings or do you want her to do her job here. The former Manager attended meetings all the time, and when he would give a status report, the report would be the same as it was the week before.

Mr. Schwaberow questioned if the new Manager would be only attending meetings. How will we know if we do not talk to Mr. Fowler? He stated that Mr. Koogle is on the

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bubble on this vote. We are dead locked three to three on this vote. He stated it is not fair to ask Mr. Koogle to make the deciding vote of who the Village Manager will be. He stated he was under the understanding that Council was going to interview Mrs. Sizemore and Mr. Fowler to see who was best qualified.

Mayor Landis stated the Council was only going to interview Mr. Fowler, and Mrs. Sizemore was not going through the interview process.

Mr. Schwaberow questioned why Mrs. Sizemore was not going through the interview process. He questioned if Mr. Koogle had had a chance to interview either of the applicants.

Mr. Terry Johnson stated he did not recall Mrs. Sizemore being asked to attend the interview last Friday.

Mr. Schwaberow questioned if Mr. Terry Johnson thought it was okay if Mr. Koogle did not get a chance to interview all the applicants.

Mr. Terry Johnson replied that Mrs. Sizemore did not attend the interview last Friday because she was not asked to attend the interview. If she would had been asked to be at the interview, she would have been there.

Mr. Terry Johnson questioned Tom Schiff that the motion is on the floor for Mrs. Sizemore and Tom Schiff to go over a contract; nothing states that Mrs. Sizemore will be hired after going over this contract.

Tom Schiff stated yes, Mr. Terry Johnson was correct. He stressed that this is just a negotiation with Mrs. Sizemore to see if all parties involved can come to an agreement. If these negotiations fail, we will go to plan B and plan C if need be. At some point there will have to be a formal resolution for Council to vote on, with a copy of a contract. Then at that time each member of Council has the right to vote yes or no.

Mr. Scott Johnson stated that everyone would like to see the Managers position filled. He stated the majority of the delay is not Mrs. Sizemore or Mr. Fowler, but it is Council's fault. Neither of the two applicants should have to suffer.

Mrs. Gentry stated Council never gets anything done, and this is Council's fault.

Mr. Scott Johnson stated he was surprised when Mayor Landis entertained the motion to have Tom Schiff and Mrs. Sizemore to negotiate a contract. He stated a decision that is that important should not have been handled in that fashion.

Mayor Landis stated that Council has had multiple discussions regarding the Village Manager position.

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Mr. Scott Johnson stated as far as he was concerned, Council was not ready to make a decision. The points Mr. Schwaberow brought up regarding Mr. Koogle not having a chance to meet Mr. Fowler are valid.

Mayor Landis stated lets say the motion is removed and deal with this matter later and interview Mr. Fowler, nothing will change. He stated that Mr. Schwaberow will not change his mind and that he himself will not change his mind.

Mr. Schwaberow stated then we only have one man, and we will only have one man unless someone wants to change his or her mind. He questioned Mayor Landis if he had asked and singled out any other member of Council about the motion, because we work as a body here.

Mayor Landis stated he spoke with Mr. Lawson earlier in the day regarding this motion and suggested that this be done tonight; so he phoned Tom Schiff and he stated he was able to ask for the motion.

Mr. Schwaberow stated he feels this is a back door meeting and he resents the way this matter was handled.

Mr. Lawson stated he resented the way Mr. Schwaberow has treated the Acting Manger-Mrs. Sizemore since she has been here. Mr. Schwaberow has belittled and berated her and Mr. Schwaberow has just done it again.

All of Council began to speak at one.

Tom Schiff interrupted and asked all members of Council to get back on track and vote on the motion on the floor.

ROLL CALL: Mrs. Gentry, yes; Mr. Scott Johnson, no; Mr. Terry Johnson, yes; Mr. Koogle, no; Mr. Lawson, yes; Mr. Schwaberow, no; Mayor Landis, yes. 4-yes, 3-no.
MOTION CARRIED.

Tom Schiff recommended that Council go into executive session to discuss the direction he is to take regarding Mrs. Sizemore.

MOTION: Mr. Lawson moved to adjourn to executive session to discuss personnel matters, second by Mrs. Gentry.

ROLL CALL: Mr. Scott Johnson, yes; Mr. Terry Johnson, yes; Mr. Koogle, yes; Mr. Lawson, yes; Mr. Schwaberow, yes; Mrs. Gentry, yes; Mayor Landis, yes. 7-yes, 0-no.
MOTION CARRIED.

Mayor and Council adjourned to Executive Session at 8:43 p.m.

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EXECUTIVE SESSION:

PRESENT:

The following members were present at the start of the Executive Session: Mayor Theodore Landis, Mrs. Jeanne Gentry, Mr. Scott Johnson, Mr. Terry Johnson, Mr. Jim Lawson, Mr. Lynn Koogle, and Mr. Edward Schwaberow.

MEMBERS ABSENT:

None.

ALSO PRESENT:

Also present was Tom Schiff, Law Director.

The aforementioned persons discussed personnel matters related to the Village Manager position.

Mayor and Council reconvened into Regular Session at 8:44 p.m.

COUNCIL MEMBER'S REPORT:

Mr. Terry Johnson asked Mrs. Sizemore to change the date for the Park Board meeting to June 4th instead of June 3rd, and to please let all the Park Board members know.

LEGISLATION:

Introduction:

Mayor Landis introduced Resolution No. 09-18

A RESOLUTION AUTHORIZING THE ACTING VILLAGE MANAGER TO ENTER INTO A CONTRACT WITH CALDWELL TANKS, INC., 4000 TOWER ROAD, LOUISVILLE, KENTUCKY 40219, FOR THE DAYTON PIKE WATER STORAGE TANK, OPWC PROJECT NUMBER CD14L, IN THE AMOUNT OF \$1,387,000.00.

Mayor Landis announced the Public Hearing would be June 15, 2009.

Mayor Landis introduced Resolution No. 09-19

A RESOLUTION AUTHORIZING THE ACTING VILLAGE MANAGER TO ENTER INTO A CONTRACT WITH CULY CONSTRUCTION, 8085 MCCUTCHEVILLE ROAD, WAYNE, OHIO 43466, FOR THE DAYTON PIKE WATER STORAGE

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TANK WATERLINE EXTENSION, OPWC PROJECT NUMBER CD14L, IN THE AMOUNT OF \$74,403.00.

Mayor Landis announced the Public Hearing would be June 15, 2009.

Mayor Landis introduced Resolution No. 09-20

A RESOLUTION APPROVING THE FINAL PLAT APPLICATION FOR THE PROPERTY LOCATED AT 7047 WEAVER ROAD KNOWN AS THE VILLAS AT HICKORY POINTE.

Mayor Landis announced the Public Hearing would be June 15, 2009.

Mayor Landis introduced Resolution No. 09-21

A RESOLUTION AUTHORIZING THE ACTING VILLAGE MANAGER TO ENTER INTO A CONTRACT WITH WEIDLE CORPORATION, 9680 SUGAR STREET, P.O. BOX 247, GERMANTOWN, OHIO 45327, FOR THE WEBER SPORTS COMPLEX, IN THE AMOUNT OF \$36,819.00.

Mayor Landis announced the Public Hearing would be June 15, 2009.

Public Hearing:

None.

OTHER BUSINESS:

All agreed to look at the budget changes at the June 15, 2009 Council meeting.

MOTION: Mr. Scott Johnson moved to adjourn to executive session to discuss personnel matters regarding the Village Manager, second by Mr. Terry Johnson.

ROLL CALL: Mr. Scott Johnson, yes; Mr. Terry Johnson, yes; Mr. Koogler, yes; Mr. Lawson, yes; Mr. Schwaberow, yes; Mrs. Gentry, yes; Mayor Landis, yes. 7-yes, 0-no.
MOTION CARRIED.

Mayor and Council adjourned to Executive Session at 8:50 p.m.

EXECUTIVE SESSION:

PRESENT:

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The following members were present at the start of the Executive Session: Mayor Theodore Landis, Mrs. Jeanne Gentry, Mr. Scott Johnson, Mr. Terry Johnson, Mr. Jim Lawson, Mr. Lynn Koogle, and Mr. Edward Schwaberow.

MEMBERS ABSENT:

None.

ALSO PRESENT:

Also present was Tom Schiff, Law Director.

The aforementioned persons discussed personnel matters related to the Village Manager.

Mayor and Council reconvened into Regular Session (time unknown).

ADJOURNMENT:

There being no further business to come before the Council, (unknown) moved to adjourn the meeting.

The meeting adjourned (time unknown).

Respectfully Submitted,

Kelli R. Sanders-Novak
Clerk of Council

Theodore E. Landis
Mayor