

**VILLAGE OF GRAFTON**  
**SPECIAL VILLAGE BOARD MEETING MINUTES**

**OCTOBER 29, 2009**

The Special Village Board meeting was called to order by Village President Jim Brunnuquell at 6:33 p.m. The Pledge of Allegiance followed.

Board members present: Jim Grant, Ron LaPean, Scott Volkert, Richard Rieck, Sue Meinecke, David Liss and Jim Brunnuquell

Staff/Officials present: Village Administrator Darrell Hofland, Village Clerk Teri Dylak, Director of Public Works/Village Engineer Dave Murphy, Deputy Clerk Lisa Bohn and Village Attorney Michael Herbrand.

Mr. Bill Hass, 1226 Water Terrace, identified that he would be video recording the meeting.

President Brunnuquell identified that this matter was previously discussed by the Board of Public Works and the Village Board. In addition, a public hearing was held on October 22, to receive additional input from the WDNR, Ozaukee County, Bonestroo, Village Staff and to answer questions from the public.

President Brunnuquell stated that, earlier today, the Village Clerk received a Notice of Intent to Circulate Advisory Referendum Petition (Notice). He indicated that this submittal prevents the Village Board from taking any action on this matter at this meeting.

Village Attorney Michael Herbrand explained that the Notice did include the required referendum question. He summarized the question which states "Should the Bridge Street Dam be preserved until at least 2019..." The question includes additional language relating to reasons to preserve the structure.

Attorney Herbrand stated that the submittal of the Notice starts the process for a possible referendum election and precludes the Village Board from taking any action on the matter until the process has been completed. Mr. Herbrand stated that the completed petitions must be submitted to the Village Clerk in 20 days (November 18, 2009). The circulators of the petition must obtain signatures equal to a minimum of 30 percent of the votes cast for Governor in the last election (5,185 votes were cast for Governor – 30 percent equals 1,556 signatures required). The Clerk will review the petition for sufficiency and prepare a written report to the Village Board. The Village Board will determine how the matter moves forward.

If the petitions are found to be sufficient, the Village Board can, by a three-fourth vote (6 of 7) of the members elect to set a special election date for the question to go before the

electorate. If a special election is not set, the matter would be placed on the April 6, 2010 ballot for consideration, as identified in Municipal Code Section 1.20.060.

President Brunnuell reiterated that no action will be taken on this matter tonight.

President Brunnuell asked if there was anyone present who had any new information or a clarification on previously submitted information.

Reiss Hansen, 1971 Mary Glade Drive, Town of Grafton, questioned if any upstream assessment, past the one-mile point have been completed to determine the impact of the dam removal upstream.

Dale Buser, Bonestroo, responded that the recently completed study looked at the impact of the dam removal on upstream properties. He stated that the impact of the dam removal should be minimal that far upstream.

Jessica Barber, Fish Biologist- US Fish and Wildlife, stated that her office works with the Great Lakes Fishery Commission to implement the Sea Lamprey Management Program in the Great Lakes. She reviewed the potential for invasive species, specifically the sea lamprey, to enter the Milwaukee River. She indicated that the only blocking structure in the Milwaukee River is the Bridge Street Dam. If this structure is removed, there is the potential that 80 miles of river could ultimately be affected by the sea lamprey. Ms. Barber stated that, at this time, no sea lamprey has been found in the Milwaukee River. She stated that the habitat used by the sea lamprey is located upstream of the Bridge Street Dam. Ms. Barber stated that sea lamprey is a very invasive species.

Richard Jahnke reiterated that the sea lamprey have been found in Lake Michigan for a significant number of years; however, they have not been found in the Milwaukee River.

Trustee Grant referenced a letter distributed to the Board, dated August 6, 2009, from the US Fish and Wildlife Service. He questioned if other letters on the dam removal have been received, and if so, why the Village Board has not received copies of the letters.

President Brunnuell responded that the referenced letter was actually sent to the WDNR with copies to Ozaukee County and him. The information in the letter was previously discussed at the public informational meeting.

Trustee Grant commented that he would rather see the fish ladder installed to control the sea lamprey. Ms Barber responded that the fish ladder would have to be closed between April and August in order to eliminate any possibility of sea lamprey getting upstream. The stop area would be monitored to remove invasive species and send fish through the system upstream.

Trustee Grant questioned if there are grants, from the Fish and Wildlife Service and/or the Great Lakes Fishery Commission, to assist in the cost of the monitoring process. Ms. Barber responded that the Village of Grafton would need to apply for funding. President Brunnquell questioned the closing of the fish ladder from April to August. Ms. Barber responded that April-August is the migration time for the sea lamprey.

Trustee LaPean questioned how the closure of the fish ladder affects other fish species trying to get upstream. Ms. Barber responded that the only option to eliminate any sea lamprey is a trap and sort operation. Fish species are trapped in an enclosure within the fish ladder and invasive species are removed and the “good” species are placed in the next step of the ladder to proceed upstream.

Dan Dedrich, 1899 Cypress Drive, commented that the sea lamprey has been present in the Great Lakes since the 1950s and has not gotten into the Milwaukee River in 2009. He questioned what is stopping the species from infiltrating the Milwaukee River. Ms. Barber responded that the past condition of the Milwaukee River was somewhat of a deterrent to the species; however, as the Milwaukee River, and others, are cleaned up, the likelihood of the sea lamprey entering the system becomes greater.

Erin Ede, 1985 Port Washington Road, Town of Grafton, commented that she read about the dam in Mequon/Thiensville being left in place and questioned why that dam will not prohibit invasive species from proceeding upstream. She also questioned if the placement of the fish ladder will prohibit all fish species from spawning. Ms. Barber responded that invasive species will be able to proceed upstream around the abutments of the Mequon/Thiensville structure.

Ms. Ede also questioned if the Village of Grafton will lose the NOAA funding as a result of the petition submittal notice.

Village Administrator Darrell Hofland responded that he has discussed this matter with representatives from Ozaukee County and NOAA and they are willing to work with the Village on this issue. The original date of October 30 will be extended; however, at this time the length of the time extension is not known.

George Hollrith 1511 Jo-Dee Lane, Town of Grafton, commented that if the dam remains in place no sea lamprey will be able to get upstream.

Bill Harbeck, 907 17th Avenue, questioned alternatives for sea lamprey control if the dam is removed. Ms. Barber responded that the entire river system could require pesticide treatments every 3-4 years at an estimated cost of over \$300,000 per treatment. She also stated that both US Fish and Wildlife and the Great Lakes Fishery Commission are against the removal of the Bridge Street Dam.

Mr. Harbeck commented that he does not agree that the process stops because the petition submittal indicates the construction of a fish passage is allowed. He requested the Village Board take action to allow the use of the NOAA funds for the fish passage

project. President Brunnquell responded that the previously approved NOAA grant includes the fish passage project and no further action is needed by the Village Board for that portion of the project to proceed. The issue of the dam removal as a substitute project is now being considered after the original grant submittal. If the Village of Grafton does nothing, the fish passage can proceed.

Mr. Harbeck stated that the Village should proceed with the fish passage as originally intended in the grant.

President Brunnquell stated that because the Notice of Intent was filed, the code requires that the process for the petition request proceed. The only way to stop that process would be the withdrawal of the notice.

Rex Borgenhagen, 1985 Port Washington Road, Town of Grafton, questioned if there are invasive species above the dam. Mr. Will Warwczyn, Fisheries Biologist with the WDNR, responded that there are some invasive species present as well as invasive wetland plants above the dam; however, the sea lamprey has not been found.

Mr. Borgenhagen also questioned if NOAA is willing to invest funds in the fish passage with the current status of the dam identified by the WDNR.

Jim Brunnquell commented that the WDNR is not asking for any specific action on the dam. The decision on the dam rests with the Village of Grafton. We have been given 10 years to take action to repair, replace or remove the structure to bring the structure to the requirements of NR333.

Trustee Meinecke commented that asking the Village Board to take action on the fish ladder, at this time, goes against the petition notice. Mr. Harbeck responded that the petition language does not prohibit the installation of the fish ladder, only the removal of the dam.

Trustee Volkert questioned where the funding would come from to spray the river with pesticides. Ms. Barber responded that if the river is found to have sea lamprey, funding would be from the Great Lakes Fish Commission, Department of Fish and Oceans.

Robert Molkentine, 952 14th Avenue, expressed his displeasure with being told to do something with the dam by people who do not live in the community. He questioned the intent of the WDNR to remove the dam. He stated that in several areas where dams have been removed, there is nothing but a large weed bed. The premise of providing a natural fish habitat is not necessarily what will occur once the dam is removed.

Rick Schmit 1449 E. Cedar Creek Road, Town of Grafton, questioned how bad an infestation of sea lamprey would be on the river. Ms. Barber responded that without the control program currently in place in the Great Lakes, the sea lamprey would have devastated the Great Lakes years ago. The lamprey go into the rivers to spawn, they hatch and burrow into the sediment where they remain for 5-7 years. When grown they

make their way back into a lake. The damage is done to the fish in the lake and not to the species in the rivers. The program stops the species from getting to the spawning area.

Kathleen Logan, 912 Vista Lane, commented that all of the Whitefish in Lake Michigan at Kewaunee were killed off by the sea lamprey. She questioned if the Village of Grafton is legally obligated to follow through with the referendum request. Village Attorney Herbrand responded yes that there is a specific procedure that must be followed from this point forward. He also indicated that the Board cannot take any action to remove the dam at this time; however, if it is agreed to keep the dam in place that would not necessarily be violating the notice of intent requirements.

Tom Pfanner, 1102 Sunset Court, thanked Ms. Barber for providing additional information on the invasive sea lamprey and why the dam should remain intact.

Trustee Volkert questioned if the dam, in its current condition, would be 100 percent capable of stopping sea lamprey from getting upstream. Ms. Barber responded yes.

Ms. Barber also stated that funding for future costs associated with sea lamprey infestation have not been determined, at this time.

President Brunquell questioned if US Fish and Wildlife would be interested in partnering with the Village of Grafton and the WDNR on this matter. Ms. Barber stated that a partnership would be ranked with all of the funding requests. It is unknown whether the Grafton project would meet the criteria for funding.

Dan Dedrich, asked Ms. Barber about how the dam will stop the lamprey from spawning. She responded that sea lamprey like to spawn in gravel beds and the area before the dam contains too much silt for them to spawn. The area upstream is ideal for their spawning habits.

Trustee LaPean stated that the letter, distributed this evening, from Montgomery Associates, Cottage Grove, WI, presents several alternatives to the removal of the dam. He questioned if these alternatives have been reviewed by staff.

Director of Public Works/Village Engineer Dave Murphy stated that he will be contacting Mr. Montgomery to meet, at his expense, to discuss his alternative suggestions.

Trustee Grant questioned if the notice of referendum petition eliminates the Village Board from taking any action on this issue. Village Attorney Herbrand responded that the Village Board cannot make a decision on the removal of the dam at this time.

Mr. Harbeck stated that the petition only covers removal of dam and does not prevent the Village Board of proceeding with the construction of the fish ladder.

Attorney Herbrand stated that the Village Board previously authorized Mr. Murphy to seek NOAA funding for the fish ladder. There is no reason for the Village Board to authorize the project for a second time.

President Brunquell reiterated that if nothing is done, the fish ladder will be included in the project and funded by NOAA grant funds.

Jerry Kiesow, 1690 Dellwood Court, questioned if the petition is ultimately submitted will the entire Village be able to vote on the issue. Mr. Herbrand responded yes, and advised that the results of the referendum are advisory in nature.

Trustee Grant commented that it will be very important for people to vote if there is a referendum election. The Village typically only gets 12-15 percent turnout at many elections.

Brian Torreano, 1414 West Sunset Road, Apt. 102, Port Washington, WI, questioned if the fish ladder will allow VHS to get into the Milwaukee River. Brad Engle, WDNR, responded that it is possible.

The Village Board set a Special Village Board meeting for Monday, November 30, 2009 at 6:00 p.m. at the Multi-Purpose Senior Center, 1665 7<sup>th</sup> Avenue, for further discussion and possible action on the petition.

Director of Ozaukee County Planning and Parks Andrew Struck, informed those present that the Ozaukee County website has information on invasive species as well as the recent study of the Milwaukee River prepared with Bonestroo.

Motion by Trustee LaPean, seconded by Trustee Meinecke, to adjourn at 7:20 p.m. Approved unanimously.