

Village of Makanda
P.O Box 99
Makanda, Illinois 62958

Board Minutes

September 7, 2021

PLEDGE OF ALLEGIANCE

CALL TO ORDER: Regular meeting of the Board of Trustees was called to order at 7:00 p.m. by President Tina Shingleton.

ROLL CALL: Clerk called the roll of the Village Board: Trustees Allen, Hilliard, Ross, Dalton, and Wolff were present.

APPROVAL OF MINUTES: President asked for a motion to approve the minutes from the last meeting. Trustee Ross made a motion to accept the minutes. It was seconded by Trustee Dalton. Voice vote. All members present at roll call voted yes. Motion carried.

CITIZEN'S HEARING: Russ Kramer was present to observe. Jamie Hagy-Folyer and Erick Wagner were present to observe.

Beck Simonds President of Stone Creek HOA, Eric Holzmueller Treasurer of Stone Creek HOA, and Mike Klarer Board Member Stone Creek HOA were present to discuss what progress had been made regarding the proposed Road Maintenance Agreement from the Stone Creek Homeowners Association (HOA).

Beck stated that the last time we had convened, the Village Board was going to organize an executive session with the Street and Road Division. What had happened at that meeting? Beck also stated, he had some questions from the minutes from the last meeting when we had gotten together.

Village President stated that there has been no movement, the Street and Road Committee did not get together, and there had been no meeting with the Village legal counsel. Village President suggested that perhaps Beck could first ask questions then they can ask questions or make comments.

Beck replied that his initial comment would be a little frustration from himself, the Board, and the whole HOA membership in regards to the lack of cooperation in general. It has been 4 months since the last time we met and The Village Board has not even had a chance to follow through on the commitment of having a meeting, is mind boggling. Beck said he had pulled the minutes from our May meeting, and the attorney had stated that there was a legal distinction between dedicated and accepted roads, and the Village has not accepted the roads. This is the crux of the matter, if the Village truly thinks it has ownership in these roadways, or if it is headed down this legal battle of picking words apart on these survey plats, then that is going to be over his head pretty quickly, and he does not want to get into paying attorney fees. Based on his lack of a law degree and just reading the plat maps and seeing language in there that the Village President signed off and accepted these roadways, led the HOA to believe that the Village had some ownership in the roadways.

Beck stated that he respected some of the comments made the last time regarding some verbal agreements that were made 20-25 years ago. The HOA is not trying to live in the past but would like to move forward with an agreement. The HOA does pay taxes and are looking for some help going forward. The HOA drafted the agreement as a starting point of conversation. He thought that that is what the Village Board was going to look at to see if it was anywhere close, or if the Village Board was going to come back with something else. If the agreement is not the direction the Village wants to go, let the HOA know so they can figure out how they should proceed. President Shingleton replied that she had talked to Board members individually and the consensus was that there is concern about entering into any kind of agreement due to constant change and different people are involved.

Trustee Ross stated that it was a shake your hand agreement that the Village did not have to take care of the HOA roads, and the Village has not taken over the roads. The Village ordinance says that the Board must vote on it, and the Village has not taken a vote. President Shingleton has talked to everyone, and the Board does not want to take on the roads. Beck replied that at a meeting over a year ago, he had read the plat to Webb Smith the Village attorney, but never got an answer from him. Beck said he was ready for a legal response over a year ago. Beck read the signature lines that Bill Ross, as Village President, had signed in 1998 stating that the Village Board of Trustees did approve, accept and adopt, the plat of Stone Creek being a Subdivision, etc. Beck said that to him that meant that the Village had taken over the roads in Stone Creek. Beck said he had 50 families in Stone Creek reading it the same way.

Trustee Wolf asked what percentage of the lots had homes on them now. Beck said that he thought it was 60 to 70%. Trustee Ross stated that some of those lots were in the Township. President Shingleton stated that she thought that the homes that are currently built are within the Village. Beck said that there were some questions related to the tax bills, 8.4% comes to the Village and 3.1% goes to the Township. Reading the plats, it seems that the roads were taken on by the Village. If Webb can tell them something to believe that is different, then the HOA will go a different route and not bother the Village anymore.

Mike asked when the Village was expecting to meet with the attorney. President stated that she had called him a couple of weeks ago and did not get an answer, she will call him again. Trustee Hilliard stated that it should be made clear that the Board has discussed the situation and is waiting on answers from Webb, also. Trustee Hilliard stated that the Board is not going to make a decision until we hear from the attorney. Trustee Hilliard stated that the Village has been dealing with the issue of the Subdivision roads for 10 or 12 years. The Village has had several meetings, over the years, with the HOA, to come up with an agreement about the roads, but the HOA has just let things die. Beck replied that we need to understand the past to move forward.

If the Village has accepted the ownership of the roads since 1998, that is 23 years ago, and President Shingleton has said that the Village has only plowed the roads once. Trustee Hilliard stated that 23 years ago the golf course had told the Board that they wanted absolutely nothing from the Village. Trustee Hilliard relayed the history of the questionable way the golf course, liquor license, and HOA had been created and annexed into the Village. President Shingleton asked Beck if he knew if the roads had been deeded over to the HOA. Beck said he thought in 2012 the HOA took over the subdivision roads from the Trust. Trustee Hilliard stated that the Board had never voted to make the subdivision roads public, and even if they are public roads, the Village would have to vote to accept the roads. Beck stated that there are signatures of the Board members at that time, on the document. Beck read that section of the plat map again. President Shingleton said that she had read the plat map, and it was her understanding that it meant that the Village President and Board agreed that the subdivision plat map was correct, but it had nothing to do with taking over the roads.

President Shingleton said that in other cases here the Village has annexed in and accepted a road, such as Poplar Camp, an ordinance would need to be written and approved, in order for the Village to take over the roads, and she has found no such ordinance for Stone Creek. Beck read part of the statement on the plat map that says that a portion the subdivision is situated within the corporate limits of the Village of Makanda, etc.. Mike asked if there was a suggested date, when the HOA might expect an answer, he offered to go to the attorney's office with the President. President said she would contact Village legal counsel, Webb Smith.

Eric said that the property tax numbers the HOA has, shows that the HOA contributes \$50,000 per year to the Village, does the Board feel they are fulfilling their legal and moral obligation to provide something for what the HOA is contributing, or does the HOA have to do something legal to get an answer. It would be a reasonable thing to do after not getting a response after 10-12 years, or even one year.

The HOA would appreciate a date as to when this can be brought to a close, so they can move forward. President Shingleton said that she would try to have an answer by the end of September, before the next Board meeting. President Shingleton stated she wants this issue to be brought to a close, as well.

President Shingleton stated that she had done some research and made some calls, and normally subdivisions and HOA's take care of their own roads, not the county or city/Village. She had also talked to several HOA's in the area, and they take care of their own roads. She stated that she thinks that the Board does not want to enter into any kind of an agreement with anyone, either we take over the roads or we don't. The Board is not onboard with giving a percentage of tax money out to anyone, either. President stated that there are lot of people living in the Village who pay their taxes and do not get any benefits from it. These residents must maintain their own private roads and driveways.

Eric asked if the Village is sitting on \$700,00 why is it not being used to benefit the residents, if they are paying into the Village? What is the point of sitting on all this money? Trustee Dalton asked if the HOA had tried to get a grant to help them with their roads. Eric asked if there is money in the account why is the budget not being used to benefit the needs of the residents? Why is the budget not being adjusted? President Shingleton asked Eric if he meant that the Village should give everybody back a portion of their taxes? Trustee Wolff said we could be like others and run the budget down, we could pay ourselves a lot of money, but we get paid very little to serve on the Board. Trustee Ross stated that the Village is restricted on what it can spend by people above us, and we all choose where we live. Eric asked, what is the end game with all this money? Trustee Wolff replied that the Board takes on one big project a year and we buy equipment that is necessary to maintain the Village. Trustee Ross said, we maintain roads that are dedicated to the Village. Residents have called the Village President to have their driveways plowed, and we can't do private driveways. The Village Treasurer stated the Village has accumulated more money because Motor Fuel through the State has contributed more money this year to the Village.

President stated that every year, we must turn in paperwork on our budget. The Village get only about a \$3,000 annual budget increase, from Jackson County, and we have kept our budget the same, so it won't increase taxes for people in the Village. The Village does its budget every year, determines what needs to get done for the year and put the amounts in different lines in the budget. We can adjust lines within the budget, if we don't spend it all, then the money stays in that line for emergencies. Trustee Wolff said we are proud of the way the Village has grown the funds.

Eric asked how much did the Village think it needed in a rainy-day fund? Trustee Wolff replied that the Board looks at it every year, when we have our budget meeting, to determine if the Board is satisfied it the way we are operating. Eric stated that the Village is doing everybody in the Community a dis-service by raising the rates and not spending the money that we do have. President stated we are not raising our budget; the increased rates are from the schools. Eric stated that everybody's rates went up 2 ½ percent, people should be getting some tax relief because there is a fair amount of money in the bank. Trustee Hilliard stated that we have managed our money and not had to go bankrupt like other villages in the area. We don't have anything to do with raising any of the property tax rates.

Beck stated that we need to get through this legal thing, and if the Village does have to maintain the HOA roads, then next year' budget for Street and Roads might look different than if you don't have to maintain those roads. Beck said that that is what the HOA is trying to get their head around, so they can plan their budget moving forward. Trustee Wolff said that in the beginning, the Village was told that they did not have to do anything for the subdivision/HOA. Perhaps the HOA should consider separating themselves from the Village, recoup their taxes, and have their own budget. Beck stated that if they find out they are reading the plat incorrectly and the roads do belong to the HOA, that would be a big decision they would have to make.

Beck asked President Shingleton to keep reaching out, they would like to come back to the next meeting, with the anticipation of either having the attorney present or President Shingleton having met with him before hand, so we know where things are headed. Trustee Wolff asked Beck if they had any of the three (3) agreements that the Village had sent to the HOA. Beck said he had one of them from 2015, that they had used to base part of their proposed agreement from.

Trustee Allen asked Beck if the HOA could get completely out of the Village would it make the HOA happy? Beck replied that the HOA has not looked into it completely, it would not surprise him if there was a lot more to operating as a separate entity. Trustee Floyd said that he thought that it could be worked out to get Stone Creek Subdivision out of the Village. Beck said he could not just say at this time, the HOA would be happy to do that, because there would be additional costs to the HOA. Mike said that it would require an election of the entire Village, and how did Trustee Allen think it would fly, and did he know what the procedure would be. Trustee Allen replied that he did not know procedure, but in talking with an attorney, he knows it can be done. Mike said that the HOA had looked into it and he would be surprised if the Village would want to lose the revenue from Stone Creek Subdivision. Mike said that there may be some support at the HOA, to separate, if they thought they could collect their own taxes and take care of their own roads. Mike asked if there was something that the Village could do to help them separate.

Beck stated that as President of the HOA, he had been directed to first come to the Village and try to work out an agreement that would work for both parties. Trustee Wolff said he thought that one of the concerns of the Village was that the Village would not take care of the HOA roads, to their standards. Mike said that Trustee Wolff was correct, it would not meet their requirements, and that is why the HOA, is asking the Village for an agreement to provide them with a portion of the taxes they pay to the Village, so the HOA would have the means to take care of their own roads and keep them up to the level they want. Mike asked if the Village has a legal and or moral, obligation to do this, and if not, he would really appreciate it if by September 30th we have an answer, so we know what the next move is. If that is de-annexation, then let us cooperate and work together to get that done.

The HOA makes a major contribution in taxes, and if not, legally, then morally it is right that they should get something back, but they don't. Trustee Hilliard stated that McGuire Road, and Baptist Hill would not be black topped if it had not been for help with a grant, also the Community Center and a couple of bridges. Beck said that was a good suggestion and something they might have to look into, but it still does not change the fact that we would like some help and cooperation from the Village.

Beck said let's fast forward 10 years and say there is an estimate that it would cost \$350,00 to overlay every one of their roads. Over the course of the next 10 years, the HOA would like to think that if it is proven that the Village has ownership of the HOA roadways, that they would like to be part of the Street and Road maintenance program and have our streets over laid in the next ten years. The Village has all these tax dollars coming in, \$50,000 this year and if anyone else builds a house it will be more than \$50,000 next year, so, over the next 10 years that is \$500,000. If Beck had an estimate to overlay the roads, and that was not going to exceed, with inflation, more than \$400,000. The Village would then be taking care of the HOA and pocketing some money. The HOA is not going back to the \$100,000 that the current agreement says, and there are different ways to skin it, but we have to get the attorneys back to us first. (?) If it is determined that the Village has some responsibility, then where do we stand. The HOA is not asking for it all now, we are not asking for money that was sent down here 10 years ago, we just want to know what the plan is moving forward. If the Village has a chance to talk to their attorney, they will plan on coming back to the next meeting, to see if there are options, and where we will go from there.

Eric asked what is stopping the Board right now from accepting the roads? Trustee Hilliard said the cost. Eric asked can we look into that? Trustee Wolff said not knowing what the expectations are from the HOA compared to what we do to other roads. Eric said, so can we look into that? Beck said they would be willing to do some leg work to qualify some of the costs, to get a little better picture of where we might be headed, if that helps on the acceptance.

Trustee Wolff stated that it is up to the Board as to whether a road gets gravel or tar and chip, or the sides of the road get bush hogged, and Stone Creek would probably not be satisfied with that. Beck said you are right, and that is why the HOA is looking for a win-win agreement, where the Board gets to keep some of the money and provide Stone Creek with some of the money so they can maintain their roads at a level that they want. Trustee Hilliard said that if the Village took over the roads, the Village would only plow the main roads and not the driveways, and he did not think the HOA would be happy with that. Eric stated that the HOA only wants the services the Village provides to everyone else in the Village. Trustee Hilliard said that the Village does not know how much that would cost and the Village does not have the right kind of equipment to maintain the HOA roads. Eric replied the HOA can find out how much it would cost, to provide those services to the HOA. Trustee Wolff asked if the current owners of the golf course were snow plowing the roads and taking care of the roads. Beck replied that the current owners had attempted to plow the HOA roads for the last 6 years, and now they are in the process of renegotiating a new contract with them.

President Shingleton said that if the bottom line was for the Village to take over the Stone Creek roads, the Village would have to abide by the Village ordinances. President Shingleton read a portion of the ordinance that states that the Village may take over the roads when the development is 90% complete. It would take a 2/3's vote of the Village Board, to take over the roads. 90% completion shall be defined as a percentage of lots on which there are structurally completed homes. Mike said some lots are purchased for investment purposes, and no homes are being built on them. The HOA will never meet 90% completion, by that definition. Eric said that some owners have 2 lots.

Beck asked if the Village has any ownership in the subdivision to the south of them, has the Village annexed them? President Shingleton replied that Magnuson Subdivision was already in the Village, and it is a private subdivision. They have approached the Village about taking over their roads, it is a similar situation. Currently, their roads are oil and chip.

Beck said he thought they had taken up enough of the Board's time. President Shingleton said she would be in touch with him, and she would be talking to the Board and the Village legal counsel. The next Village Board meeting will be October 5th. The HOA representatives then left.

PETITIONS AND COMMUNICATIONS: Effective August 30, 2021, the entire State of Illinois is under an indoor face covering mandate, regardless of vaccination status. This mandate includes all municipal facilities. Board was asked if they agree with not allowing Community Center rentals since we are unable to enforce the State indoor face covering mandate. All members agreed.

President received update from Sean Finn at Canadian National advising the US Surface Transportation Board denied a voting trust for use in the pro-competitive combination of CN and Kansas City Southwest railroad. CN is evaluating the options available to them considering the STB's decision.

President received an email from AmeriCorps reminding us that they are available to work with us to help with any improvements to community health. Informational webinars are periodically scheduled.

Correspondence was received from Western Egyptian Economic Opportunity Council, Inc. providing information regarding their Low Income Home Energy Assistance and Illinois Weatherization Assistance Programs. These flyers will be posted at the Post Office.

IML sent out an email regarding 2020 Census population counts for each municipality. The unofficial count for Makanda is 547. The total from the 2010 Census was 561. The official total will be advised once certified by the Illinois Secretary of State.

President spoke with Bud Barnett to see if he is interested in access to his property located between CN PTC Tower and Village parking lot across from Village Hall to keep it maintained. Board was asked if they are interested in giving him permission for access to maintain his property. All members approved if there is an agreement signed by Mr. Barnett stating access would be used only for maintenance of his property.

CLERK: Clerk presented the Playground Safety Inspection, complete by IMLRMA inspector Jim Closson, on August 11, 2021. Jim Closson found no problems with the playground equipment or surface. He did recommend that the Village schedule 2 annual playground inspections. Jim did suggest that the dead tree east of the pavilion be taken down and the wooden bleachers be moved away from the guard rail. Both of these items have been taken care of. Board discussed how to anchor the wooden bleachers into the ground, for safety. It appears that someone keeps moving the bleachers too close to the guard rail.

TRUSTEES: Trustee Hilliard reported that he called Illini and was told that they hoped to get to the Village roads in September and that they would call Trustee Hilliard when they had a set date. The Village will then notify the residents when the work on their roads will be done. Trustee Ross reported that she had talked to Calvin at Giant City Park, and he has not forgotten about the trees, that need to be cut back at the Springer Ridge entrance to the park. Trustee Ross reported that she called Weavers about new rails for the Village Hall and was told that they are waiting on their supplier.

Fiscal Matters:

A. Treasurer's Report: Treasurer presented the Treasurer's Report

B. Bills Payable: Treasurer presented the Bills Payable

President asked for a motion to accept the Treasurer's Report and pay the bills. Trustee Wolff made a motion to accept the Treasurer's Report and pay the bills. It was seconded by Trustee Ross. Voice vote. All present at roll call voted yes. Motion carried.

Treasurer reported that he had been monitoring the CD rates. He recommended transferring \$100,00 from the Village checking account into an existing liquid CD, the rates are not high enough to warrant starting a new CD. Trustee Wolff made a motion for the Treasurer to go ahead and make that financial transaction. It was seconded by Trustee Ross. Voice vote. All present at roll call voted yes. Motion carried.

REPORTS OF STANDING COMMITTEES:

A. Finance Committee

B. Ordinance Committee:

C. Street & Road Committee: President and Dan Walker checked dead trees on Crackers Neck and behind Community Center. Dan marked trees on Crackers Neck. There is a propane tank beside one of the trees in question that is $\frac{3}{4}$ full. President contacted Ameren on August 25 to see if they or the Village are responsible for removal of trees. Ameren forestry supervisor checked trees that were marked on Crackers Neck on August 27. He will need to go back to check tree behind Community Center since it was not marked.

President reported that a culvert is being installed September 8 on Church Street at Russ Kramer property where camper was moved in. The current Village culvert is not big enough to take water coming from culvert that was installed by property owner at driveway.

President stated that the Village might not be able to oil and chip Wiley Lane, due to working being done on the water tower. Trustee Hilliard will keep an eye on the situation and will discuss it with Dave from Illini.

Trustee Allen reported that the guard rail on Church St. slid another 6 inches, over the last 6 weeks. Trustee Allen reported that Larry Milliard was going to put in an 18-inch drainage pipe, on his property to the road. Trustee Allen talked with Kevin Wheatley, and the drainage pipe was moved back on to Larry's property. Board discussed possible solutions to the problem of the sliding guard rail.

D. Subdivision Committee:

E. Insurance Committee:

REPORTS OF SPECIAL COMMITTEES:

A. Emergency Disaster Committee:

B. Special Events Committee:

ORDINANCES & RESOLUTIONS:

EXECUTIVE SESSION:

UNFINISHED/OLD BUSINESS: President called Greenridge Landscaping on August 19 regarding bill we received for Landscape Maintenance done August 4 for \$307.75. President had called back in May to question weeds growing in mulched beds after recent landscaping had been done. Receptionist misunderstood and thought we were requesting maintenance. She apologized for the misunderstanding. It has been too hot to plant new butterfly bush. They will call before this work is done.

Mulch was replaced in playground on August 13. President ordered 100 cu. yards mulch instead of 90 cu. yards to make sure there was enough for playground area. The charge for the extra mulch was \$239 for a total of \$2,390 instead of \$2,151, as previously quoted. Only 90 cu. yards is needed in the future.

NEW BUSINESS: President received call from Department of Public Health today, September 7, regarding mosquito testing that was done downtown last week. The test came back positive in the ditch area between the east side of railroad tracks and Makanda Road. Dan Walker has been advised and will treat area with mosquito larvaecide. Trustee Ross stated that there are trees growing in the same ditch that soon will be causing problems, but IDOT is not taking care of it.

ANNOUNCEMENTS:

ADJOURNMENT: President asked for a motion to adjourn the meeting. Motion was made by Trustee Ross and seconded by Trustee Dalton. Voice vote. All present at roll call voted yes. Motion carried. Meeting was adjourned at 9:15 p.m.

Leslie Yambert, Village Clerk

Tina Shingleton, President