

Village of Elm Grove SPECIAL Board of Trustee Meeting Minutes

Special Board of Trustee Call to Order:

The meeting was called to order at 8:00AM.

Roll Call:

PRESIDENT PALMER

TRUSTEE CORNELL (in 8:12AM, out 9:42AM)

TRUSTEE DOMASZEK

TRUSTEE HAAS

TRUSTEE KRESSIN

TRUSTEE MICHALSKI

TRUSTEE SAYAS

DAVID DE ANGELIS, VILLAGE MANAGER

HECTOR DE LA MORA, VILLAGE ATTORNEY

MICHELLE LUEDTKE, VILLAGE CLERK/DEPUTY TREASURER

Review and possible action on the Third Space Brewery Beer Garden.

Attorney De La Mora handed out his revisions of the agreement.

Trustee Haas asked about the fact that this is a for profit entity looking to do business in the park. We have not allowed this in past practice. He also has concerns over the beer sales.

President Palmer indicated we would be able to change the unwritten past policy if we chose to do so with this company being the pilot.

Trustee Michalski indicated this is not like other businesses that have come in. We have had tennis, baseball, and other sports-related entities. The Village is not allowed to sell alcohol and this company would not be competing with the Village. Those other businesses would have been directly competing with our recreation programs.

Trustee Haas asked what our stance was when the food trucks were wanting to come into the park.

Trustee Domaszek added he believes this is a good thing – food truck or beer garden. He agrees this would not compete with any Village item in the park.

Trustee Haas indicated he does not want to set a precedent. Trustee Cornell agreed.

President Palmer indicated we are under no obligation to say yes to anyone else who comes in and asks for the same thing. Likewise, we are able to say no to this vendor if things do not go the way we want them to. There have been concerns about the park hours and the park becoming a party zone. President Palmer is not concerned with those things. If there is a problem, we end it.

Trustee Cornell indicated social media is all for the event in the park.

Trustee Domaszek thinks that it will likely be dad's taking their kids and having a beer while the kids play on the playground. He also added he believes this is a good reputable company.

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President Palmer indicated he has seen more people who are for this than against it. Again, we can end if it proves to be an issue.

Trustee Sayas commented that we should review general guidelines if in the event another beer vendor or another type of for-profit company wants to come in. We are not sponsoring any of these companies nor are we exclusive to any one company.

President Palmer confirmed we are under no obligation and no one can demand any right that we let them do business in the park. There is likely not enough business for a second beer vendor.

Trustee Kressin added that we could put out a RFP (request for proposal) in the future. This would be the same practice as Milwaukee beer gardens.

Trustee Domaszek clarified this would be during the movies in the park and tunes on Tuesdays. All confirmed.

Trustee Sayas asked about the \$125 garden fee and the \$50 event permit fee. She wanted to know if these fees cover the costs associated.

President Palmer indicated he did not want to start jumping into the particulars of the agreement unless the Village Board was comfortable with having this event in the park. All confirmed.

Trustee Haas began going through his comments and changes to the document – trying to tie in comments from Attorney De La Mora.

Trustee Domaszek asked about the notice of possible quorum. Manager De Angelis clarified if this is a social gathering, they would not necessarily need to post a notice. No business should be taking place during the beer garden.

Attorney De La Mora referenced his add of the possibility of distinguishable cups for the vendor. To allow the vendor to see what alcohol is theirs vs something someone brought into the park on their own.

Trustee Domaszek asked about the cups. He thought they would be cans. The applicant confirmed both would be used.

Trustee Sayas asked about the fees again.

Trustee Haas added that there are costs associated with their presence in the park which include things like trash, police, and utilities.

Trustee Sayas asked how you could track something like that.

Manager De Angelis indicated it would be difficult to track. The grid is not separated from the pool, tennis courts, or splash pad. He does not anticipate a lot of energy to be used for the beer garden.

President Palmer stated we could calculate it if we needed to.

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Trustee Haas continued with paragraph 5. He also asked if the fee was \$175 per day.

Manager De Angelis indicated it was per day. The agreement will be changed to show per day.

Attorney De La Mora asked about the wording of “use” vs “rental”. Rental would imply the vendor has rights. He recommends calling it a use.

Trustee Haas asked when the payment would be made. Manager De Angelis indicated once per month.

Trustee Haas continues on paragraph 6.

President Palmer asked to take out the word underage. He also wanted to clarify between serves and consumes.

Trustee Domaszek clarified that if this turns into an event where 22 year olds are purchasing alcohol for 19 year olds – this event will end.

President Palmer asked that the clause be struck.

Attorney De La Mora asked about the vendor ensuring that no beverages are consumed outside of the premises.

Trustee Domaszek asked about the open container law and whether or not people are allowed to consume alcohol in the streets. The Chief of Police confirmed they are not allowed to consume in the streets.

Trustee Domaszek continued asking if signage would be enough to inform people that they cannot leave the park with alcohol.

President Palmer stated there is no way the vendor would be able to ensure this will not happen.

Chief Gage added that it would be hard for officers to keep track of what types of containers the public is using. It would be hard to tell who is part of softball, or a pavilion rental, or the beer garden. We have plenty of State laws for containers outside of the park. The goal would be to make the enforcement as simple as possible to avoid unnecessary confrontations. This would be no different than the rules of a bar.

Trustee Haas asked if we wanted the image of people sitting outside of the Village Hall drinking on the benches.

Trustee Michalski indicated that was not likely with the number of family friendly events there are.

Chief Gage added if there was a person sitting in front of the library on the bench drinking and they were causing an issue, they could be cited with disorderly conduct. It is easier to tell if they are outside of the park. The rest is too gray of an area.

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Trustee Kressin thinks that anywhere in the park is ok. We cannot guard against every little thing in this agreement.

President Palmer continued by stating we cannot guard against bad behavior of others. We could ask the vendor to put up a snow fence but that would bring attention to the beer garden, be unattractive and look unfriendly.

Both Trustee Michalski and Trustee Cornell agree and defer to the Chief of Police.

Trustee Sayas would like the company to walk the entire park to pick up garbage related to their beer garden. She hopes for common sense and understands Trustee Haas concern about people being near the Village Hall. She also wants to make it easy for law enforcement to do their job. If things don't go well, we can come back and reevaluate.

They moved on with changes to the agreement.

President Palmer asked about sealed containers for popcorn.

Trustee Haas asked about snack foods in sealed packages only within the service area. Service area is not defined. Change beer service to service area.

Trustee Domaszek asked what the service area is.

Trustee Haas indicated it is the area in which their products can be served to patrons. This is not the consumption area. That brings up another point – what type of area is it? Tent, counter, truck?

Third space stated all that will be left behind is the trailer itself. 10x10 tent, table, portable bar top, and POS station.

Trustee Haas stated the equipment will be approved by Village Manager and/or Rec Director.

Trustee Domaszek indicated we can add more tables in the area. The circles on the map are umbrellas and cocktail tables that will be removed at the end of the day.

Trustee Haas said he did not understand the sentence regarding the engagement or allowance of live musical acts.

President Palmer asked if it would be music through a speaker. Like they did near culvers? The vendor is not allowed to play or perform any music or musical acts.

Trustee Haas is also concerned about amplified sounds.

President Palmer said that is what they did at the restaurant on Bluemound. They controlled that outdoor amplified music and said it was not allowed.

Trustee Haas said he would like to go further with what they are not allowing in the form of music. Not to engage in any musical acts or play any amplified sound.

Trustee Kressin is not against music.

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Manager De Angelis added we have music at the pool and parties with their own playlists. There is always competition. There will be music. Just not theirs.

Third space would like the option to add it.

Manager De Angelis said we can always come back for that.

Trustee Michalski asked are street performers allowed in the park. Manager De Angelis stated no.

President Palmer continued moving into #11.

Trustee Haas suggests at the end of hectors comments "and a region within a 200' radius of the service area". This is where they will likely have consumption. This would include the emptying of the trash cans. How big is the beer trailer?

Third space said they will remove it now and then for cleaning and maintenance. But to not have to move it all the time. It will be in the service area. He sent Jerod a photo. It is a refrigerated trailer.

Trustee Haas wants to add a sentence in there for such equipment should be approved by the rec director. Would like to see contact information. If the item catches fire – who do we call? 13, 14 are ok.

Manager De Angelis said the chief had an issue with 13. 13 has been removed.

President Palmer asked what the vendor document is in #14.

Attorney De La Mora clarified for their own record to indicate who what where when why.

President Palmer asked if we are going to check that.

Attorney De La Mora said no. but if there is a meeting with the police department, they should keep record. At the end of the season, we will look at all of this.

President Palmer stated he didn't think it was necessary for the vendor to keep track if the police department was already keeping track of incidents.

Chief Gage added it would be like the pool incident report. Lends to the credibility of the concerns.

President Palmer asked to delete this.

Trustee Michalski asked if this was part of their practice. Third space confirmed.

They removed #14.

Trustee Cornell left at 9:42am. Confirmed support for this item.

Trustee Haas has minor changes to 15, 16. In 17, he asks about sewer utility service and how we do not have any in that area. Asked about potable water and electrical.

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Third space indicated they do not need potable water.

President Palmer said we will not provide any utilities not already available.

Trustee Haas asked about existing water and electrical connections.

Manager De Angelis clarified the parking lots and so forth within the park are not considered the right of way.

Trustee Haas indicated he has nothing outside of Attorney De La Mora's comments on the remainder of the agreement.

Manager De Angelis asked for clarification on one of Trustee Haas points.

President Palmer asked if the vendor had anything to add.

Third space would like the first right of refusal.

Trustee Sayas asked if they are comfortable with how long they are operating for.

President Palmer asked if she wants to change the operating schedule. And make it only one month. If we are unhappy for any reason – can we cancel the agreement?

Attorney De La Mora suggested we add "either party can terminate this agreement at any time without cause".

Third space is concerned about the repaying of fees and notice for cancellation.

Trustee Michalski doesn't think there is enough in it for the vendor if we limit the time that strictly.

Trustee Kressin is fine with the schedule. Does think the language for termination should be in there.

Manager De Angelis wants to add "for cause with written notice".

MOTION BY TRUSTEE MICHALSKI, SECOND BY TRUSTEE KRESSIN, TO APPROVE THE AGREEMENT WITH THIRD SPACE BREWING LLC FOR A BEER GARDEN FOR 2021 WITH THE CHANGES NOTED FROM TRUSTEE HAAS, ATTORNEY DE LA MORA, AND THE DISCUSSION IN THIS MEETING. VILLAGE STAFF TO INCORPORATE CHANGES AND SEND OUT DOCUMENT TO VILLAGE BOARD MEMBERS.

5 WERE IN FAVOR WITH TRUSTEE HAAS VOTING NAY. TRUSTEE CORNELL WAS NOT PRESENT FOR THIS MOTION. MOTION CARRIED.

Because of the length of this meeting and the nature of the business on the Admin and Personnel meeting scheduled right after the Special Village Board of Trustees – the group agreed to move the Admin and Personnel meeting to June.

Adjournment

There was no further business.

Thursday, May 13, 2021

8:00 AM

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MOTION BY TRUSTEE MICHALSKI, SECOND BY TRUSTEE SAYAS, TO ADJOURN THE MEETING.

ALL WERE IN FAVOR. MOTION CARRIED. MEETING ADJOURNED AT 10:10AM.

Minutes transcribed by: Michelle Luedtke

Minutes Approved on: May 24th, 2021