

## Town Board Meeting November 8, 2005

Steven Parent called a special meeting to order at 6:00 PM in the meeting room at the town hall. Present Steven Parent, James Parent, Peter Jacobs, Barbara Anschutz, Jane Pluff, Randy Nesbitt, Eric Peil, Gary Nelson, James Tishler.

Clerk verified posting. Motion made/second Jim/Barb to accept the agenda. Carried.

Speed limit ordinance- Pine Drive- It is now posted at 45 miles per hour. We cannot lower it any more and be legal. We could put up caution yellow signs of 35 miles per hour. Randy stated we should not change the ordinance, leave it at 45 miles per hour and put up the caution signs of 30 or 35 miles per hour. It is on the books that it is 45 and if someone has an accident going faster they could receive a ticket for driving too fast for conditions.

Bluff Road- Are there enough driveways to make it 35 miles. We should also put up caution signs on Bluff Road for 35 miles. Bob was to place a pedestrian sign and we don't know if that has been done.

Parking issue for boat trailers- Jim stated to leave this one and the Harbor Committee will discuss this over the winter and see what they can do. Our ordinance states 96 hours they can be parked anywhere. There are some people who don't want the parking that long by the fire station. There is no short or long-term parking. Jim Tishler asked about boat trailer parking on the street. It can be parked along as it is on a car or truck.

Constable Ordinance- Barbara and Peter have talked with Dennis Hanson, who is the director for training and standards for the department of Justice, asking for a definition of a law enforcement officer. Mr. Hanson emailed the definition of law enforcement officer. In the flyer it states "There should be a clear understanding between law enforcement agencies and their personnel about the precise nature of the authority and responsibility of those personnel. Special deputies or reserve personnel are not required to meet Law Enforcement Standards Board employment or recruit training requirements if they have been deputized or employed for a particular act, for an emergency or if the deputization or employment is intended to be honorary. In addition, auxiliary personnel are not required to meet the Board's training standards if their authority and responsibility are similar to the following:

- 1- They are instructed not to make custodial arrests and not to use force except in self-defense or necessary defense of others or to prevent persons from harming themselves;
- 2- They are not authorized to carry offensive weapons or to use lethal force;
- 3- They are directed to obtain arrest or search warrants through lawful channels to search persons or property;
- 4- They patrol areas of concern (water/snowmobile trails) to investigate or ask questions relating to use, ownership and registration of boats or snowmobiles;
- 5- They report complaints and issue citations to offenders;

- 6- They render emergency assistance
- 7- They are under law enforcement supervision in that reports are made to law enforcement units.

Jim asked what the definition of custodial arrest, Randy Nesbitt stated placing a person in custody, taking control over them.

Special deputies or reserve officers must meet the Board's employment and training standards if they are employed with the following authority and responsibility:

- 1- They have arrest powers and have the privilege of using necessary force to effect arrests;
- 2- They carry offensive or defensive weapons;
- 3- They are authorized to search persons or property if probable cause exists to support the search;
- 4- They may seize and confiscate contraband in plain view;
- 5- They may exercise power to detain for purposes authorized by s. 968.24 and 968.25 Stats. (stop and frisk).

If a department intends to supplement its regular force on a recurring basis with personnel empowered with the authority of 1-5 above, the personnel meet the definition of a law enforcement officer and must meet the Board's employment and training standards.

Barbara feels the seven listed above are what she considers the duties of the town constable and should be doing. She tried to contact other townships to see what they are doing, Liberty Grove has eliminated that position several years ago because of the issues that they had with control and constables duties and liability with arrest and citizen detainment. Brussels they only allow the town ordinances and dogcatcher, Jacksonport- they went through their ordinance and limited the constable responsibilities. Jim asked who is left in Door County with Constables, Brussels, Nasewaupee, Union, Gardner, and Baileys Harbor. Barb stated said with that information and other towns, she came up with some wording for an ordinance to start with and work out the details. She also wants us to look at the suggestions that Mark Merrill came with to Jane. Mark's falls under the two-tier constable job description.

Jim stated we do have a clear answer from the insurance company stating that to carry a gun the person has to be certified and trained.

Steve suggested that we start with Barb's and go thru them. Under Section Jurisdiction and Duties the first 2 are ok but with 3 add in D- serve within Door County any writ, process, order or notice and execute any order, warrant, or execution lawfully directed to or required to be executed by him, by any court or officer. Randy stated if we are going to have a certified officer they can pursue any one inside of the boundaries. The complete changes of the ordinance will be placed in the minutes for record of this meeting.

Peter has a concern about a certified officer, don't we need some type of frame work or structure. Randy said the danger of allowing a certified officer making an arrest is we don't have the same framework that the sheriff's dept has. We would need a procedure

Manuel. The sheriff's dept doesn't want an off duty sheriff's deputy doing constable work under sheriff conditions. Steve asked what if a person is a sheriff's deputy and not on the clock and come upon a situation, do they have the authority to make an arrest? Randy said yes they do. Steve feels in Mark's case he has the danger of being on or off duty deputy or being a town constable. There was an agreement signed with the sheriff's dept that he is not to be out looking for anything while on constable duty concerning the county. Randy feels we should only have one standard for both constables. We don't have the structure and we don't want to go thru use of force policy etc. There is nothing wrong with having a dual standard, but we don't have the back up or the structure for doing this.

Clerk asked if there is any problem at all about changing their duties during their term of office? Randy stated he looked at the issue the power is stated the town board can make these changes, can direct the duties of the constables. There may be some place some limitations of that but he has not been able to fine it. The authorization is given to the town board. Jim asked how is the law interpret if it doesn't show up anywhere. Than the town can do it when ever they want. Jim asked the differences in the duties between Marks recommendations and Barb's. Mark had a two-tier ordinance certified or non-certified.

Eric wanted to know what the board is going to do about cost for training. Eric stated the town pays for training of fire dept. workers why not constables. He also stated the clerk goes for training. Clerk did stated she did not go for training until she was appointed and not elected. Eric wants to go to school to become a certified police officer. Town board stated they are concern if we do it for Eric the next one will also want the training and we will have to continue to pay large amounts of money for the training. Jim question about the chase of the 3 suspects Eric chased into the township of Gibraltar and was told that Eric held a gun on them until the police arrived. Eric stated that wasn't true, he didn't hold a gun to them and he did not get out of his truck, told them to stay put until the police arrived.

Clerk suggested having a special Town meeting and let the people decide what they would like to have and how much money they want to spend and explain the liability issue to everyone and how it could open up the town for lawsuits. Our insurance company did final send back a notice that constables are not covered to carry a gun if they are not certified. We also received notice that the insurance will be dropped next year and we will have to find someplace else for coverage.

Board agreed to have a special town meeting and the week of November 28<sup>th</sup> whenever Mark would be able to attend the meeting.

Motion made/second Jim/Peter to adjourn at 10:00 PM. Carried.

Town Clerk, Jane Pluff