

**MINUTES  
MONTHLY COMMISSIONERS MEETING  
CHEROKEE VILLAGE SUBURBAN IMPROVEMENT DISTRICT #1  
CHEROKEE VILLAGE, ARKANSAS  
MAY 17, 2021 3:00 P.M.  
OMAHA CENTER REC ROOM**

**Agenda Item # 1 Call to Order & Approval of Agenda**

Chairman Jim Best called the meeting to order. Commissioners Best, Joe Waggoner, Tim Lee and the General Manager were in attendance.

Commissioner Best brought the May agenda before the Commissioners. Commissioner Waggoner made motion to approve; Commissioner Lee seconded. The agenda was unanimously approved.

**Agenda Item # 2 Property Owner Comments/Questions on Agenda (limit 3 minutes)**

No questions or comments were heard.

**Agenda Item # 3 Approval of April 2021 Minutes**

Commissioner Best presented the April 2021 Commissioners Meeting minutes for approval. Motion to approve was made by Commissioner Waggoner; Commissioner Lee seconded. The Commissioners unanimously approved and signed the April 2021 minutes.

**Agenda Item # 4 Old Business**

Thunderbird Pools – painting complete: Thunderbird pools have been painted and are filled with water. We are awaiting inspection from the Health Department.

Omaha Pools – Clarity Pools on Wednesday, May 19th: Clarity Pools from Little Rock is scheduled to be at Omaha Pool Wednesday May 19 to start patching repairs on all four pools. David commented that it is possible Omaha Pools will not open on Memorial Day Weekend due to the repairs. However, we do have every intention of trying to open by then.

Wake Boats & Wake Surfing – Lake Thunderbird: Commissioner Best stated that the Commissioners have done some independent research on wake boats and wake surfing, and the potential effects on Lake Thunderbird and Lake Omaha. He added that there is a need to work together to come to a decision with the issue in the midst of differing opinions.

Mr. Best opened the discussion to the commissioners for their comments:

Commissioner Waggoner's suggestion was that we do not permit additional wake boats and that we continue with the current guidelines put into effect by the current Wake Boat Committee.

Commissioner Lee stated that based on his research, we continue to recognize the 2018 adoption of rules by the Wake Boat Committee. He suggested an addition to the wording that would include ballasts cannot be filled unless the boat is inside the specified area where wake surfing is allowed. Use of wake boats on any other part of the lake would require ballasts being empty.

Commissioner Best requested a motion for a decision on the wake boat topic. Commissioner Lee made motion to continue to adopt the current legislation, with the additional wording that ballasts are not to be filled for purposes of wake surfing or any other reason unless the boat is in the specified zone marked by the described buoys.

Commissioner Waggoner indicated he is in favor, however he requested an amendment to the motion that would limit the number of wake boats allowed. After some discussion, Commissioner Waggoner withdrew his request for an amendment and seconded Commissioner Lee's original motion.

The Commissioners unanimously voted to carry the current wake boat guidelines with the additional wording that ballasts cannot be filled in any part of the lake except within the designated wake surfing area.

Wake Boats – Lake Omaha: After brief discussion among the Commissioners, Mr. Best stated that based on the guidelines set forth in the previous discussion, wake boats are not permitted to fill ballasts on any portion of Lake Omaha.

Omaha Usage Fees: At this time those using the fitness center and/or playing Pickleball pay either a daily fee of \$3.00/day or a \$100.00 annual membership fee (property owners only).

Pickleball takes place in the auditorium Monday, Wednesday, Friday & Saturday mornings, and Monday, Tuesday, Wednesday and Thursday nights.

The Line Dancers Club meets Tuesday & Thursday mornings in the auditorium. The Line Dancers do not pay any type of daily fee at this time.

There has been some question as to the fairness of this. Commissioner Best opened discussion to the Commissioners:

Mr. Lee stated that he feels everyone that uses the facility should pay a fee of some sort. Commissioner Waggoner asked for clarification, indicating that the Spring River Gem & Mineral Club uses the meeting room for their meetings.

After brief discussion, Commissioner Lee made motion to hold the Line Dancers Club to the same fee schedule as the Pickleball players. He added that discussion for the Gem & Mineral Club can be taken up at another time. Commissioner Waggoner seconded.

The Commissioners unanimously voted to hold the Line Dancers to the same fee schedule as Pickleball players.

## **Agenda Item #5 New Business**

Omaha Roof: Bids are being taken for work on the Omaha Center roof. Works needs to be done to take care of the leaking.

Update Lake Safety Boat at Omaha: The District purchased a used pontoon boat for Lake Omaha's Lake Safety use. The Jon boat formerly used will be kept to patrol the smaller lakes.

## **Agenda Item #6 Lawsuit Update**

GM Webb introduced attorney Matt Bishop, who is representing the District in the lawsuit.

David commented that we are scheduled for potential mediation June 9 & 10 with the plaintiff and the other defendants named in the lawsuit. A bench trial date is set for August 30, 2021.

Commissioner Best posed question to Mr. Bishop: What is your opinion on bench trial versus jury trial? Mr. Bishop answered that in a jury trial, the jury decides facts. In a bench trial, the judge determines what is law. In this lawsuit, there are not a lot of facts in dispute. What we are trying to determine in this case is a question of law: what does the statute dictate based on facts?

David asked Mr. Bishop to explain the outcome of a lawsuit Holiday Island Improvement District was involved in, whom he represented. Issue: Do assessments go on forever? There is not a lot of law on this. Holiday Island and Cherokee Village are the two largest SID's in the state of Arkansas (there are a total of ten). Are assessments essentially paid down and/or paid off over time? The end agreement was yes – assessments are paid down over time.

Commissioner Lee asked why the plaintiff would request mediation? Mr. Bishop answered that mediation is a great way to get to know each party better and possibly reach an agreement that would otherwise not be able to be reached in a trial. He went on to say that the plaintiffs in this case are also residents of Cherokee Village who are representing all of the property owners in Cherokee Village. They have a duty on some level to do what is best for the citizens of the whole District.

Property owner posed question: Are the petitions going around to be removed from the lawsuit at all meaningful? Mr. Bishop answered no. This is an Illegal Exaction Suit, and all citizens within the boundaries of the area that is being sued are part of the lawsuit. You cannot opt out of the lawsuit. Commissioner Best added that although you cannot opt out, having your voice heard as opposing the idea of the lawsuit, to the opposing side, is important. Mr. Bishop was in agreement.

Property owner posed question: Who chooses the mediator? Mr. Bishop answered that the City of Cherokee Village chose the mediator. He added that the mediator's job is go to each party in the lawsuit in attempt to bring parties together. In a complex case this size, that process could take 1 – 2 days.

Property owner posed question: Are the property owners, as the class represented by Tim Hutchinson, privy to what the plaintiffs are asking for? Mr. Bishop answered that the information is available by FOIA, and the property owners do have access to that.

Property owner posed question: How can we find out what is going on with the case? Mr. Bishop answered that all the pleadings are on line, and they can be accessed through Arkansas Court Connect. Commissioner Lee added that those pleadings are also on the SID website.

GM Webb posed question: Assuming the worse-case scenario and the SID loses the case, what will happen? Mr. Bishop answered the time frame with appeals could possibly extend to 2023.

Mr. Bishop added that there is language in the statute about maintaining amenities, but there is question about how you assess for maintenance. Arkansas does not have a lot of case regarding this. The intent matters to the extent you can see it in the statute.

Commissioner Lee posed question: Assuming we settle in favor of the District, absent of law, what is to stop this from happening again? Mr. Bishop answered that it will take changing the law to stop it. There are so few SID's in Arkansas, that it's difficult to get a legislative push to make a change in the law.

GM Webb asked that if all parties come to an agreement in mediation, does that preclude someone down the road bringing this up again? Mr. Bishop responded by saying that the only way to make a change is to change the law. He explained at the point of an agreement, the next step would be for the Commissioners to reconvene and vote for approval of the mediation outcome. Same would apply to the City. The plaintiffs would be required to send a notice to every property owner stating there will be a hearing regarding the matter. A judge ultimately decides the outcome.

Property owner posed question: What will Mr. Kronkosky get out of this? What is his goal? Mr. Bishop answered that he did not want to speculate; he does not know.

### **Agenda Item # 7 YTD Financial Report**

Floor was turned over to GM David Webb for the financial report.

As of 4/30/2021: Current Assessment Income Sharp County: \$370,684; Fulton County: \$194,354. Total Current: \$565,038. Delinquent Sharp County: \$83,985; Fulton County: \$61,491. Total Delinquent: \$145,476. Total Assessment Income: \$710,514.

Other Income: Recreational Facilities: \$134,923, Interest Income: \$673, All Other Income: \$74,376. Total Other Income: \$209,972.

Through 4/30/2021, total expenditures were \$769,372, which is 27.57% of the projected budget with 33.33% of the year passed.

Payments to the City:	April	\$ 214,012
	Year-to-Date	\$ 241,575
Payments for hydrants to CV Water:	April	\$ 14,480
	Year-to-Date	\$ 57,920

**Agenda Item #8 Motion to Adjourn**

Commissioner Best requested motion to adjourn. Commissioner Waggoner made motion. Commissioner Lee seconded. With no further discussion, the meeting was adjourned at 4:17 p.m.

The next Commissioners monthly meeting will be held Monday, June 21, 2021 at 3:00 p.m. at the Omaha Center.

APPROVED DATE: 6/21/21

COMMISSIONER: \_\_\_\_\_  
Jim Best, Chairman

COMMISSIONER: \_\_\_\_\_  
Joe Waggoner, Vice-Chairman

COMMISSIONER: \_\_\_\_\_  
Tim Lee, Secretary