

**VILLAGE OF PLEASANT PRAIRIE  
PLEASANT PRAIRIE VILLAGE BOARD  
PLEASANT PRAIRIE WATER UTILITY  
LAKE MICHIGAN SEWER UTILITY DISTRICT  
SEWER UTILITY DISTRICT "D"  
9915 39<sup>th</sup> Avenue  
Pleasant Prairie, WI  
June 6, 2005  
7:30 p.m.**

A Regular Meeting of the Pleasant Prairie Village Board was held on Monday, June 6, 2005. Meeting called to order at 7:30 p.m. Present were Village Board members John Steinbrink, Alexander Tiahnybok, Steve Kumorkiewicz, Jeff Lauer and Mike Serpe. Also present were Mike Pollocoff, Village Administrator; Jean Werbie, Community Development Director; Kathy Goessl, Finance Director/Treasurer and Jane Romanowski, Village Clerk.

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**
- 3. ROLL CALL**
- 4. MINUTES OF MEETING - MAY 16, 2005**

Steve Kumorkiewicz:

Move to approve.

Jeff Lauer:

I'll second. I have a comment. On page 5 it's noted that the tape recorder stopped and picked up again. I think this is not the first time this has happened. I think we had a similar experience a couple of weeks ago. If it's a hardware issue I think maybe we should—

Jane Romanowski:

It's not a hardware issue. We've had two separate instances. The first one the plug was not plugged in correctly. The machine was up here but the plug for down there wasn't in. It was just an oversight because we used it for a different meeting. Usually when it's sitting up here you automatically think it's plugged in and it wasn't. The second one we had some bad tapes, because they worked in the beginning, and in the middle of the tape it skipped, and then it picked back up in the middle of the tape. The Plan Commission recordings have been working just fine.

Alexander Tiahnybok:

Because when the representatives of the RecPlex were here and they were discussing the program—

Village Board Meeting  
June 6, 2005

Jane Romanowski:

Yes, the therapeutic program.

Alexander Tiahnybok:

Most of that is missing, so I thought it was important. That's all.

John Steinbrink:

Any other comments or questions.

**KUMORKIEWICZ MOVED TO APPROVE THE MINUTES OF THE MAY 16, 2005 VILLAGE BOARD MEETING AS PRESENTED IN THEIR WRITTEN FORM; SECONDED BY TIAHNYBOK; MOTION CARRIED 5-0.**

## **5. PUBLIC HEARINGS**

### **A. Consider Renewal of Class "A" Licenses for BP Amoco and Shawn's.**

Jane Romanowski:

Mr. President, these are the two Class A fermented malt beverage licenses which I indicated May 16<sup>th</sup> were not on the agenda because they were late in submitting their applications. The applications have to be in my office 15 days before they can be acted on and they came in just a few days late. So that's why they're on the agenda tonight. Publication has been taken care of. There are no building, fire or zoning inspection violations. As you can see, Shawn Thomas of Shawnsheer has quite a bit of delinquencies. He's aware of those. He's been sent a letter already indicating that those are his delinquencies that he would need to pay, and license applications are in order.

John Steinbrink:

This being a public hearing we'll open it up to comment or question. Anybody wishing to speak on these items? Anybody wishing to speak on this item? Anybody wishing to speak on this item? Hearing none, I'll close the public hearing and open it up to Board comment or question.

Steve Kumorkiewicz:

Jane, the delinquent taxes have to be paid before July 1<sup>st</sup>, right?

Jane Romanowski:

They have to be paid before I'll issue a license.

Steve Kumorkiewicz:

Village Board Meeting  
June 6, 2005

And July 1<sup>st</sup> is the deadline?  
Jane Romanowski:

They need to pick their licenses up between June 13<sup>th</sup> and June 24<sup>th</sup>.

Steve Kumorkiewicz:

Thank you.

**SERPE MOVED TO APPROVE THE CLASS "A" FERMENTED MALT BEVERAGE LICENSES FOR SHAWN'S AND BP AMOCO SUBJECT TO CONDITIONS SET FORTH BY STAFF; SECONDED BY TIAHNYBOK; MOTION CARRIED 5-0.**

## **6. CITIZEN COMMENTS**

John Steinbrink:

We need your name and address.

Dave Moresi:

I'm Dave Moresi. I live at 104 87<sup>th</sup> Place, Pleasant Prairie. That's Carol Beach. I'll like to read for you what I've distributed, a cover letter, to the Chief of Police I deliver last Friday over a letter that I e-mailed to the President of Carol Beach Property Owners' Association, Alex Tiahnybok almost three weeks ago. It's on the subject of the proposed placement of additional stop signs in Carol Beach. I realize that's not on the agenda tonight, but I understand it's going to be before you soon. So I'd like to let you know where I'm at on it. I'm not claiming to represent anyone except myself, and that distinguishes me from some of my neighbors.

Attached is a copy of an e-mail I sent to Carol Beach Property Owners' Association website on 18 May. It lists my thoughts and concerns relative to the proposed need for a placement of additional stop signs along Lakeshore Drive in Carol Beach. All of my nearby neighbors to whom I spoke about this today, which is when I heard about it, Fred and Margaret White, Rich and Alice Stanly, John and Sylvia Portman agree that additional stop signs are not needed in our neighborhood and would, in fact, be detrimental to our quality of life. Since the Property Owner's Association has not yet responded to my attempted communication, I can only conclude they do not represent me or my neighbors on this matter. If the Carol Beach Property Owners' Association submits a proposal to you for placement of additional stop signs in Carol Beach despite having demonstrated neither the need for nor the wisdom of such a proposal, I sincerely request that you do not act until and unless a formal canvas of all the Carol Beach residents indicates an overwhelming need or desire for such placement. Thank you for your consideration.

Now I'll read the e-mail I sent to Alex at the website. This is the 18<sup>th</sup> of May. Hello, Alex. On the subject of placing stop signs at 87<sup>th</sup> Place and Lakeshore Drive, Carol and I have lived at the corner of 87<sup>th</sup> Place and Lakeshore Drive going on nine years now. We have never perceived a speeding problem on Lakeshore. We have never complained about such a problem, and we are

unaware of any of our nearby neighbors being concerned about such a situation either. That's why we were surprised when Fred White told us about the proposed solution to the problem. We do not perceive vehicles cruising by at or near 30 miles an hour, the posted speed limit at that time, to be a problem. Therefore, placement of stop signs at our intersection is a non solution to a non problem. The increased noise and air pollution generated by all vehicles stopping and restarting here would be both wasteful of energy and a nuisance to us. In addition, although we don't feel a need for any new stop signs to be placed along Lakeshore Drive in Carol Beach, if this solution should become a done deal please know that Carol and I prefer such redundant stop signs to be placed directly in front of the homes of those Carol Beach residents, neighbors, who perceive a speeding problem. In addition, if Carol Beach neighbors complaining about speeding actually want to feel like they live in a gated community through which outsiders cannot pass, I suggest they move to a gated community. Alex, we appreciate your energy and your willingness to step forward and address changes confronting our lovely neighborhood head on. Carol and I would like to help you in those efforts. In the future we invite you to run your ideas by us directly either in person or via e-mail if you prefer because, a., we'd like to know about your ideas, and b., we'd like you to know how we feel about them. Thank you, Alex. Keep up the good work.

This proposal violates two basic principles of common sense really. Number one, if it ain't broke, don't fix it. First Avenue ain't broke. And, number two, kind of a taxation without representation. Most of the--all of the nearby neighbors I spoke to, with the exception of Howard Cooley, feel this is not warranted or wanted or necessary. If ever there was a situation that screams out that the cure is worse than the disease this is it. I understand that my neighbors are acting here with the best of intentions with their hearts maybe instead of their heads. I thank you for hearing me out. Any questions? Thank you.

John Steinbrink:

Thank you.

Ron Schuler:

Ron Schuler, 6034 92<sup>nd</sup> Avenue, Kenosha. I just want to say a few words about Item D, the PUD for Wisconsin Realty. At the Planning Commission our family was definitely against it, but it passed unanimously that it was going to be recommended to pass this PUD. Basically I'm not against PUD, but I am when the driving force is Crossroads Porno Book Shop. And when I say that, we were approached by the relocating company to park four trucks at Truesdell Plaza which is the neighbor of Wisconsin Realty. After due consideration, we said no, we're not going to do this. It's morally unacceptable to our family. And also the most important thing I think is that it's a detriment to all the businesses on Highway 50. Actually we were dumfounded that this was even recommended that they would come and even see us and try to put this at Willow Pointe.

Now, I've sent a letter, and I think from the Planning Commission you probably got my letter so I'm not going to go into that, but I sent that to the Governor and the Lieutenant Governor and Mayor Antaramian and the County Exec. Kehl. I sent it to Wirch and maybe a couple others. I tried to send it to Pollocoff, but I don't have his e-mail address and when I called here they said

they couldn't give it out. But, anyway, that was the letter that went to them. I haven't heard anything from them.

What I was asking is let's do what we have to do, let's not put it on Highway 50. Now, I know zoning has happened in the past. Sheridan Road you zoned it into residential and those businesses are worthless down there. You also rezoned residential vacant land to manufacturing land. I would think that if you do the right thing you can do something to make this go away. Everybody you talk to says, yeah, it belongs on I-94 right where it's at. There's no question about it. Out of sight out of mind. I know this eminent domain is not necessarily a great rule as far as I'm concerned, but that's for big business and big business is driving this. Sure, you've got to have big business and you've got to have jobs and that, but there's got to be some compromise somewhere where the little guy doesn't suffer. I just can't picture Crossroads coming in there and coming down 50 the gateway into Kenosha.

The relocating company they asked us to sign an agreement that we would let four trucks park at Truesdell and we said no. My sources tell me that there is an agreement between Wisconsin Realty now and the relocating company or Pleasant Prairie or whoever or Mr. Pollocoff that this is in effect. When you go to the court on June 20<sup>th</sup> you're going to be able to present this to the Judge and Crossroads can come in. I talked to Tom Terwall the morning after the Plan Commission on the phone and he said, yeah, there's a slight chance they could come in. Slight is too much. I'm still against this PUD because of Crossroad. If it was any other company that was morally acceptable I would not be against this. Again, I ask you to turn this down. Thank you.

Bob Babcock:

Bob Babcock, 11336 Lakeshore Drive. I just have a couple of small things here. Item K I believe it is on the agenda tonight regarding police powers for assessments on the drainage plan in Carol Beach Unit 2, and as yet we don't have a plan and I was wondering why the rush to get your police powers in place this early. Maybe it would be easier to just make a blanket police power thing beginning every year so every project you have you automatically got it done.

The second thing is regarding silt fences. In all of the instructions for your construction and everything else there's a lot of talk in there about silt fences and putting them up, and I just want to know exactly what the intent is. There's a construction that's gone on and they did a nice job of putting up the silt fence, and then a couple days later they took and dug the hole and covered up the silt fence, and covered it up three or four feet out. It's not really too hard to see. It's right off of Lakeshore Drive.

One quick thing and probably the most important to the Board members, if any sees Mr. Tiahnybok attempt to open a can of pop, scatter. Some dummy knocked it out of his hand. Thank you.

Gus Hauser:

Gus Hauser, 143 113<sup>th</sup> Street. I would like to speak on Item K under New Business. Last year after unusually heavy and long periods of rain, Unit 2 in Carol Beach experienced the worst flooding in decades. It was made worse by the prolonged power outage and the blocked culvert underneath 1<sup>st</sup> Court which has since been replaced. After its replacement the flooded area drained rapidly. The residents of Unit 2 presented a petition on August 2<sup>nd</sup> to this Board essentially asking grade the ditches, put proper culverts underneath but don't put pipes in.

On October 26, 2004 and again on May 25, 2005 an informal hearing was held and both times the Village Engineer and the Village Administration tried to steer the subject toward underground sump storm sewer. The last meeting was very confusing to say the least. Instead of presenting a few options as promised, only one was presented, an underground system with sump ditches. The number of affected properties mentioned was 50, but all the other times it was over 100. A cost estimate was floated of \$2,000 a property, but no detailed drawings represented. Residents who clearly in the affected area were invited. No indications were given for the boundaries of the project and the affected property owners. Underground pipes are not the answer or solution in this area.

It will have to be laid into the ground water table. It cannot be buried deep enough below the frost line and is too flat and do not meet prudent construction practices for positive flow. The outlet is too small. It was designed for only a project on Third Avenue and just one foot above the high water mark level of Lake Michigan. This outlet was buried under sand for over six months even after I notified the Village Engineer and Public Works. Finally about two weeks ago they finally came with a backhoe and dug a hole and now you have a hole in the sand with the outlet in it.

I suggest the Village tackle this situation in a two step approach. Regrade the ditches towards the unnamed tributary and Tobin Creek and re-evaluate the situation. This step should eliminate about 90 percent or better of the problem and would be by far the less costly to the residents and to the taxpayers. If there should be still problems, then another step can be taken. Please do not rush this wrong and costly solution through. Please do not invoke police powers. Let's see first if the engineers can come up with something with input from the residents and the DNR. We were at the last informal hearing just presented actually two pictures. No detailed drawings, no nothing, and it was more or less a take it or leave it approach, and I don't think that's the right way to do it. Thank you.

Jane Romanowski:

There are no more signups tonight.

John Steinbrink:

That concludes citizen comments.

## **7. VILLAGE BOARD COMMENTS**

Mike Serpe:

In reference to Mr. Moresi, when Mr. White approached the Board about the stop signs on Lakeshore Drive, our instructions were to have him get petitions from the neighbors to support that effort. I don't know if he's done that yet. That not being done I don't know that--

Dave Moresi:

To support the effort?

Mike Serpe:

Yes, to support the stop signs that he was asking for because of the speeding. We told him to get the petitions for that. If that doesn't come forward we're not just going to throw them in there. At least that's not been our policy just to throw up a stop sign because somebody calls and asks for it. If the overwhelming support is there for it, then we take a look at it. Short of that nothing happens.

Alex Tiahnybok:

I do have something to say. Thanks Dave for coming in and explaining. Dave and I talked about this. It actually happened earlier today. I explained to Dave that the Carol Beach Property Owners' Association did not prompt this effort, so from the get go I think there's a misunderstanding in terms of where Carol Beach Property Owners' Association stands on the matter. Another resident, a neighbor of ours, requesting repeatedly that this situation be looked at. I believe he had direct contact with Chief Wagner. And Chief Wagner, I believe, instructed some of his personnel to examine the neighborhood, probably checked a series of intersections. Our neighbor in Carol Beach I believe recommended 88<sup>th</sup> Street as the location for the stop sign. Perhaps Chief Wagner can comment on this if he wants to. And after analyzing speeds, location of current stop signs, etc., I believe the 87<sup>th</sup> Place location was offered back as the better location for stop signs if they are to be installed.

After that, as a courtesy I believe to Carol Beach Property Owners' Association, Chief Wagner asked that our Board write a letter to the Police Department indicating whether or not we support or oppose the idea. I was elected Carol Beach Property Owners' Association President before I was elected to this Board. I felt that perhaps I might be overstepping the boundaries of my position in Carol Beach, so instead of just automatically forwarding a letter of that nature, Carol Beach Property Owners' Association has bi-monthly meetings. The last meeting occurred only last week. Your letter was acknowledge, we were aware of it, and we instead of just forging forward, I thought the most democratic process would be to poll the members of the voluntary, unelected, so there's no perfect science to this, and it's a voluntary organization so people who decide to step up and participate on a regular basis, and the vote was overwhelmingly for the stop sign.

Now, I have not written the letter to Chief Wagner yet, and I'm glad we had this chance to hear your opinion formally and publicly. But democracy and I think we've thrown this out before, sometimes is messy. I really don't know what better solution to offer than to go with the majority of the Board. I just wanted to make that chain of events clear.

Steve Kumorkiewicz:

You're right, Alex. I think the last stop sign on Lakeshore is at 90<sup>th</sup> Street and Lakeshore and from there all the way to 116<sup>th</sup>. There were no stop signs . . . and people passed me going 60 miles an hour. Also they complain about school buses going over the minutes. Matter of fact, I walked to the Chair of Transportation in the District and he says that he was going to talk to Jelco because any school bus driver who exceeds the limits and gets a ticket for speeding he loses the license to drive a school bus. That was a request. I went over there . . . but they were not talking north of 90<sup>th</sup> Street. I told him its south of 80<sup>th</sup> Street because there are no signs and it's a long run. That's probably the request.

Alex Tiahnybok:

I agree. If you look where the current stop signs in Carol Beach are, there is that long stretch from 90<sup>th</sup> all the way to 116<sup>th</sup>, and then going north to the next stop from 90<sup>th</sup> is where 3<sup>rd</sup> Avenue merges after the turn at 86<sup>th</sup> Place. Howard Cooley, one of our Board members, did mention that he feels as though after the street was striped with the yellow stripes down the center it looked more like a County highway than a residential street. He's got a point there.

Another point that was brought up at our Board meeting last week was that more than likely the speeders are residents. We wondered out loud how that would fly in our own community, whether or not creating an environment where people would get stopped for speeding of our own residents and how well that would fly. And our general consensus was just because you live there doesn't mean you should be speeding either. So, again, that's where it stands.

Jeff Lauer:

I'd just like to comment on Mr. Schuler's information. I appreciate you coming and sharing it with us tonight. Some enlightenment to the conversation when we get to that topic later in the discussion on the agenda. I know you've been a businessman for many years and you've provided a lot of jobs and the Willow Creek is really growing since I was a little kid. I remember when it was just a little grocery market over there. So when we get to that item, just so you know, if you're not here or you are it will be addressed accordingly the concerns you have as well.

## **8. NEW BUSINESS**

- A. Receive Plan Commission Recommendation and Consider a Master Conceptual Plan for the request of Kurt Meeske, agent for Prime Outlets at Pleasant Prairie, LLC, for the proposed expansion of the Prime Outlets regional retail shopping center located at 11211 120<sup>th</sup> Avenue.**

Jean Werbie:

Mr. President, Prime Outlets of Pleasant Prairie, LLC, is proposing an expansion of their current facilities. You have before you the master conceptual plan that they are proposing for the



expansion of Phase V, Phase VI and subsequent potential phases of the regional retail outlet center. The center is currently located out by the Interstate at 110<sup>th</sup> Street south of 108<sup>th</sup> Street, and it is just east of the Frontage Road or 120<sup>th</sup> Avenue.

Specifically, what they are requesting to do is they are proposing to construct two retail buildings in this first portion of Phase V, a 90,190 square foot and a 59,216 square foot building. They are two of the larger gray building that are located on the slide. A third building that is proposed is a building that we refer to as the Lodge. It will be between 11,000 and 13,000 square feet. It's a center court building which is intended to be used for food tenants, restrooms, an information center, merchant kiosks, as well as some other types of offices for the center. And that is the smaller gray building just to the north of Phase III.

I've included some renderings for you to look at of the Lodge building. We'll be looking at some of the other buildings as well. Again, the Lodge will be in the center of the new development and it will have a center tower area which will have signage on the four sides so it will help identify the center of the entire development. Again, there are five phases, with this proposal, to the Prime Outlets development.

In addition they are looking at a Phase VI which is a proposed future expansion of the Phase II retail buildings just north of Jay Crew. Approximately 43,770 square feet would be added at the southern most portion of that existing building. And some other future improvements that they are looking at that we've just been in the discussion phases at this point, but they are shown on the master plan, would be a series of two retail restaurant outlots, 5,000 square feet. There's one at the south end and one on the north end, potential restaurant sites in addition to what is going to be provided as food services within the food court.

They are also looking to de-emphasize the southern entrance of the outlet mall. At one point when it was initially constructed, the southern most entrance was intended to be the grand or the main entrance to the site and that being constructed as a full interchange, and with 165 being the main interchange all of the traffic was coming from the north going to the south. So everybody was in the mall by the time they even got to the southern entrance. So the concept here is to reduce the width and have it be constructed as more of a service entrance rather than a main entrance to the facility.

Some other things that they're looking to add are rear building parking. And the other thing which I'm not sure if I mentioned very clearly but I wanted to emphasize as part of this Phase V and as part of the whole project concept is that with the construction of the Lodge are as part of Phase V, what they're going to be doing is blowing some cut throughs through this Phase III are so that you'll be able to travel, either pedestrians or vehicles, from the first phases through to the third, fourth and fifth phases. So there will be some circulation and movement throughout that building. Again, this helps everyone, the shoppers and security and anyone who is out at this site so that there is that on site circular movement on the site.

One of the things that we talked about at the Plan Commission is that Phases I through IV currently has about 1,641 parking spaces. Phase V will add another 520 conventional spaces and 16 handicapped spaces or a total of 536. So when it's all said and done Phase I through V will have a grand total of 2,177 spaces.

The zoning ordinance sets forth criteria for how many parking spaces you need based on the amount of square footage of retail that you have within a particular store or center. And based on their square footage they're going to be short by some spaces. But it's our experience and we can confirm this with the Police Department, but it's been our experience that there might be some peak times of the year where every single space in that lot is full. But what we're seeing is because the shopping season, at least for the winter or Christmastime, starts at the beginning or end of October or November 1<sup>st</sup> all the way through the end of January people are spreading out their shopping time. Because of that it's not a peak time that everyone goes the day after Thanksgiving or the next three weeks. So we haven't been seeing an issue where parking has been a problem for the center. So we don't envision there to be a problem.

In the comments you have before you we have discussed this with Prime and we've outlined various tactics that can be taken in the event that it does become an issue or a concern. What we really don't want to happen is parking on the adjacent 108<sup>th</sup> Street, 116<sup>th</sup> Avenue or 120<sup>th</sup> Avenue so that it causes a visibility issue or problem with people entering or exiting the area. So those are our primary concerns with respect to parking, and we will address this through the Planned Unit Development or the PUD.

Here are some of the artist's renderings of what the next phases are going to look like. In addition to these couple we're going to show you, they actually have built a model of what Prime is going to look like so you can see from a 3-D or visual perspective, and I've circulated some photographs of what that model of the center is intended to look like.

I think what is important to note is that what we've tried to do here is we've added some tower elements at each of the corners, and we continue with some of the bump outs and we're trying to upgrade some of the look but not make it too different because we want this to look like one unified business development for the entire outlet mall. This is just another illustration of some of the corner elements. Again, as you had seen previously, the Lodge facility which is intended to look kind of woodsy or Wisconsin-like which will be pretty much right in the center of all the activity.

One of the things that Prime is needing to work through is that the GTE has a substation building that is primarily located right in the middle of things just to the north of the proposed Lodge, and they need to work with GTE and they are proposing some exterior modifications and site renovations, some things to kind of beautify it so it doesn't look like an afterthought that that building was there. If some of you remember this original store in the center was constructed in the late '80s, and at that time there was no talk about future subsequent phases, so the GTE substructure was actually placed behind the buildings and now it's going to be kind of central right in the middle. So they are working with GTE to try to put some things together. Actually is it Verizon now? Verizon to try to beautify it a little bit and incorporate it as part of the overall development. They have come to the conclusion that relocation is not one of the options so the building will need to stay at that current location.

With respect to the PUD, the Planned Unit Development Overlay, we had asked Prime at this point to outline some of the community benefits that would be associated with this particular PUD. In this case there are many, many variations or modifications that we're trying to put

together just because it is one unified development. We've got some zero lot line setbacks and we've got a number of issues that we're looking at. I don't believe any of them are critical or concerning to the Village, but I have asked them to give us some information as to some of the benefits that Prime does offer to the community including increased tourism spending, the Lodge in the center court which I find could be very beneficial since it could provide some additional informational services and restaurants and other amenities that will help both the traveling public as well as the shoppers at the site. Potential for permission for the State and local tourism offices to maintain kiosks in related areas in the new center court. There was a question as to why this would be needed if the tourism information center is just a block away. The key is if you're out there shopping and you have an opportunity to sit down and grab some information and read it while you're there or to gather that information without having to get in your car and go someplace else and get it and come back, there's an opportunity for us to get some additional information out there, especially when it pertains to just Pleasant Prairie, Kenosha County or our immediate area. There will be increased employment opportunities, increased tax revenues and potential for the TIF to be paid off sooner.

So what you have before you on the slide then is the master conceptual plan for Phases V, VI and after that. The areas that are identified in the grayish color are the expansion areas. This is a matter that was before the Village Plan Commission at their last meeting, and they recommended approval subject to all the comments and conditions that are outlined in the staff memorandum which you have before you. One of those conditions is the next item on the agenda as well which is an agreement with Prime. But some of the other things we need to cover tonight include the zoning and also a comprehensive plan amendment that relate to this as well.

Steve Kumorkiewicz:

I have a question for Jean. You're talking about they are going to eliminate the south entrance? There was originally a sign over there?

Jean Werbie:

The entrance would not be eliminated but it would be reduced. Right now it's a boulevard entrance with a grass median. It doesn't see nearly the traffic activity or any type of traffic movements that the other entrances have. So for that reason we felt and they agreed that to de-emphasize it as a main entrance but just still keep it at this point as a service or a side entrance to the outlet mall that that would be a good idea, but it would not be eliminated altogether.

Steve Kumorkiewicz:

The way I look at with this expanding you've got a lot of traffic coming from ML from the Interstate. That's why I wonder if it would be wise to keep it just for service, especially if you are going to expand over there . . . move over to the north side of the outlet . . . and the west side. I, myself, when I go I go to the west side actually, because you have the north entrance over there and you have to stop and sometimes it's messy just to get in there. So rather than go around to the frontage road, there's access . . . that's what I wonder about.

Village Board Meeting  
June 6, 2005

Jean Werbie:

I think it's a shopper preference. I turn at Nike because that's the first store I go to. So I don't know that I've seen in the times that I've been out there shopping, which is often, I don't know that I've ever seen a number of cars coming in that southern entrance. Maybe Prime could respond. Bob Hanke is the Manager and he's here. Kurt Meeske is a representative of Prime as well and they can respond to that. I'm not sure if they've done traffic count information on it, but I just don't see it as being used. Why would you drive by three other entrances to go in? ML is just not a full interchange and so most people are coming down the Interstate getting off of 165 and winding and coming down to the site. Again, my proposal is not to eliminate it but it's not being used at this point. If you do have any specific questions, Kurt Meeske I'm sure would be happy to respond.

Steve Kumorkiewicz:

I was just wondering about the traffic coming northbound on the Frontage Road to the mall . . . most of the traffic comes in the north side, but eventually it's going to be . . . as a way to access.

John Steinbrink:

Other questions?

Alex Tiahnybok:

That Lodge area in the center is that going to be for pedestrian traffic to pass between, or is there going to be vehicle traffic that can go between the different building groupings in and around the Lodge area?

Jean Werbie:

Here?

Alex Tiahnybok:

Yes, is that a traffic pathway? It is?

Jean Werbie:

Traffic and pedestrian.

Alex Tiahnybok:

So that will take care of a lot of the problem that Steve is talking about because that Nike entrance is not necessarily going to be the most preferred entrance anymore. It's still going to be a used entrance but there's going to be two entrances before that.

Village Board Meeting  
June 6, 2005

Jean Werbie:

And the situation is there are sidewalks all the way around all these stores, and I envision there will be sidewalks all the way around so people would be able to walk throughout the site and throughout the stores.

Mike Serpe:

I think the roads surrounding this development are adequately sized to handle the traffic. The only time we're really looking at any mass traffic problems is going to be the Christmas season, and that's going to be whether we change entrance ways or widen roads. That's just going to happen. I think this is great. I like the fact that \$84,000 a year now will be generated to County tax which will help enormously. The site is great. We saw what happened with the article in the paper about the original outlet mall having some problems and this is expanding by double. This is something that's great for the County, great for the Village, and whoever it serves and that's a lot of people from Illinois as well. I would move approval.

Steve Kumorkiewicz:

I second that.

John Steinbrink:

Motion and a second. Further comments?

Alex Tiahnybok:

One more comment. I took my daughter to her first t-ball game on Saturday morning. She was on the team Culver's group, and after her team everyone wins and took her to Culver's to lunch, and I was amazed by traffic in and around the area. A lot of out of State plates. And as far as I'm concerned if it brings tax dollars, even more importantly out of State tax dollars to our community then I'm all for it. Go get 'em.

John Steinbrink:

I think we talked about tourism and I know they've approached the tourism aspect here. I-94 and the I-90 at the State line are probably the two busiest tourism centers in the State. And traffic going to the outlet mall is one of the reasons people get off and use it a lot just getting to their northern destinations. Public/private partnerships have played a big part in promoting tourism and to bring tourists into the State to places like Prime Outlets. We've always considered this as a tourist destination because of the amount of people coming in. We always preach that to the State and to the tourism department especially when it comes to signage and other things we need out there and we're finally getting the State to come around and realize this is a big part of it.

When you look at one of the easiest to realize partnerships is the advertising on the State maps. They've cut the cost of production and distribution of these maps, and it did a lot to promote businesses. In fact, there's a waiting line, kind of a lottery system, to keep people on and off of there. The Dells is a big one with different tourist attractions throughout the States. Jean talked about the kiosks and these are very successful and very simple. People have really taken to them. It's probably one of the best ways to get your message out and get your information out.

We've seen Prime Outlets grow over the years. We've seen the area grow. As Mike said roads in the area are fairly adequate. It was designed with the forethought of being a busy area and it's proven that. And the roads have also proven they can handle the traffic there because of the looping system, the multiple interchanges and the basic size of the roads rather than take the approach to make these skinny little narrow roads that don't handle traffic. We actually put in roads that fit Wisconsin. We have winter here and we have to have a place to put snow and we can handle it. And when it comes to traffic we can handle that, too. That's where all the forethought pays off. This is a great project, and I'm almost positive it's going to be a success because it's proven to be a success in the past.

Any further comments or questions?

**SERPE MOVED TO CONCUR WITH THE PLAN COMMISSION RECOMMENDATION AND APPROVE A MASTER CONCEPTUAL PLAN FOR THE REQUEST OF KURT MEESKE, AGENT FOR PRIME OUTLETS AT PLEASANT PRAIRIE, LLC, FOR THE PROPOSED EXPANSION OF THE PRIME OUTLETS REGIONAL RETAIL SHOPPING CENTER LOCATED AT 11211 120<sup>TH</sup> AVENUE, SUBJECT TO STAFF CONDITIONS; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 5-0.**

**B. Consider Agreement with Prime Outlets for Security, Municipal Water, Fire Suppression and issues relating to the proposed expansion of Prime Outlets at 11211 120<sup>th</sup> Avenue.**

Jean Werbie:

Mr. President, as discussed at the Plan Commission meeting, there were some issues that we wanted to work through with Prime, and we wanted to get some specificity of our resolve by putting together a memorandum of agreement or a memorandum of understanding. Those issues revolved around pretty much four main issues. The first one of which is fire protection system. The second related to police services. Another one related to the cut throughs and related to construction timing.

In the agreement it outlines that the existing facilities of Prime have a fire suppressions system that utilizes various cisterns, because at the time the system was constructed in the late 1980s municipal water was not yet installed and to be able to service the sprinkler type systems out there so . . . directly connected to the municipal water supply system. And they would be abandoning the cisterns and make that direct connection.

Further on in the agreement on page 2 it outlines some specific dates by which that direct connection needs to be completed whether the project goes forward or it doesn't go forward, but there are some dates associated that we had worked out with them as to when those improvements would need to be completed.

Another item that we had talked about was the ability of the Village's Police Department to service prime with having more restrictive resources, that they wanted to work with Prime and Prime has agreed to donate some money to the Village, \$80,000, for the Police Department to use at its discretion as to how it can better service Prime and their facility as we discussed at the meeting.

The next issue related to construction. The concern that the staff had was that if building in Phase V moved forward but the cut through and the Lodge are not constructed, that was going to be concerning to us because of the fact that not only did the Lodge provide a number of community benefits, but the cut through helped to provide a number of types of services in addition to being able to move traffic on the site and allow for their security and our Police Department to be able to circulate and move throughout the site, and it addressed some of the concerns with respect to parking if you can circulate within the center without having to go out onto the street you might be able to walk it or move your car without going out on the street. So there were some concerns that we wanted to make sure that the whole project from start to finish would be constructed within a timely period. So we added some time frames and we discussed with Prime with respect to when these things would be accomplished, when they'd start them. And in their discussions with us even as late as this afternoon they intend to be very diligent in completing this entire project because the Lodge and the cut through are major selling points to their tenants that they're hoping to relocate or to locate this site as well. But we just wanted to have some clarification with respect to that.

And then the final item gets really back to security, and that gets back to some of the items that their security specialist as well as our Police Chief had talked to them about with respect to doing some additional methods for covering the facility in the evening hours or nighttime hours so that the site is being secured and monitored at all times of the day and night.

So as part of this mater conceptual plan we wanted to put together an interim agreement that kind of outlines where we stood on some of the issues as it related to the center. This will be more formalized and finalized when they come in for their final site and operational plan approvals. And both Prime has reviewed this and we have reviewed it and Mike and our attorney has reviewed it.

Mike Serpe:

Jean, do we have an approximate date for start of construction for this?

Jean Werbie:

What's the latest date for start of construction, Kurt? When do you anticipate starting construction?

Village Board Meeting  
June 6, 2005

Kurt Meeske:

Kurt Meeske, Vice President . . . construction for Prime Retail. My address is 217 East Redwood, Baltimore, Maryland. The question exactly is what is our timing on this project basically?

Jean Werbie:

Start date.

Kurt Meeske:

It's our intention to start moving dirt as early as the second week in July of this year which is a short three or four weeks away.

Mike Serpe:

Thank you.

John Steinbrink:

Thank you.

Jeff Lauer:

Jean, I just have a few questions. I read this packet so I want to just bounce some things off you. For the \$80,000 donation I assume that does go to the Pleasant Prairie Police Department to use strictly for this new construction phase, correct?

Jean Werbie:

My understanding is that we had talked about a camera type system for surveillance that would be allowed to monitor the entire site, not just the expansion phase, but it would be the entire existing facilities as well as the new facilities.

Jeff Lauer:

So the Pleasant Prairie Police what I read is they would own it and maintain it so that's probably what the donation will help with. Okay, good, thanks.

Steve Kumorkiewicz:

Actually they're going to have a central security room that's going to be accessible to our police, right?

Jean Werbie:



Village Board Meeting  
June 6, 2005

There currently is one in the existing center at this time, and that will be continued to be maintained and accessible and used at the Police Department's discretion for whatever they need to use it for.

Jeff Lauer:

Sorry, Jean, I forgot my second question and I just remembered it. In the packet of material I read if Pleasant Prairie Police Department is used Prime Outlets pays them a certain rate to have them out there? Is that still correct?

Jean Werbie:

We currently have an agreement with Prime. We've had it since 2000, and it covers security at the center. Maybe Brian can address this, but I believe they intend to continue to use off duty Village Police Officers that will be used principally during peak hours out there to cover their needs. Why don't you address that?

Chief Wagner:

Chief Brian Wagner, 8600 Green Bay Road. Currently the agreement we have with Prime provides a mix of private security, contract security and our off duty police officers. Our off duty police officers are use primarily during peak hours. The contract security would be used overnight and during non peak hours. The sum total of that though would be 24 hours of coverage.

John Steinbrink:

Chief, could you comment on the importance of a good surveillance system. We've seen in the news how important this is throughout the County, and it's brought a lot of people to justice for crimes that occur all over the country.

Chief Wagner:

Sure. What this is going to provide for us is it's going to provide a starting point, whereas now we may not have anyplace to start. Because of our location, the central location of Pleasant Prairie between Milwaukee and Chicago we see a lot of transient type crime occur that basically stems from either Milwaukee or Chicago, which means that in the event of some sort of an incident that occurs out there say at three in the morning, we may not be notified immediately, alarm companies and things and there's a delay and so on and so forth. By the time we get there those folks may be gone and the question is did they go to the south or go to the north. My detectives then have to try to pick up the pieces and go back to try to determine where these guys came from, try to identify them and investigate the case.

Village Board Meeting  
June 6, 2005

What this is going to provide us we hope is a place to start. We'll have images of these people. We'll have vehicle descriptions. We'll have subject descriptions. We'll have a lot more than we have now and that's the intent of this.

John Steinbrink:

Thank you, Chief. Any other comments or questions?

**SERPE MOVED TO APPROVE AN AGREEMENT WITH PRIME OUTLETS FOR SECURITY, MUNICIPAL WATER, FIRE SUPPRESSION AND ISSUES RELATING TO THE PROPOSED EXPANSION OF PRIME OUTLETS AT 11211 120<sup>TH</sup> AVENUE; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 5-0.**

- C. Receive Plan Commission Recommendation and Consider Ord #05-21 for a Zoning Map Amendment for the request of Kurt Meeske, agent for Prime Outlets at Pleasant Prairie, LLC, to rezone the three (3) properties generally located at the southwest corner of 108<sup>th</sup> Street and 116<sup>th</sup> Avenue from B-5 Freeway Office District to B-3 (UHO), Regional Retail Business District with an Urban Land Holding Overlay District.**

Jean Werbie:

Mr. President, Prime Outlets, pursuant to this request this evening, is requesting to rezone the three properties that they are going to be acquiring from WisPark for Phase V site development generally located north of 110<sup>th</sup> Street, south of 108<sup>th</sup> Street, and east of Phase III and IV of Prime Outlets. It's west of 116<sup>th</sup> Avenue.

There are three separate parcels that are involved in this rezoning. Tax Parcel 92-4-122-302-0107, 302-0108 and 302-0126. They are proposing to rezone the land from the B-5, Freeway Office District, to the B-3, UHO Regional Retail Business District. The UHO would be placed on there only temporarily until the finalized PUD can be drafted, and it's anticipated that that's going to be coming to the Village Board at their first meeting in July, July 18<sup>th</sup>. So at that time we would actually do the rezoning into the PUD. At this time it will be just a temporary UHO holding district.

Surrounding zoning, which makes this request compatible, to the north there's B-4 zoning. It's consistent in that it's another commercial district, but it's currently vacant immediately east of the Radisson Hotel; I-1 consisting of the Village owned water tower; to the south is B-3 PUD that consists of Phases I and II of Prime Outlets, and there's a portion that's zoned A-2 which is a 108 acre rural land farmstead which is owned by James Hart. To the east is B-5 consisting of two vacant parcels that are currently owned by WisPark LLC, and to the west B-3 PUD consisting of Phases III and IV of Prime Outlets.

This is a matter that was a public hearing before the Village Plan Commission, and the staff and the Plan Commission recommend approval, and that approval would need to be subject to the next item which I'd like to move up on the agenda which is Item F, because that is actually the

Village Board Meeting  
June 6, 2005

comprehensive plan amendment that would allow the zoning and the land use plan to be consistent. So the staff recommends approval of Item C subject to the comments as outlined in the staff memorandum.

**KUMORKIEWICZ MOVED TO CONCUR WITH THE PLAN COMMISSION RECOMMENDATION AND ADOPT ORDINANCE NO-21 FOR A ZONING MAP AMENDMENT FOR THE REQUEST OF KURT MEESKE, AGENT FOR PRIME OUTLETS AT PLEASANT PRAIRIE, LLC, TO REZONE THE THREE (3) PROPERTIES GENERALLY LOCATED AT THE SOUTHWEST CORNER OF 108<sup>TH</sup> STREET AND 116<sup>TH</sup> AVENUE FROM B-5 FREEWAY OFFICE DISTRICT TO B-3 (UHO), REGIONAL RETAIL BUSINESS DISTRICT WITH AN URBAN LAND HOLDING OVERLAY DISTRICT; SECONDED BY TIAHNYBOK; MOTION CARRIED 5-0.**

**SERPE MOVED TO CONSIDER NEW BUSINESS ITEM F; SECONDED BY KUMORKIEWICZ; MOITON CARRIED 5-0.**

- F. Consider Resolution No. 05-30 to support an amendment to the Village Comprehensive Land Use Plan as approved by the Plan Commission on May 23, 2005.**

Jean Werbie:

Mr. President, Prime Outlets is requesting an amendment to the comprehensive land use plan for the Village of Pleasant Prairie. They are proposing to change the and use designation of the three properties that I had just referenced generally located north of 110<sup>th</sup> Street, south of 108<sup>th</sup> Street, east of Phases III and IV of Prime Outlets and west of 116<sup>th</sup> Avenue.

Specifically, they are looking to amend the land use designation of the tax parcel numbers 92-4-122-302-0107, 302-0108 and 302-0126 from the Commercial Office Center designation to the Commercial Freeway Regional Retail Center designation. As you know, in Pleasant Prairie our land use plan is parcel specific which is a little unusual. Most communities do not like to be that specific, but we have been and we have been very deliberate with respect to that. So the amendment to the comprehensive plan so that the zoning map and the comp. plan are identical is very important to us. So it sends a signal to the development community as to what direction we're going with respect to new development.

Again, they are requesting this amendment to the land use plan in order to move forward with their Phase V and future Phase VI expansion for Prime Outlets. The staff and the Plan Commission recommended approval as presented.

**LAUER MOVED TO APPROVE RESOLUTION NO. 05-30 TO SUPPORT AN AMENDMENT TO THE VILLAGE COMPREHENSIVE LAND USE PLAN AS APPROVED BY THE PLAN COMMISSION ON MAY 23, 2005; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 5-0**

John Steinbrink:

First I want to say thank you to the Prime Outlet folks. You've done a lot of work on this project and will you be open by Christmas? For Christmas?

Kurt Meeske:

I want to thank the Board for your support. As you know we purchased this project back in '97. It wasn't in the best of condition at that point in time. We've renovated it. We've filled it. We've changed the tenant mix. We've improved it and now we're going to take it to the next level. To answer your question this is a rather large undertaking for many reasons. We have a lot of tenants to relocate to do the cut throughs. Where the Lodge is is probably utility central for everybody. Those will all have to be relocated. So it's going to be a phased project, and it will not be open for Christmas this year to make a long answer short. We do anticipate opening the first phase of it, meaning the primary retail portion, by July of next year. And we also intend to have the Lodge open at that time that being a little more problematic. But with luck we may have it completed by the Christmas shopping season of 2006 including the cut throughs. But you will see some activity by spring. Again, thanks for your support.

John Steinbrink:

Thank you. You've definitely become a destination because I can talk to people all over the State and around the country that talks about Kenosha and Pleasant Prairie and the one thing they focus on is Prime Outlets. Their wives want to go shopping at Prime Outlets.

Kurt Meeske:

We appreciate your support.

**D. Receive Plan Commission Recommendation and Consider Ord #05-22 and #05-23 for a Zoning Map and Zoning Text Amendments for the request of Martin Tuohy, agent for Wisconsin Realty Ventures LLC, the owners of the property located at 8501 -8503 75<sup>th</sup> Street, for a zoning map amendment to add a PUD, Planned Unit Development Overlay District designation over the property and to amend the Village Zoning Ordinance pursuant to Chapter 420-137 of the Village Zoning ordinance to prescribe the specific zoning regulations applicable to said Planned Unit Development Overlay District.**

Jean Werbie:

Mr. President, on December 7, 1998, plans were approved for the redevelopment of the referenced property that's located at 8501/8503 75<sup>th</sup> Street. The redevelopment included the renovation of the existing building formerly known as the Bargain Showcase property, and the construction of a second building for additional retail space. So it really served as a large revitalization project for that particular center.

The existing building on the site was 16,545 square feet on the first floor with 9,870 square feet on the lower level. The owner constructed a 7,250 square foot addition to the building, and then constructed a second building which is actually to the south which is 5,980 square feet.

The original Bargain Showcase portion of the building was constructed back in 1950 and prior to the adoption of any Kenosha County zoning and there was no zoning in the Town of Pleasant Prairie at that time. The original portion of that main building did not meet any of the setbacks today to Highway 50. Therefore, the building is classified as a legal nonconforming structure. We did allow an expansion of that structure and renovation of that structure, but we could not make it any more nonconforming than it is today.

In working with Mr. Tuohy, we worked with him not only in that existing building but with the new building to upgrade the look of the center and to put in a lot of amenities that were not even a part of our site and operational plan requirements at that time with respect to the amount of brick and the landscaping and a number of things, the roofing and the different things that he had added to the site were of benefit to us because of the revitalization of that particular area and the work that was being done.

Mr. Tuohy had indicated to the Village that he was having some problems with deliveries to the rear and front of the existing building which is the main building. He was proposing to add a right in only entrance on the east side of the building. He's proposing to remove a few parking spaces in the rear of the building and add some additional area for truck parking adjacent to the west end of the property. What we indicated to Mr. Tuohy is that in order to accomplish all of those things and to bring his center into compliance with current ordinances, a PUD would need to be written. Again, the way the ordinance had changed from the time that they did this construction to today is that when you have more than one commercial building on a property you really need to have a planned unit development because the ordinance only allows one building per property. So there are a number of things with respect to his existing site that were in conflict with current ordinance regulations. So based on the commitment that has been made to this development and the structures and to the community with respect to this development, we suggested that a planned unit development be written for the property to accommodate all of these issues.

Again, a legal nonconforming building, what that means is that if it's destroyed or damaged by more than 50 percent due to fire or other calamity it cannot be rebuilt except in conformance with the current regulations. But if there's a planned unit development or specific ordinance regulations for that property, then it could be rebuilt as it was originally approved by the Village Board.

The PUD ordinance, the gross floor area, one building shall not exceed 5,980 square feet, and the second building shall not exceed 33,575 square feet. Let me just interject one other thing. When writing a PUD it's site specific. It's specific for that particular property. So when we write PUDs they can't just go in and start expanding things or adding additional things or increasing the size of the structures. It's built specifically for what has been approved for that particular property. That's why they're very unique and specific.

The setbacks, street setback to Highway 50 is 29 feet minimum. That's where they are today. Side setback to the west property line 30 feet minimum. Side setback to the east property line 13

feet minimum. Rear setback to the south property line 30 feet minimum. And a wetland setback 25 feet minimum to the wetlands on the property.

Again, within the PUD the number of structures per parcel two would be allowed on the property. The width of a driveway in addition to the existing driveway that is on the west side of the site a 12 foot wide truck right in and delivery only entrance would be allowed pursuant to the DOT permit that would be issued for this property to Highway 50. And the driveway setback for truck entrance the driveway shall be a minimum of one foot from the side property line and a minimum of 25 feet from any wetlands on the property.

Setbacks for parking spaces and parking lots, parking spaces and parking lots shall be set back a minimum of 20 feet from all adjoining street right of ways, private roadways, and ten feet from the west side lot line, and a minimum of one foot from the east side lot line. A minimum of 50 feet from any railroad right of way and a minimum of 25 feet from any wetlands. However, if a commercial parking area abuts any residential district, no vehicles shall be allowed to travel on a driveway or a park closer than 25 feet. I don't think that will be an issue with respect to this particular property. These required setback areas shall be used for open green space with plantings, sidewalks if required by the Village, or signage provided it meets minimum setback requirements for the signs.

The underlying zoning of the property will remain as is. So the current zoning of the property is B-2, which is a Community Business District, and the field delineated wetlands on the property are currently zoned C-1, Lowland Resource Conservancy District. Those wetland areas will remain intact with that current zoning. The entire property, however, will be placed in the PUD, which is a planned overlay district, and any PUD requirements on the property would apply.

The Village Plan Commission and the staff recommended approval of the request for the PUD from Mr. Tuohy subject to the comments and conditions as outlined in the staff memorandum.

Village Board Meeting  
June 6, 2005

Steve Kumorkiewicz:

I have a question for Jean. Jean, the addition plus the original building, in case there is a fire, assuming 50 percent of the original building burned out, can they consider the addition as a part of the main building or not?

Jean Werbie:

It's all one building currently, and the whole—

Steve Kumorkiewicz:

What about 50 percent right there?

Jean Werbie:

The 50 percent is the entire building.

Steve Kumorkiewicz:

Including the addition?

Jean Werbie:

Correct. The entire building is legal nonconforming.

Steve Kumorkiewicz:

That means if 50 percent of the old building burned—

Jean Werbie:

It's 50 percent of the assessed value of the entire building.

Steve Kumorkiewicz:

The entire building?

Jean Werbie:

The key, though, is if a PUD is written then if the building is 29 feet today and if there is a fire that destroys more than 50 percent of that building, it will be able to be rebuilt at that 29 foot setback. That's the purpose of a PUD is to provide some flexibility or to make certain uses legal conforming uses after the fact in this case.

Village Board Meeting  
June 6, 2005

Steve Kumorkiewicz:

Okay.

Mike Serpe:

I think it's important that we keep in mind that Mr. Tuohy has invested something like \$6 million into the re-modernization of this property. And if we don't put the PUD in there and something does happen, then we're not doing a person who has invested in our community any favors by not approving this. That whole area is going to become busier with the proposed development center going just to the south and to the west of it and then multiple condominiums just to the south of that area. So by doing this we're going to help him also make it a successful business site.

I'm going to ask the Village Administrator to repeat what he said at the Plan Commission meeting for those that were not here to hear what Mike had to say about the zoning and what can go into certain zonings and what could happen if we were to deny something and comparisons to other municipalities in the State that have lost their zoning rights because of denial for the wrong reasons.

Mike Pollocoff:

Trustee Serpe, what we had discussed at the Plan Commission related to a letter that was provided to the Commission by Mr. Schuler concerned about the relocation of Crossroads Bookstore to the Willow Pointe Retail Center. Willow Pointe Retail Center, as Jean indicated and as shown on the screen there, is in a Community Business District, it's a B-2 District, and in that district adult uses are permitted under the Village zoning ordinance. A community needs to provide within their zoning districts a place where those uses can exist. They can exist with regulation.

The Village has adopted a comprehensive adult use licensing provision that regulates how adult uses operate. It regulates the hours; it regulates the indirect activities that arise because of an adult use. It regulates the people that work there. They have to be licensed by the Village. They have to disclose their background. It ensures that there is no off site or out of building activities that occur. Not all B-2 sites are eligible for adult uses. You can't be any closer than 300 feet to a church, a daycare, a residential area, elementary school, hospital. So even though there's B-2 in a lot of places in the Village not all the B-2 sites are acceptable for adult uses. An adult use can now and could have for the last few years located in this site. This is a site that Crossroads my understanding is they looked at it. We identified and we're under the obligation to tell them what sites are available in the Village. We identified this as a site that's available. That doesn't mean that Mr. Tuohy has to lease to them. That doesn't mean they have to lease from Mr. Tuohy.

For us to say we don't want any porno, we don't want any adult uses, and we won't permit them and we're going to structure our zoning ordinance so that they're not permitted and they can't come here, we'd be in essence through an action that has come from our previous court decisions invalidating our entire zoning ordinance of the Village. In one fell swoop we would have no zoning and you would have anything anywhere. In fact, if you were to look back at the adult uses that do exist in Pleasant Prairie and do exist in the former Town of Bristol and along the Interstate, those uses were a direct result of having no zoning. There was no way a community



could regulate them, so that's how the initial adult uses occurred in Kenosha County. So we can't say that--well, we can, but I think it's futile and you end up defeating the purpose that people seek to do is to control the adult uses to say we're not going to have any.

I have no indication that Crossroads wants to locate here or relocate here. Mr. Schuler is right, representatives from the consultants that are doing the relocation did approach him. I encouraged them to approach him. This has been--we're not going to say that somebody shouldn't talk to somebody if that's going about. We encourage them to talk to Mr. Schuler and see what his opinion on it was and he gave it to them. They knew and I think that's something that Crossroads knows. So whether or not Crossroads decides to locate here is one question.

The second question that we're addressing tonight is the fact that this center desperately needs, in order to ensure its long-term viability, the ability for the tenants that are going to go in there to have a second access point into the center. These aren't small leased spaces for residential, they're fairly large, and if people are going to take a larger space they're going to be bringing in more product and more material and that's not coming in on a van. It can be coming in on a truck. And he needs to allow for that opportunity to people who are going to lease from him. With this new alignment trucks are able to pull in on the east side of the building, pull down, and then back up to a loading dock. Right now the way it's configured that can't happen. It doesn't work that way, not for a large truck. And the trucks are able to stop there and park.

So the issue, although there are concerns about an adult use there, the issue tonight is whether or not we want to bring this site into conformity so that Mr. Tuohy isn't at risk if there is a problem there and that he's able to conduct business there.

The second issue if, in fact, Crossroads or any other adult use decides to locate in this site, it's going to come before the Village Board as part of an adult use license and it's going to be evaluated in that light and there's going to be a hearing on it. And the people that were involved in the--who came to the Plan Commission hearing are going to be able to come to the Village Board hearing and voice their comments for the Board to make a decision on that. The Board will consider the direct impacts of an adult use, and it will consider the indirect impacts of an adult use. It will consider the backgrounds and the character and the nature of the employees that are going to manage that facility and work at that facility. They're going to regulate the hours. They're going to regulate what happens outside, and they're going to come under all Village regulations for appearance, signage and how the place operates unlike the existing adult uses that are currently in the community. So that's how it will happen if it does happen that way.

This tonight is a separate issue. Would it help Crossroads? They could make use of it as well. But I think we've heard from Mr. Tuohy before this was the case that he needed this access and we're acting on that. We can't and we shouldn't regulate or tell Mr. Tuohy who he can lease to or enter into lease negotiations. That's a business decision he's got to make, and when that use comes in here they're going to have to stand the test in daylight whether or not that's a permitted use or a permitted activity. I think that's a synopsis of what I talked about at the Plan Commission and it still stands true tonight.

Alex Tiahnybok:

Village Board Meeting  
June 6, 2005

Jean, can you show on the map where the wetlands are? Okay. I took a drive over there and looked at the building. To me it looks like immediately to the east of the building where the driveway is intended or proposed to be looks like a ditch.

Jean Werbie:

Storm water ditch.

Alex Tiahnybok:

And I imagine it's full of water at times. That was my question is what constitutes a wetland. It looks like that land is wet pretty often I would think.

Jean Werbie:

Yes, that's a storm water ditch, there's no storm sewer, between Gordy Boucher's and the Willow Pointe, so there is a storm water ditch right there between the two properties.

Mike Pollocoff:

It's a drainage area. It's not a wetland.

Alex Tiahnybok:

How much distance is there between the side of the building and the east property line?

Jean Werbie:

Thirteen feet.

Alex Tiahnybok:

I imagine that's where the 12 foot driveway came from and the one foot setback?

Jean Werbie:

Correct.

Alex Tiahnybok:

I'm not against the PUD concept, and I believe anyone that invests in property should have the right to secure that value if let's say something bad happens, if the property was partially destroyed. I'm certainly not against Mr. Tuohy's right to make a profit from the investment in the property. But what I think this has turned into is a matter of either protecting Mr. Tuohy's interests or losing the trust of a lot of retailers in Pleasant Prairie. Mr. Schuler made a point of coming to the Plan Commission meeting, and from my perspective had a very compelling argument including a lot of facets such as I guess the State has been kind of stingy on allowing additional access roads from Highway 50 into businesses. In fact, my understanding, and I don't know if this is true or not, is that there's actually been a drive to reduce the number of access points on and off of Highway 50. So moving ahead on this and allowing that driveway to go through seems like sort of going against that flow.

My original comment was the cat is out of the bag, but obviously everyone has already seen the cat, so I think if Mr. Schuler and the other retailers that are in Willow Pointe today had they not come to the Plan Commission and voices their opinions very strongly I think at this moment we would still try to be positioning this as having no connection whatsoever to Crossroads. I'm not saying that there is, but I don't think that anyone believes that it isn't. And to move forward on the basis of this is not related, and if it just so happens that adding that driveway is an additional enhancement for Crossroads down the road, again I think it maybe manipulating the situation and I'm having a problem with that.

There are First Amendment issues that were brought up at the Plan Commission meeting and Mike just now. Believe me I'm not interested in lining up in federal court defending myself. So I'm very leery about saying anything in regards to this matter. But, again, if we remove the Crossroads issue out of this, then it's Mr. Tuohy's interests versus the retailers that are in there currently. There's a Japanese restaurant in there. There's a tattoo parlor in there and there's a women's workout center, Curves, in that strip mall. There's a tanning place, and I can understand all those retailers' concerns about having an adult bookstore in their midst. I don't think Jane Doe is going to enjoy coming out of Curves or after getting her tan and running into some guy that is either coming or going from an adult bookstore. I can understand their concern so I'm having a hard time with this.

I would like to see a better analysis of alternative sites. Again, I know this is not directly linked to Crossroads yet, but I believe the citizens and the retailers that are there currently are going to have a very hard time accepting that the enhancement that we're proposing to allow to the property, specifically that driveway, isn't connected to sweeten the deal.

Jeff Lauer:

I have some concerns as well that maybe Mr. Tuohy could answer a question or two if you don't mind. In the packet that was given to me it says the petitioner, which would be you, is having problems with deliveries to the rear of the front building and it's proposed to add a right of way entrance, that road that goes in there. Is that for all the businesses or just that one particular building that is right there in the front?

Village Board Meeting  
June 6, 2005

Martin Tuohy:

It would be available for the entire center. The driveway that we're talking about reconstructing to the east of the building that existed before we renovated the space. We actually took out that road. It was available for deliveries, shipping and receiving. We currently have about half of the center leased. About half of the space exists within that 29 foot setback that we're trying to bring into compliance, into conformity. It's a very large space and it doesn't have direct frontage, if you will. It's not like a store frontage. We've talked to a couple tenants that are serious about taking the balance of the space, and they need the ability to bring merchandise in. I'm not sure if that answers your questions.

Jeff Lauer:

Yes, it does, thank you. My other comments I had I did go out to Willow Creek Pointe today and I walked around the entire buildings. I went into almost every business. Some of them weren't there, their owners and that, and I was speaking to them. I introduced who I was so they knew exactly who I was and exactly why I was there. And their assumption from what they heard is if Crossroads comes there, at least a couple of them that I spoke to, the others couldn't answer, they automatically are going to leave, period. I think that's a concern I have. Because if it does come to fruition, we don't know obviously, but if it does come that way we could lose businesses there which means either lost jobs or just moving to a different area like Kenosha or Racine, and obviously we don't want that to happen. So I know that's a concern. I did go out there so I know what the area looks like, and I understand that Mr. Tuohy, from what you said coming before the Plan Commission before with the same idea to my understanding? Mike, you mentioned that you heard from Mr. Tuohy before regarding this or is this the first time?

Mike Pollocoff:

No. As Mr. Tuohy said there originally was a drive there, and it was felt with the traffic and delivery alignment that currently exists would work for him but it clearly hasn't.

Martin Tuohy:

If I might make a comment. There's no one more concerned about my tenants or the value of this property than I am. I guarantee you my concern for my tenants and the value of this property exceeds Mr. Schuler's concern. Mr. Schuler has distributed, I don't know, dozens or hundreds of letters saying that this is an adult bookstore coming in here. I do resent it. It's been damaging to our center. It's been damaging to the image of the facility, to the existing tenants' viability there and the viability of this center and our ability to lease out the balance of this space. It's an intrusion. I don't know what he's running for but it's certainly not the good neighbor award.

Jeff Lauer:

Can I ask you a question then, Mr. Tuohy, if you don't mind? For example, if this was approved by the Board tonight, if Crossroads comes to you within two days and said they'd like to have it, in your opinion would you say yes?

Martin Tuohy:

I don't know. That would be a business decision I would have to make. But I can tell you that is not on the table, and the chances of that happening are somewhere between slim and none. It is not relevant to what you are considering here this evening.

Jeff Lauer:

Thank you.

Martin Tuohy:

The fact is we are zoned for it right now. We're not asking for it. It's a permitted use. It's not a conditional use. As Mike said anybody that wants to do an adult use has to come before this Board for a licensing process and they have to be scrutinized for their criminal background, the function and their operations and that kind of thing. Whether or not I would or wouldn't is not really before us here tonight. I tell you the chances of it are extremely small . . . .

John Steinbrink:

. . . look at something here and the success or demise of any business are whether it's this one or any other one in the Village or County or State, I think it hinges on having the proper zoning and the proper zoning enforcement. And the Village zoning that we currently have does that. We have the proper zoning for areas. We have the property zoning enforcement. Many, many, most of the problems come from when we were a Town. We were under County zoning. There was no enforcement. There was no proper zoning for areas, and we are dealing with the consequences of that right now and every day we're here when we deal with older businesses.

They talk about this driveway. If people can remember back when it was Lakeway and Kemen's Sausage this was their driveway. This was their business. Mr. Schuler knows that. This is where the trucks went in and out of. This isn't something new. A drainage ditch went in there and now they want to put a driveway back in to facilitate a business much like was there before.

The Village has done a lot of work on its ordinances. We've gone through the whole thing. We've rewritten them and we're ready to enforce them. We're not going to make the same mistakes or the same neglect that other governing bodies did in the past. We're going to protect all the property owners in the Village and all the businesses in the Village with the proper zoning and the proper enforcement. We meet every letter of the law. We've had these scrutinized and we have to do this. It's for our protection. It's for the other owners' protection, and it protects us as a Village and protects all of us as taxpayers.

Mike Pollocoff:

Mr. President, I have one piece of advice to pass onto the Board on this as you consider your deliberations on this. Mr. Tuohy has made an application for the Board to consider the PUD and the improvements that it involves as far as putting in the road. The enhancements that it provides to him as far as bringing his building out of nonconformance and making it so the building is a legal nonconforming use and that has significant value.

If the Board chooses to deny the PUD application on the basis that it may be an adult bookstore or on the basis that anything we do, the Board would do to facilitate a bookstore going in there is unacceptable. Even though Mr. Lauer went and talked to the building tenants and talked to neighbors and they said they don't want an adult bookstore and, quite frankly, I don't know who does want an adult bookstore next to them, but at that point there you've stepped over the line and you've done two things. One is you've told Mr. Tuohy we have a premonition who you're going to rent this property to and because of that we're not going to give you what you have a legal entitlement to request. There's nothing really out of the norm in this type of PUD request.

Secondly, you've circumvented the zoning ordinance in essence to say even though the Village has provided for adult uses we think there might be one in here and we're going to find a way to make it so an adult use can't go in there, whether or not they meet that use or not. So I'm cautioning to exercise some judgment when you do this. Communities all across the country, it's not just Pleasant Prairie and it's not just Kenosha, every community in the country cannot exclude First Amendment uses. And that means if you have a zoning ordinance that provides for them but then you say we're not going to do anything that effectuates that ordinance that allows those to exist you might as well say we're not going to have them.

So if your basis for your decision is we're not going to make this recommendation or we're not going to approve this recommendation from the Plan Commission for a PUD because we want to make sure a First Amendment use can't go in there, then you might as well have just said even though our zoning ordinance permits it we're not going to allow it and we're going to find a way not to allow it. I think the uncomfortable thing that the Trustees have to come to grips with, and I think the community as a whole, is that federal courts have rewritten First Amendment language that puts us in this position. There's nobody on the Board currently, and I know there wasn't anybody on the Board previously, that said let's find a way so we can go get some more adult uses in our community. We were in the court on this. This isn't just something we cooked up overnight. This is something that we began litigating with one adult use and we came across a serious litigation, took a look at what we were up against, and we were in a no win position. We didn't even go all the way through court with litigation because we wouldn't win. Pleasant Prairie wasn't unusual. There are clearly precedent setting court cases that got us to the point where we are today.

To say we don't want to have adult uses there you better be prepared to rewrite the entire zoning districts and zoning ordinance to say where you do want them. Right now the zoning ordinance as its written does permit them, and there's logic of how those were identified as sites that could be used, and it was done in a manner that wouldn't be any closer to schools, hospitals, daycares, some of the sensitive uses. But if you're going to say we're not going to let Mr. Tuohy have his PUD because we don't want an adult use there, you've taken the first steps to invalidate the Village's ordinance, and you've done it in a way where you've made it comfortable for the people who are listening in the audience to feel like, yeah, they're going to stop it. But all you've done is you've made it easier for the adult use to go in there because you've made the zoning ordinance unenforceable.

Any little needle nose attorney that is going to represent one of these guys is going to come in and do it to you. They're all out there waiting to do it. These places print money and you've got

to be ready to go fight with them. Right now we've already been to federal court on these. We've been to Kenosha County Circuit Court, and our adult use ordinance is defensible. It's been that way for a few years. We don't have adult uses coming in in droves to locate to be here because they're desirable or maybe they're not quite desirable. The Village has a lot of steps to go through to get that use, and I think those steps protect the Village. We're not going to have a 24 hour use. And we're not going to have signs with naked women on them flashing. We're not going to have all these things that are the worst of adult uses that you see because our ordinance is regulated.

So before you make your decision and as you establish a record on this decision, carefully consider that. Because as comfortable as it is, and as easy as it is to say to everybody we don't want to have this here and we're not going to do anything to facilitate it here, you've done the very thing you don't want. You've made it easier for somebody to locate here because you're saying our zoning ordinance really isn't valid for adult uses and we won't let them in even though they could go to a certain place. And the fact of the matter is that the CDA has directly heard that there's no intention from Crossroads to locate there. So I don't know what else to do, but I think these are troubling issues and troubling things but you've got to give Mr. Tuohy his due process on his application. If you just don't think it's a good idea and you don't think it's right for a lot of reasons don't approve it and tell him what those reasons are. But if your reason for not doing it is what you suspect is going to happen and the reason for that action is the adult use, then you're really traveling down a road that's going to be expensive and we're not going to win in the end.

John Steinbrink:

I think sometimes when you talk about the impact of adult-oriented businesses on their neighbors think of Southridge Mall and any of the other malls that have a Spencer's gifts in them. There's adult items in there, many adult items, gag gifts or whatever you want to call them. Those are adult-oriented businesses in there. They're side by side, and as Mike said they're held to a set of rules. Throughout that entire mall they are. They're like any other business in there. And they'll be right next door to a clothing store or anything else in there, a restaurant, all within the same building. I never saw anybody walk a large path around it to get past a Spencer's gifts. If you go in there you'll see many of the same items you see in these other areas. So what the impact is on business I think it determines by whatever the zoning is and whatever the zoning enforcement is, whatever the rules are. As I said we have the rules in the Village.

Mike Serpe:

This Village has spent thousands and thousands and thousands of dollars on creating the ordinances that we enjoy today for everybody's protection. Mike couldn't have explained it any better than what he did tonight on what would happen if we were to deny this application, and I will not be caught up in violating somebody's First Amendment rights by denying it for the wrong reasons. And with that I'd move approval of Ordinance 05-22 and 05-23.

Steve Kumorkiewicz:

I'd like to second that because I'm concerned about when we redid the ordinance two years ago there were 27 cases in federal court concerning the usage, concerning adult usage. So we have to

be very careful. I recalled we've talked about that. It's a very dangerous situation. You've got to have an alternative and you've got to go with the background that we have in that and the ordinance. We discussed it for a long time. We have to be very careful with that, because we don't want to make a decision to give Crossroad a step to get in and get the federal court to . . . all our zoning ordinance and we'd spend so much money.

It's a tough decision but one of the decisions that has to be made whether it sounds good or not, but knowing the results in that is going to be pretty hard to make a decision in this. But, do we have a choice? I think that we don't.

John Steinbrink:

We have a motion and a second. Further discussion?

Jeff Lauer:

Yes, Mr. Pollocoff, I appreciate your comments there. I know when I was speaking I did not arbitrarily say I was going to vote no because of such and such reasons. So let the record show that whatever vote I take I can defend. A question I have, Mike I don't know if this is for you or not, but we're discussing according to what I read, delivery trucks. Does this mean if this road goes through, actually two questions I have, if this road goes through who pays for it? And is it just delivery trucks or semis that can just park there for however long.

Mike Pollocoff:

The way the petition is structured it's made for semi turning movements. Semis can go in there and they couldn't park there because there frankly isn't enough room. They could park or make their delivery, drop off a load there and pull out, and if they wanted to park they could park along that median there that Jean is highlighting on the map.

And then who is going to pay for it, it would be Mr. Tuohy's expense to pay for it. Let me be perfectly clear. I don't want to pull the wool over anybody's eyes. If Crossroads was to choose to relocate there, under the statutes for relocations benefits the Community Development Authority might have to participate in the expenses for making that access available. Again, the Authority has heard from their attorney they have no interest in locating in this spot. But I can't tell you--that's a different entity than the Village Board and they haven't heard that yet but I think that's where we're at. But trucks would pull in there, and it would be Mr. Tuohy's expense as part of his improvements to do that because I think he'd be looking at it on a different time frame than what we're looking at. But if the Authority does relocate them that are an expense that would be associated with the relocation expenses where we'd have to assist them and that would be something the Development Authority would be helping with.

John Steinbrink:

Motion and a second. Further discussion? Hearing none, those in favor?

Voices:



Village Board Meeting  
June 6, 2005

Aye.

John Steinbrink:

Opposed?

Jeff Lauer:

I abstain.

Alex Tiahnybok:

I abstain, too.

Mike Pollocoff:

Abstain on the basis of what; we'll need for the record.

Jeff Lauer:

I just don't agree in having a road in that right of way on some information that was mentioned earlier on the State does not want more right of ways.

Alex Tiahnybok:

I abstain on the basis of I have no objection to the PUD concept. I think people have the right to be concerned, and I would have no problem voting for this if it was tabled for another date. But on the basis of concerns I abstain.

John Steinbrink:

We have three ayes and two abstentions.

**SERPE MOVED TO CONCUR WITH THE PLAN COMMISSION RECOMMENDATION AND ADOPT ORD #05-22 AND #05-23 FOR A ZONING MAP AND ZONING TEXT AMENDMENTS FOR THE REQUEST OF MARTIN TUOHY, AGENT FOR WISCONSIN REALTY VENTURES LLC, THE OWNERS OF THE PROPERTY LOCATED AT 8501 -8503 75<sup>TH</sup> STREET, FOR A ZONING MAP AMENDMENT TO ADD A PUD, PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT DESIGNATION OVER THE PROPERTY AND TO AMEND THE VILLAGE ZONING ORDINANCE PURSUANT TO CHAPTER 420-137 OF THE VILLAGE ZONING ORDINANCE TO PRESCRIBE THE SPECIFIC ZONING REGULATIONS APPLICABLE TO SAID PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 3-0 WITH TIAHNYBOK AND LAUER ABSTAINING FROM VOTING ON THIS MATTER.**

- E. Receive Plan Commission Recommendation and Consider the request of Nancy Washburn, agent for Regency Hill Creekside Crossing LLC, owners of the 120 acre property generally located north of 93<sup>rd</sup> Street east of Old Green Bay Road to approve the Interim Mass Grading Development Agreement and Engineering Plans and related documents to begin Mass Grading of the property prior to approval of the Final Plat for Creekside Crossing Development.**

Jean Werbie:

Mr. President, this is a request by the Regency Hills Development through Creekside Crossing LLC. They currently own 120 acres of land north of 93<sup>rd</sup> Street and east of Old Green Bay Road. It's located in the southwest quadrant of the Whittier Creek neighborhood. A branch of the Jerome Creek traverses through the property from the northwest down to the southeast. This is a property that has been evaluated and has been before this Village Board and the Plan Commission a number of times over the last ten years, and it is now ready for the developer to begin the mass site construction on the particular project while we final out all the details with respect to the condominium and subdivision plat for the development.

The preliminary plat for the Creekside crossing subdivision, as well as the plat, have been preliminarily approved by the Plan Commission and the Board. What they are requesting to do is to develop 24 single family lots that average in lot size at 21,804 square feet. There will be 64 acres for 288 condominiums, including 34 two-unit, 17 four-unit and 19 eight-unit buildings. There are 18 acres for new public right of ways and 20 acres of open space that will be providing areas for wetlands, floodplain, dedicated park space and other open space.

Upon approval of the floodplain boundary adjustment, the zoning text and floodplain zoning map will need to be amended and we're going to be working through those steps as well. As part of the process they had gotten their original letters of approval from FEMA, but the way the Village ordinance is set up you actually have to perform that mass grading work and conduct that floodplain boundary cut and fill adjustment before the floodplain can then officially be amended on the official zoning map. The areas are currently zoned UHO, and eventually will be moved into the PUD, again, when it gets to the point where we have very specific language that can be put together for each of the condominium units.

On May 2, 2005, the Board approved a variance from Chapter 395-80 of the Village's land division and development control ordinance. This allowed the mass grading for Phase I to be commenced prior to the final plat approval of both the subdivision plat and the condominium plat. It's their intention that the final subdivision plat is going to be coming to us sometime early summer, and by late summer the final condominium plat will be before us for final approvals. The mass grading for Phase I of the development, Phase I includes stage 1 single family and stage 1 condo which is along the southern portion or southern half of the site. Prior to the mass grading, the developer is to enter into a mass grading interim development agreement with the Village which you have in your packets. It was specifically written for them and includes details specifically for this particular project. The installation of public improvements such as sewer, water, storm sewer and roadways cannot commence until after the final plat is approved and all the documents related to the plats is approved and financial security is posted with the Village.

Village Board Meeting  
June 6, 2005

In the interim mass grading agreement, there are provisions that a letter of credit does need to be posted for a minimum of two years, and a number of documents as outlined in the exhibits do need to be provided to the Village. All of these documents have been provided and are in order and we tentatively have set closing with the developer and a preconstruction meeting for this project for tomorrow. The staff recommends approval as well as the Plan Commission subject to the comments and conditions as outlined in the staff memo and all the conditions and documents as related to the interim mass grading agreement.

Mike Serpe:

If I'm expected to make all the motions I want a raise. If everyone is making the same money we should share the wealth a little bit here. I will move approval.

Alex Tiahnybok:

Second.

**SERPE MOVED TO CONCUR WITH THE PLAN COMMISSION  
RECOMMENDATION AND CONSIDER THE REQUEST OF NANCY WASHBURN, AGENT  
FOR REGENCY HILL CREEKSIDE CROSSING LLC, OWNERS OF THE 120 ACRE  
PROPERTY GENERALLY LOCATED NORTH OF 93<sup>RD</sup> STREET EAST OF OLD GREEN BAY  
ROAD TO APPROVE THE INTERIM MASS GRADING DEVELOPMENT AGREEMENT AND  
ENGINEERING PLANS AND RELATED DOCUMENTS TO BEGIN MASS GRADING OF THE  
PROPERTY PRIOR TO APPROVAL OF THE FINAL PLAT FOR CREEKSIDE CROSSING  
DEVELOPMENT; SECONDED BY TIAHNYBOK; MOTION CARRIED 5-0.**

**G. Receive Report and Consider Adoption of a Pavement Management Program for  
Streets and Roads in the Village of Pleasant Prairie.**

Mike Pollocoff:

Mr. President, our Street Superintendent, John Steinbrink, he's going to go through our pavement maintenance program and where we sit on that. We're going to be beginning our budget process next month, and over the last year there definitely were issues that were brought about concerning road maintenance in the Village and how that's been done and how it's going to be done in the future. So I think as a matter of policy I asked John to prepare a program as to the logic of how we're going to do road maintenance and how it's going to be done for the Board to make some choices and look at some alternatives of how we're going to be doing this. John, go ahead and get started.

John Steinbrink, Jr.:

Good evening everyone. I've prepared a small presentation that talk about the Village's road maintenance programs. Two of the goals I have for this even are to try to identify acceptable surface treatments for the Village roadway system, and secondly to determine funding alternatives.

We're going to start off tonight talking about a couple of brief definitions, talk about some pavement distress, the PACER rating systems which is the State approved rating system for the State of Wisconsin, different maintenance options, different ways to predict deterioration, the maintenance impact and finally the cost.

Asphalt concrete, the best way to define concrete, when people think about concrete they think about precast concrete as you would have in a concrete driveway. But the definition of concrete is particles held together by a binder. It's just kind of the glue that holds together the other parts. You can have it either in a standard precast concrete where you have sand and gravel held together by a cement paste, or the asphalt concrete where you have crushed stone that's held by asphalt cement. Both types of concrete act in a similar manner. They expand and contract and both of them do crack as you see commonly on the roads.

The other thing is an asphalt emulsion. An emulsion is a mix of the asphalt cement, water and the agent. Those three ingredients are mixed in a colloid mill, and the end results, give or take a little bit, is 65 percent asphalt cement and about 35 percent water and an emulsifying agent. When you put the material down, when the sunlight hits it, when the heat from there hits it, the water evaporates out and that makes the surface hard.

So in your standard asphalt like we have is a cross-section for Village roads. You have 95 percent aggregate, you have 5 percent of the cement, and then you have 3 to 5 percent air voids. Emulsions can be made with different types of charges. Different stones have different types of charges, and I guess in a nutshell you need to be careful that you match the right emulsion with the right stone.

The super fade mixes are the mixes that have been developed through the strategic highway research program, and the name comes from superior performing asphalt pavement. It is a national standard and it is a standard that we do here in Wisconsin. The binder is selected to meet loading and climate, and compaction is based on traffic loadings.

There are some pavement problems and causes. The different things we evaluate when we do our road evaluations are different types of distress. It indicates what the problem is, the level of severity which indicates how bad the problem is and then the amount of distress which indicates how much repair must be done. There's many type of pavement distress which you can see when you travel down any road whether it's in the Village or anywhere else in America. There's various types of cracking, there's rutting, shoveling, bleeding, raveling, and we'll go into some more of these in detail a little bit later.

The road surface, probably the best way to explain it is it must be protected like a roof. A roof need to be impermeable, it needs to be slow for drainage, it needs to have a system of drains which would be a storm sewer or ditches. The same as you would want to seal your roof from leaks you would want to do the same by putting in a cold patch mix, reseal it periodically by putting some more shingles on top of it, or eventually just tear the shingles off and put a new roof on it. There are different types of surface treatments. There's a chip seal, which we had done last year in the Village, slurry seals, micro surface, micro paving and mill and paving.

The chip seal is probably the cheapest of the surface treatments. That's where you take a layer of asphalt, cement or emulsion with a layer of chips one stone thick. We have some pictures, and the top one shows the truck putting down the emulsion. The second truck on the middle picture shows the machine putting down the stone, and then the third picture shows the rollers bedding the stone. This provides no strength, had a six to eight year life. It is the cheapest cost per square yard at around 65 cents per square yard, but by far it is the most unpopular. The chip seal procedure is you sweep and vacuum the road, apply an asphalt cement or emulsion, apply the chips, roll it with a pneumatic roller, and your goal for that is to embed about 60 percent of the chip, sweep and vacuum up the extra stones, open to slow traffic and sweep the excess chips in three to five days.

Slurry seal is something the Village has done on Tuckaway Trails, Green Tree, 116<sup>th</sup> and we've used it a lot in our industrial parks. That's where you take a mix of the emulsion, sand and water, applied with special mixing equipment, spreader box and squeegee which is shown in the middle picture, and it has about a four to six year life span. A cape seal is a combination of a chip and a slurry seal where you first put down the chip seal and then you come over the top of it with a slurry seal. It kind of holds the stone in place a little bit better. It provides some better waterproofing. We saw some examples of this up in the City of West Bend which uses cape seals in their maintenance program.

A micro surface is kind of like a double layer of a slurry seal. But one of the advantages to having it--going back to the slurry seal, one of the disadvantages to a slurry seal is that you need to keep traffic off of it for about six to eight hours. And one of the advantages to the micro surface is that you can open it to traffic in one hour. This is something that could be very useful in the industrial park when you have a lot of trucks driving to the businesses.

The next treatment is a micro pave. It's basically just a very thin layer of asphalt. There are no chips, it provides a smooth surface, and it does add some structure. Before 2003 the Village cross-sections for road were three inches of asphalt. It was an inch and three quarters of binder with an inch and a quarter of surface asphalt. In the cross-section now that we have is five inches. So I guess one of the advantages to putting down a micro pavement, some of the older subdivisions that bring it up from three inches up to four inches or five inches depending on how thick you might want to put the material down.

One of the things that comes along with the micro paving is that anything you add, any asphalt, especially in a curb and gutter cross-section you don't want to put the asphalt over the top of the curb. So what you do is take a milling machine which actually kind of shaves off whatever you want. If you're putting down an inch of asphalt you probably want to mill down one inch so you have a small depression alongside the curb line. Then you can take that material and reuse it for shoulder material, base for parking lots. If you have a rural cross-section you can just kind of push it off to the side.

The pulverizing is something that actually breaks up the existing asphalt altogether where you're not saving any of the asphalt at all. You're taking the existing roadway and pretty much making base material out of it. And then, again, depending on the cross-section, you're either hauling it out of there if you have curb and gutter, resloping it, or if you have a rural cross-section you're

just adding it for base material. And you will take new asphalt layers and construct them on top of the pulverized material that you just chopped up.

Reconstruction is the most costly of everything, and it's not really a surface treatment but it's what you have to do at the end of the day when you have storm sewers that have failed, you have curb and gutter that's getting old, your roadway had deteriorated. This picture shows some pipes and some storm sewer and a lot of construction going on.

So for pavement management, the Village is inventorying all the roads and the streets, and we evaluate the pavement condition every two years. This something that we are required to do by the State of Wisconsin and then hand in our ratings. We use the condition evaluation to set priorities for projects and select alternative treatments. But in the past we've been limited by funding and a lot of the projects will get deferred. You run into a lot of problems when you defer projects and I'll get into that in a minute.

For inventorying our roads and streets, as I said before, we are required every two years from the State of Wisconsin to use a PACER surface evaluation and rating system. And that's a system where you rate your roads from a one to a ten. A ten point is the highest which is basically a new asphalt road, and a one is the lowest that you can have.

There are three major categories of asphalt distress. You might look at surface defects which is the raveling, the surface deformation which is rutting, shoving and settling. You might see when you're driving down the road that just had a sewer line put in and if it wasn't compacted or if there was any trench settlement it kind of dips down. And then you also see the cracking. You might have some transverse longitudinal block and alligator cracking.

I'm going to spend a little bit of time to go over the PACER rating just to give you an idea of the different things we're looking for and how we rate back to the State every other year. This is 91<sup>st</sup> Street in south Kenosha. This was just paved last year. Since it was just paved we would call this a ten which is excellent. There is no visible distress; it doesn't have any cracks. This is the road that everybody would love to have in front of their house.

The next road I'm going to show you has a surface rating of nine. Really there's still no visible distress, but it's something that it's been paved a couple years ago, it's still like new, and people are still happy to have this road. This is in Prairie Ridge Subdivision Phase III.

The next one is a surface rating of an eight which is considered very good. The visible distress you might have some widely spaced cracks. The cracks are sealed. It might be something that had a recent seal code. Right now there's really no maintenance required on this, but there is something that's going to be needed soon. This is a picture of a road in the River Oaks Subdivision.

A surface rating of seven is good. You might see some slight raveling. Raveling is where the small stones are starting to release from the asphalt surface. You might see some quarter inch cracks, which you can kind of see one of the cracks there across the center line. This crack hasn't been sealed all the way yet. It's kind of your first sign of aging. You're going to want to do a crack seal, and this is the ideal time to begin doing a surface treatment of some sort.

The next road is a six. It gets a little bit worse. You can see that one crack. That one crack across there is actually multiple cracks and now it's starting to ravel a little bit more. You have a few more cracks a little bit closer. The road itself is still structurally sound and it's definitely in need for a surface treatment. This is Rolling Meadows Subdivision right behind the Village office.

The next we have is a five which is fair. You have some moderate raveling, your cracks are open a little bit more than half an inch, but they're still spaced a little bit far apart. There's the beginning of block cracking in some spots. You might see some patches. The road is starting to show a little bit of its age but it's still structurally sound. This is Old Green Bay Road north of 93<sup>rd</sup> Street. This is probably about getting towards the end of when you can really effectively do something with the surface treatment.

The next road that we have is rated a four. As you can see compared with the last one there is a lot more raveling. The cracks are opened up more. The cracks are getting a little bit closer. You're getting some block cracking which you kind of see around the center line, some patching. You're going to begin to need some strengthening, and it's probably getting time to do some sort of recycling or an overlay. This is 93<sup>rd</sup> Street just west of Cooper.

The next one is a three. The roads are getting progressively worse as we go. The cracks are getting worse. You're getting more alligator cracking. You're starting to see a little bit of rutting where you're having some structural problems. Once you get down to three or below you pretty much need complete recycling. This is 93<sup>rd</sup> Street just east of . . .

The next one is two. I probably get more calls from people that have one's through four's than seven's and eight's about the conditions of the roads and when are we going to do something out there. This is considered very poor, but believe it or not it's not the worse but it's getting pretty close to it. The alligator cracking is all over as you can see. The rutting, potholes, complete recycling and basic repair. This is 89<sup>th</sup> Avenue south of 70<sup>th</sup> Street.

The worst you can have is a one which is pretty much completely failed. It really doesn't show it, but if you zoom in on the left-hand side it's gone. There's grass growing up in the road. The potholes, the patches that failed. It needs pretty much a total reconstruction. This is 84<sup>th</sup> Street just east of 63<sup>rd</sup> Avenue.

For predicting deterioration, deterioration is two general causes. One can be environmental due to moisture, weathering and aging, and the second one can be structural caused by repeated traffic loadings or having a poor foundation. This is the standard pavement life cycle for asphalt. A road starts off good. Let me back up a little bit. The pavement condition, the PACER rating is shown on the Y axis on the left side, a ten being brand new and one being the poor road that we just saw. And then on the X axis we have the pavement age. Your standard pavement life cycle that to try to plan or shoot for is 20 years when you design pavement without doing any sort of a surface treatment.

Just to kind of put a couple things in perspective then and to try to associate some costs to the pavement life cycle curve, if you would take two life cycle curves, each of them at 20 years and

the same pavement life cycle, to take that road and bring it down from a one back up to a ten and to start the second cycle again it's going to cost you about \$15 a square yard. Now if you take that same pavement life cycle with some other maintenance costs of surface treatments, whether you do is as a chip seal, a slurry seal, a micro surface or micro pave, what it does is takes that base curve, what you see in blue, if you do something in the first six year period it kind of brings it from a seven back up to an eight or a nine, and then the curve starts down again. You do something again, the curve continues on. You do that multiple times. So by what we've seen on this graph you've done four surface treatments at a cost of anywhere from 65 cents and \$3 a square yard.

So for the maintenance impact, taking the two 20-year pavement life cycles is going to cost you about \$15 a square yard. If you jump down to the bottom at the cheapest surface treatment, if you would do four chip seal treatments it would be \$2.60 a square yard, but if you do a combination of chip seals on roads that don't have a lot of houses, if you do some micro paves with the asphalt in areas of curb and gutter, you do some micro surface in the areas of the subdivision so that some ice can get in, that's going to be about \$4.50 a square yard.

Based off of our PACER evaluation that we just finished, it kind of shows a graph of how many square yards of each road condition that we have. So we have the square yards of each condition on the left and the PACER rating on the right. Phase 1 and phase 2. Phase 1 is a phase 1 development for new development, and that would be, for example, Village Green. It still has gravel roads and it's going to have gravel roads until 50 percent of the homes are built and then it moves on to be a phase 2 road which just has a binder surface, and you'll have a binder surface until 75 percent of the homes are built. Then when you get the final layer on it, it kind of starts as a ten. So I threw those on there just to show there is a lot of new development that's coming up, and with the development at Creekside and some other subdivisions going on those numbers are only going to increase.

A bulk of our distribution right now, and if you go with that curve, I think 44 percent of our roads are a PACER rating of eight right now. So right now is the time. When you want to take those roads that are a six, seven or an eight do some sort of a treatment on them before they get down to four and under where it gets very costly to do repairs.

The Village has about 1.8 million square yards of asphalt. So to try to put some sort of a maintenance cost to the surface treatments, if you don't do anything with the maintenance on the roads and all you do is just let them go for 20 years and in 20 years pulverize them, reconstruct them, put some new asphalt down, it's going to cost about \$15 a square yard. If you take a combination of treatments which was the micro pave, the micro surface, some slurry and some small amounts of chip it's about \$4.50 a yard. That times the 1.8 million square yards is \$8.1 million over the entire cycle, and then if you do four chip seals, which is the cheapest of the maintenance, it's \$2.60 a square yard which is just under \$4.7 million. You can see there's a big difference between not doing any surface treatments and just doing the four chip seal treatments.

So if you break those down to annual costs, the annual costs for not doing anything with the roads, if you still want to repave the roads every 20 years, it's going to be \$675,000. The combination of treatments is going to be \$202,000. And just doing a chip seal on all the roads as a surface treatment is \$117,000. But not those numbers that I showed you don't include any of



the reconstruction needs that we currently have. We have just under 65,000 square yards of asphalt that need to be reconstructed completely at about \$35 a square yard. That \$2.3 million that's estimated for these projects. So the cost for that over six years is \$377,000.

This is a treatment summary that we put together based on the different PACER ratings, the different surface treatments that you might have, and it shows a total of \$7.3 million of maintenance and reconstruction that needs to be done over all of the Village roads.

One of the things on here, if you look at treatment eight, those are roads that are at a PACER rating of eight, where right now they're not in too bad a shape, but in about three years it's going to need some sort of maintenance to keep it up on that curve, and that's just under 45 percent of all of our roads. Anything that is a PACER rating of a nine and ten doesn't need any treatment now. That would be those roads that we showed you in south Kenosha or down in Prairie Ridge, Phase 1 and Phase 2 of the development.

One of the things to look at also is if you look at percent of total area for the reconstruction is 3.69 percent of your total area, but if you go all the way to the far right it's almost 31 percent of your total cost. So when you defer roads all the way down to when their PACER rating is three, two and one it's very expensive to get them back up to where they need to be.

This is a treatment summary that kind of gradually shows what I just talked about. The blue bar is a treatment area that corresponds with what we just had in the back, and the red bar would be the treatment costs. And you can see for the reconstruction and the pulverizing you're really spending almost \$5 million just to do under ten percent of your roadways to pull them back up, where some of the other treatments, whether it's mill and overlay or micro pave or micro surface or a chip seal, you're really getting a lot more for your money.

So if you want to develop a six year paving program that addresses everything that we talked about based off our analysis of the roads, we're at \$7.3 million. You would easily spread that out over six years where something would be done on the roads over the six years not including any inflation we're at about \$1.2 million per year. This is a graph that shows some of what happens when you defer asphalt maintenance. The blue line is back to the pavement life cycle. The yellow line I put around the PACER rating somewhere between six and seven. To maintain that road to bring it back up to an eight or a nine it costs anywhere from 65 cents to . . . a square yard. The whole premise behind pavement management is taking care of your good roads first, because you're going to get more of a bang for your buck out of it.

Both of these roads were paved at about the same time. The road on the left is Meadowdale subdivision. and the road on the right is Foxmoor Subdivision. Meadowdale has not received any sort of crack sealing, any patching, any sort of surface treatments. That subdivision has been deferred for any sort of maintenance. Foxmoor subdivision has received the patching, the crack sealing and just recently in the last year surface treatment. And you can really see over the course of really not that long, only 11 years, what a difference in the asphalt you can have.

I guess the next thing that we deal with all the time is the selection of candidate sections. Everybody calls and they want to know when are you going to repave my road? Mine's been bad forever. I believe we heard something at the last Board meeting and many Board meetings. It's

something I hear on a weekly basis myself. There are three criteria that we look for. One of them is we want to make sure that the utilities need to be installed underground. It doesn't make a lot of sense to take a road that doesn't have water under it where we pave the new road, go right down the center of it with the water main and you're really doing it up again. So we've made it a policy to make sure all the utilities, the sewer, the water and the storm, are installed underground before we do any sort of a reconstruction or pulverizing.

The existing roads need to be asphalt. One of the things we haven't talked about is we do have a small percentage of gravel roads in the Village. A majority of them are out in Carol Beach. So the Village policy has been the first time that you take a road from a gravel to an asphalt road you make an improvement and that's something that the property owners are assessed with. And then, finally, the proposed maintenance treatment must match the maintenance treatment per this report. You don't want to have someone that comes in with a road that has a PACER rating of a six and say I don't want a surface treatment; I just want a new road because I'm special and I pay a lot of taxes.

This next map, and I'm not sure how good you can see it because it does have a lot of detail, kind of shows where in the Village we have areas of infrastructure that are required before we can do any sort of pulverizing. We have a small area out in the Chateau area where the Village still needs to acquire some right of way. Anything blue are areas where sewers need to be installed. I believe we have one sewer relay up in the Greenfield area. Areas in red are areas that need sewer and water put down. Areas in purple are storm, and then blue is water. So there are a lot of areas. And this is something I guess probably comes more into play when we develop our six year capital plan. We need to make sure whether it's the storm or sewer or the water it's in place before we do the pulverizing or so we don't pay to do it twice.

The impact to the mill rate. In the past or last year the Board agreed to we're not going to do any reconstruction but we are going to take care of the maintenance, and we're going to try to do the maintenance at the cheapest cost that we can to keep the mill rate down. So with the chip seal treatment, like I said before, if you would do everything, not the reconstructs, but just everything that needs some sort of a surface treatment in the Village, it's \$5.3 million and that would be over six years which is about \$877,000. The 2005 mill rate is \$3.54 per thousand. The average assessed value is \$225,200. And so the cost of just doing a chip seal to the roads that need the chip seal minus the reconstruction is about 45 cents added to the mill rate. That's a 12.8 percent increase and it would cost the average property value approximately \$102 per year.

If you do no surface treatment whatsoever, so you're just taking the road and you're taking that \$15 per square yard times the 1.8 million square yards is \$36 million over 20 years for an average of \$1.8 million per year, and that's not doing any chip, any slurry and micro paving. The cost of this program would increase the mill rate up to 93 cents, and that's about a 26 percent increase that would cost the average property value approximately \$209 per year. This one is going to be about 50 percent more than the cost of doing combination treatments which I'm going to show you next.

So doing a combination surface treatment, which would be doing in the curb and gutter areas you're putting down the micro pave, doing the edge milling. Some of the areas in the industrial park you're putting down the micro surface which is like a double slurry seal that cures in an

hour. I think we have one road in there with chip seal, that's Bain Station Road, from Highway 31 all the way down to Highway C, which I think has only two residents on there, that costs \$7.3 million over six years as an average of \$1.22 million. So the cost of this program will increase the mill rate 63 cents, an 18 percent increase and approximately \$142 per year.

So to see graphically all the numbers what the different increase to the mill rate would be for the different possible combinations. So if you would just do chip seal treatments, you're looking at just over 46 cents. If you're doing combinations it's about 62, and not doing anything at all was around a 93 cent increase in the mill rate. That kind of relates to the average increase for the average home as being just over \$100 just for the chip seal, combination treatments just under \$150, and over \$200 for not doing any treatments whatsoever.

The funding alternatives I'm going to pass this along to Mike Pollocoff.

Mike Pollocoff:

Essentially in Wisconsin there's two ways for a municipal government to fund this type of work. The Village and the Town had a policy long before I came here that once an improvement has been accepted and it's been built to the Village specifications then the Village will maintain that, and the cost of maintaining that is borne on the levy. Another way of doing that is you can take a look at the road improvements, especially if the Board was to adopt a policy that they're not going to do anything to the roads, when that road comes up for rehab and reconstruction treat it like a homeowner would treat their roof. If your roof lasts 20 years then you have to pay the cost to re-roof it. If your road lasts 20 years and it's time to be replaced, then the Board would levy a special assessment for the cost of putting a new road back together.

It isn't used that often in Wisconsin. I know the City of Racine uses it. Manitowoc, Port Washington, Whitewater, some communities do it and if it's been established people are used to it. A lot of those communities have some formula whereby the City is paying a portion and the homeowners are paying a portion. But what that special assessment does is typically it's like a loan from the government to the residents, so the Village is going to incur debt to fund that special assessment. So there's a lot of issues that go along with this.

As the Board developed the budget last year, we had set money aside, this year, too, but the 2004 budget prepared in 2003 the Board was looking to maintain a frozen levy, so the alternative was to be able to get as many roads done at the lowest possible cost, and I think we funded that year \$130,000 for chip seal. There's no question that chip seal is kind of a mixed bag. We've had some success with it. There's some roads that people haven't had any issues, and those have primarily been roads with a rural profile where you don't have a lot of traffic where you have people backing out of their driveways, making that turning movement with their wheels and taking off and going one way or another. Under those movements you do get some raveling under a chip seal. Whereas if you have a road that's a long straightaway, especially if it has a fairly decent traffic count on it, it seems to hold up pretty well.

As a Board directive we prepared a bid or specifications for a micro pave to cover two existing subdivisions that were some of the chip seal. So as we prepare to go to the budget, we have a number of issues that we're going to be starting at next month, a number of issues that we need to

look at. One is we're going to need the Board to make a policy decision on what are we going to do with the existing roads. I think the one chart that John showed is probably the most telling. John, if you want to put that one up.

John Steinbrink, Jr.:

Which one is that, Mike?

Mike Pollocoff:

Where the roads are ranked one through eight and you can see what percentage we're dealing with. We can take a look at treatment A we have 44 percent of our roads, and this is as of this year, we just did our PACER ratings. If we do nothing on them, what we want to do is to avoid getting that not too much bang for the buck for what we're putting in there. We're going to be facing some kind of--we have a self-imposed freeze on right now, and we may have an imposed freeze that's established in the future, but those numbers aren't going to change no matter what policy the Board decides to use as far as to freeze or not to freeze or how they're going to fund it. And we're right at the precipice now where we should be making some policy decisions on how we're going to govern this. Are we going to make a conscious decision to let the roads go and pick them up whenever we can afford it and pay the \$9 if we're at that point, or do we come up with a plan to structure maintenance?

I think one of the issues that public works deals with and I deal with is a lot of people are saying my neighborhood streets aren't getting taken care of like some of the other streets. Although we have a good plan on paper for what needs to be done and we've identified the extent to what every road needs some kind of treatment, whether it's a micro surface or a chip seal or a micro pave or a pulverization and reconstruction, what we need to be able to do as a community is know what our road needs are for maintenance of this type and have that funded in the budget so that the Board or staff can say with some certainty to somebody where they're going to be within the paving cycle.

The numbers that aren't in here that's another whole set of issues is we have a number of roads that are in the condition they're in because they don't have any proper drainage. That's what John was talking about with the infrastructure improvements. We talked about two meetings ago the roads in Carol Beach where they're in bad shape, not all of them, but some of them are in bad shape because they were paved and there's no drainage. Water doesn't drain away from the road. The road is an impervious surface so whenever you get water on it it's going to drain right to the side, and if there's not a ditch it can go to and you can't put a ditch in, then it sits on the shoulder and it undermines the asphalt and pretty soon it's alligatored like that one shot was in Meadowdale Farms. So there is another set of costs that we're going to have to address for some of these projects where there's going to be some other improvements that are needed.

I think this is getting the road ratings out on there, these are not ratings that we've created ourselves. These are the ones we have to supply the State. They go by and verify whether or not we're doing it right. The people that do it are trained. We have two engineers on staff, Bob and John, that review it and this is what we turned into the State and they concurred with our findings

on it. That's the easy part. The tough part is deciding to what level we're going to fund it and know what that impact is going to be as you go down the road a few more years.

Some of these roads if they're an eight now that's not to say they're going to be a six next year. The traffic impact is greater on some roads than it is on others. Some parts of the Village the soils are worse than they are on other roads, so the road can get to an eight faster or get to a five from an eight faster than it would in some other parts of the Village where it might not have that much traffic or the soils are tighter and it handles it better.

The purpose of this is not to tell you that the staff is coming in and recommending that we raise taxes 93 cents a thousand to do this, but on the other hand we want you to recognize the realities of what we're doing and if we make a conscious decision to look the other way that there's very significant costs that are associated with that. Not to mention just the fact that people want their roads taken care of. They expect for their taxes that something is going to happen whether the Village can afford it or not. That's our pavement management report.

Mike Serpe:

Mike, a question for you. Let's say the average frontage on a house is 75 feet, R-4, and a 37 foot wide roadway. Approximately what would it cost to repave that, just that section?

Mike Pollocoff:

Just repave and not rebuild?

Mike Serpe:

Yes, 20 years repavement.

Mike Pollocoff:

That's the \$15. Assuming that the base was in good shape, you're at \$15 a square yard.

Mike Serpe:

A foot?

Mike Pollocoff:

You want to get your calculator and bang that out?

John Steinbrink, Jr.:

What are the lot dimensions again?

Mike Pollocoff:

Village Board Meeting  
June 6, 2005

75.

John Steinbrink, Jr.:

On 75 feet long and an average frontage of?

Mike Serpe:

37 feet.

Mike Pollocoff:

75 feet wide.

John Steinbrink, Jr.:

But it would be half . . . on the other side with the rest. Around 125 square yards so \$1,800.  
That's how many square yards.

Mike Pollocoff:

So \$1,800.

Village Board Meeting  
June 6, 2005

Mike Serpe:

That's what it would cost if you assess that? It would be \$1,800 for the frontage?

Mike Pollocoff:

Right. That's one side of the street, though.

John Steinbrink, Jr.:

That's taking it at 16.5 feet or half the roadway.

Mike Pollocoff:

The average is 90 and not 75, so a little bit more than that.

John Steinbrink:

The price of petroleum often played a part. Years back we used to be able to get a lot more paving when petroleum prices were low, and I'm sure that the prices today were greatly diminished in the amount we can do with any of the products we use.

Mike Serpe:

This was I think a seriously contended campaign issue in the last election on the road surfaces we put on, and we took our lumps for it. I don't necessarily think that chip seal now that we've seen it in action is maybe the best way to go. We tried to do the best we could with keeping the cost as low as we could and it wasn't well received. Although other communities are doing it and they don't seem to have the problem and it's the same application. If I'm figuring this right about \$120 a year if we were to do one of the applications. Over 20 years it would be on the increase of the tax base about \$4,400 just for the road repaving at \$120 increase per year. Did I figure that right? If we add \$120 increase to the average home of \$225,000 over 20 years if nothing else changed would be about \$4,400. As opposed to if we were to assess for repaving as needed you're talking \$1,800.

Mike Pollocoff:

Under this program what it means is every six years. Maybe we could move that every seven or eight years, but we use six years because that's what some of those treatments last. Every six years you'd be paying that \$120, but you'd know that every six years your road would be redone and it wouldn't fall into a point where it was raveling or alligatored or what have you. So that's what the maintenance plan provides for is you take the roads, pull everybody up to get the bad roads fixed, keep the good roads good, and so we know over a six year period you're going to pay that \$120 a year. You're going to pay that every year, but you know that you're one if you're in that group that your road is going to get redone and six years from that point it's going to get redone. It's going to have a treatment on it that's going to do it. You can spread this thing out and push and pull and say we're going to do ten years and basically you're getting rid of some of

the surface treatments and you might be micro paving. You're going to pay more and you're going to stretch it out.

I agree with you the chip and seal didn't work in some areas but in some areas it did work. I don't think however you end up citing this I think to say no to chip seal no matter what there's some ideal applications for it where it's going to work fine and not affect a lot of residents. But we don't have sidewalks in the Village. People walk in the streets and chip seal in a subdivision is going to be a little more problematic to the people that are living in the subdivision than if you're on a rural road. We might not be walking down the road. Or if you are walking down the road you're walking in the gravel or the shoulder. The material isn't that different.

I think that's really the direction I'm looking for from the Board is how you want to proceed in planning pavement management and what you want to accomplish.

Jeff Lauer:

I think this is a good idea. John this is a good report. After I read it over the weekend I thought it was good. I think as far as chip seal goes I know a lot of residents don't like it. I didn't like it when it was put on my street because of what it did to my carpet. But I think it's good to have a plan in place. That way the citizens know, the Village knows what we're planning on. Maybe throw an idea out there that chip seal may be good in areas where there's very little traffic, but a higher price for something that isn't needed to be maintained as often. So I think it's good to have a plan in place and I think it will be well received by the citizens out there. I know as a campaign issue there's only one person I ran into that liked it over on Cooper Road. But I told residents if the future Board ever makes a decision on what type of seal to use you may be paying more. The question is "are you willing to do that?" I didn't have anybody say no. So the cost you show is within reason. So I think it's good to have a plan in place. That way the Village is focused on what it's doing. I can almost guarantee that it will please citizens. So do we need a motion to approve the plan?

Mike Pollocoff:

You could approve the plan. I don't know if there are any modifications you want to make to it or what level of the plan do you want to approve. Do you want to do the combination? John had a couple alternatives.

John Steinbrink, Jr.:

The method I'm showing up here right now is kind of the recommended treatment based on appraisalment evaluations. Anything in red is something that needs to be pulverized and relaid. Anything that's kind of hashed black and yellow, for example, 116<sup>th</sup>, 93<sup>rd</sup>, 85<sup>th</sup> Street up towards the top is going to need a total reconstruction. A couple areas in the brown for the mill and overlay. The micro pave in the areas that have curb and gutter sections, Green Tree. Tuckaway Trails is coming up again. Micro surfacing mainly in the industrial park. Actually there's an error in this map. Bain Station road is the only chip seal that we are recommending from Highway 31 all the way west to Highway C and that must have been a color error. It's shown as a dark green on the legend but it's yellow on the map. So this is kind of a mix of all the different



Village Board Meeting  
June 6, 2005

recommended treatments. I guess we were looking for some direction on how to develop our six year plan for it to be a budget cycle.

Alex Tiahnybok:

So, John, the map that you're showing chip seal would be applied to that section of Bain Road?

John Steinbrink, Jr.:

Right, and that's the only section in the Village right now that's showing any chip seal at all.

Alex Tiahnybok:

So this map is the 62 cent mill rate increase plan, correct, that you're showing?

John Steinbrink, Jr.:

This is the middle plan that we have.

Alex Tiahnybok:

It's the \$142 per property?

John Steinbrink, Jr.:

This one that I'm showing right now is the combination treatments, and so if you would go back-- here's actually how I did it. If you go back to the slide and if you would take everything from mill and overlay down, the mill and overlay, the micro pave, the micro surface, the chip seal and doing the future ones and changing the \$3, the \$2.25, the \$1.50 and the \$2.50 all the 65 cents as doing everything for chip seal I probably should have explained that, then that's how we came across with the chip seal treatment price. Even though we understand that some treatments are a little bit more expensive, it's a little bit more acceptable to some of the people in the Village, but then again it comes with a price.

Alex Tiahnybok:

But it sounds like we're getting in the right areas a better program for the 17 cents per thousand mill rate difference?

John Steinbrink, Jr.:

Right.

Village Board Meeting  
June 6, 2005

Alex Tiahnybok:

I'll parrot what Jeff said. I think people if they feel like they're getting quality they're prepared to spend in the extra dollars. I'm in favor of the combination plan.

John Steinbrink:

Is that a motion, Alex?

Alex Tiahnybok:

I motion to approve, yes.

Jeff Lauer:

I'll second.

John Steinbrink:

We have a motion and a second. Further discussion?

Mike Serpe:

That 63 cents a thousand increase, Mike, what will our mill rate approximately end up just with this alone? We allocate so much for road anyway. Would this 63 be over and above that now?

Mike Pollocoff:

No, we allocate \$130,000 for that right now. That's already in the mix. So all we're saying is the whole road combination surface treatment is 63 cents in that program. Some of that is already be done. So the bump up wouldn't be 63 cents. The bump up would be around 52 cents. I'm figuring that out of the back of my pocket right now. But the mill rate right now is \$3.54. The mill rate is going to go up next year whether we do anything--the Village mill rate will go up next year because it's not a reval year so the mill rate is going up. I don't know what it will be next year but it's going to come up. So it shows it would be an 18 percent bump on the Village portion of the property tax for this. Remember, this doesn't address the roads that are gone.

John Steinbrink, Jr.:

I believe it does address the reconstruction also, Mike.

John Steinbrink:

Is that 116<sup>th</sup>?

Village Board Meeting  
June 6, 2005

John Steinbrink, Jr.:

Yes, that's 116<sup>th</sup>. This has the reconstruction of \$2.2 million of pulverizing and then the surface treatments for a grand total of \$7.3 million.

Mike Pollocoff:

So what this would do is some people are going to want it year one but they might not get it year one, but over six years everybody will get visited and get their stuff taken care of, and then recycle again the following six years.

Mike Serpe:

And there's a cost to go along with that.

Mike Pollocoff:

Right. And the secondary cost that we're not addressing tonight we'll be addressing that shortly for some of the places that are going to need some remedial work. Like 93<sup>rd</sup> Street we're not going to put paving on that one until the sewer is completed. Some storm water projects need to happen. So those things are aside from this. Right now the road is in the shape it's in and it has to be taken care of, and some of those other projects are under way, too, or they're in the planning.

Mike Serpe:

And the residents without paved roads that are never going to get paved roads are going to pay the increase regardless?

Mike Pollocoff:

Right.

Steve Kumorkiewicz:

Shouldn't we be discussing this at budget time?

Mike Pollocoff:

Yes, this will get finalized at budget. But on the other hand I'm directing the department heads to start their budgets next month. We'll see you one more time and they'll be getting their packets. For public works and CD and finance to be able to start putting the packet together that's why we're looking for some policy direction as to what you want to find or what you want to do.

Village Board Meeting  
June 6, 2005

Jeff Lauer:

You brought up the topic after the motions were made. What's the guarantee that the mill rate is going up? To me that states that budgets are really done on two premises, you're going to increase taxes or cut expenses. Is there anyone in the budget that you know of now that it's going to go down? I don't know if I could ever make a statement that it's going to go up or down, but how do you know it's going to go up for sure?

Mike Pollocoff:

Well, as I said, there's not going to be a re-evaluation, which if the budget stays constant, which our budget has been or very near the last couple years, the mill rate tends to come down. We reval every two years. If the budget again stays constant, my experience has been that the mill rate creeps up.

John Steinbrink, Jr.:

One of the things, Mike that I would like to comment on is that all the figures and all the projections are in 2005 dollars. We did not project anything towards 2006 dollars and 2008 dollars. That's something that we might get more in detail in the budget process. All the numbers we have here are just numbers for discussion for the concepts of the surface treatments.

Mike Pollocoff:

One of the things I think we can assume correctly is that none of these costs are going to stay constant over a six year period.

Steve Kumorkiewicz:

No, definitely not.

Mike Pollocoff:

There's too many companies that sell petroleum, not that they make a lot of money, but it's a real dynamic market, so it is what it is.

Jeff Lauer:

So if this passes it will go to the budget process or is it a blanket--if it passes tonight is it set in stone it's going to be done or is it, like you mentioned, Mike, it's a budget area.

John Steinbrink, Jr.:

I think all they're looking for right now is just some direction. So when we go ahead and put the budget together we're not going to down the wrong fork in the road for lack of a better term. We want to make sure we prepare everything with some direction ahead of time.

Village Board Meeting  
June 6, 2005

Mike Pollocoff:

One of the things you're going to see is around the number 63 cents how the mills rate that's going to combined road maintenance program to do the roads.

Mike Serpe:

You're going to be looking at an increase in this area. We're going to have to get into budget meetings soon, and then you want to keep this the way it is and you're going to look at cutting something else and that's going to be interesting. We'll see where that shakes out. I can support this right now the way it is. I'll be honest with you I don't think it's going to work out this way during budget time. You're going to see that the money is not going to be there but we'll see.

Jeff Lauer:

That being the case obviously the numbers will be revised.

John Steinbrink, Jr.:

That's correct. The Board does have the final say on the budget.

Steve Kumorkiewicz:

. . .next year or this year we'll have to go over it again in an overview because I'm not too sure that this is going to work.

**TIAHNYBOK MOVED TO APPROVE A VILLAGE-WIDE ROAD MAINTENANCE PLAN OVER SIX YEARS USING THE COMBINATION PLAN THEREBY PROPOSING AN APPROXIMATE INCREASE OF 63 CENTS ON THE VILLAGE'S MILL RATE; SECONDED BY LAUER; MOTION CARRIED 5-0.**

**H. Consider Award of Contract for 2005 Street Resurfacing.**

Mike Pollocoff:

Mr. President, we've put out for bids, SuperPave, the product that John described in two subdivisions, Foxmoor and Whittier Heights subdivisions. Three bids were received from Payne and Dolan, Black Diamond and Cicchini. The low bid was received by Payne and Dolan in the amount of \$110,986.62. The next low bid was submitted by Cicchini Asphalt at \$124,455.90. I recommend that Payne and Dolan be awarded the contract in an amount not to exceed \$110,986.62 for the 2005 micro paving program.

Steve Kumorkiewicz:

So moved.

Mike Serpe:

I'll second it with a question.

John Steinbrink:

Motion and a second. Discussion?

Mike Serpe:

Mike, this is to redo the area in two subdivisions that were chip sealed, is that correct?

Mike Pollocoff:

We chip sealed and this will do two things. One, it's going to seal the chip seal, but both these subdivisions one of the issues we were having with these with some premature failure was, as John indicated, the Town's original profile or design on these roads was three inches on top of eight inches of stone. And what we've experienced on these subdivisions, because they're relatively new, is we're getting a lot of the traverse cracking, some failures and in spots we're sagging out. And it's probably a number of things. One is that our previous subdivision standards we allowed the road would be repaved in year two no matter what. Well, if the subdivision wasn't progressing very fast until you only had 30 percent of the homes built in there, 70 percent of the homes still had to be built, and those 70 percent of the homes when the road was its newest, its most suspect, you'd have cement trucks, truss trucks, lumber trucks, stone trucks coming in over those roads and put a lot of stress on them. We saw we were having problems with that.

A few years back we changed our land division ordinance that said we won't put that first binder on until 50 percent of the homes are built and done. And then we won't put the final lift on until 75 percent of them are done. I think that's helping us in these subdivisions. I don't think the cross-section is getting us where we want to be. Putting the sealant on there, the crack sealing, didn't hurt us at all. It did the job it was supposed to do but people just didn't like it. But by putting the SuperPave over it what it was going to do is mill the edges down by the curb, put a better crown down on the road and give us more strength and structure to the road. So these two subdivisions in particular we were having problems with.

I think the next problems we will be having problems would be in Green Tree Estates. There's a street in there that failed prematurely. It failed really prematurely. We did a lot of patching in that area. We did a lot of crack sealing and then we finally put the slurry on that road. But, again, I think it's soils and also that phase of construction where the construction really didn't happen fast enough and you have a lot of heavy equipment on those roads. So I'm recommending we do this on these two roads, and then if the Board was to chuck the whole program in the budget but they were to keep us at the same funding levels, I'd recommending doing Green Tree and Tuckaway next to get those up to speed.

But as an order of magnitude you can see where we are right now in doing road paving. We're talking about doing two subdivisions and we're out of money. If you look at the map that we had before how much needed to be done, you can see what the magnitude of scope is and how easy it

Village Board Meeting  
June 6, 2005

is to get away from you if you don't stay up with it because there's a lot of road. We have 119 miles?

John Steinbrink, Jr.:

Of center line miles, yes.

Mike Pollocoff:

119 center line miles. And we're only talking about doing two subdivisions.

John Steinbrink:

I think I'd like the department to follow up with some of the other communities that used the process we used in some of the subdivisions that people were unhappy with it. This is a widely used process throughout the State and it's not just back roads. It's pretty nice communities and pretty nice areas. See what the acceptance was in there and how it held up in those areas. Because I've seen even up in Madison on the street that the Governor's mansion is on they have this process there. All through Racine County and Wind Lake and other areas like that this is done in those areas. But the biggest difference is there's not a curb and gutter there. There's a gravel shoulder, and it looks pretty much the same our roads look here. If we could check with some of those communities what their satisfaction level is, what they've heard from the residents and how the process is holding up there.

This was a recommended process, one of the newest. These processes change every couple years, but this was the state of the art process for the dollars to be spent and to make your dollars go farther and to keep those streets lasting longer and just to see how that panned out over the duration of the last few years with the satisfaction. So if we could check with some of those other communities, check with the contractor and how they've done this work just to see how it worked in those areas. We had people who were not happy with it, it's not what they expected and they wanted more.

Alex Tiahnybok:

This . . . slag chip seal was installed last year or two years ago?

John Steinbrink, Jr.:

It was installed last year.

Village Board Meeting  
June 6, 2005

Alex Tiahnybok:

Using the PACER ranking system, what were the ratings for these roads prior to the chip seal?

John Steinbrink, Jr.:

I believe that Whittier was probably between a six and a seven and Foxmoor was up at a seven or seven and a half rating.

Alex Tiahnybok:

And currently they would be what?

John Steinbrink, Jr.:

It brings them up to an eight or just over an eight by putting the surface treatment on. We did 164,000 square yards of chip seal last year, and the two subdivisions, Foxmoor and Whittier, constituted about 34,000 square yards of those 164,000. So it was under a quarter of the area that we had the problems. We heard most of our complaints in an area where they were curb and gutter profile.

Alex Tiahnybok:

As compared to that \$1.2 million that we're talking about on an annual basis with that combined treatment plan, this is not a huge part of that but this sounds like these two subdivisions were the squeakiest wheels and they have eights now or sevens and we're considering doing this SuperPave treatment in those communities when there's a lot of other areas that I would contend, and I think the chart that you showed, have much poorer conditions. I guess I'm having a problem with the notion that these are by the PACER rating eights or above and there are other subdivisions that I think can demonstrate much poorer conditions. At least at this point in time they're not getting attention.

John Steinbrink, Jr.:

There was a structural issue with the other roads that Mike had talked to, and that's one thing that the micropaver or mill and overlay will do. It will give you some more structural integrity whereas the other surface treatments do not do that and kind of extend the life that way also.

John Steinbrink:

So there would be older three inch versus the newer five inch.



Village Board Meeting  
June 6, 2005

John Steinbrink, Jr.:

If we put this down, they're at a three inch right now both Whittier and Foxmoor. That would bring them up to about a four inch cross-section.

Mike Pollocoff:

They go to a ten with this.

John Steinbrink, Jr.:

Yes, it would be a nine or ten. They'd be right back up to new . . . .

(Change of Tapes)

Alex Tiahnybok:

. . . I don't know yet. It sounds like we wasted some money last year. We could pull out the calculator again, but it's spilled milk at this point.

Mike Serpe:

I will say this. There was a lot of controversy coming from one of the subdivisions about the chip seal. Coincidentally, as soon as the election was over not a word. Matter of fact numerous phone calls from me to the person that I had contact with were made with no return. Maybe you're right.

Jeff Lauer:

I think that is a good point you bring up, Alex, after John saying they're about an eight now. I'm always wondering when they're going to do Steve's. They call that the mine field on 122<sup>nd</sup> there because every time I go over there it's like that. So it is a good point you do bring up. But there's a decision to be made tonight to do that road or Foxmoor obviously I would say that one so it is a good point you bring up.

Alex Tiahnybok:

I was sent some pictures of a manhole cover on 93<sup>rd</sup> Street between 31<sup>st</sup> and 32<sup>nd</sup> Avenues, and it's been coined the traffic hazard and vehicle destroyer and I have pictures and I'd like to give them to you. I drove through there myself just to see what it felt like, and if you don't serve around the manhole cover literally I think it's a hazard. So I'd rather see if we have the \$100,000 to spend to do some preventative maintenance like that first than repave an area that has eights.

John Steinbrink:

Motion and a second on Item H. Further discussion?

Village Board Meeting  
June 6, 2005

Mike Pollocoff:

I guess just to reiterate, based on the comments that we've heard from citizens, that they didn't like the chip seal in those subdivisions and we were seeing some raveling and that's why they were proposed. I don't dispute the fact that we could spend \$110,000. We just got through showing you a map that we could spend \$600,000 and there's no getting around it. \$100,000 isn't going to take care of that road, and if you do take care of it you're going to dig it up in another year and put water in there. But if it was a serious problem before the election and it's not anymore that's really up to the elected people to say it's not as bad now after the election as it was then. I will say that the seal coating or the chip seal wasn't a waste on it. It sealed those roads up and with the micro pave we'll get ten years out of that road and we won't get six.

Alex Tiahnybok:

My contention is not that the chip seal was a waste of money. I think it has probably better application areas and worse application areas. And as you described, Mike, I think in a residential area with a lot of turning traffic and a lot of pedestrian traffic and bicycle traffic I believe it's the wrong choice, and I think people were upset about it and I think they're correct about it and I still agree with them. But, we've spent the money. I think time has shown a lot of us that after you get past the original initial pain of the system and after mother nature and snow plows and street cleaning get rid of a lot of the loose material it is okay. Again, I wouldn't recommend it in the first place, but now that we're a year into it and we have eights for ratings, again, I have a hard time justifying improving something that sounds like it's in pretty decent shape today and serviceable today versus other areas that I think need the attention more desperately.

Jeff Lauer:

I have one quick question. John, do you know by chance the rating for the Whittier area? Is that an eight, too, then do you think?

John Steinbrink, Jr.:

It's probably around a seven. It still has some alligator cracking around the edges and some other imperfections. I guess one thing to keep in mind is that you do want to put preventative maintenance treatment on the road surface at the highest condition that you can to get the longest value for that. So if you do a treatment on something that's an eight, it's going to last a long time. Seven is going to last a long time. We went and drove around a lot of different communities. Some were down in Morton Grove, Illinois, some out in Galena, and they tried to put a surface treatment like a micro pave or a chip seal on a road that was a four or five to try to bring these roads up to speed. It might bring them up a couple, but I guess one of the imperfections with the surface treatments are they are going to reflect the crack whatever is underneath it. So if it has a lot of alligator cracking and a lot of rutting you're not really helping that at all. You're just putting a band-aid on it for maybe one or two years. Where if you put a surface treatment on a road that has a higher rating it's going to last quite a bit longer as some of the diagrams have shown. One of the things with the chip seal even though it was not a popular

Village Board Meeting  
June 6, 2005

surface treatment, we were able to treat just under ten percent of all of the Village roads for \$100,000.

Jeff Lauer:

This blacktop work, enlighten me, is it done by your group or do we hire out for that?

John Steinbrink, Jr.:

We contract out any large projects like that. We don't have a paving crew in house.

John Steinbrink:

We have a motion and a second. Those in favor?

Mike Serpe:

Aye.

Steve Kumorkiewicz:

Aye.

John Steinbrink:

Aye. Opposed?

Alex Tiahnybok:

No, I'm not in favor.

Jeff Lauer:

Aye.

**KUMORKIEWICZ MOVED TO APPROVE A CONTRACT BE AWARDED TO PAYNE AND DOLAN IN AN AMOUNT NOT TO EXCEED \$110,986.62 FOR THE 2005 MICROPAVING PROGRAM; SECONDED BY SERPE; MOTION CARRIED 4-1 WITH TIAHNYBOK DISSENTING.**

- I. Consider Resolution No. 05-31 - Preliminary Resolution Declaring Intent to Exercise Special Assessment Police Powers for the Construction of a Municipal Roadway on 43<sup>rd</sup> Avenue South of 107<sup>th</sup> Street.**

Village Board Meeting  
June 6, 2005

Mike Pollocoff:

Mr. President, this is a resolution that comes from the petitioner of property owners on 43<sup>rd</sup> Avenue south of 107<sup>th</sup> Street to have their road paved and constructed as part of the development to the east. We've gotten the bid prices from the contractor. We've prepared the plans are prepared to go to a hearing that I'd like to schedule on June 20<sup>th</sup>. We have the plans and specifications for the improvements available, the estimate of the entire cost of the projects and a schedule. I request that the Clerk be authorized to publish a notice as well as send out notifications of the hearing for June 20<sup>th</sup>.

Mike Serpe:

Move to adopt 05-31.

Steve Kumorkiewicz:

Second.

John Steinbrink:

Motion and a second. Any further discussion?

Steve Kumorkiewicz:

Yes, that was a petition by the homeowners?

Mike Pollocoff:

Yes.

Jeff Lauer:

I just had a question about the term police powers.

Mike Pollocoff:

In the Wisconsin Statutes when the Board is going to conduct a hearing that could involve the levying of assessments, those assessments are being levied for public health, safety and welfare concerns, that's an exercise of the Village's police powers under the State Constitution. We need to put people on notice when we have those hearings and meetings that the Board will be considering an action that would involve the exercise of their police powers. If that project proceeds and the Board authorizes it to proceed, a resolution will be adopted that will levy the special assessments on the property. So it's not that there's going to be a cop on anybody's doorstep. It's really an action of our public health, safety and welfare responsibilities and powers. So under the Statutes Chapter 66.0703 I'd refer you to that Statute and this is the language that we follow from that Statute.

Village Board Meeting  
June 6, 2005

Alex Tiahnybok:

Where 100 percent of the affected parcels by this assessment are they all supporting this?

Mike Pollocoff:

Nope.

Alex Tiahnybok:

What percentage then?

Mike Pollocoff:

I think it was one out of five.

Jane Romanowski:

. . . he didn't sign the petition but they might have just not gotten them to sign it.

Mike Pollocoff:

All it takes to have a hearing is one.

Alex Tiahnybok:

Which parcel is that?

Mike Pollocoff:

See that triangular shaped one to the left where the arrow is.

Alex Tiahnybok:

This assessment is going to be done on linear feet of roadway?

Mike Pollocoff:

In the assessments we've prepared we've done it on a per parcel basis. You could do it on a linear foot basis, but let's take the guy who hasn't responded to the survey or anything else. He's got that odd shaped lot. And even though he has a lot of frontage on the new road, that lot can't be divided. He has that little sliver that doesn't have a lot of use. And the concept on a special assessment under police powers is you have to define the benefit. Sometimes that's not easily seen, but one concept in some court cases has been that benefit on a road assessment is how many cars can you park in front of your house? If you have parties you can park a lot of cars in front of your house and you won't be in front of your neighbors. That's actually stood up.

The other part of the benefit test is really how much can someone use that improvement? He can probably make the case. He hasn't told me, but in preparing the report I'd say that you really can't use that road that much because it's a sliver. So in essence everybody is getting a newly improved road. The guy that's got a smaller lot, the one just to the north of him, his isn't that big. This guy he's got a bigger lot. So some people come out with a benefit if you go by footage. Some people come out when they go on a unit cost. Based on the fact that these numbers aren't that high as compared to other road projects, I was recommending that the Board adopt it on a parcel basis so everybody is paying the same amount. At the hearing if the Board chooses to redesign that levy and go on a front foot basis, then that could be considered at the time when you levy the final assessment. But in most cases we will do a linear foot. On this one my recommendation is mostly because of that one parcel. Plus the Village owns a parcel there where the pond is that were not assessed unless we were to decide to develop it and that's not going to happen if it's a pond. So that worked out I felt to be the most equitable way to divide up the cost.

Alex Tiahnybok:

So the special assessments are generally on a case-by-case basis how it's applied?

Mike Pollocoff:

Always on a case-by-case basis.

John Steinbrink:

And the desire here is very strong among the people. This has been ongoing for years here and they want the road paved. As Mike said, they're willing to do it on a per parcel basis to be fair to everybody there just so they get the paving in. It's been a long road for these people and they want resolution here. Now with the project going on, I think that adds to getting the . . .

Steve Kumorkiewicz:

. . . . delay for the subdivision . . .

John Steinbrink:

Motion and a second. Further discussion?

**SERPE MOVED TO ADOPT RESOLUTION NO. 05-31 - PRELIMINARY RESOLUTION DECLARING INTENT TO EXERCISE SPECIAL ASSESSMENT POLICE POWERS FOR THE CONSTRUCTION OF A MUNICIPAL ROADWAY ON 43<sup>RD</sup> AVENUE SOUTH OF 107<sup>TH</sup> STREET; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 5-0.**

- J. Consider Resolution No. 05-32 - Preliminary Resolution Declaring Intent to Exercise Special Assessment Police Powers for the Construction of Sanitary Sewer to Lot 2 Mayberry Pond in the Vicinity of 114<sup>th</sup> Street West to 47<sup>th</sup> Avenue.**

Mike Pollocoff:

Mr. President, this is a special assessment hearing that's not being brought about by petition but it's being brought about because a developer on 47<sup>th</sup> Avenue is looking to extend sanitary sewer from 114<sup>th</sup> Street at the end of the cul-de-sac west to 47<sup>th</sup> Avenue to be able to service their development. When that Mayberry Pond development went in, we required, since the master sewer and water plan shows that sewer will eventually go west, go provide an easement across that property for sewer to go through there. That property owner is not ready for that sewer to be used. It's not platted. The only way they can use that is through a plat. But they are willing to do the easement they've dedicated to allow the developer on 47<sup>th</sup> Avenue to extend that sanitary sewer.

As such, that developer on 47<sup>th</sup> Avenue is going to be allowed a right of recovery. They're going to have to pay for it in the first instance, and then if at some future point that cul-de-sac gets replatted or gets extended, which is really going to happen, the street is going to go to the west and curve up north, when that happens that developer then needs to pay the developer on 47<sup>th</sup> for the cost of the sanitary sewer because they'll be able to use it. So that's what this is. Before we can enter into a right of recovery agreement where we guarantee one developer where another developer or users will pay them later on to use it, we have to levy that assessment first before the construction takes place so that it's an assessment of record. When land changes hands everybody is going to know it's out there and what the cost is.

Right of recoveries are for ten years. If that doesn't develop for ten years, then that's the risk that the first developer took. So there is no petition for this other than for the fact that the one developer needs it and there's an easement there and it's in compliance for our master plan for the sewer and water.

Steve Kumorkiewicz:

I make a motion to adopt 05-32.

Jeff Lauer:

I'll second it. I have a question. Are we able to know the developers?

Mike Pollocoff:

Which ones they are you mean?

Village Board Meeting  
June 6, 2005

Jeff Lauer:

Which one is proposing to do this.

Mike Pollocoff:

He's not in here. It's Stanich I believe.

Jeff Lauer:

So they would pay for it up front?

John Steinbrink:

At their cost.

Steve Kumorkiewicz:

Yes, they pay for it.

John Steinbrink:

We have a motion and a second.

**KUMORKIEWICZ MOVED TO ADOPT RESOLUTION NO. 05-32 - PRELIMINARY RESOLUTION DECLARING INTENT TO EXERCISE SPECIAL ASSESSMENT POLICE POWERS FOR THE CONSTRUCTION OF SANITARY SEWER TO LOT 2 MAYBERRY POND IN THE VICINITY OF 114<sup>TH</sup> STREET WEST TO 47<sup>TH</sup> AVENUE; SECONDED BY LAUER; MOTION CARRIED 5-0.**

**K. Consider Resolution No. 05-33 – Preliminary Resolution Declaring Intent to Exercise Special Assessment Police Powers for the Construction of Storm Sewer and Storm Water Management Improvements in a Drainage Basin in a Plat named Carol Beach Estates Unit 2 Subdivision.**

Mike Pollocoff:

Mr. President, this is a little more interesting project. This resolution, again, allows the Board to conduct a hearing for determination of the project for proposed drainage improvements in Unit 2 in Carol Beach or parts of Unit 2. We've had two neighborhood meetings on the most recent iteration of the drainage plans for this area. Mr. Hauser had commented earlier that the studies and that the work that was done in those two meetings did not address his desire or design for how the improvements should take place in that area.

We've had two public informational meetings, and there have probably been 15 people or 12 or 18 people, I'm not sure, at both the meetings. But the last meeting we did present an option for



storm sewers, a skeletal storm sewer improvement in that area. I can't think of any area in the Village where more money has been spent on designing and redesigning and redesigning and redesigning a storm sewer system. I have yet to have been able to get any professional engineer to put his license or his seal on a set of plans that will do anything other than put in a storm sewer system, a pipe system. We've used up some of our grant money that we obtained for the Village wide master plan to do some more engineering on this once already.

So we've had initially the Army Corps of Engineers evaluate this as part of the Chiwaukee Prairie Plan. Crispell-Snyder came through two separate planning efforts, one for a storm sewer system that would handle a 100 year storm event. The second one is for a storm water basin plan. I brought in our own Engineer, Bob Martin, to evaluate it. Bob is the most experienced storm water civil engineer but he's the most experienced storm water engineer that I know. He's dealt with areas far more critical and difficult to deal with than this. He came up with the alternative that the only way you could get this to work was through a pipe system. That wasn't believed. We brought in another engineer, Bonestroo, under our grant. They came up with the same conclusions. And Mr. Hauser doesn't concur with those.

At our last meeting we really came up with a concept of where I think we're at is some residents are doing some design by the eye in looking at ditching that area out and making it drain that way. Again, given the grades, the improvements that are there, all the considerations of working against Lake Michigan, working against a flat grade, working in a wetland area where you're limited on what type of construction you can do, every engineer that's looked at it has identified that if you want to solve the drainage plans in this plan here we'd solve them handle a ten year event storm, not the biggest storm you're going to get but just a 12 inch storm sewer to handle a 12 inch storm is going to drain that water out of there for the maximum amount of people that's what it's going to take.

I don't know that anybody in our public information meeting was happy about spending anything. It was basically a \$2,000 per parcel roughly cost. Before I authorize the engineers to go into design and we spend even more money on design, I felt that one of the things we had to have, because we haven't had a big turnout at the public information meetings, is have a hearing. Get a preliminary set of plans put together, the specs and get official input and decide whether or not we're going to proceed or not. The vehicle for having that is the public hearing. The only way we can have the public hearing and be able to make a decision is to adopt a resolution and go forward.

Personally I'd like to see this problem resolved. I know we've spend more on redesigns and redesigns that we are for this project cost that we're looking at right now. This project has just been hijacked by the desire to ditch here, ditch there, and it just is, again, you're not going to get the guy that works for you as a civil engineer to put his seal on the plans. I'm not going to recommend a ditching plan. The other engineers that have looked at are not going to recommend a plan for ditching that's going to work. If the Board wants to do a plan for ditching, go down there and ditch, but every professional that's worked on this project for the last 15 years or longer has said that you need a skeletal storm sewer system there. That's why I'm bringing it to a hearing. I have serious reservations about going through a full design, getting the design done, and then having the process stop again over ditching. If what the people down there want is ditching and the advice that you're hearing from your staff is that ditching will not work and you

Village Board Meeting  
June 6, 2005

want to do ditching anyway, then let's not spend anymore money on having professionals tell us what's going to work. Let's go out there and wing it and ditch it and do that. That's where we're at with this thing.

I think in order to give everybody their due process these are the steps we have to follow to have the public hearing or some action to take place. You might have a public hearing and not take any action, you can do that, too, but you'll just have a public hearing and there's no action. We've already had two neighborhood meetings where we've set up a time late in the evening or later in the evening and we've made ourselves available with the consulting engineers, our engineers, myself to hear what the people wanted, and we heard that. But when you go back and you put the numbers to the grades you're working with, like I say, we've had four different engineers. And it was identified in the very first plan that said that area could be developed it had to have a skeletal storm system to drain. So that's where we're at.

This resolution doesn't mean that the project proceeds. You would have to take another vote to adopt a resolution at that hearing in order to levy assessments and have the project proceed. But this one here is the official notice that gets everybody a letter in the mail, a notice in the paper, and it sets in action these steps to bring enough plans to the hearing. This one here I'd be looking to have in August to get the project underway.

Mike Serpe:

We're still at 50/50 on the storm sewer projects, Mike?

Mike Pollocoff:

You're at 50/50 and you have no money in your 50 of the fund. In the budget this year there was no storm water improvements funded.

Mike Serpe:

So if it were to proceed?

Mike Pollocoff:

We'd proceed next year.

Mike Serpe:

We'd have to budget for it in next year's budget?

Mike Pollocoff:

Right.

Alex Tiahnybok:

Village Board Meeting  
June 6, 2005

Mike, you said \$2,000 per parcel. How many parcels are we talking about that would be affected?

Mike Pollocoff:

I think it was 50. Do you remember, John? Fifty parcels in Unit 2 as the assessable area?

John Steinbrink, Jr.:

I believe that's the number that we used, Mike, at the beginning.

Alex Tiahnybok:

So we're talking about all this sewer system for \$100,000? Am I doing the math correctly?

John Steinbrink, Jr.:

\$200,000 . . . the Village pays half and the residents pay half.

Alex Tiahnybok:

If we gave the ditch effort a go, what are we talking about in terms of cost?

Mike Pollocoff:

There's two ways to do it. We could stop doing any public works for probably two to three weeks and go in and have our crews ditch it. Or, we could contract it out probably for \$40,000 and have our crews keep doing what they're scheduled to do. But for ditching we'd have to take a crew off the road and quit doing that.

Alex Tiahnybok:

The reason I'm asking the question is, first off, I want to thank Gus for coming today and speaking your peace again. I know this has been an ongoing issue in Unit 2. I'm getting to know more about Carol Beach than I ever thought I would. The place is a mess. The ditches are full of debris, whether natural or dumped. With what exists there currently I don't see any chance for mother nature to help the water flow downhill because in most cases it's flowing uphill into a bunch of sediment or debris or fallen trees or whatever.

So, again, similar to our conversation earlier, I think quite often there's just a perception problem and that is that the people would like to see something changed and I think there's a good reason for it. And, yet, what appears to at least be in place already, the ditch system, I don't think has been given a fair shot to see whether it's workable or not. As long as the ditches are full of broken trees and just caved in and whatever the correct term is, and I'm not a civil engineer, but whatever the pipes under driveways are called or under streets, as long as those objects are 90 percent full of gravel, it's not going to take a ten year event to flood those ditches and spill out over the roadways.

Furthermore, I don't blame the new construction in the area for doing this, but if you drive up and down the street you'll see most of the new construction is on a fill. It's very obvious that the parcel was partially filled and the newer properties sit on a mound and the neighboring properties get flooded every time it rains. So, again, I can understand the issue down there. \$40,000 is a lot less than \$250,000, and I think you're going to buy yourself a lot of good will by giving that a go. And if two or three years from now the residents of Unit 2 have a ten year rain event and their properties get flooded, I think at that point the Village can say we told you so and now it's time to spend the correct amount of money and fix it a year or two later. But right now we're looking at a \$250,000 project.

I'm a chemical engineer and not a civil engineer, but water flows downhill the last time I checked and we don't have a lot of elevation change. So unless you do something really funky with the sewers, I question how well that's going to work. So I believe giving the ditches a fair shot is the right way to go. Gus shared a plan with me. There's Barnes Creek and another creek that I think if the water had a chance to get there it could alleviate 90 percent of the problem. Then again, if that ten percent chance comes along and peoples' properties get flooded and they start complaining, I think then the Village is in a position to say we worked with you and this was your idea and here it is versus forging ahead on a plan that is going to cost all of us a lot of money. I think there are those that would argue that this is not going to work either. It's going to take ditches to get water to the collection points anyway. So part of the process of digging the other ditches would be one step in the direction of accomplishing this, too.

John Steinbrink:

Mike, are ditches subject to DNR approval also? One of the ditching plans had ditches through wetlands in order to make it work and they said no way.

Mike Pollocoff:

You can't ditch through a wetland and you can't ditch in a manner that's going to drain wetlands. I appreciate what Alex is saying because I'm sure he's dealing with a lot of this for the first time. But I just want you to know that the Village has a network of ditches all over the Village. That's not uncommon. Most of our drainage is handled through ditches. But the reason the ditches are in the condition they are out there is we can't get the ditches to drain, we can't get a grade to drain those ditches. We have to ditch it to someplace and we can't make the grade, we can't get the fall that we need. You're ditching in sandy soils. We can ditch it and the next day we're out of there those slopes go on it.

I don't want anybody to leave here thinking that this is some conspiracy that we've decided that Unit 2 is not going to get anything. As I've said, we've spent almost a couple hundred thousand dollars in design on this and design and design and design and design, and one thing that's constant is that throughout the process is that a lot of the people don't want to pay anything. I can understand that, but we're limited with what we can work with. And I can't recommend to you that we spend \$40,000 to go out and prove them wrong. I think you're paying myself and an engineer and some consulting engineers to give you professional advice that the mathematics just doesn't work on this. And the Village has been told that time and time and time again. I don't

see that there's an incremental value that you gain by spending \$40,000 to prove them wrong. If you look back at two items ago we spent \$30,000 on seal coating roads and you're going to micro pave over it you've got something for your investment. If you're going to ditch this and it's just to say okay we've listened to you and now we'll do it and if it doesn't work we haven't gained anything because you're going to rip all those out to make the grades work. This isn't news anybody wants to hear, but I've got to tell you on this last two processes I just stood back and watched it happen. I didn't get involved in anything. Let the engineers find out what they're going to find and they came up with the same exact answer.

Mike Serpe:

Half of this project is going to be paid for by the Village. And if there was a chance that we wouldn't have to pay \$200,000 why would we go to ditching if that was going to work. But if engineer after engineer after engineer tells us it's not going to work, then why are we paying the engineers to do anything with us if we're not going to listen to them. That's a tough burden on everybody down there, and I don't know what the public hearing is going to bring out. We may get a rounding sound of they don't want it and they just don't want to spend the money. Okay, then fine. Then stick with the flooding. But it makes no sense to keep on going down there and try and ditch something that you can't get to drain anything. I know that goes against what Gus has been saying. I've been down with Gus walking that property with him a couple of time. I'm not an engineer, and I have to say that if we're going to pay these guys for this advice I think it's time we start listening or we're just going to keep on wasting dollar after dollar after dollar on more engineering costs that are going to get us nowhere. That makes no sense to me.

Steve Kumorkiewicz:

My concern with the ditching is how much it's going to cost keeping them open, the maintenance that we have to do in the ditching . . . the work just to keep the ditches open because the nature of the soil is sand. That's my concern.

Mike Serpe:

Either way, I think we have to find out when the public hearing comes get the feeling from the public before we spend another dime on engineering.

Mike Pollocoff:

We've had two public hearings in this process and the citizens said no and the Board agreed with them and it ended. That doesn't solve the problem. I gave a quick little hand count vote when we had our last meeting and there wasn't a lot of people there. If you go buy the people there it was seven to three. And then one person found out she didn't even live in the basin and she was against it. But our dollars for doing these projects are limited. I see the same response time and time again. If I could make ditches work down there I would have done that a long time ago and I wouldn't have had Mr. Hauser in my face on a monthly basis. He's irritated and I can understand why but I can't do what he wants to do, and I can't get anybody to do it the way he wants to do it because it's just not going to work. It just isn't right. If we could have done that we would have done that a long time ago. That was the easiest alternative is over time get a ditch

Village Board Meeting  
June 6, 2005

so it works but we can't make the ditches drain the way he wants them to drain. Like I say, this process has gone on a long time and the Village has spent a lot of money on it. That's where we're at. It's probably not the news you want to hear but that's where it's at.

Mike Serpe:

A year and a half ago we had a major event, a year ago. Even this system engineered the way it's designed to do it, I'm sure if we have an event like we had it's still going to flood down there. The difference is it's going to drain a lot quicker. I'm guessing it's still going to flood on a 100 year event but it's going to drain a lot faster. Where last year that water sat there forever. Just nowhere to go.

Mike Pollocoff:

The system for the 100 year design was about \$6,000. So this brings it down to ten. Much smaller than that we can't clean it.

Alex Tiahnybok:

Do we need to move forward on the special assessment police powers to move towards a public hearing? Is that a required step, or can we have a public hearing without voting on that aspect?

Mike Pollocoff:

It depends. If you want to have a hearing and then be able to make a decision at the end of that hearing yes or no and have some finality to it then you need to adopt this here. If you don't want to have any finality after the hearing and just get more comments, then you don't have to do this and then you can conduct a public information meeting and we can bring everybody in and do that.

Alex Tiahnybok:

Part of a Board meeting or is that a separate event? I think that would be a key component. I'd like to modify this to go forward on a public hearing without the police powers yet and give the affected citizens of Unit 2 one more chance to make their argument. And then after that if there's a clear resolution we can act on it in the following meeting.

Mike Serpe:

What are you modifying? That's what the adoption—

Alex Tiahnybok:

The police powers so we couldn't act on it. My question is can we have a public hearing without—

Mike Serpe:

Village Board Meeting  
June 6, 2005

You can still act on it.

Alex Tiahnybok:

Informational.

Mike Pollocoff:

Then the motion would be to reject this resolution. Then since you wouldn't need to have a resolution just to have a plain hearing to hear what people want, then you could just direct staff to have another hearing or have an agenda item to hear this.

Mike Serpe:

Don't we usually do this to create the notifications to get the people here? Are you going to still go through that same process without this adopted resolution?

Mike Pollocoff:

Yes, it would just be there would be no decision made. We'll have a hearing and it would be kind of like the last two we've had. We sent everybody a letter to come in and comment on the proposed improvements. You guys would get your input and some feeling as to what you want to do, and they would tell you what they want to do, then if you decide you want to start over and have the police powers resolution to get the project going.

Mike Serpe:

Does doing something like that cause staff any undue problems?

Mike Pollocoff:

We do it twice.

Jeff Lauer:

Real quick I know there's been a motion yet, but I might have missed it on the first hand. If something like the storm sewer was approved was there an approximate cost?

Village Board Meeting  
June 6, 2005

Mike Pollocoff:

\$200,000.

Jeff Lauer:

For the Village or for the whole project where the residents if we would go that way would pay half?

Mike Pollocoff:

\$200,000 for the total.

Jeff Lauer:

So \$100,000 for the Village. I knew before sitting up on this Board and doing it that obviously there's going to be hard decision to make, and most of my life in Pleasant Prairie at meetings I attended it's always been Carol Beach, Carol Beach water, Carol Beach. Obviously I've learned more in the past two years by asking questions of most of you folks up here. I have to agree with some of the comments that to me it's a waste of money if we keep paying engineers almost for the same answer over and over. I don't think it's the right way to go. It's going to be a tough decision, but I think the Board needs to be proactive. The longer we wait, it's just like the roads. The longer we wait the more it's going to cost. The longer I wait to seal my driveway at home it's going to cost more.

I think we could do a good thing with Carol Beach by getting the water situation taken care of. Nobody likes to spend money and I certainly don't, but it's come a time where we are paying big dollars for the engineers. Mike, I know you were hired because that was your specialty. I just think it's time to hold the meeting and make a decision on it. I know it's difficult. I don't know what the Board would do if ten say yes and ten say no, or ten say do it and twenty say no. The bottom line is something has got to be done. Unfortunately that might get some citizens down there upset, but here's a solution to the problem. If you want the solution here it is, and if you don't like the solution then, with all due respect, it's kind of difficult to keep going over it year after year after year. Those are my thoughts on it. I'll probably repeat the same thing when we do have a public hearing on it. But I understand that years ago we could have had this resolved at cheaper dollars. But, guess, what, eight years later is costs more.

One final question, Mike. If something like this goes through, budgetary reasons so I know, does it affect the mill rate?

Mike Pollocoff:

Yes.



Village Board Meeting  
June 6, 2005

Mike Serpe:

I'd like to make a comment in support of the resolution for this reason. If you're going to do what you're suggesting, Alex, you're going to have to notice these people and bring them here, then if you go to the next step of adopting a resolution to have the public hearing, you have to go through the notification process again. Two things are going to happen. Mailings are going to have to take place twice, and staff is going to have to be tied up on doing all this again. I think we're intelligent enough and have enough experience on this stuff that we can probably do this as cheap as possible. You don't have to go ahead with the project if you're not comfortable with it or the people are totally against it. You can make that decision that night. But I would rather not go through the notification twice. We don't have an abundance of staff doing this all day long and sitting around waiting for the next notices to come through to mail out. I would recommend that we adopt the resolution as is and get the input from the public at that time.

John Steinbrink:

Mike, with the two meetings we had with them, what was the time frame? How long ago was everybody noticed that was affected?

Mike Pollocoff:

We actually notified more people than are affected because our original Unit 2 areas were broader. What we did this last time around is refocused and tightened up the area we're looking at.

John Steinbrink:

How long ago were these meetings?

Mike Pollocoff:

We had one two weeks ago, and the other one I believe was in October. Do you remember, John?

John Steinbrink, Jr.:

It was in October.

Mike Pollocoff:

October of last year. We received our storm water grant towards the end of last summer. We had Mr. Hauser's petition and, again, we know it's a problem that hasn't been solved, so we had Bonestroo, an outside engineer, as part of our grant money and used that to take this problem and come up with a recommended solution, and we want you to sit down with the people first and get their input as to what the issues are and they did that. And they came back after a lot of consternation this last one with their recommended solution. That was two meetings or two hearings. When I say hearings they're really neighborhood meetings. It's not a formal hearing like this where a record is kept.

Village Board Meeting  
June 6, 2005

Mike Serpe:

Mr. Chairman, I would move to adopt Resolution 05-33 and set this for a public hearing.

Jeff Lauer:

I'll second.

John Steinbrink:

We have a motion and a second. Any further discussion?

Jeff Lauer:

One quick question. Do you know about how many residents this affects in this area?

Mike Pollocoff:

Approximately 50 parcels. I'm not sure out of the parcels how many have homes on them.

**SERPE MOVED TO ADOPT RESOLUTION NO. 05-33 – PRELIMINARY RESOLUTION DECLARING INTENT TO EXERCISE SPECIAL ASSESSMENT POLICE POWERS FOR THE CONSTRUCTION OF STORM SEWER AND STORM WATER MANAGEMENT IMPROVEMENTS IN A DRAINAGE BASIN IN A PLAT NAMED CAROL BEACH ESTATES UNIT 2 SUBDIVISION; SECONDED BY LAUER; MOTION CARRIED 4-1 WITH TIAHNYBOK DISSENTING.**

**L. Consider Ordinance #05-18 – Ordinance to Repeal and Recreate Chapter 155 of the Municipal Code Relating to Curfew Regulations. (Second Reading)**

Mike Pollocoff:

Mr. President, this is our second reading on the curfew regulations. As you know from our last meeting, some court decisions had modified what constituted curfew, so we had our attorney redraft one that would be in compliance and still accomplish what we want to accomplish. There's a penalty and a fine that could be established with this. This is a two reading ordinance and this is the second reading. We haven't had any comments from anybody over the two week period. Brian, have you had any complaints?

Steve Kumorkiewicz:

If I recall right this was due to the decision made in court in Indiana, right? A court decision in Indiana that worked out all the curfew . . . some residences in Indiana.

Chief Wagner:

That's correct. What the court held was that the existing curfew laws down there, which were very similar to ours prior to this redraft, tended to violate the minor's right to participate in Constitutionally protected activities, essentially First Amendment activities. The ordinance before you tonight has been redrafted and is essentially the same curfew. The general curfew hours and things of that nature have not changed. What's been added to this ordinance to make it more palatable and more something that would withstand Constitutional challenge, what's been added to it essentially is the exception for Constitutionally protected activities, First Amendment activity, and that's really the nuts and bolts of what this change is all about.

It also incorporates as a part of that a requirement that the officer do some investigation to determine whether or not the child is engaged in constitutionally protected activities and thus would fall under one of the exceptions. Those are the two primary changes and really the only differences here.

Mike Serpe:

Brian, a question for you. Curfew amount, fine amount for the curfew violation for a juvenile is how much?

Chief Wagner:

I believe it's \$102.

Mike Serpe:

And for a parent allowing?

Chief Wagner:

Now, that's off the top of my head, Mike.

Mike Serpe:

That's close, that's alright. And a parent allowing is considerably more, is that correct?

Chief Wagner:

A parent allowing I think is double that. Again, that's off the top of my head. I can check those figures.

Mike Serpe:

No, that's fine, thanks. It used to be like \$35 at one time.

Chief Wagner:

At one time you couldn't charge more than \$55 with costs. That's changed.

**KUMORKIEWICZ MOVED TO ADOPT ORDINANCE #05-18 – ORDINANCE TO REPEAL AND RECREATE CHAPTER 155 OF THE MUNICIPAL CODE RELATING TO CURFEW REGULATIONS; SECONDED BY SERPE; MOTION CARRIED 5-0.**

**M. Consider Ordinances #05-19 and #05-20 correcting the composition of the Recodified Sewer Ordinance.**

Jane Romanowski:

As the memo indicates, part of our recodification process, which the new code was just approved on April 18<sup>th</sup>, we noted that Chapter 285 was duplicated. As you can see from the attachment just looking at Article I and Article II how they mirror each other up until towards the end of the table of contents. And what we found out in our manuscript that was originally given to the Village, that first section 13.20 through 13.40 was not included in the table. So apparently they had a new staff member come in and decide that they needed to put that back in. We missed it through the recodification process because we did our critique and our manuscript and sent it all in. We had two weeks to review two big binders and we didn't catch that they duplicated it. It's not a big issue because it's all basically the same except that you've got two different sections to quote from.

So what we did, as you can see, is I have two ordinances. The first ordinance actually adds in a section that was in this first part but not in the second part. It's been on the books. It's not a new ordinance. It's been in existence since 2002 so nothing has changed. We aren't changing any of the codes that were in effect before the recodification or after the recodification. We're just cleaning up. General Code is working with us because of the kind of miscommunication we had and you can see the letter that I've written. So we're taking and renumbering 285.12, 285.13, 285.14 to 285.27, 28 and 29 and just inserting ordinance number 05-19 which is already in the code and inserting that into the new numbers. So I would recommend both ordinances be adopted and sent to General Code to get this chapter in the right form.

**LAUER MOVED TO ADOPT ORDINANCES #05-19 AND #05-20 CORRECTING THE COMPOSITION OF THE RECODIFIED SEWER ORDINANCE; SECONDED BY SERPE; MOTION CARRIED 5-0.**

**N. Consider Authorizing Legal Action against SBC for Damage of Sewer Utility Infrastructure.**

Ron Kammerzelt:

I'm Ron Kammerzelt, Utility Superintendent for the Village of Pleasant Prairie. My work address is 8600 Green Bay Road. On October 15, 2004, crews were called out for a sanitary blockage at Dairy Queen at 4612 75<sup>th</sup> Street. After investigating and televising the sewer lateral, the crews found a blockage in the roadway at Highway 50 which was in the Village of Pleasant Prairie's right of way and, therefore, it was our responsibility to dig it up and repair the area.

Subsequently, as these photos show, we found as indicated in the photos a break in the lateral right over SBC fiber optic ductwork. When they hit the sewer lateral at Dairy Queen, are there more pictures there, Kathy, rather than repair it correctly or contact Pleasant Prairie or a plumber or a sewer contractor, they simply threw some tiles and boards over it and left it at that. Also, as part of the repair that they made, they used part of the materials of their ductwork on our sewer lateral.

Mike Pollocoff:

Ron, why don't you describe what those pictures are showing us.

Ron Kammerzelt:

The first one that Kathy brought up is the Dairy Queen lateral with a board over it. Then the next one you can see a piece of the ductwork that they used to repair and then a piece of tile that was under the board. Again, a piece of conduit that they used to repair it. And then the next one shows the SBC conduit above that in the area, and then the area below it is the actual sewer lateral to Dairy Queen. So they used the materials of the SBC fiber optics conduit and repaired our lateral. This actually shows the lateral under the SBC conduit repaired correctly.

Mike Pollocoff:

If you go back to that previous slide, it's hard to tell but you've got the diameter of the pipe, the sewer lateral anyway, and that conduit is smaller. All I can assume is they put that in for a warm feeling because it wasn't going to drain the sewer from that area.

Ron Kammerzelt:

By repair it the way they did it could last for a while. But once the solids build up gravel seeps in and eventually erodes away at it and it eventually failed.

A bill was forwarded to SBC on February 15, 2005 for \$6,896.96. On May 18, 2005 SBC denied our claim stating that SBC was not working at or near that address where the damage occurred. We take exception to that statement. Just because we repaired the damage in October, as I stated previously, that doesn't mean the damage occurred that month. The damage could have occurred within a month or even a year prior and finally failed in October.

Bills are sent to other utilities periodically for damages due to hitting with an excavator or other piece of equipment. We have been billed for, paid, and in some cases have refuted these claims in the past. However, this damage I believe is irrefutable, and we believe SBC should pay that bill. WE believe some sort of legal action should be taken.

Mike Serpe:

Is this a small claims court action?

Village Board Meeting  
June 6, 2005

Jane Romanowski:

No. Small claims is only \$1,500.

Mike Pollocoff:

We have to go to circuit. So we'd be looking for more than \$6,000 by having to actually pursue them. It would be going after expenses.

Mike Serpe:

And this could take quite a while to get into the system.

Ron Kammerzelt:

It's protocol. There's a lot of things, of course, these days that are buried in the right of way. Things get hit all the time by different contractors, different municipalities, different carriers of different services. But when a mistake is made, if Pleasant Prairie hit a gas line we don't fix it ourselves. We call the gas company. If we hit an electric or a cable or something we don't fix it ourselves. We get in touch with the right people and we have it fixed.

Mike Serpe:

Ron, once that was dug up by SBC and the damage was done to our lateral, what would it have taken as far as cost to repair it as that excavation was open?

Ron Kammerzelt:

Oh, much less, because we're talking about a major arterial with concrete. That was most of the cost.

Jeff Lauer:

I have a couple quick questions. Mike, I think I heard you say that if we go to court with this obviously we seek legal fees as well? Good. The other question I had were you able to get from SBC if and when they were there last. Did you find that out or no?

Ron Kammerzelt:

No. They didn't state when they were there last. They just said they weren't there at that time. That's how they stated.

**SERPE MOVED TO AUTHORIZE AUTHORIZING LEGAL ACTION AGAINST SBC  
FOR DAMAGE OF SEWER UTILITY INFRASTRUCTURE IN THE VICINITY OF 4612 75<sup>TH</sup>  
STREET; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 5-0.**

**O. Consider Offer to Purchase 8400 104<sup>th</sup> Avenue for Park Land Acquisition.**

Mike Pollocoff:

Mr. President, we discussed at our last meeting in executive session acquiring property from a Village resident, Joe Karalius as part of the parkland acquisition. Up above there is the map that shows the area to be acquired. It's roughly basically two lots. That's one and the house is located on the far end of the one parcel. At that time we indicated that \$200,000 was what the Village would be offering and we'd pay the taxes, but we'd offer to do it in \$25,000 down and \$175,000 next year. He was open to that. One of the issues, though, that our attorney brought up is the fact that if we do that we'd be paying taxes this year and next year so we'd double our tax burden. Once we acquire it, we couldn't acquire it on the first, so we'd be responsible for that entire tax year for the property taxes on it because it would still be in private ownership and not public ownership at that point. Plus there's a certain amount of exposure from the Village's standpoint if any liens are placed on the property between the time we make the deposit of \$25,000 on it and then when we close.

The other recommendation I was looking at is pay the \$25,000 to acquire this, and then take the remaining out of reserves this year to pay the \$175,000 to just close on it, and then reimburse ourselves in 2006 for the \$175,000 just as we would have before. So it reduces our exposure, it limits the amount of property taxes we'd be paying out, and it would save us about \$6,000 to do that. We would close with Mr. Karalius this month rather than in January.

Steve Kumorkiewicz:

That will make a nice park, nice size.

Mike Pollocoff:

What that map doesn't show, it's an older photo, right below at the bottom at the red line there that's Hussey's Tavern. That's already been acquired. So after this acquisition there would be one house left on the north end and that opens up that whole park as open space. The next picture shows the house that we'd be acquiring. That would be Fire Department practice.

Mike Serpe:

Who do we authorize this to, the Village President and Clerk or you?

Mike Pollocoff:

You'd authorize me to purchase and close the acquisition.

Mike Serpe:

So moved.

Alex Tiahnybok:

Village Board Meeting  
June 6, 2005

Second.

John Steinbrink:

Motion and a second. Further discussion?

Jeff Lauer:

Mike, are there plans for the future if this is done to keep it a park?

Mike Pollocoff:

I'm sorry?

Jeff Lauer:

Are we just going to keep it as a park?

Mike Pollocoff:

The Park Commission is updating the master park plan. Our plan up to this point was actually to convert some of this into soccer fields and ball fields. We have the ball fields at Prairie Springs Park and they would go over there and we're really short on soccer space. But at some point there would be a pavilion there with better bathrooms than what we have now. Right now the ones we have are pretty rugged. I think we're going to put a lot of that on hold and let the master park plan--they're going to identify final details for build out on this park, Carol Beach Unit W, Foxmoor, Momper's Woods and Village Green. After back and forth input from the public and input from the Park Commission come up with a finalized set of construction plans and we can actually put out the bid when we're ready how it's going to lay out. But without a doubt this is about our fourth step with this park to consolidate our land holdings.

Jeff Lauer:

Thanks.

**SERPE MOVED TO AUTHORIZE THE VILLAGE ADMINISTRATOR TO SIGN AN OFFER TO PURCHASE AND PROCEED TO COMPLETE THE PURCHASE OF 8400 104<sup>TH</sup> AVENUE FOR PARK LAND ACQUISITION; SECONDED BY TIAHNYBOK CARRIED 5-0.**

**P. Consider Hospira Park Permit for Amplified Music at the Park Pavilion June 28 from 10:30 a.m. – 1:30 p.m.**

Mike Pollocoff:

Mr. President, Hospira wants to have their employee picnic at Prairie Springs Park. Our ordinance requires in order to have amplified music you have to get permission from the Board so they're asking. It's a Tuesday. It's not a company picnic. It's an event.



Village Board Meeting  
June 6, 2005

Jane Romanowski:

No, I think it's an employee picnic. One of the employees has a DJ and equipment that he wants to bring.

**TIAHNYBOK MOVED TO APPROVE THE REQUEST OF HOSPIRA FOR A PARK PERMIT FOR AMPLIFIED MUSIC AT THE PARK PAVILION JUNE 28 FROM 10:30 A.M. – 1:30 P.M.; SECONDED BY SERPE; MOTION CARRIED 5-0.**

**Q. Receive Plan Commission Recommendation and Consider Resolution No. 05-29 related to the meeting time of the Plan Commission.**

Mike Pollocoff:

Mr. President, the Plan Commission at their last meeting at the request of the Board evaluated their meeting time, and the unanimously adopted a resolution that called for the 5 p.m. meeting time to remain in effect and sent that off to the Village Board for consideration.

Steve Kumorkiewicz:

The City meets at . . . .

Mike Serpe:

The City meets at five.

Steve Kumorkiewicz:

And the County 4:30?

Mike Serpe:

I think so. I'm not sure about that.

Jane Romanowski:

Some meetings.

Mike Pollocoff:

Land use is at 4:30. Plan Commission typically has, not all the time, but a number of public hearings, and that's the logic that the Plan Commission gave in adopting the resolution to get the people home at an earlier hour and get the Plan Commissioners out. Otherwise, you get about two or three hearings it's not unusual to be there four or five hours.

Jeff Lauer:

Village Board Meeting  
June 6, 2005

I wasn't here last Monday. As most of you know my wife is in the hospital, but I don't understand why there has to be a resolution when it's been five o'clock and no one on this Board . . . change so I don't understand why it has to be brought up at this time.

Mike Pollocoff:

When the Board adjusted their meeting time based on input from the public that the Board was meeting too early, they had put out to all the Commissions that they wanted them to reconsider starting their meetings later if that was, in fact, going to facilitate more public involvement at the meeting. So the Commissions are doing that or in the process of doing that. Park Commission has said six. Police and Fire Commission is really on call. They have some regularly scheduled meetings. The one we haven't addressed yet is the Board of Review because they typically meet all day long.

Jane Romanowski:

We talked about that at the first meeting, and the Board didn't think that we should be scheduling hearings at 11 or 12 at night because that's really what would happen. So right now they're going to keep a day schedule. But in a reval year they might move some hearings to later, but you can't have a pick and choose type forum with the Board of Review, so it's up to the Commissioners.

Mike Serpe:

Mr. Chairman, I'd move approval of Resolution 05-29 to concur with the Plan Commission recommendation to keep the meetings at five o'clock for the Plan Commission.

Steve Kumorkiewicz:

Second.

John Steinbrink:

We have a motion and a second. Any further discussion?

Village Board Meeting  
June 6, 2005

Alex Tiahnybok:

I was at that Plan Commission meeting. I think it started at five o'clock and was over about eight so it was about three hours, fairly shorter than this meeting. When this item came up on their agenda some of the comments were made regarding why the meeting should stay at five o'clock would be so that it would be easier to transition from the work day. Somebody said this was a campaign issue and that's why we're talking about it. Someone else said that the last thing you want are Plan Commissioners yawning during a meeting. I haven't seen anybody yawn here yet and we have started at 7:30. Another Commissioner said that the true wishes of the electorate really aren't being represented by a change to 7:30. I think the electorate made their voices pretty clear regarding the election of the Board. So I don't know where that disconnect comes from.

Another reason for not having later meetings was that if the meetings got started later then the citizens' comments would have to be limited to three minutes because otherwise they could get out of control. The last thing that I'd like to add is the 7:30 start time that we have adopted was adopted prior to myself and Jeff Lauer being on the Board. We were never consulted regarding the 7:30 start time. It was just pulled out of the air. Just to reinforce what Jeff said we never asked the Plan Commission to start at 7:30 either. One thing that's missing in all of their comments was really an interest to be available to the public.

Steve Kumorkiewicz:

Actually the only people who come to the Plan Commissions are the people who have an item on the agenda. Where here everybody comes to see what's going on with all the different items. So actually those people know that they've got to be at five o'clock here.

John Steinbrink:

We have a motion. Any further discussion?

Jeff Lauer:

I have to say I don't know why some of us are living in the past here. But the Unified School District, what you just said, Mike, the prior Board changed it to 7:30 and I've had more phone calls and people when I'm walking door to door why in the h-e-l-l did that Board change it to 7:30. Either they're extreme at 5 or they're extreme at the late time of 7:30. So to get it on the record common sense would have been maybe 6:30. You can't please everybody. I understand that. But in my heart I know why it was changed to 7:30, at least this Board. So, again, I don't understand why we have--if Alex what he said is true about last Monday because I wasn't here and I have not had privilege of getting the documents to read them yet. But we have to move forward. Again, I don't see any reason to vote on a resolution like this because it's five o'clock currently.

Village Board Meeting  
June 6, 2005

John Steinbrink:

We have a motion and a second on a resolution presented to us. Further comments? Just to reiterate, I've been at meetings at five o'clock, six o'clock, seven o'clock, seven thirty, eight o'clock, no matter what time we pick somebody doesn't like it. I guess we just keep swinging the cat by the tail and see who objects.

Voices:

Aye.

John Steinbrink:

Opposed?

Jeff Lauer:

No.

Alex Tiahnybok:

No.

**SERPE MOVED TO ADOPT RESOLUTION NO. 05-29 THEREBY MAINTAINING THE PLAN COMMISSION MEETING TIME AT 5 P.M.; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 3-2 WITH TIAHNYBOK AND LAUER DISSENTING.**

**R. Consider Appointment of Alternate Member to Plan Commission.**

John Steinbrink:

On this one Mike and I interviewed, along with Jean Werbie, Judith Juliana, neighbor near Alex down there, and recommended that she be appointed to the Planning Commission as an alternate member, and this would become be to May 1, 2006. She would serve a one year term then.

**SERPE MOVED TO APPROVE THE APPOINTMENT OF JUDITH JULIANA AS AN ALTERNATE MEMBER TO THE PLAN COMMISSION; SECONDED BY TIAHNYBOK; MOTION CARRIED 5-0.**

**S. Consent Agenda**

- 1) Approve Bartender Licenses on File.**
- 2) Approve Renewal of Towing License Applications**
- 3) Approve Letter of Credit Reduction for Arbor Ridge.**

**SERPE MOVED TO APPROVE CONSENT AGENDA ITEMS 1-3 AS PRESENTED; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 5-0.**

Village Board Meeting  
June 6, 2005

John Steinbrink:

Just to bring folks up to speed, at a party at Whittier over the weekend John, Jr. and myself and the principal and several other adults were challenged to a tug of war by the fourth and fifth grade class. We were told there would be 20 participants against us. There were about 50 I would estimate which was a lot like pulling against a centipede on wet grass so it was very interesting. Needless to say we lost. Those kids have definitely worked out at their programs there for physical education and we commend them. But then again there's always next year and dry turf.

**9. ADJOURNMENT**

**LAUER MOVED TO ADJOURN THE MEETING; SECONDED BY KUMORKIEWICZ;  
MOTION CARRIED 5-0 AND MEETING ADJOURNED AT 11:45 P.M.**