

**VILLAGE OF PLEASANT PRAIRIE
PLEASANT PRAIRIE VILLAGE BOARD
PLEASANT PRAIRIE WATER UTILITY
LAKE MICHIGAN SEWER UTILITY DISTRICT
SEWER UTILITY DISTRICT "D"
9915 39th Avenue
Pleasant Prairie, WI
August 20, 2007
6:30 p.m.**

A Regular Meeting of the Pleasant Prairie Village Board was held on Monday, August 20, 2007. Meeting called to order at 6:30 p.m. Present were Village Board members John Steinbrink, Monica Yuhas, Steve Kumorkiewicz and Mike Serpe. Clyde Allen was excused. Also present were Mike Pollocoff, Village Administrator; Jean Werbie, Community Development Director and Jane Romanowski, Village Clerk.

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**

John Steinbrink:

Tonight we have in the audience with us Miss Pleasant Prairie, Kiersten Gonzales. It was Pleasant Prairie Family Days but we're going to make you Miss Pleasant Prairie anyhow so you can have the whole thing. She was at Family Days throughout the event. And she was at the triathlon and handed out the awards there. She did a great job and she's going to lead us in the pledge tonight.

- 3. ROLL CALL**
- 4. MINUTES OF MEETINGS - JULY 16, 23 AND AUGUST 6, 2007**

YUHAS MOVED TO APPROVE THE MINUTES OF THE VILLAGE BOARD MEETINGS OF JULY 16, JULY 23 AND AUGUST 6, 2007 AS PRESENTED IN THEIR WRITTEN FORM; SECONDED BY SERPE; MOTION CARRIED 4-0.

- 5. CITIZEN COMMENTS**

Kiersten Gonzales:

Hello, my name is Kiersten Gonzales and I was recently crowned Miss Prairie Family Days 2007. I would like to take this opportunity to thank you as a Board for this great opportunity that you have given me. With this opportunity I would like to share with all of Pleasant Prairie the idea that with dreams anything is possible. Pleasant Prairie is a great example of this. We're such a small prairie but we've done such great things. The RecPlex is one of the great examples of the many wonderful things we have. It's one of the largest recreational complexes in the country and we also have a world record breaking triathlon. You can't tell me that those aren't some really big dreams. Those things have all been made possible by you, the Board, and the support of the

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community. With your help I would like to make sure that Pleasant Prairie knows that all dreams are possible as long as you work hard and believe. Thank you.

John Steinbrink:

Thank you.

Bob Babcock:

Bob Babcock, 11336 Lakeshore Drive. There's an old say age before beauty but you can see tonight that's not exactly true. My comment is regarding citizens' comments. For many, many years following citizens' comments we had Village Board comments which responded to a lot of the things that we brought up. So there's a lot of people that would like to make citizens' comments but they're not really able to or don't want to wait two, three, four hours until the end of the regular meeting session to get an answer. So I'd appreciate it if you'd take a close look at putting the Village Board comments right following the citizens' comments like they used to be. Thank you.

John Steinbrink:

Thank you. And just for information Bob did win I believe a golf foursome on WLIP. Is that correct, Bob.

Bob Babcock:

Yes, I did.

John Steinbrink:

Anyone else wishing to speak under citizens' comments? Hearing none, I'll close citizens' comments.

6. ADMINISTRATOR'S REPORT

Mike Pollocoff:

Mr. President, I'd just like to report, as everyone knows we've had significant rains over the last few days and I believe if the weather can be trusted we're going to be in for another few days of continuing rain. A lot of the ground is saturated. We haven't had any reports of sanitary sewer system backups in the homes. We have had some surcharging in some of the wet wells. The alarm systems have notified us so we've been able to get out there and address the problems before they've gotten bad. So we haven't had any service interruptions.

Some drive bys and evaluations of the storm water basins indicate everything is doing okay. We have identified a couple failures of some erosion control measures in some of the new

developments that have caused siltation or the brown water you see in basements to get in. We're going to be having the developers that are working on those areas take care of that.

We have had some isolated flooding. In some areas where, one, people have done illegal filling or grading that is promoting that, or in some areas where we just have no improvements that really serve to get the water away, but overall we're doing better. One of the reasons in some cases we're doing better is because there has been some development in areas where the developers have put in basins and we've required that design to accommodate existing flows. A good example of a few of those would be, even though the development is not completed yet, the Vintage Parc development on 165. If you were to take a look at those basins they're fairly well loaded up. The other ones are in the Tobin Creek development, King's Cove, all those basins have performed and it's taken a lot of pressure off of Tobin Creek between Sheridan Road and the lake. Retention basins don't get built overnight, but over time the more we get in the better shape we're in.

We have had some basements that have water going in the window wells or, like I say, some of the diversions which are the result of illegal filling. Probably the most significant would be some of the flooding that took place in the Kilbourn ditch area around Super Eight behind Chateau. That's always been a problematic area but that's why it's a floodplain. That's one of the areas where over time as those land uses change in that area is to get that back into a floodplain so that it's not developed. The crews were out last night monitoring all the areas to make sure we didn't have any problems. If it keeps on going or if we get the same amount of rains, I'm sure we'll be working on it through the week.

Our triathlon was completed this last week. The RecPlex staff and the volunteers did an excellent job of dealing with a tough situation with a lot of rain. We had 1,854 people register and we had 1,100 actually participate that came and swam in the water, rode in the water and ran in the water. They did a good job. It was a nice thing that RecPlex was able to accommodate a lot of people that went inside rather than them being stuck outside under tents. It was a good event. Again, the net proceeds, because the event has to pay for police, fire, whatever, overtime for parks, those things have to be covered, then the net proceeds go to therapeutic recreation for that program. So I think it was a good day for everybody. That's all I have tonight.

7. UNFINISHED BUSINESS

- A. Receive Plan Commission Recommendation and Review and consider approval of Chapter VI, "Existing Plans and Ordinances" of the Multi-Jurisdictional Comprehensive Plan for Kenosha County.**

Jean Werbie:

Mr. President, I recommend this item stay on the table for another two weeks.

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8. NEW BUSINESS

A. Resolution #07-52 Commendation for Jeannette A. Bergo for Life Saving Assistance to a Citizen.

Mike Pollocoff:

Mr. President, during Family Days we had an incident that I and the Village President and a few other people witnessed that was distressing. It was one of those times when everybody freezes and very few people really jump and go. We had someone who was swimming out to a stationary boat who came under distress. We had a RecPlex manager that was on the rocks working to get help and at that same time Jeannette Bergo launched herself from the shoreline and swam out and secured the individual in distress and got them to the shoreline. Jeannette is a former lifeguard with us, but she still swim instructs and helps out in a pinch. Nonetheless, she wasn't at Family Days to be lifeguarding at the lake.

We have a Resolution 07-052, resolution and commendation for heroic and compassionate services. Whereas, Jeannette Bergo, former lifeguard for the Village of Pleasant Prairie, and; Whereas, on Sunday, August 5, 2007, she was attending the Prairie Family Days, and; Whereas, an adult male began swimming to a stationary boat on Lake Andrea, and; Whereas, the swimmer became distressed and was not able to stay above water, and; Whereas, Jeannette Bergo was at the scene and responded immediately with no concern for her safety and swiftly brought the swimmer to shore. Now, therefore be it resolved, by the Village Board of Trustees of the Village of Pleasant Prairie that Jeannette A. Bergo receive the heartfelt thanks and admiration of the Village Board and from the citizens of the Village of Pleasant Prairie for her bravery and her life saving efforts exhibited to a citizen in need. Considered and adopted this 20th day of August, 2007.

Mike Serpe:

I just want to congratulate Jeannette for a heroic event and also move approval of 7-52. Jeannette, can I ask you a personal question? Are you John and Lorraine's daughter?

Jeannette Bergo:

Yes.

Mike Serpe:

I thought so.

John Steinbrink:

Now, ask the next question, who her famous relative is, well known relative.

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Mike Serpe:

That's Ann Bergo from the County Board, your grandmother.

Steve Kumorkiewicz:

I second Mike's motion.

SERPE MOVED TO ADOPT RESOLUTION #07-52 COMMENDATION FOR JEANNETTE A. BERGO FOR LIFE SAVING ASSISTANCE TO A CITIZEN; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 4-0.

John Steinbrink:

Jeannette if you come up we have a certificate of appreciation here for you. The Village of Pleasant Prairie certificate of appreciation to Jeannette Bergo. On behalf of the Village Board of Trustees and the citizens of Pleasant Prairie in recognizing your bravery and life saving efforts exhibited to a citizen in need and given under our hand and seal this 20th day of August, 2007.

B. Receive Plan Commission Recommendation and Consider Resolution #07-51 approving the request of Kari Kittermaster, agent for Regency Hill-Creekside Crossing, LLC, for the remaining 172 condominium unites within the Creekside Crossing Development that is generally located north of 93rd Street between 63rd and 65th Avenues.

Jean Werbie:

Mr. President, the petitioner is requesting the reapproval of a preliminary condominium plat for the Creekside Crossing Condominium Development. This is being requested to continue the development of this project as a mixed residential development. It's generally located north of 93rd Street at approximately 63rd Avenue. The preliminary plat process and the plat is valid for two years, and if the final plat for each subsequent phase is not filed within that two year time period then the preliminary plat expires and they need to come back to seek a new approval of the preliminary plat.

They have proceeded with a number of final plats for this project, but they have not completed the project so they are seeking a reapproval of the preliminary plat to finish the remaining 172 condominium units. This includes 30 two-unit buildings, 6 four-unit buildings and 11 eight-unit buildings. Again, this is on the northern portion of their development site.

The development, as you know, is being developed in stages. There are two single family stages and there are three condominium stages of development for this project. As previously noted, there's a great deal of open space within this project area, about 23 percent of the entire site, which includes neighborhood parks, wetland, floodplain, retention facilities and other open space as well as a pedestrian path that connects down from 93rd Street all the way north through their property and then north through an open space floodplain area on the very north end.

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Site access from this development will come from two points of connection from 93rd Street which are current and have been developed. The third point of connection when the northern segment of the condominium development moves forward is at 91st Street connecting to Creekside Circle to Old Green Bay Road. And then eventually there will be four other connection points, two to the north and two to the east when subsequent developments to the north and east and to the west develop.

There have been two variances that have been granted to this project by the Village Board. One had to do with a temporary dead ended cul-de-sac, and one had to do with a deferment of installation of required public improvements, both of which will go away or are considered temporary at this point because the roadways will continue and there will be a connection and improvements made all the way to Old Green Bay Road on 91st.

This is just a slide that talks about some of the projects as part of the public improvements that they need to install in order to further the expansion of this development. Some additional project that we have gone through many times before, but just for the record I just wanted to reiterate that all of the public improvements are being installed by the developer at the developer's cost which includes sewer, water, storm sewer, curb and gutter, retention basins, and all of the necessary improvements.

The 91st Street connection, again, was approved by a certified survey map. At this point the improvements were deferred until such time as they move forward with their next final plat. They will need to post a letter of credit and then put in those improvements as connection. Some of the illustrations of some of the elevations of the two-unit condo buildings that are under construction and four-unit building elevations that will be under construction and the eight units that have also been completed.

Then the petitioner, again, this evening is requesting the reapproval of the preliminary condominium plat for the Creekside Crossing development. This is Resolution #07-51 before you and it's subject to all the comments and conditions as attached to the resolution. Any questions? The staff and the Plan Commission recommend approval as presented.

Mike Serpe:

I have a question. Kari, Tom Terwall asked a question at the Plan Commission meeting. Are there more requests for the side-by-side units, the two units, than there are the eight units or the four?

Kari Kittermaster:

Hi, Kari Kittermaster with Regency Hills Development, 5008 Green Bay Road, Kenosha. We've had interest in the future two units as we are beginning the marketing process for them and as the site plan has been exposed for the future condo portion. The eights and the fours are still selling steadily, though. So the twos seem to be where the demand is right now because they're not available.

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Mike Serpe:

So this is pretty well set in stone the way you have it presented?

Kari Kittermaster:

That's how we're moving forward, but obviously there's always opportunity for discussion and we'll work with the Village as the market demands change and go accordingly.

SERPE MOVED TO CONCUR WITH THE PLAN COMMISSION RECOMMENDATION AND ADOPT RESOLUTION #07-51 APPROVING THE REQUEST OF KARI KITTERMASTER, AGENT FOR REGENCY HILL-CREEKSIDE CROSSING, LLC, FOR THE REMAINING 172 CONDOMINIUM UNITES WITHIN THE CREEKSIDE CROSSING DEVELOPMENT THAT IS GENERALLY LOCATED NORTH OF 93RD STREET BETWEEN 63RD AND 65TH AVENUES; SECONDED BY YUHAS; MOTION CARRIED 4-0.

C. Consider the request of John Perla, Jr. agent for Bain Station Crossing to approve the revised first amendment for the Declaration of Restrictions, Covenants and Easements for Bain Station Crossing.

Jean Werbie:

Mr. President, this is an item that was on your agenda at the last Village Board meeting. Unfortunately, the developer didn't realize and his attorney didn't realize that our agendas are sent out on the Friday before the meeting, and they had made one more change to their amendment to their declarations on Monday afternoon. I was not aware of that until Tuesday. So as such the amendment that you have this evening has one additional paragraph that refers to minimum second floor square footage for two story, split level or bi-level dwellings. So they wanted to make that change as well and incorporate it as part of this first amendment to the declaration of restrictions, covenants and easements before it got recorded at the Register of Deeds office. So the staff recommends approval of this revised first amendment for their recording.

Monica Yuhas:

Move for approval.

Steve Kumorkiewicz:

Second.

John Steinbrink:

Motion and a second. Any further discussion on this item?

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Steve Kumorkiewicz:

A question for Jean. The four sections are amendment or just one, section number 2?

Jean Werbie:

All four sections that are noted in this amendment will be amended in their declarations. You have seen Sections 1, 3 and 4 already. They were seen at the last Board meeting. So for Bain Station Crossing they would like this amendment that's revised before you that considers all four to be approved and recorded.

Steve Kumorkiewicz:

Okay, thank you, Jean.

YUHAS MOVED TO APPROVE THE REQUEST OF JOHN PERLA, JR. AGENT FOR BAIN STATION CROSSING TO APPROVE THE REVISED FIRST AMENDMENT FOR THE DECLARATION OF RESTRICTIONS, COVENANTS AND EASEMENTS FOR BAIN STATION CROSSING; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 4-0.

D. Consider the request of Prairie Trails LLC for the Developer to install municipal water and the Village to maintain the water main within the Lake County right-of-way of 128th Street for the development of Prairie Trails East Subdivision.

Jean Werbie:

Mr. President, as you know the developer, the Prairie Trails LLC has been working with the Village to put forth a final plat for the Prairie Trails East Subdivision. As you can see on the slide, this is the preliminary plat that had been before you and consideration of a final plat which is the first stage of this development will be coming to you shortly.

The road that abuts this development to the south, which is 128th Street, the State Line, is located within the jurisdiction of Lake County. And in order for municipal utilities or facilities to be installed from another jurisdiction into Lake County's right of way, they require a separate authorization and approval by that municipality that's acted on by the municipality. So the purpose of this request this evening is a request by the developer for the Village President and the Clerk to sign an acceptance that the developer will be installing municipal water improvements in 128th Street, and the Village upon inspection, dedication and acceptance will be maintaining that municipal water main and it will not be the responsibility of Lake County. The staff recommends approval as presented.

Mike Serpe:

So moved.

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Steve Kumorkiewicz:

Second.

John Steinbrink:

Motion by Mike, second by Steve. Further comments or questions?

Steve Kumorkiewicz:

The question I've got is it's going to come east from 39th Avenue? I'm a little confused.

Mike Pollocoff:

It's going to cover their frontage. So whatever their frontage is on 128th, we require the developer to extend that main for that frontage so that at some point when we go to loop that main we don't have to cross land that already services water.

Jean Werbie:

They actually have frontage on State Line all the way over to the bike trail. So they have quite a bit of frontage on 128th that they will have to cover with water main.

Steve Kumorkiewicz:

. . . going right now to 39th Avenue.

Mike Pollocoff:

That will be some future user or developer.

Steve Kumorkiewicz:

Future but not right now.

Mike Pollocoff:

Right.

Steve Kumorkiewicz:

Thank you.

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SERPE MOVED TO APPROVE THE REQUEST OF PRAIRIE TRAILS LLC FOR THE DEVELOPER TO INSTALL MUNICIPAL WATER AND THE VILLAGE TO MAINTAIN THE WATER MAIN WITHIN THE LAKE COUNTY RIGHT-OF-WAY OF 128TH STREET FOR THE DEVELOPMENT OF PRAIRIE TRAILS EAST SUBDIVISION; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 4-0.

- E. Consider Addendum No. 1 to the original 2006 "Midnight Madness" (Day After Thanksgiving Sale) Agreement between Prime Outlets at Pleasant Prairie and the Village regarding security for the Year 2007.**

Jean Werbie:

Mr. President and members of the Board, November of last year Prime Outlets had entered into an agreement with the Village of Pleasant Prairie and this related to their 2006 Midnight Madness sale which is the sale after Thanksgiving. The agreement was necessary because the B-3 Zoning District of the Village of Pleasant Prairie does not allow for businesses to be open 24 hours. In fact, it does not allow businesses to be open after midnight. So a separate agreement needed to be entered into to allow their sale opportunities from 12 p.m. until 5 a.m.

The original agreement had a provision that additional security would be required and provided by the Village of Pleasant Prairie Police Department. And, as discussed last year, after the event that there would be a re-evaluation completed by the Police Chief and his department to see if there was enough officer assistance and officers that were covering the area during that sale time. They did a re-evaluation and two additional officers in addition to the two that were originally required would need to be provided in order to provide coverage during that sale time. So the purpose of this agreement is to have Prime execute the agreement and to pay for the costs associated with the four officers during the special sale hours.

John Steinbrink:

Was this a very successful event, Jean?

Jean Werbie:

It was a very successful event. They literally had 5,000 people in their lot within the first hour, in their lot in the area within the first couple of hours after the sale started. In fact, there were a number of people that were coming by 9 or 10 o'clock before the event and cars were lined up and down the Interstate waiting to get to the event.

Mike Serpe:

Could I ask the Chief a question if I may? Chief, request for services last year during this event, how did they go?

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Chief Wagner:

As Jean indicated it was extraordinarily busy. We saw some just minor kinds of incidents occurring on the property at Prime Outlets. But really what we saw and why we need to increase the number of officers is because of the traffic problems that we encountered. Jean is correct - there was traffic backed up and everybody I'm sure saw on the nightly news the helicopter shots of traffic backed up all the way south to the State line and all the way back to the toll plaza, the first one in Illinois. While there's not much a few extra officers can do to deal with that, but what we can do is we can attempt to try to position those officers at the intersections and move that traffic through as quickly and as efficiently as we can. That's really the purpose of the additional officers.

With respect to the kind of incidents that we saw, again, there was some minor pushing and shoving that occurred in lines prior to the stores opening. Folks apparently felt that they could get a better deal if they were third in line as opposed to being eighth in line or what have you. There was some of that. But that really isn't the concern. The concern for me is more the traffic.

Mike Pollocoff:

Do we put the Sheriff's Department on notice on this?

Chief Wagner:

We do. In fact I've had discussion with them and the State Patrol as well about this. Everybody is aware of it and they'll deal with it.

Mike Serpe:

We do things right in Pleasant Prairie. We close down main highways, we have triathlons, the world's largest and now this.

John Steinbrink:

Do we have a motion?

Mike Serpe:

So moved.

Steve Kumorkiewicz:

Second.

John Steinbrink:

Motion by Mike and second by Steve. Further discussion?

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Steve Kumorkiewicz:

I have one more question for the Chief. Chief, do they have all the security cameras in place or not yet?

Chief Wagner:

That's in process. It's about 50 percent completed at this point. And I would anticipate that by the end, I would hope anyway by the end of August that we would be at a point where we could start testing that system. That system will be totally operational by the time that this occurs.

Mike Serpe:

Last year's event was the first event, is that correct?

Chief Wagner:

That's correct.

Mike Serpe:

So you're anticipating I'm guessing that this is probably going to be bigger than last year?

Chief Wagner:

Hard to say. We're going to find out. One thing that we will do and we've talked to Prime about this and they've agreed as well that we will re-evaluate this on an annual basis. If we need more people next year we'll bring that need to them and deal with that.

Jean Werbie:

There are some other things that they're looking at, too, such as busing in all the employees rather than having them there to open up some additional parking because there are several hundred employees that work there. They're going to be offering some other customer-friendly types of activities because people are coming two and three hours in advance to stand in line. They're going to try to do some things to make it a little bit more customer friendly so they don't have to worry about the pushing and shoving so much trying to get up to the front of the line. So they are working on a lot of different strategies to make it a successful sale again this year.

Monica Yuhas:

Chief, with the additional two officers that are going to be required this year, are the officers assigned? Is it done by seniority? How is that done?

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Chief Wagner:

Typically what we do, and actually by virtue of our collective bargaining agreement, anytime there's overtime it has to be assigned by seniority. So there's a sign up and then officers are awarded that time by seniority.

Steve Kumorkiewicz:

My last comment. I have a feeling the crowd this year is going to be bigger than last year. One of the reasons is I have been watching TV from Chicago and they advertise Prime Outlets in two locations, one in Oshkosh. and one in Pleasant Prairie. So the indication to me is the crowd is going to be heavy this year, probably more than last year.

John Steinbrink:

Thank you, Chief. I think last year was a very successful event and I think everybody knows what to look forward to this year. I think with the steps we're taking it's going to work out very well. When you look at what this brings into the economy in the community and the County gets a half percent sales tax on that that's a lot of dollars coming into the community. And a lot of those dollars are from out of state, so it helps everybody's bottom line out here. Prime Outlets does a great job and I think they have some new amenities there this year that are going to even add to it, so I think we can look forward to even bigger crowds. I like the idea of bussing some of the employees to free up some of that space. No matter what even we have in Pleasant Prairie parking with the large crowds we draw is a large issue. I think everybody knows what they're going to be looking forward to.

Mike Serpe:

As you were talking, John, I happened to think of something. We're getting involved in more and more events that are quite large and they're taxing on our resources. Just a thought for something to think about in the future, it wouldn't hurt maybe to explore the possibility of looking to create a unit that would work along with the police department that would work special events, an event staff type of thing, that would work maybe Prairie Family Days, Midnight Madness, the triathlons and maybe free up our officers a little bit. We're doing a lot of events every year and they're not getting smaller. They're getting bigger. So it's just something to think about that we creatively make it worthwhile to somebody that maybe would train a bunch of people that are interested in helping out and working these special events and can give us assistance when needed. Just something to think about.

SERPE MOVED TO APPROVE ADDENDUM NO. 1 TO THE ORIGINAL 2006 "MIDNIGHT MADNESS" (DAY AFTER THANKSGIVING SALE) AGREEMENT BETWEEN PRIME OUTLETS AT PLEASANT PRAIRIE AND THE VILLAGE REGARDING SECURITY FOR THE YEAR 2007; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 4-0.

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F. Consider a Pedestrian Walkway Sidewalk Escrow Agreement by and between Steve Mills and the Village of Pleasant Prairie for the Tobin Creek Subdivision.

Mike Pollocoff:

Mr. President, Tobin Creek Subdivision is very near completion for its final phases. And one of the things that hasn't been completed is the pedestrian paths that go through the subdivision into the site that's owned by Kenosha Unified for a future school. There's been some ongoing discussion between the developer and the residents and the residents and the Village and the Village and the developer about getting these things put in. Like anything else, there are residents there that have those lots where the paths are going to go and they're saying we don't want the path there because it doesn't go anyplace. It goes to just an open field. The Village wants to make sure at such time that those paths are needed that the funds are secured. That's not to say that the residents that do have those easements on those property aren't going to say no at a future time, and if that's a decision of the homeowners association so be it.

But what this agreement does is allow us to come to some conclusion and closure on it. I've had discussions with the homeowners association concerning what they want, and I guess the majority of the people in the subdivision voted in favor of not doing it at this time but they want to make sure the money is there and available so at such time in the future it does happen. We don't know when the school district is going to build a school there. At the rate that they're building new schools in Pleasant Prairie it might be a while. But on the other hand we get some obligations to the developer to be fair and not just take this money forever for no reason. We have an obligation to spend it on what we said we needed it for.

So what this escrow agreement provides for is that \$20,000 which is our estimate to put those crossings in it would be provided to the Village. It would be placed in an interest bearing account that's segregated from the other Village funds. And at such time as we decide to install those paths within this next ten year period that money is available, the developer is done and it's all set. If the Village decides not to do it for any reason that's totally the Village's or if the school district doesn't build a school there, we can at the end of ten years say we're done, the money goes back to the developer, there won't be any paths, and they won't be built.

What that would mean is that the kids in that subdivision would have to go out to Tobin Road to get into the school site, or they'd be cutting across peoples' lawns which happens in every subdivision. But this is one way to bring the problem to a conclusion. Typically if we look back in hindsight we should have required the developer to put the paths in the same time the road base is put in so when the people bought the lots it was there, they knew what they were getting. The easement was there, the engineering plans showed it, it was on the plat, but that happens in a development. Once somebody is there they say I don't want it, I don't care what it said, now I'm here and I don't want the path to go in. So that's a little bit of what we're dealing with here.

But as long as the homeowners association as a majority, they all think of it as a majority, they've indicated as reflected in the letter that they're opposed to extending those paths at this time. We have the money set aside and I'd recommend we enter into the escrow agreement. Ten years is a while but in terms of how quick the school district moves it's not very long at all.

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Mike Serpe:

To Mike or Jean, for Tobin Creek is there fences allowed in that subdivision?

Jean Werbie:

I believe fences are allowed when there's an installation of a pool. Beyond that I'd have to look at the specific regulations. Is there a circumstance or a question about a particular property? I can certainly look it up in their declarations.

Mike Serpe:

If there's concerns on these three paths that's why I ask about the fencing, people could fence if they wish from people entering their property.

Jean Werbie:

They would not be able to put a fence across the easement to block access.

Mike Serpe:

Not across the easement but along side of it?

Jean Werbie:

The side, yes, but not the back.

Steve Kumorkiewicz:

So we're going to keep putting money in escrow and if it doesn't happen in ten years--

Mike Pollocoff:

We'll hold the money in escrow, and if we haven't ordered it in a ten year period or the residents haven't asked for it and we're just sitting on it then we give it back to the developer.

Steve Kumorkiewicz:

We're passing this subject . . . the decision by the neighbors association?

Mike Pollocoff:

No, you can't give away your responsibilities in this one. So what happens is it's the decision of the Board and it's their sole discretion and authority to say we're putting the paths in. Now, you might in turn rely on the homeowners association to give you that feedback or input, but it's not

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them because they're not holding it and they don't have the release on it. It's going to be the Village.

Steve Kumorkiewicz:

So we're going to keep the money in escrow.

John Steinbrink:

I'll so move.

Mike Serpe:

Second.

John Steinbrink:

Further discussion?

Monica Yuhas:

I have a question. There's a ten year limit. What happens if Unified decides to build a school in 15 years or 20 years and the money has already been given back to the developer? How are the paths going to go in?

Mike Pollocoff:

They wouldn't go in unless the school district paid for it or the Village came back after the fact and paid for it. The practical matter is at that point someone has a lot that they've been there a while, they've planted, they're used to the grass being there and they're not going to want anybody to be walking on land that they perceive to be theirs.

STEINBRINK MOVED TO APPROVE A PEDESTRIAN WALKWAY SIDEWALK ESCROW AGREEMENT BY AND BETWEEN STEVE MILLS AND THE VILLAGE OF PLEASANT PRAIRIE FOR THE TOBIN CREEK SUBDIVISION; SECONDED BY SERPE; MOTION CARRIED 4-0.

G. Consider Award of Contract for the 2008 Paving Program for street paving on 63rd Avenue and 84th Street, 125th Place west of 39th Avenue and Phase 2 development Tobin Woods Subdivision.

Mike Pollocoff:

Mr. President, as the memo describes we have three projects that require paving this year. Two are related to utility work and one is where the Village has found that the developer is in breach and we've assumed the responsibilities with his money to complete the project. We put out the

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bid for this project over the two week period. Plans were submitted to Payne & Dolan, Black Diamond, Cicchini, and somebody else. We had extensive discussions with Cicchini and we believe they were bidding the project as well as Payne & Dolan. At the end only Payne & Dolan submitted a bid. Payne & Dolan is the source of asphalt for Black Diamond and I believe Cicchini as well. So they're the ones that generate the asphalt. The other vendors are the ones that have the labor to lay it. But we've only received one bid.

The unit prices were \$48 to \$50 a ton which is high but not in this market. When oil prices were doing what they were doing a few years back we were looking at asphalt at \$36 a ton before the oil prices have gone up. We don't like to receive single bids, but if we go out again we could do that, but one of the consequences is we end up working later into the season and the prices will go up. Again, that's a decision by the Board.

I'm recommending that we accept this bid. Everybody has had a fair chance to respond. Payne & Dolan has exposed their numbers to the other bidders. We rebid it. You might see a reduction in bid but you to some extent have harmed your credibility with Payne & Dolan on a sealed bid where you took the bid, got their number, we say let's see if we can do better and you give everybody else another shot at it. My hunch is that everybody is pretty busy and that's why they're not bidding on it. John, is there anything you'd like to add to that?

Mike Serpe:

I move approval of the award to Payne & Dolan at \$182,316.80.

Monica Yuhas:

Second.

John Steinbrink:

Motion by Mike, second by Monica. Further discussion?

Steve Kumorkiewicz:

I'm not too crazy about approving, like you say, Mike, with only one bid here. But the more we wait the higher it's going to go. I think we have no choice.

Mike Pollocoff:

I might add none of this paving is going on the tax roll. It's being paid for by the developer in one case and part of the utility with the other two involved in the cost of installing the utilities.

Monica Yuhas:

How many other projects have moved ahead with only receiving one bid?

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Mike Pollocoff:

We had one recently for equipment, but the areas where we have the most difficult time with bidders is asphalt concrete roads. With asphalt you have Payne & Dolan. Concrete you have a couple of bidders, Milwaukee Concrete and the other one that was really big in the area, James Cape, they went bankrupt, so those large scale firms there's been acquisitions after acquisitions to centralize them, and Payne & Dolan probably for at least the last 15 years they make asphalt for everybody and all you're really bidding out is for labor. If Payne & Dolan wants the job they can force the price down.

Any other work that we bid out, whether it's sewer, water, storm, grading, if you look on our pre-qualification list we have probably 15 pages of contractors that are qualified to do the work. But when you look at asphalt we have four, but again when you look at the manufacture of it you have one. Concrete we just have a couple. Curb and gutters you have street level work where you're doing street, Zenith Tech is the company. Almost all the developers are using them and we use them because there aren't a lot of other bidders. We haven't had that much--there's pavers across the State line and they don't come across the line.

John Steinbrink, Jr.:

There's just a couple things I'd like to add to what Mike had said. I did talk with some of the other contractors and they say at this stage in the game they are tied up with a lot of other projects. We did compare these two unit bid prices that we had for other developments, Creekside and some other developments that are going on, just to make sure that the unit prices are in check. The prices are very comparable and some are actually under bid, some of the unit prices that we had received for developers out in there. So I feel very comfortable that this is a good bid and a fair bid.

John Steinbrink:

So there is some comparison in there we can use.

SERPE MOVED TO APPROVE AN AWARD OF CONTRACT FOR THE 2008 PAVING PROGRAM FOR STREET PAVING ON 63RD AVENUE AND 84TH STREET, 125TH PLACE WEST OF 39TH AVENUE AND PHASE 2 DEVELOPMENT TOBIN WOODS SUBDIVISION; SECONDED BY YUHAS; MOTION CARRIED 4-0.

H. Consider Award of Contract for Miscellaneous Concrete Work on 75th Street in front of CityView Mobile Home Park.

Mike Pollocoff:

Mr. President we have a failed sidewalk that's in disrepair along Highway 50. We put out for bids a replacement of the work. Two parcels are affected. The parcels will be assessed at a special charge for the work which will be the bid price plus five percent for inspection and administration of the project. Contrary to the other bids this is flat concrete work. There's a lot

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of people doing this. We have four bids received. The low bid was submitted by AZAR, Limited in the amount of \$10,776.91. The high bid was submitted by Riley Construction in the amount of \$20,184. I recommend that a contract be awarded to AZAR in the amount of \$10,776.91.

Steve Kumorkiewicz:

I make a motion to approve the \$10,776.91 a the lowest bidder.

Monica Yuhas:

I'll second but I have a couple questions.

John Steinbrink:

Motion by Steve, second by Monica.

Monica Yuhas:

John, is there a difference in materials? Why is there a \$3,300 difference between the lowest bid and the—

John Steinbrink, Jr.:

Everything was bid out the same. It was the same concrete, the same bag mix and the same quantities and all that. I think a lot of it might have to do with just which contractor is looking for work and which contractor is busy. Anyone that's looking for work normally is going to come in with a lower price than somebody that is really busy who might just bid up a higher price. Our bid specs are very comprehensive. Everything has gone unit for unit bid price.

Monica Yuhas:

And have we used AZAR before?

John Steinbrink, Jr.:

Azarian does most of the concrete work in our developments in the Village. They're a very reputable company and we work with them on a very regular basis. I'm very comfortable having them do this work.

John Steinbrink:

We have a motion and a second. Further comment or question?

KUMORKIEWICZ MOVED TO APPROVE AN AWARD OF CONTRACT FOR MISCELLANEOUS CONCRETE WORK ON 75TH STREET IN FRONT OF CITYVIEW MOBILE HOME PARK; SECONDED BY YUHAS; MOTION CARRIED 4-0.

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I. Consider Resolution #07-48 - Resolution Opposing the Closing of the Bain Station Crossing - by the Canadian Pacific and Union Pacific Railroads.

Mike Pollocoff:

Mr. President, I prepared this resolution in response to the proposals or statements made by the Rail Commissioner for the State of Wisconsin indicating that these crossings in Pleasant Prairie by both the Canadian Pacific and the Union Pacific should be closed which in effect would shut Bain Station down between State Highway 31 and County Trunk H.

You on this Board and I know the people in the community have traveled Bain Station. It's kind of a rural two-lane road. Most people know it's a road that at certain points of the day there's going to be a coal train passing it for We Energies or a freight train. But a lot of people know the schedule and they know the shortcomings of that road. But that's a significant road in moving traffic from east to west in the north part of the Village. Any of the residential area and commercial area west of H that's their main route usually to get to Lance, to get to Tremper, to get to the government offices in the Village as well as anything else. So it's heavily traveled. That became painfully obvious this summer when there was development construction going on in that area and we had to close that road down.

The Rail Commissioner is going to be the one who is going to hear their petition and act on it. We're already getting our information and data together so that when that hearing is convened we're able to go in and make our presentation on behalf of the Village why these two crossings should be kept. This resolution identifies that Bain Station is a local arterial road, and there aren't too many east/ west arterials in the Village between Highway 50 and 95th Street. In fact, there's only one and that's Bain Station Road. That more than a two mile stretch of area.

Bain Station Road is the access for our Public Works Department to access the drainage ways along Bain Station Road and the floodplain in that area. That's important to us. If we can't maintain the drainage in that area we're stuck with heavy equipment and a lot of times we need to get in there when there's an emergency to having only one access point and that's on 95th Street at the Pleasant Prairie Power Plant. Otherwise now we can get in there when we need to get in there.

Bain Station as a local arterial has been identified in SEWRPC's Transportation Plan for 2020, and it will be in the succeeding one as an arterial road that carries enough traffic and it's significant to the extent that it's deemed to be transferred up to another level of government, to Kenosha County, as a regional arterial road. To close a road that has already been identified by the region's planners as a road that needs to be upgraded even farther for access doesn't make any sense at all.

There is no doubt that there's existing transportation deficiencies on Highway 50 even aside from the construction that's going on there now. Bain Station Road between 60th Avenue and 95th Street is the only road that provide relief for any overflow in traffic conditions on Highway 50. It's the only road. So to close that and take that away you're putting extra traffic on a road that

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doesn't function now and has no chance of being expanded for the next ten years. There's not going to be any improvements on Highway 50 that's going to expand that to the same capacity levels they have on Highway 31 for at least ten years.

To close that route and cause people to go around the power plant or go up to Highway 50 you're asking everybody at the minimum, at the best case scenario, is to add another mile onto their trip. We're in a nonattainment area for air quality. So all we're going to do is generate more pollution which the State gives grants to communities to stop doing things like this to quit generating pollution. So from every test this effort by the Canadian Pacific, the Union Pacific and the Rail Commission absolutely makes no sense at all.

And the only people really that I can see that are going to be benefitting by this is the railroad because it's going to be two less crossings that they have to maintain in addition to the other ones in Kenosha County if they're successful. Can the Rail Commissioner close this by his own decision. He can. That can happen. The Village's ability to stop this is, one, try to stop it at the hearing. The second would be to litigate the Commissioner's decision in court if necessary. So in this resolution, and I've given you the thumbnail data why this resolution is good, but I am asking that the Board resolve that this not be closed for all the reasons I've identified, but also that I be authorized to engage the services of legal counsel to represent the Village in any necessary legal proceedings required to stop the proposed closures. I think that would involve, one, the case the Village presents as we go to hearing representing the Village at the hearing, and with an eye towards if for some reason the Commissioner decides that the needs of the railroad are more important than the needs of the citizens here that we be able to enter into court with a case that we could prevail on. Hopefully it doesn't go that far. I know John is going to be working to meet with him to see if we can kill this before it gets much farther.

This isn't a public interest and I know the Village Board and myself really don't appreciate it coming out of left field as a side comment to the local press to say, gee, by the way we're going to close this. It's been tried before and we were able to stop it the last time before it went very far. I guess they're taking a kick at it again.

Mike Serpe:

It just seems ironic that this comes forward after all the complaining that has been done about the crossing maintenance on Highway 31 at Bain Station. It shows a lot of arrogance on the part of the railroad just to come into two municipalities and close roads that are heavily used. We were just talking about this not even two or three months ago about doing some type of improvements on Bain Station in the future because of the amount of development that's taking place in and around that area. So to close this would be absolutely ridiculous. I have to agree with you, Mike. I have to agree also on protecting the Village and having counsel represent us at the proper time.

It's unfortunate that a railroad can just come in and make these ridiculous requests and then cause the Village and Town of Somers to have to spend money ridiculously as far as I'm concerned to protect their interests and to keep things moving in their own Village which the railroad doesn't care because they don't live here. They just choose to dissect the community at any time they wish and do what they want when they're doing it. So I support this resolution 100 percent.

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John, good luck in the State. If there's something you can possibly do up there to curtail some of this activity on the part of the railroad that would certainly be welcomed as well.

John Steinbrink:

I move to adopt Resolution #07-48.

Monica Yuhas:

Second.

John Steinbrink:

Further comments or questions?

Steve Kumorkiewicz:

I'm under the impression, and correct me if I'm wrong, the railroads are under the jurisdiction of the federal government. My question is is the commission that controls the railroads at the federal government level? Are they commissioners appointed by the railroads?

Mike Pollocoff:

The railroads in Wisconsin as it relates to transportation crossings and regulations are under the jurisdiction of the Rail Commissioner of the State.

Steve Kumorkiewicz:

So they make a final decision or no? That's my question.

Mike Pollocoff:

They make a final decision but that doesn't mean it's without judicial evaluation or appeal.

Steve Kumorkiewicz:

That will be a touch case but we've got no choice.

John Steinbrink:

This issue came up several years ago. They were looking at I believe the 95th Street crossing there. This all boils down to dollars. They want to run high speed rail. This is something they're obsessed with. But in order to do that, to get that higher rail, they have to improve all the crossings which means they need to have a barrier that's not penetrated easily by a vehicle. It's going to be a curtain or something that comes up there. Which means they'd have to do this at all the crossings going along. Mike covered the reasons why it's important not to close Bain Station.

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We saw an example of Highway 50 with the minor construction going on there, and one lane being closed and the backups all the way almost to the Interstate on Fridays and other times there. So it's a real hazard to us.

Our answer was given to them several years ago in very plain English. I think they understood it well. It's been given back to me at different meetings. But apparently they want to still press this which is their right to do. But after the article came out a number of residents who use that road did talk to me in different places around town and expressed their concern. I think if we made an effort to really inform people of what's in the offing here of what possibly could happen, we would have a pretty large public outcry. People understand the value of having that crossing, not only for convenience but for safety purposes.

And if the railroad wants to pursue it I guess we're ready to pursue it. But we're hoping they have the wherewithal to look at what we present to them and understand it and say this is not a good choice. If they want to go forward we're going to challenge it. But what would be in their best wishes to improve the crossing there to put up the proper protective barriers and make this work for everybody. Once again, the rails are trying to save dollars and they're under budget crunches like everybody else, but they can't solve their problems at the safety of the public and that's what we're going to make sure we don't let happen here. Are there any other comments or questions?

Mike Serpe:

They don't live in this world by themselves. They have to share it with others.

John Steinbrink:

The railroad is a different thing.

STEINBRINK MOVED TO ADOPT RESOLUTION #07-48 - RESOLUTION OPPOSING THE CLOSING OF THE BAIN STATION CROSSING - BY THE CANADIAN PACIFIC AND UNION PACIFIC RAILROADS; SECONDED BY YUHAS; MOTION CARRIED 4-0.

J. Consider Ordinance #07-31 to Create Chapter 287 of the Pleasant Prairie Municipal Code Entitled "Sexual Offender Residency Restrictions".

Mike Pollocoff:

Mr. President, I bring this ordinance to you to consider in light of the City of Kenosha's recent efforts to adopt an ordinance similar to this. In fact, the ordinance I'm presenting to you tonight is exactly the same as that in the City of Kenosha. The intent of this ordinance is to, as the title indicates, regulate the residency locations and restrict those residencies within the corporate limits of the Village. The goal of this is to ensure that no sexual offenders are housed by the Department of Corrections upon release in an area where there's any uses where there's playgrounds, schools, daycares, churches, places where children congregate and within 2,000 feet of that which is almost a half mile.

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There's been some significant discussions about this in the City. I know the County has entered into some discussions on it. And it's something that needs some work. I think we have about 20 some offenders in the Village of Pleasant Prairie. Their whereabouts are identified on line. People should know that. I know the Chief of Police he does what he has to do to notify the press when one of these people are being placed in the community. We want to make sure that the public is safe. I think in some respects this accomplishes this.

There are some overriding troubling things about this that haven't been fully thought out I think by the City. I think there's some more work that has to happen to it to make sure that if something like this is going to be done it's going to be done without creating additional problems. Those additional problems would be putting the State into a position where people can't be released into the community and then we start backing ourselves into a corner where there's no place to put them and then they just end up getting released and we don't know where they're at.

If the City proceeds with this ordinance without us having an ordinance in place, we end up being the default location for the Department of Corrections to locate people. So where now on a proportional basis we have about 20 in our community that directly came from Pleasant Prairie, then once they served their time and they're done they come back to Pleasant Prairie and are located and they're under the restrictions and observance of the Department of Corrections. If Kenosha's is cut back severely by how much under this ordinance then Pleasant Prairie realistically becomes the most rational place, easiest place to locate the people. While we know we have to accommodate this under State law, we shouldn't have to accommodate more than what's our fair share.

So this ordinance as we have it set tonight puts us on equal footings with the City so that if they do adopt the ordinance that limits their residency that the Village is no more restrictive and no less restrictive. That we're on the same table or field as we work with this. One of the key things in this ordinance, and I think it's probably for what has to happen, is the effective date. This ordinance shall be effective upon adoption of a similar ordinance by the City of Kenosha. So we can adopt this ordinance but it won't be effective until Kenosha adopts an ordinance. We have a weaving boundary. Everybody has seen our boundary and how jagged it is and it's not a straight line and it never will be a straight line. So if we were to adopt this ordinance without Kenosha we'd be pushing sexual offenders into the City. If the City adopts us without us adopt it we're going to be pushing them into the Village. So hopefully they work through some of the issues. The County has indicated they're going to help them work through some or they want to get together.

Sexual offenders I really think in the scheme of life could care less what municipality they're in, they're just out there. We want to keep track of them. We want to keep track of where they are for the citizens of the community. Without doing this we're setting ourselves up to be the spot for everybody to come. We can't afford to do that. We don't necessarily like the position we're in now with the ones we have. My recommendation is that it be adopted as presented with that trigger that says it's going to happen when the City does theirs.

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Mike Serpe:

If people of this community, Kenosha and Pleasant Prairie as well, went on the registry site and saw the marks of where the sexual predators live they'd be shocked because they're all over the place. I agree, Mike, I think we have to adopt this as well just to protect us as well and the City. Mike, I have a question, though. Let's say a sexual predator owns a home and it's 200 feet away from a school and he serves his time and is released. Who forces him to move or forces him to sell that house? Certainly this ordinance doesn't do that?

Mike Pollocoff:

I think there's a lot of issues that haven't been thought out.

Mike Serpe:

I think you're right. That's what I'm getting to. I think there's a whole lot of scenarios here that have to be discussed and thought out. Right now this is a feel good measure and I think it needs to be a lot more thought put into this thing before we come up to a final ordinance that's going to have any teeth or make any sense. But for right now the way things stand I agree with you and I think we should adopt this for the protection of both communities.

Steve Kumorkiewicz:

Mike, did you get a chance to see any draft from the City concerning this?

Mike Pollocoff:

You're looking at it.

Steve Kumorkiewicz:

It's the same?

Mike Pollocoff:

Exactly the same.

Steve Kumorkiewicz:

The scenario that Mike says is there's many blank spots in this ordinance. It's a start and we have to start someplace so we have something in the books but I don't believe it's complete as it is.

SERPE MOVED TO ADOPT ORDINANCE #07-31 TO CREATE CHAPTER 287 OF THE PLEASANT PRAIRIE MUNICIPAL CODE ENTITLED "SEXUAL OFFENDER RESIDENCY RESTRICTIONS; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 4-0.

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- K. Consider Resolution #07-49 - Preliminary Resolution Declaring Intent to Exercise Special Assessment Police Powers for the Construction of Municipal Water to the Proposed Courts of Kensington Development on 63rd Avenue from STH 165 (104th Street) north to 100th Street.**

Mike Pollocoff:

Mr. President, this is a special assessment resolution to levy a special assessment for the extension of municipal water on 63rd Avenue up to 100th Avenue in conjunction with the Kensington Courts development. Kensington Courts is wishing to have right of recovery for the installation of that water main for the west side of the road which currently has homes on it. In order to do that a special assessment hearing must be held where the property owners could have the opportunity to speak on the project and understand the assessment.

The assessment would be the actual cost of the construction of the water main. The homeowners would have to pay that cost at such time as they connect to the water main or use it or divide their parcels and create a usable parcel that would need the water. If they don't do that in a ten year period, then the special assessment fades away as does the right of recovery that would be afforded to the developer, and they would be able to connect the water at their choice at no expense with the exception of they would need to construct and install a lateral from their home to the main. If they wanted a lateral ahead of time as part of this construction they would have to have that inserted in the project as well. We won't require the developer to provide laterals to homes that won't be using it for a period of time.

This also includes 100th, and the reason it includes 100th is there's an existing water main on 64th Avenue and this will loop that system and strengthen the pressure for everybody. So with that I'd recommend that Resolution 07-49 be adopted and that a hearing be set for one month from today.

John Steinbrink:

I'll so move. Do we have a second.

Monica Yuhas:

Second.

STEINBRINK MOVED TO ADOPT RESOLUTION #07-49 - PRELIMINARY RESOLUTION DECLARING INTENT TO EXERCISE SPECIAL ASSESSMENT POLICE POWERS FOR THE CONSTRUCTION OF MUNICIPAL WATER TO THE PROPOSED COURTS OF KENSINGTON DEVELOPMENT ON 63RD AVENUE FROM STH 165 (104TH STREET) NORTH TO 100TH STREET; SECONDED BY YUHAS; MOTION CARRIED 4-0.

- L. Consider Resolution #07-50 - Preliminary Resolution Declaring Intent to Exercise Special Assessment Police Powers for the Construction of Municipal Water on 63rd Avenue from 85th Street north to 84th Street.**

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Mike Pollocoff:

Mr. President, this is a resolution to extend municipal water. It's been petitioned by residents for the Village to install it. As a matter of fact, the petitioners have already signed a waiver and release to pay the special assessment and forego their rights to a hearing so the project could proceed. But we still need to conduct a hearing. So with that I'd recommend that Resolution 07-50 be adopted and scheduled for a hearing for one month from tonight.

Steve Kumorkiewicz:

So moved.

Monica Yuhas:

Second.

KUMORKIEWICZ MOVED TO ADOPT RESOLUTION #07-50 - PRELIMINARY RESOLUTION DECLARING INTENT TO EXERCISE SPECIAL ASSESSMENT POLICE POWERS FOR THE CONSTRUCTION OF MUNICIPAL WATER ON 63RD AVENUE FROM 85TH STREET NORTH TO 84TH STREET; SECONDED BY YUHAS; MOTION CARRIED 4-0.

M. Consider Ordinance #07-30 - Ordinance to Amend Chapter 98 of the Municipal Code relating to Village Board Order of Business.

Mike Pollocoff:

Mr. President, this ordinance amends the current ordinance that exists, and it defines the order of business under 98-5 to provide for the agenda to read F Village Board comments and those comments by Village staff requested to move to J and insert Administrator's Report at Item F. We've tried this out for the last couple months I believe to get the Village Board comments towards the end of the meeting. The thought has been, especially if you have an agenda with a fairly good sized group of items on it, to be able to move through those items so that people can get their business done that needs to get done.

—:

Excuse me. I think it's important. We can't hear back here. You have to speak into the mic.

John Steinbrink:

We'll take that under advisement. Please keep it in order. Mike?

Mike Pollocoff:

The purpose of this item, Ordinance 07-30, is to realign the Village Board agenda so that the Board member comments occur towards the end of the meeting at Item J. Currently they're at

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Item F following citizen comments. The ordinance also provides for the Administrator's Report at Item F. The Board has tried this for a couple months to have the Board Comments be at the end of the meeting in the effort to get the work of the Board as far as the agenda items under new business or old business resolved before the comments are made. It appears to have led to some shorter meetings I guess from my perspective. That's the intent of the ordinance and this is it.

Mike Serpe:

The former Attorney General, Peg Lautenschlager, she rendered an opinion that the Boards should not respond to citizens' comments. That was her opinion, of course, and I have not heard anything to change that opinion. It would be something to the effect that if you start responding to citizen comments you're doing things that are not on the agenda. So she cautioned municipalities to not respond as a Board to the citizens' comments.

Personally I kind of liked the idea of the Board comments following citizens' comments because it kept a little bit closer knit, even though we may not have always agreed on everything, between the residents and the Board because we responded to their concerns as they approached the microphone. For that reason I liked it. But when the Attorney General says that we may be in violation of Open Meetings then I think we have to take that into consideration.

Mike Pollocoff:

I think that's a valid concern. There's a lot of people looking to say you're violating open meetings for any number of reasons. Engaging in dialogue is conducting business that isn't noticed on the agenda. Some communities have gone so far as just take it off. If you want to have dialogue with the Board call them. There's no shortage of examples where someone is looking to say that a community is violating Open Meetings.

Steve Kumorkiewicz:

Looking at this, I remember reading that in the League of Municipalities magazine, I just wonder if before we go ahead with this resolution, this ordinance, we should get a legal opinion to iron out any problem that we may have in the future as you say. We don't want to have any violation of Open Meetings.

John Steinbrink:

I believe we already have that ruling from the Attorney General or the advisement from her which means until another ruling is made I guess that's a standing rule.

Steve Kumorkiewicz:

The School Board has the comments of the citizens at the end of the meeting. Am I correct?

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Monica Yuhas:

No.

Mike Serpe:

On the agenda in the past, Steve, we even had Such Other Matters as Authorized by Law. That hasn't appeared on our agenda in two or three years, maybe longer. I don't know. Same reason.

John Steinbrink:

A citizen spoke earlier, Mr. Babcock, who said it would be nice if we would respond to the comments of the citizens. That's in direct opposition to the ruling that was given by the Attorney General. So that's where we come into a problem. So you take that out and then we just have—we can insert that later. Number two, the meeting moves along a little better because usually in the beginning the public hearing is where we have anybody showing up for an item generally. After we get past the public hearings the audience gets pretty thin. Tonight we're very fortunate to have a few folks with us. But if you go to other meetings other nights we have staff members who loyally show up. But other than that, even the press goes home if we run late at 9:30 because they have to meet a deadline. People want to get the business done, they want to get their hearing in there. They want to have their input to the items on the agenda. And sometimes when citizens comments would go long you could read the faces of the folks looking at you saying I'd like to get on with my business. I think with this we're achieving that. Did we have a motion yet?

Monica Yuhas:

I have a comment.

John Steinbrink:

Could we have a motion first just so we put this out in the right order here. I'll so move. Do we have a second?

Mike Serpe:

I'll second.

John Steinbrink:

Comments or questions?

Monica Yuhas:

If the ruling or the opinion by the Attorney General stated that it was illegal to have Board comments after citizens' comments—

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Mike Serpe:

No, she didn't say that.

John Steinbrink:

It's the content of the Board responding to the items brought forward under citizens' comments. That's the issue here. That's what Mr. Babcock asked. Sometimes citizens show up under citizens' comments and they want their answers now. But legally we're not allowed to give that answer now. It has to be referred to an item for the next meeting.

Mike Serpe:

She recommends you answer those citizen comments by putting them on the agenda at the next meeting.

Monica Yuhas:

And when did she recommend doing this?

Mike Serpe:

While she was still in office.

Monica Yuhas:

And how long ago was that?

Mike Serpe:

Right before she got ousted.

Monica Yuhas:

Then why wasn't it changed then? Why now?

John Steinbrink:

We have a new Attorney General. If he was to render an opinion, I believe that's what he would do—

Mike Serpe:

There was controversy on that, Monica, at the time. Like I just said earlier I took serious offense to her decision because it took away the closeness, whatever closeness there is between the Village residents and the Board, it took that away. It just put more distance between us and I

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didn't like that. We kind of kept it. But after thinking about it and on the advice of some counsel they recommend you put it where it belongs.

Monica Yuhas:

I feel as a public official, and I know you can address them at the next Board meeting, but what if they can't make it at the next Board meeting.

Mike Serpe:

Exactly. We talked about that. You're exactly right. You're expressing the same feelings that we all did.

Mike Pollocoff:

The problem ends up Mr. Babcock comes up and says I think I don't like my street, my drainage is bad, why don't you do anything about it and raises a series of issues. Board members comment comes up and you start saying well, maybe what's wrong with this, you ask me, you start talking about it. Pretty soon what's happened is you've taken a fair comment from a citizen and you've taken a discussion from the Board and you've melded those together and under Board member comments you have an action that's taken place that you haven't noticed. What happens is the very desire that you have to be able to respond to the citizens and what they want has created the problem that the Attorney General says you've taken action on something that Ms. Gonzales if she had the same problem on her street and she wasn't here she didn't have the opportunity to do that and she didn't know the Board was going to decide to spend money on Bob's street because it wasn't noticed. Nobody knew it was going to happen. That is where the problem comes. It's not just that the Attorney General says you shouldn't meet. You've conducted something that violates the open meetings law. Then you have the *Kenosha News* that could say a decision was made about Mr. Babcock's road and they report on it and no one knew they had the opportunity to comment on Mr. Babcock's road being paved and storm sewerred or whatever as a discussion in your action that took place.

And, if you think back, there were times in everybody trying to work something out that happened. So what the Attorney General is saying is if you do that stuff, if you guys try and solve problems with the citizens at that point you're violating Open Meetings Law and that's the problem. Sometimes it's easier if you're going to fight with them because you're not resolving anything and then you're okay. The whole thing intuitively doesn't make sense, but that's where the problem ends up being. Like I say, there's no shortage of people willing to say look at the Board violating Open Meeting Law. You're doing something without noticing the public and here's the classic example where it happens by no ill intent by the citizens or by the Board. That's how you get things done with the Board is you go up and make a pitch at citizen comments and you get the Board to respond and pretty soon you've got your problem taken care of but nobody else had that kick at the cat and nobody else knew it was going to happen. That's the problem.

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So does that make any difference if Bob, and I'm sorry Bob we're using you because you spoke up, if Bob makes the point at the beginning of the meeting and he hangs in there like a trooper until the very end and you do the same thing, the Board has got to know that, one, we can't resolve something that night because it's not on the agenda, but the temptation is there because you're trying to work things out or help respond to a citizen request. It's counterintuitive but it's the environment you have especially when you have so much sensitivity towards people saying that the Village or any other government is violating open meetings and violating public notice. It creates that environment and there you are. Pretty soon you're dancing to music you don't want to dance to or you didn't think you were going to have to dance to.

Monica Yuhas:

What do other municipalities do as far as their agendas?

Jane Romanowski:

There's quite a few that have comments at the end of the agenda?

Mike Pollocoff:

I think Kenosha moved theirs to the end.

Jane Romanowski:

I've seen a lot of them with it at the end.

Steve Kumorkiewicz:

There is a precedent on that.

Mike Serpe:

Dick Ginkowski said at one of the meetings I believe he brought forward that he recommended that we move this because - and this man knows municipal law - he said on the agenda this should be at the end. That's his opinion, of course, just like the former Attorney General that was her opinion. If somebody asks the present Attorney General his opinion and it's different than what the former AG's opinion was then we'll live with that one. But there's rules you have to follow, laws you have to follow and opinions you have to follow. Whether you like it or not you have to follow them.

Monica Yuhas:

If we're not going to engage in giving a citizen an answer to a problem where does it matter where it is on the agenda?

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Mike Serpe:

You eliminate the possibility of, just like Mike said, getting into a dialogue as they're up here. Being on this Board for 18 years right now I've seen that happen in the past. Mike, you want to take care of this tomorrow or you want to look into this and see what you can do? I mean that happens because they come up with a legitimate complaint and you think you've taken care of their complaint by directing the Administrator or somebody in the Village employ to address the problem. That's where the problem lies. You can't do that.

Steve Kumorkiewicz:

How many times have we said we'll take care of it tomorrow? Many times.

Mike Serpe:

You can do that but you can't do it at the same meeting. If you're going to do that and talk about it put it on the agenda.

Steve Kumorkiewicz:

So any question that we have today we can get the answer in the next meeting. It makes no sense.

John Steinbrink:

This is basically the same discussion we had when this decision was rendered. It was with a different Board but I think we all concurred that we didn't like it but there's things we have to follow. There are points of it that do make sense, that if we talk about somebody's street and they're not here and they weren't noticed that's not fair or legal.

Mike Pollocoff:

The other thing that you can do, and I don't know if it gets it out of the box, you might make the citizens, as you say, you can further amend the agenda provision of the ordinances to place an item after Item E so it would precede F—if you wanted to add an item after E and before F to be a status report on a previous request to the Board so that if somebody makes a request in citizens' comments, if it's something that the Board wants to have something back, request that item come back from staff with a report at the following meeting. Then that agenda would be noticed, it would be noticed in the agenda, whatever that item is under F, and then it would be there. Right now to do it the way the AG's opinion is you're leaving the citizens thinking you're not going to respond to my request and you're not going to talk about it and that's true we're not going to do that and we can't do that. But the Board could refer a citizen's item to staff if it's something that you wanted a report back on or have something happen. Then we could get it back on the agenda and talk about it.

That's going to take care of some of the things. Some of the things is I want my stop sign and I want it now, and I guess I could respond to some of that stuff under Administrator's Report if we

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were going to do some of that. I don't believe I'm bound by that, but I wouldn't be getting any input from you guys at the meeting. Ideally for some people if they just phone in and give you a call everything happens a lot faster. That's the truth of the matter is if you call one of the Trustees or the Village staff and say I've got an issue and can you take care of it, we'll either tell them no we don't have the money or we need authorization from the Board. Then they can say I want somebody to talk about it and then they can say put it on the agenda so we can talk about it at the meeting and then we go from there. But to have it happen in a casual manner is what the AG is trying to stop.

John Steinbrink:

Other comments or questions? One way you look at it is if the meeting goes long enough and the citizen makes a request and you notice it right away and if you go 24 hours and you're at the bottom you can act on it.

Monica Yuhas:

I just believe firmly that if a citizen takes the time to come to a meeting and they're speaking on something that they feel is very important to them, they should at least have the acknowledgment that we did listen to them and we will try and find a solution to the problem even if it's on the next agenda as a next item. But that hasn't been the practice.

Mike Pollocoff:

No.

John Steinbrink:

Maybe that needs to be a disclaimer at the point of citizen comments that we inform them of that.

Mike Pollocoff:

I'm all ears if you guys have some ideas. I'm just telling you what will get you in trouble. We can do that. If you want to institute that into the agenda to have previous comments where you want some input back then you know it would be back on the next agenda assuming it's something that can wait two weeks.

John Steinbrink:

So you're darned if you do and darned if you don't.

Mike Serpe:

Monica, I know you're troubled by this as we all were. You'll find that many citizen comments they come here to vent their frustration on the Board and could have obtained the answer to their concerns by a staff member in the Village Hall. But for whatever reason they come and yell at us

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which is fine. But you'd be surprised how many citizens' comments that we have to listen to that could be resolved by just making a phone call to somebody in the staff, either to Jean's office or Mike's office or to Jane's office. That happens a lot, too.

Now that I've lived with this for a while since the former Attorney General said this I don't have a major problem with this. I think she points out some good—she's helping you eliminate some things that could get you into trouble. That's what she tried to do. Now, the new one that's in place, the new AG, maybe he's got a different opinion. If somebody asks that question we'll find out.

Mike Pollocoff:

That opinion is the result of somebody saying that very thing that happened, I didn't get an opportunity to get something done for me because you did it for that person and I didn't know you were going to talk about it.

Steve Kumorkiewicz:

There's two ways to look at this.

Jane Romanowski:

The Board could still refer something to be on the agenda under Village Board comments and not have detailed discussion on it at a meeting. So if a citizen said something you could say let's get it on the next agenda under Village Board comments. You're not just doing anything with it. So if you want the status report or something it can just go right to the agenda next time.

Mike Pollocoff:

The pressure is for the Board—

Jane Romanowski:

To not discuss it.

Mike Pollocoff:

And some comments are fairly impassioned or you see something wrong and you really want to right the wrong or you want to take care of it. That's one reason everybody was separating them to get those two things away from each other.

Mike Serpe:

I'll give you one more example and you can understand this. The weather just reminded me of this. A number of years ago, whenever we had a heavy event rainfall, without fail we had Cooper Road residents coming to this Board meeting screaming at us because they has sewage in their

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basement. Now, I don't care who you are or how you feel about anything or anybody, but when you have somebody saying I have sewage and toilet paper and everything floating in my basement and what are you going to do about it, I'll tell you what, we probably acted wrongly at the time because we said we have to do something on it and we have to do it now. Eventually it was taken care of. Mike came up with a brilliant, brilliant idea about the sump pump and separating it from the sanitary and right now you don't see anybody coming here from Cooper Road. But they got all of our attention.

How would you like every time it rained heavily wake up to sewage in your basement? We were saying things, they impassioned us, we responded. Maybe we would have done it wrong at the time by doing that but that's exactly what the Attorney General is advising us against. Don't do that. Those were very emotional meetings let me tell you. And I don't want to go through those again either.

John Steinbrink:

We have a motion and a second. Jane, is that correct?

Jane Romanowski:

Yes, we do.

John Steinbrink:

Further discussion?

Monica Yuhas:

I'd like to pursue this a little bit more. I know what the Attorney General has said, but I firmly believe that residents have a right to be heard and have something done. Even if we tell them I understand your concern, we can work on it after the meeting or we'll address it at the next meeting. Are we allowed to do that?

Mike Pollocoff:

You can say I can because if it's "we" then you're going to have the *Kenosha News* saying you have an illegal meeting. If it's we as three then you can't. And what the citizen expects is their Board, which is you guys, to sit down and figure out the problem and you can't do that unless it's a noticed meeting. If you want, we've been operating for months on the premise that you guys know what's right and wrong and you do know what's right and wrong and you haven't done it, you haven't made deals up at the dais, but if you want to have us look at some other communities and some alternative so you can see what else is done and bring that done. It's not an emergency to get this thing done tonight.

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Monica Yuhas:

I would feel more comfortable with that.

Steve Kumorkiewicz:

I do, too.

John Steinbrink:

Then we need to remove the motion and second. I'll remove my motion.

Mike Serpe:

I'll remove the second. You want to send this back for a little more review, is that right?

Monica Yuhas:

Yes.

Mike Pollocoff:

Then make the motion.

Mike Serpe:

Move to table.

Steve Kumorkiewicz:

Second.

**SERPE MOVED TO TABLE CONSIDERATION OF ORDINANCE #07-30 -
ORDINANCE TO AMEND CHAPTER 98 OF THE MUNICIPAL CODE RELATING TO
VILLAGE BOARD ORDER OF BUSINESS TO REVIEW THE AGENDAS OF OTHER
MUNICIPALITIES WITH RESPECT TO THE PLACEMENT OF BOARD/COUNCIL
COMMENTS; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 4-0.**

- N. Receive Plan Commission Recommendation and Consider Chapter XIII, "Economic
Development Element: of the Multi-Jurisdictional Comprehensive Plan for Kenosha
County.**

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Mike Pollocoff:

We're going to be bringing the other chapter back on utilities at our next meeting. If the Board would like to hear them both at the same time and do it that way and we can just move this to table and join it up with the previous chapter. Is that okay with you, Jean?

Jean Werbie:

Yes.

Steve Kumorkiewicz:

I think that would be better.

Mike Pollocoff:

They kind of tie together better seeing them together rather than separately.

KUMORKIEWICZ MOVED TO TABLE CONSIDERATION CHAPTER XIII, "ECONOMIC DEVELOPMENT ELEMENT: OF THE MULTI-JURISDICTIONAL COMPREHENSIVE PLAN FOR KENOSHA COUNTY UNTIL THE NEXT VILLAGE BOARD MEETING TO BE DISCUSSED AT THE SAME MEETING WITH CHAPTER VI; SECONDED BY YUHAS; MOTION CARRIED 4-0.

O. Consent Agenda

(All items listed under the Consent Agenda are considered routine and will be enacted by one motion. There will be no separate discussion of these items unless a Board member so requests, in which event the item will be removed from the General Order of Business and considered at this point on the agenda.)

- 1) Approve Letter of Credit Reduction for Vintage Parc Condominiums Project.**
- 2) Approve Letter of Credit Reduction for Tobin Creek Subdivision.**
- 3) Approve Amplification Permit at Prairie Springs Park for a September 8, 2007 picnic.**

SERPE MOVED TO APROVE CONSENT AGENDA ITEMS 1-3 AS PRESENTED; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 4-0.

9. VILLAGE BOARD COMMENTS

John Steinbrink:

I just want to say thank you to Kiersten for coming this evening. You've proven that you work well in the rain. Prairie Family Days was a challenge at times and you did a great job there. The

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triathlon was also a challenge. I guess we went from plan A, B, C and up to D. With that I also want to thank the folks that volunteered at the triathlon. They stuck it out through the weather. We got a lot of comments from the participants who were very thankful for the volunteers and what they made possible, especially staff and departments and getting the job done and moving parking around. Whenever you plan parking in a field and it rains six inches it's not a good day. But they made it work and participants were very happy. I think we, as Mike said, once again did something for a good cause with good results and it worked out well.

Also, I think it's pretty well known Highway 31 the rail crossing has been repaired. It's got a little different feel to it. One side is high and one side is low but it's smooth. Maybe if it keeps settling it will come out level. It will probably be one of the things I talk with the Railroad Commissioner about and thank him for his efforts in helping with this. I know that was a comment and topic from a lot of citizens and hopefully this is going to hold up for a while. If you look at the gravel trains there which dump the gravel into the city quarry pit or whatever it is—

Mike Pollocoff:

The transfer site.

John Steinbrink:

—you can see the weight on those cars and that's what really takes a toll on those crossings. When those cars is sitting across Highway 31 and blocking it you see a lot of traffic heading down Bain Station Road as a way to get around that mess. They don't know how long they're going to be blocking that. It all depends how fast they can switch things with the gravel pit there. Other than that, any other comments or questions?

Steve Kumorkiewicz:

One comment. If I recall correct the fine to the railroad for blocking any length of time is \$50. I don't think that will ever change. That was from 1963 or 1964.

John Steinbrink:

I think there is a length of time associated with that, X amount of time they use that crossing.

10. ADJOURNMENT

SERPE MOVED TO ADJOURN THE MEETING; SECONDED BY YUHAS; MOTION CARRIED 4-0 AND MEETING ADJOURNED AT 8:20 P.M.