

**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
September 4, 2007
6:30 p.m.**

A Regular Meeting of the Pleasant Prairie Village Board was held on Tuesday, September 4, 2007. Meeting called to order at 6:30 p.m. Present were Village Board members John Steinbrink (6:48 p.m.), Monica Yuhas, Steve Kumorkiewicz, Clyde Allen and Mike Serpe. Also present were Mike Pollocoff, Village Administrator; Jean Werbie, Community Development Director and Vesna Savic, Deputy, Village Clerk.

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

Mike Serpe:

President Steinbrink will be a little bit late so I'll run the meeting until he gets here.

- 3. ROLL CALL**
- 4. CITIZEN COMMENTS**

Mike Serpe:

If there's anybody here wishing to speak on any item on the agenda now would be your opportunity to talk with the exception of the Bentz Road people on 60th Avenue. That's the last item on the agenda. We will open it up to you for dialogue when that item comes up. So if you want to hold your comments until then we'll take them at that time. So if anybody is wishing to speak now is your opportunity. Anybody wishing to speak? Anybody wishing to speak?

Bob Babcock:

Bob Babcock, 11336 Lakeshore Drive. Before I get too far we had a terrible tragedy near my home last week when a young gentleman was drowned. There was an immediate response by our police and fire departments and they very quickly contained and controlled the scene. Additional rescue assistance was necessary and in a very short period of time there were units from all over the neighboring communities. I saw units from as far away as Lake Villa in Lake County. It was very comforting to know that we have such competent police and fire protection and that they can respond and act to any situation as they do. We owe our Chiefs Guilbert and Wagner and all of their crews of support a huge thank you.

On the agenda tonight it appears that the citizen comments and the Board comments are on the agenda. At the last meeting I voiced my opinion on the matter, and later it appeared the Board

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was a little bit unsure of the change and wisely tabled the issue. From what I understand the reason for the proposed change was due to an offhand comment that was made by the previous State Attorney General. Also, it seemed unclear if that even applied to our Board or any of our department meetings. I've written to the current State Attorney General and asked for clarification. As of yet I have not gotten a reply.

If a citizen makes a comment that can be construed as business the Board could simply advise the person of the appropriate department to contact for action. The Board is protected because they haven't conducted business, and the citizen has gotten an immediate answer to their question. I urge the Board to hold off permanently changing the Board responses to the end of the meeting until such time as there is an opinion from the current Attorney General.

The only upside about this is I can stand here and make all kinds of nasty remarks about you and you have to wait until the end of the meeting until the Board can comment to Chief Wagner to remove me. But, also it makes me feel kind of bad that I have to wait until the end of the meeting to see if the Board agrees that we have an excellent police and fire department. Thank you.

Mike Serpe:

Thank you, Bob.

Vesna Savic:

Eve Boehme.

Mike Serpe:

I think you're going to hold your comment. Okay. Anybody else wishing to speak? Anybody else. I'll close citizens' comments.

5. ADMINISTRATOR'S REPORT

Mike Pollocoff:

I have two items Trustee Serpe. One is that on Thursday the Village Board will be conducting a joint hearing with the Town of Bristol Board at the Kenosha County Center in the Town of Bristol. This is the public hearing, part of the process for both communities to complete the cooperative plan that's taking place between the Town of Bristol and the Village of Pleasant Prairie. We had entered into a settlement agreement ten years ago that really kind of just threw out the rules by which both communities were going to grow and work together. That's been working the last ten years. One of the things that we agreed to at that point was at some point in the future going the next step and adopting the cooperative plan to complete that and that's where we're at now. So that's a public hearing that's going to be held at 6:30 p.m. at the Kenosha County Center in the auditorium.

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The other item is as you can see tonight the auditorium is not in a state of repair but we are insulating the outside wall of the auditorium. This building was built in 1967 with no insulation. For all the years I've been here we've kind of endured the discomfort of having this be a fairly cold room and relied on the furnaces to keep it warm or vice versa in the heat of summer. But that's gotten to be very expensive over time to do that and our heating bills this last couple years have really been climbing. So we've insulated just the outside walls, that's why it's a short area that has the drywall and they're going to start painting that this week and it will match the existing colors. We are looking at doing the same thing on the outside wall in the lobby and down along the office. We're also in the middle of taking bids for insulating the ceiling. Above the acoustical panels that you see here is a steel deck for the roof. So really the only insulation we have is the rubber roof on top and the rocks on it. So it just took too long to get this mess done this time and by our next Board meeting or by the next Plan Commission meeting it will all be completed. That's all I have.

Mike Serpe:

Thank you, Mike.

6. CORRESPONDENCE

A. Receive Petition for the Extension of Municipal Water to a vacant lot in the 4600 block of Beverly Lane.

Mike Pollocoff:

Mr. President, we received a request from Bernard Schmitz of 8339 49th Avenue requesting that municipal water be extended to property on Beverly Lane. Beverly Lane is located in the Beverly Woods Subdivision which is in the Kenosha Water Utility water service area. So we would need to conduct a hearing for the purposes of special assessment to the parcel that Mr. Schmitz is proposing to build on as well as what's shown as parcel number 461 and I don't have the other number. It's straight across the street since they would be involved in the special assessment. We request this be referred to staff for preparation of a proper notice of hearing, resolution, and preparation of estimates.

Mike Serpe:

Comments or questions?

KUMORKIEWICZ MOVED TO RECEIVE THE PETITION FOR THE EXTENSION OF MUNICIPAL WATER TO A VACANT LOT IN THE 4600 BLOCK OF BEVERLY LANE AND SET THE MATTER FOR PUBLIC HEARING; SECONDED BY YUHAS; MOTION CARRIED 4-0.

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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:

We need to remove this from the table. Do we have a motion?

KUMORKIEWICZ MOVED TO REMOVE UNFINISHED ITEM A FROM THE TABLE; SECONDED BY ALLEN; MOTION CARRIED 4-0.

Jean Werbie:

Members of the Board, as you will recall Chapter Number VI, Existing Plans and Ordinances, came before you back in May. There were some outstanding questions that the Administrator and I needed to have answered by SEWRPC, and I believe our questions have now been answered. So I'd like to move forward and see this chapter presented before you. The Plan Commission has already recommended approval. The Kenosha County Multi-Jurisdictional Task group has reviewed this chapter already and they're waiting for any additional comments that the Village may have to finalize.

This Chapter VI covers the existing plans and ordinances. There are four parts to this chapter, the Regional Plans, County and Multi-Jurisdictional Plans, City, Town and Village Plans and County and Local Ordinances. The first plan that's covered in the chapter is the regional land use plan. This plan sets for the concepts for the recommended guide for development within the seven county southeastern portion of the State. Specifically, the most recent version of this plan was adopted by the Plan Commission in 2006. This plan includes not only Kenosha County but, again, envisions all of what's going to be happening in Southeast Wisconsin, so it does take a much broader view and perspective of how land uses will occur when and if they do occur, and the projected time line I believe is 2035 for this regional land use plan.

The next plan that's talked about in the overall comprehensive plan is the regional transportation system plan for Kenosha County. The plan consists of various elements that include transit, transportation systems, travel demand, bicycle and pedestrian facilities and arterial streets and highways. So all of these plans are explained within the comprehensive plan. There is a separate regional system plan that goes into detail for all of these various elements. But this, again, just gives you an overview of what the future needs are going to be for the transit and streets and highway systems in Kenosha County. This plan was adopted back in June of 2006.

The next regional plan is the arterial street and highway system element plan portion, and this really discusses the functional improvements, that is the roadway capacity maintenance issues, the improvements, the expansions, the new interchanges along the Interstate. It really gets into

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some of the jurisdictional issues as to who is going to be owning the various highways, arterial streets within the County.

The next is the public transit system element and this talks about the 2035 elements as it relates to the transit system. As you can see, there is not a great deal of the County that is serviced by transit at this time. It's primarily the City of Kenosha but it does jut down into the Village of Pleasant Prairie and some areas in the Town of Somers. And it does show you some of the major routes in those areas that they're looking to expand as development continues wets of the Interstate.

The next is, again, some more details on public transit. This has to do with the KRM, the commuter rail that has been so talked about lately and the rail corridors that are linking between Kenosha as well as Milwaukee, to the City of Burlington, the western part of Racine County. It does talk about the rail systems and the connections.

The next portion of this regional plan element chapter discusses the bicycle and pedestrian facilities. It talks about various elements of where bicycle lanes, pedestrian travel should be located and what types of improvements should be made on the arterial systems, whether it involves the widening of travel lanes, shoulders, separate bicycle paths, off street bicycle paths. A lot of this information was included as part of the Village's park and open space plan and it did include a pedestrian and bicycle system portion, so a lot of this information for Pleasant Prairie was brought into our local park plan.

The next is a regional natural areas plan. This is significant for Pleasant Prairie because there are two very large natural areas that were referenced along with a lot of the various species and plant life and other types of things that were mentioned. As you know, it's the Chiwaukee Prairie and the Des Plaines River Watershed. So this, again, is another important regional plan.

The next is the water quality management plan. The Plan Commission adopted an area wide water quality management plan for the Southeast Wisconsin region as a guide to achieving clean and healthy surface waters within the Southeast area. This plan talks about point source pollution abatement as well as it talks about the major sewage conveyance and treatment facilities, identifies planned sewer service areas for each of the systems in Southeast Wisconsin. So this is a very significant and important chapter for Pleasant Prairie as well.

The regional water supply plan is one that is underway at this time. I believe that Mike has most of his questions answered with respect to this project plan on a regional level. I believe they had indicated that it was sometime next year that this regional supply plan was going to be finished for Southeast Wisconsin.

These are just some of the elements and components of the regional water supply plan. Again, it's not completed yet, but it talks about water supply service areas, recommendations for water conservation, groundwater recharge areas to be protected, new institutional structures necessary to carry out the plan recommendation, and identification of constraints to development based on the amount of water that can service the Southeast Wisconsin area.

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There's also a regional telecommunication plan. It talks about providing a comprehensive broadband telecommunications infrastructure plan for the region. This plan was also adopted as part of this wireless antenna siting and infrastructure plan for Southeast Wisconsin and has been referenced the various things that we've been doing here at the Village. The regional telecommunications plan has some elements where we talk about two levels of wireless networks, the wireless backhaul network plan, community level wireless access network plan. Again, as you know, we've been very aggressive with respect to providing service throughout the Village of Pleasant Prairie.

Part 2 of this chapter refers to the County and multi-jurisdictional plans, the first of which is the Kenosha Urban Planning District plan. As you know the Village adopted that plan back in June of 1996. We've amended it since then but we are actually in the process of amending it as part of the comprehensive Smart Growth process. In this comprehensive effort we are working with all of the communities in Kenosha County with the exception of the few that already adopted the plan, and their plans will be brought into and made part of our comprehensive County plan. This is just a listing of some of the other comprehensive plans, multi-jurisdictional plans that have been prepared in Kenosha County.

Part 3 of the chapter talks about the City, Town and Village plans. This section just refers to the fact that under the new recently adopted legislation that Smart Growth requires that the community adopt a comprehensive plan before 2010 and that its zoning, regulations and the implementation efforts be updated so that the zoning maps essentially mirror the comprehensive plan for the community. And there are some references here that talk about how important the zoning ordinance as well as an official map will be for the Village in implementing our comprehensive plan. This just goes on to talk about some of the other communities in Kenosha County which have adopted comprehensive plans, and everyone is working towards the end of having a plan adopted by 2010.

One of the things that's of significance for local plans in Pleasant Prairie is our neighborhood plans. Neighborhood plans, as you know, refine or detail the comprehensive plan. We have about 22 different neighborhoods mile and a half or so square areas within the Village that we've done more refined planning. We do this so that we can set forth how lots lay out, road layouts, difference parks and other types of trail systems and other areas of the Village can be interconnected from one system to another. There is a listing here of all the different neighborhoods that we've adopted neighborhood plans for including Green Hill Farm, Highpoint, Lake View East, Lakewood, Pleasant Homes, Prairie Ridge, Sheridan Woods, Tobin Road, West of I-94, Whittier Creek Village Green and for portions of Country Home, Isetts, Lance and Prairie Lane. We are currently working on three neighborhood plans, Carol Beach South, Pleasant Farms and Prairie Lane.

There is a section in the chapter that talks about municipal boundary agreements and the significance of those agreements. Mike earlier this evening mentioned that we'll be meeting with the Town of Bristol on Thursday evening to talk about our cooperative plan and how it related to our municipal boundary agreement between Bristol and Pleasant Prairie. As you can see on this map of Kenosha County, in those areas that are colored you can see which communities have entered into cooperative boundary agreements with their neighbors.

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Part 4 of this chapter talks about County and local ordinances. This particular chapter set forth very detailed provisions in sections of our zoning ordinance, the land division ordinance, as well as any other official mapping ordinances within the County and what districts and what regulations. It's kind of an overview of each of the municipalities' regulations and ordinances. Pleasant Prairie's were listed in there. There were some changes and modifications that I have noted and will provide to SEWRPC prior to their final editing of this chapter. That's it for that particular chapter.

Mike Serpe:

Before we go onto dialogue let the record show that President Steinbrink is now in attendance. With that, I'll turn the meeting over to you, John.

John Steinbrink:

Thank you, Jean. Comment or question?

Mike Pollocoff:

We just need a motion for approval for the plan as presented.

ALLEN MOVED TO CONCUR WITH THE PLAN COMMISSION RECOMMENDATION AND APPROVE CHAPTER VI, "EXISTING PLANS AND ORDINANCES" OF THE MULTI-JURISDICTIONAL COMPREHENSIVE PLAN FOR KENOSHA COUNTY; SECONDED BY SERPE; MOTION CARRIED 5-0.

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

SERPE MOVED TO REMOVED UNFINISHED ITEM B FROM THE TABLE; SECONDED BY YUHAS; MOTION CARRIED 5-0.

Jean Werbie:

This is a second chapter, Chapter XIII, the Economic Development element of the multi-jurisdictional comprehensive plan for Kenosha County. Again, this chapter was presented to the Village Plan Commission and we're presenting it to you this evening. The economic development element is one of the nine elements that's required as part of the comprehensive plan. It was not required in the past and has never been part of a comprehensive plan, but it's very encompassing in some of the details that have been provided in this chapter. It really sets forth goals, objectives, policies, programs. It talks about what we're doing to stabilize out economy, how to retain jobs, how to attract jobs. It really goes into a lot of details including all the different programs that we have and are available to new industry that would like to locate to this area.

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There are certain details that must be included in this chapter. This slide basically identifies some of those details. It's a very fact intensive chapter in that it provides a lot of factual information on the labor force, the population, the number of businesses in the community, the employment, the labor force. There's a lot of details to that effect, most of which were either compiled through SEWRPC, the census or by KABA, the Kenosha Area Business Alliance.

This slide just lists some of the goals related to the economic elements of this chapter. As I mentioned it really focuses around economically productive areas that we want to protect and maintain encouragement of certain types of land uses, building community identity and revitalizing main streets and creating down towns, providing adequate infrastructure, promoting and stabilizing jobs as well as industry within the community.

Part 1 of the chapter talks about the inventory and analysis of the labor force and the economic base in the County. These slides cover employment and unemployment, employment by job type, the largest employers in the County, wage information, household income characteristics, existing and planned business and industrial parks and environmentally contaminated land sites within the County.

Part 2 covers the organizations and the programs, and there are some very detailed programs that have been identified in the chapter for you. These are programs that are provided by Kenosha County, by the State, by KABA, by the Job Center, by the Workforce Development, all the different factions and groups that provide not only programs but training and other opportunities for existing businesses as well as new businesses within Kenosha County, quite extensive within the chapter.

The next area or part is the economic projections and desirable businesses section. This talks about the projected number of jobs, the assessment and evaluation of what types of new businesses that we'd like to attract to the County and in particular to Pleasant Prairie. It also goes into the County's strengths and weaknesses of those businesses and industries. At our last meeting last week Todd Battle from Kenosha Area Business Alliance attended the meeting and he talked at length about some focus groups and some studies that have been completed by Kenosha County about what it takes to attract and retain businesses in Kenosha County, what are our weaknesses, what are our strengths. There was an article in the *Kenosha News* I think last week that kind of covered some of the things that were discussed by the committee. But it was really at the last meeting a brainstorming session where we talked about all the different things that we can do as a community and we need to be thinking forward toward 2030 or 2035 as to what the community will be like then and what we need to be doing now in order to attract and retain businesses at that time.

Part 4 is the economic goals and objectives. This section sets forth the goals and objections, recommended policies, steps and actions to be taken. And these would be steps and actions not only at the County level but at the local level by the economic development organizations as well as the businesses in order to continue to make this area and our community a viable place to locate and to attract business to.

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Part 1, again, inventory and analysis. I'm just going to go over some of these slides pretty quick. The chapter is quite extensive. This first slide talks about the employment status of persons 16 and over. Again, some of the information is dating back all the way to the year 2000 census, and some is projected forward. Some information is 2005.

One thing I do want to point out is the greatest concentration of employed persons resided in the City of Kenosha and the Village of Pleasant Prairie. As you can see, for the Village of Pleasant Prairie the number of employed persons in the labor force was 8,050 which is very significant. We have also the highest number in the labor force in the armed forces. This table identifies the estimated labor force population in 2006. Again, with the assistance of the Department of Workforce Development, we're able to get more current information. Overall, it just gives this information at the County, State and federal level.

The occupational and educational attainment makeup of the labor force provides insight into the nature of the work for the County labor force and what it's suited to, the type of industry that might be most successful here. This is a listing of the different types of businesses and industries that are most desired by the County and it lists the percentages there, with management and professional-related occupations at 29 percent, sales and office occupations at 27, production transportation material moving at 20 percent, service occupations at 14 and construction at 10 percent. An important note there also on that slide is 84 percent of the residents at least 25 years of age in Kenosha County had attained a high school or higher level of education by year 2000, and that's important in deciding what types of businesses to attract and retain in the County.

This slide talks about the employment growth in Kenosha County between 1950 and year 2000. Again, that's almost 7 years old so some of the numbers are a little low for Kenosha County. This slide sets forth the number of jobs in each community in the year 2000. In Pleasant Prairie in the year 2000 we had just under 11,000 jobs that were in this community or 16 percent in the total County.

The manufacturing industry led the County in the number of jobs in 2005 despite the drop in the number of jobs. The next largest five private employment categories were retail, trade, healthcare and social assistance, accommodation and food services, administrative and waste services and other services except public administration. The largest government employer in the County was local government including Kenosha County.

Major employment concentrations or locations in Kenosha County in 2006, those with 100 or more employees are shown on the slide. This slide sets forth the annual average wages by industry in the County, region and State in 2005. The annual average wage paid to workers employed in Kenosha County was \$33,770 per year. These are just some additional statistics about the median household income of the County residents, \$46,970 in 1999. Again, I think some of these numbers are a little low. We're about 8 years beyond that at this point. In 2007 there were seven business or industrial parks located within the County encompassing just under 3,400 acres. About 76 percent of the land has been developed or is committed to development. As you can see, three of those sites are in the Village of Pleasant Prairie, three, four and five.

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In June of 2007 the Wisconsin DNR Bureau of Remediation and Redevelopment identified that there were 123 environmentally contaminated sites at 103 locations in the County that had not yet been remediated but are currently being monitored. We do have some sites in Pleasant Prairie that are either being remediated at this point and are being monitored and some that have not reached that stage yet. Again, this is important to note based on the type of business and industry we'd like to attract and where we'd like to place them. Former landfill sites are shown on this map. I believe we have three identified sites in Pleasant Prairie.

Part 2 is the economic development organizations and programs. I touched on this briefly before, KABA community development block grant programs, Kenosha County Human Services, Division of Workforce Development all have different types of programs that are available to assist businesses in their expansion or retention. Here are some additional organizations and groups that have been involved with that. Local government economic development organizations and activities include community development authorities and community redevelopment authorities. Additional economic development programs that they identified in detail, along with specific locations, are these various programs.

Part 3, economic projections and desirable businesses, future employment levels in the County are expected to be influenced by the strengths of the regional economy. The Regional Planning Commission's economic study which was prepared as part of the Planning Commission's planning program concluded that the regional economy is unlikely to significantly increase or decrease in strength relative to the State or nation over the time period. So overall on an average it will be consistent in Southeast Wisconsin based on what the State and the United States is doing.

Project urban service areas have been identified for sanitary sewer and water service purposes as shown on this map. Existing and projected employment for each urban service area and unsewered area in the County have been identified. All this information is to be used as part of our planning efforts. Desired businesses, there are a number of businesses that the County would like to attract. Again, they've had a number of economic summit opportunities to discuss this with local business leaders and community leaders, then we did this also as part of the review of the chapter. There was some significant study and work that has been done in collecting peoples' opinions about the types of businesses that we can attract and retain. On August 28th we did have a brainstorming session where we gathered some additional information that will be used as part of this chapter.

Finally, Part 4, which is the economic development goals, objectives, policies and programs that was not completed by the committee other than what we had discussed at our last meeting so I can't report on that any further as part of this chapter. So if they give me any additional information I'd like to bring that portion of it back, but at this point that would be the conclusion of this chapter.

Mike Serpe:

Jean, after this is approved and adopted who is going to maintain this document from this point on for any future changes that may take place?

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Jean Werbie:

What's going to happen is for the Village of Pleasant Prairie we are actually taking a lot of the information that's contained within this comprehensive plan on the County-wide level and bringing it down to the local level. And so we are actually pulling out Village-related information and the Village will be responsible for keeping our comprehensive plan updated. I would believe that the County, through the County Planning and Development office that they will be responsible for keeping their County plan updated as developments are developed and growth occurs within the County.

Mike Serpe:

So whatever changes take place will be in the master plan but we'll have our own copy?

Jean Werbie:

We will have our own portion of the plan that covers just Pleasant Prairie. One of the other things I'd like to mention is that on October 22nd which is a Monday at 6:30 Kenosha County will be holding an open house to cover all of these existing inventory chapters that they have prepared to date. It will be an open house with presentations and boards. Our meeting in Pleasant Prairie is being held at the LakeView RecPlex in the LakeView room, October 22nd at 6:30 to 8 I believe. So all of these chapters can be discussed with any of the County or the SEWRPC staff that prepared these chapters.

Mike Serpe:

So everything we do from the Plan Commission's perspective is sent to Kenosha County now?

Jean Werbie:

At this point if there's any changes to these chapters, and our staff we're getting these chapters back from them and we're in the process of tailoring it and bringing it down so that we're focusing it in on Pleasant Prairie. We're putting broader perspective information in, where their chapters just talk briefly about each community we're going to be talking primarily about Pleasant Prairie in ours.

Mike Serpe:

I understand. But in order to keep the document updated and fresh we're going to have to give them any changes that are made in Pleasant Prairie they're going to have to be made aware of to incorporate them into this?

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Jean Werbie:

Correct. I don't know how often they'll update their comprehensive plan. Typically comprehensive plans are—in our community we've been updating it every time there's a change. But most times a plan at this level is typically updated maybe every 5, 10 or 15 years at most.

Mike Serpe:

It's going to take some work on keeping accurate records here by somebody. Anyway, I would move approval of the Chapter XIII.

Steve Kumorkiewicz:

Second.

John Steinbrink:

Motion by Mike, second by Steve. Further discussion?

Steve Kumorkiewicz:

A question for Jean. Jean, the County is going to do the towns and we do our own? Kenosha City is going to do their own, too, and the Village?

Jean Werbie:

Every community is included of the participating communities. I think there's 10 or 11 of us. The County is doing it in cooperation with all the towns and villages and the City that are part of this study. There are three areas, I think Randall, Wheatland, Twin Lakes, I think there were three communities that have already completed their comprehensive plan, and those will just be brought into this. So the County is doing it for everyone, but each community is participating so it becomes part of their plan. So they're doing it for the towns, villages and the City with us.

Steve Kumorkiewicz:

So we do our own, okay.

**SERPE MOVED TO CONCUR WITH THE PLAN COMMISSION
RECOMMENDATION AND APPROVE CHAPTER XIII, "ECONOMIC DEVELOPMENT
ELEMENT: OF THE MULTI-JURISDICTIONAL COMPREHENSIVE PLAN FOR KENOSHA
COUNTY; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 5-0.**

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

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Mike Pollocoff:

Mr. President, we had this item at our last meeting and the Board had some significant discussion on it. At the last meeting of the Village Board the subject of Village Board comments was placed on the agenda and discussed and we were directed to prepare a report describing what other municipalities were following as a practice.

In your packet I've included, sort of bigger than you'd like it to be, but there's a table where we surveyed 30 communities. We tried to pick some communities that were similar to Pleasant Prairie in size and area, then we included the Kenosha County communities. The questions we asked them were do you have citizen comments listed on your agenda? Of the 30, 28 said yes, they have citizen comments. We put some notes on these to describe and get a flavor for what the comparisons were. Some put on time limits. Some had them, like in Menomonee Falls the citizen comments they're one of the communities that do not have citizen comments. But then they have a half hour town hall meeting before the meeting starts where the citizens can come, talk to the Board, ask some questions, get information from them, although that in and of itself is an open meeting but it's just not part of the Board meeting. In looking at the number of communities that have council, board, supervisor comments on the agenda, out of the 30 only 3 had that item on their agenda and two of them were in Kenosha County, the Towns of Bristol and Somers and Oconomowoc was the other one.

The issue of what should be placed on the agenda and what can be discussed has been around for some time now. The Village agenda was modified in 2004 to eliminate the item such others matters as authorized by law. Recently the Village staff received verbal advice from legal counsel that having the Village Board comments after citizens' comments was not advisable since it could promote dialogue between the citizens and the Village. While dialogue and conversation are positive, what runs afoul of the open meetings law is the extent to which a decision is being made on the spot without providing notice to the general public that some items were being discussed. Moving the Village Board comments to the back of the agenda would end the back and forth comments.

I know that having dialogue between citizens and our elected leaders, at first blush, second blush, third blush sounds like a good thing and good public policy, but this is Wisconsin and what the court decisions and the leanings and the complaints filed on open meetings violations have done is if you look back on this from a perspective it's tended to limit and cramp that process where that's become more difficult because the open meetings law, I think the intent of it, is to make sure that no decisions are made without the public knowing that there's going to be a decision made or something talked without having a chance or opportunity to chime in on that. And, if something happens in a general back and forth discussion, a citizen complains about something, the Board says, Administrator, take care of it and get that thing fixed, let's do this this way from now on, someone else didn't have an opportunity to say I don't agree with that or what about me, take care of me, too. That ends up being the rub. I think not all States have that curse that we seem to be carrying around with us.

I've also attached a legal opinion from Attorney Phil Godin. Attorney Godin recommends removing the item from the agenda altogether. That item, again, is Board member comments.

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After reviewing the survey of communities it's apparent that the majority of communities have followed the same path. As I indicated, of the 30 we surveyed only three have a specific item on the agenda for comments from the governing Board. Those are Bristol and Somers in Kenosha County. Two municipalities, Fort Atkinson and Menomonee Falls don't even have citizen comments. I've also included two League FAC's concerning open meetings laws as they relate to citizen comments and other comments.

Based upon the information presented from other municipalities, the League and the Village legal counsel, I recommend that the Village Board comments be removed from the Village Board Order of Business and that the ordinance be renumbered to reflect that change. Part of this I think is really a matter of degree. The Village is protected from the opportunity to chance an open meetings violations if it's not on the agenda. In discussions with other communities that's what's driving that decision. That's true for the City of Kenosha. That's true in Twin Lakes. The two towns that haven't but if you think of the town form of government that's the town hall meeting form of government. Those kind of discussions are still uncommitted but they live under a little bit different statute than we do.

The next best protection would be to have the Board member comments at the end of the meeting, and I think the least protection is offered by having it right after citizen comments. I think there's another side to this that I didn't present but it exists only to the extent that I hear complaints about it. It's when people come to a Board meeting they have business to conduct, they have an item on the agenda, a hearing, something that they're here for and I think the Board members have heard these complaints before. Citizens sit through a meeting of what could be an hour of back and forth between the Board and the citizen going through whatever the complaint of the day was. It makes interesting stories, sometimes it's entertaining and sometimes it's boring, but the business that citizens want to get accomplished on the agenda has to wait. Those are I think the policy issues that you deal with.

From my standpoint for the Village to be protected from charges of open meeting violations, and those can come pretty easily, would be to remove it from the agenda and follow the attorney's advice, and I think the advice many other communities have received from their attorneys as well as the League of Municipalities.

Mike Serpe:

If we go back a number of years to a town form of government where somebody from the town would come up to the town Board members and say, hey, John I've got two kids riding dirt bikes in my field and they're creating all kinds of hell with the crops and John, the President or Village Chairman, would say we're going to take care of that. We're going to put an end to that right now. It was a dialogue between the citizens and the Board at the time. Times have changed. Laws whether you agree with them or not they're still laws. We have to follow them.

I'd still like to have some opportunity to respond to citizens that come to this Board with complaints. But at the same time I think we have to guard against getting into a dialogue as Mike alluded to that would constitute or create a violation of the open meetings law. Mike, I'm going to disagree with you about removing it from the agenda altogether. I think keeping it at the end at

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least puts some distance and takes the chances of a dialogue away, but it still gives us the opportunity to respond at least to some concerns without making decisions that are not listed on the agenda. We have to guard against that.

You can get into violations of the open meetings law whether this thing is on the agenda or not. It's not hard to do. But to eliminate it totally from the agenda I'm not going to go for that. I would be in favor of keeping it at the end and that kind of gives us an insulator about at least possibly getting into trouble with the open meetings law.

Monica Yuhas:

I would like to see the Board comments after citizen comments. I stated that at the last meeting also. I don't think it's fair to residents when they come and they speak on a subject they have to wait maybe an hour or an hour and a half. The Board meetings I've attended I haven't seen any Board engage in an open violation regarding open meetings. I haven't seen that happen. I firmly believe that they should be at the citizens' comments. When a citizen takes the time to come after work or whatever they're doing they're taking that time to come and be heard and to make them wait an hour or an hour and a half to hear a response I don't think is justified. It's not justified and I will not support it being moved to the end of the agenda.

Steve Kumorkiewicz:

I don't like this opinion from the Attorney General myself because I'm the kind of person everybody knows me and I talk to the people. I like to hear from them. I concur with Monica and her thoughts, but at the same time the issue of open law meeting violations I think is great and just moving the response from the Board or comment from the Board to the end of the agenda to me is about the only thing we can do right now to still stay in contact with the people without eliminating it altogether. I gave a lot of thought about this. I like what you're saying, I appreciate that, but we have a big but in this issue concerning the open meetings law. We have been accused long enough and we don't want that to keep going on. I think the way to compromise is going to put this to the end of the meeting.

Clyde Allen:

I certainly would not want to see Board comments removed. I think that's a very important part of the role we play. I think it's just as important as the citizens coming forward and speaking. We need to listen to those. I don't think I've ever been more aware of open meeting laws than I have in the last six months. It does play a role. It weighs heavy on everyone's mind I'm sure. I do like the idea of keeping Village Board comments at the end for a couple reasons. One, regardless of what you decide, regardless of the outcome not everybody is going to be happy, you're not going to please everyone. However, you've got people that have come here for an item on the agenda, and there's many here tonight for an example, that are here to speak on an agenda item. Someone comes in to speak at citizen comments we need to listen to them, but is it fair to those people that have planned their day to come here that evening because they've got an agenda item on here? That's something to think about. So the people that are sitting there, is it fair for them to wait because someone comes at the last minute to make a comment which is very

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important, though. I don't want to downplay the importance of that comment. But I was just thinking that commenting on the end and listening with our comments at the end would be more appropriate.

Monica Yuhas:

With citizen comments, since I've been attending Board meetings for the last year and half they've maybe gone on 15 or 20 minutes tops. That's the longest. So I don't see that being an inconvenience for someone who is waiting to do business on the agenda. Since I've been on the Board there's maybe been two or three speakers per meeting, seven minutes tops. That's why I don't feel it's fair to make them wait for an hour or an hour and a half to hear maybe not even a response but we hear what we're saying, we will contact you tomorrow, we will point you in the right direction. Citizens want to be heard.

John Steinbrink:

I'm hearing that we don't want to do away with Board comments. I'm also looking at an attorney's recommendation and it's usually people who don't follow the doctor's or attorney's recommendations aren't utilizing the service they're paying for. But we've skirted this issue before and I think we've come pretty close in year's past on addressing the issues on citizens that have come in. Most of the folks that do come in with an issue and speak at citizens' comments it's not a spur of the moment issue. It's something they've been concerned about whether it's something happening in their neighborhood, something they want to see changed. They have the opportunity to call the Village and have their item put on the agenda and then it can be addressed properly.

I think if we do entertain a motion to keep Board comments I hope that would be at the end of the meeting as it's been done in the last few meetings. We don't run into any problems with conflicts or inappropriate action. But I think it should be the presiding officer's part to make sure that he keeps a tight reign on what's being said and what's being done to make sure the Board doesn't stray. I would hope that the Village Administrator would remind him of that to make sure that sometimes things don't go into a direction they shouldn't be going to. Keeping them behind citizens' comments is a dangerous thing in light of the legal opinions, in light of the attorney's recommendations, and what we've learned especially from surveying other communities.

Everybody wants to act appropriately and make sure they address the issues of the constituents, but we've got to follow the law. I think if we do keep it, it should be put at the end of the agenda so there's some space put between. If it's an issue that is important enough that there can be some dialogue on that issue then I guess the folks can wait for the end to hear that or they can call ahead to the Village and have it put on the agenda, then it can be noticed properly and we can take action on it or address it. I'm a little leery about not taking the attorney's recommendation but I understand the Board members' positions. Knowing all of you and knowing how you take real thought of your job and your position and make sure you want to address those issues people bring forward.

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Mike Serpe:

I just happened to think of something as we were talking. Many times a citizen will come up and either vent their frustration about where to go or how to get something done within the Village. It doesn't necessarily have to mean any one of us elected officials have to answer that question. That could be handled very adequately in the Administrator's comments. Mr. Smith, if you come and see me tomorrow I'll give you direction and tell you exactly what we have to do and we can take care of your problem. That can be done very easily.

If a citizen or a group of citizens comes forward to this Board during citizens' comments and brings up an item that would warrant some type of Board action absolutely get it on a future agenda to be acted on. I think that's the only way to do it. I think that's the proper way to do it. Like I said, laws are changing, times are changing. I think we have to be very, very careful on how we conduct business to keep our names out of the paper. Lately our names have not been in the paper.

Steve Kumorkiewicz:

There's not too much to add. It's already been said. But I have to agree with Mike again, put it at the end of the meeting. Now, can Mike answer the questions? I'm not too sure if that's also included in the comments in the opinion from the attorney. I don't think Mike can answer those concerns.

Mike Pollocoff:

I can't engage in discussions or make commitments any different than what the Board can. I can do what I've done and what Trustee Serpe recommended, have someone call us and set up a time to come in and talk, or please come and see me so I can get what they want to put on an agenda.

There are a couple things I want to point out. One of them is the President has the latitude and I've seen him exercise it to modify the agenda. In Robert's Rules and the ordinance give the Board the latitude given the makeup of the audience to modify the agenda to accommodate people who have an important item on the agenda that needs to get heard, a time constraint, and possibly move Board member comments up or down.

I think hopefully if a citizen has a problem they can take care of it one of two ways. They can call the Village Hall. They might not the answer and they want to talk to their elected representative to see if they can get a different answer or point out what they feel is a deficient ordinance or a policy and get that changed. But we meet twice a month. If there's an important item I would hope that a citizen would call a Board Trustee if they didn't feel comfortable calling the Village or didn't like the answer to get it started sooner so we can put it on the agenda for consideration. Truly if there's something that has reached that level of concern where someone is willing to come down here and make a statement that's the way to get things changed.

From my time here typically I have sat through citizens' comments that have gone almost two hours and Board member comments after that. That's the exception. A lot of times it's not that

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long. A lot of times it's a citizen's opportunity to come in grievance with the Board about life in general in the Village and that's what that time is for. But at that point I hope they're not looking for a resolution to the problems of life in the Village. It's just to notify the Board of that.

We put the Board members' names, telephone numbers, and e-mail addresses on the website. They call the Village Hall and we'll provide them. There's a lot of opportunities for input to get it to you to get something on the agenda that they feel is important. But if they want to talk about it the dialogue part of it is what gets to be difficult in making sure everybody knows where the line is. I haven't seen this Board make that error. I've seen this Board accused of making that error but I don't think that's happened.

John Steinbrink:

Mike, would it be possible to do a press release not only for our newsletter but maybe for the news, depending how this vote comes out, to notify people that if they have a concern and they have an issue to be brought forward that we, once again, give them all the information that they need, the Village Hall numbers, Board member numbers, so they can get an item on the agenda that's of concern to them and hopefully that will alleviate some of the problem here.

Mike Pollocoff:

We can definitely put it out in our newsletter. We can only ask other people to print it. We'll do that. Again, we're one of the few communities where this is an issue. This is not something that is anticipated in other communities in the County or the State. But that being said if the Board chooses to—however you choose to put this out, I think whether you go with it, modify it or stay with the way it is, I think for peoples' ability to get something solved in a more timely manner calling and getting hold of somebody and getting it to the agenda prior to the discussion is going to be the most fruitful thing for everybody involved.

John Steinbrink:

Hopefully the notice would then make them aware that action cannot be taken if they bring an item forward under citizens' comments. So if it's something they want done in a timely manner they need to address it in a timely manner by bringing it forward as an agenda item to get it on the agenda so it can be acted on. We need to do a little educating. We've educated ourselves but now we need to educate the citizens of the Village under the new rules of engagement here how they can get their issues or concerns addressed.

Mike Serpe:

Just a little background. When I first got on the Board our Plan Commission meeting agendas were posted and one thing that we were advised of at the time was that we had to put on the agenda that there may be a majority of the Board in attendance. We didn't do that a long time ago, 18 or 19 years ago it was never done. It was brought to our attention and we had to do that because at all Plan Commission meetings now we're all there. To avoid any conflicts or anything else we make that notice. So things change, things evolve. You may not like them but you learn

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to live with them. Sometimes it always works out for the best. I don't see a big problem with this. Maybe the attorneys are right that it should be removed altogether, but I don't care to remove ourselves from the citizens that much. I think we still have to maintain some type of contact face to face, whether it's a little bit later in the meeting or at some time but we still have to maintain some type of contact.

Monica Yuhas:

That's my concern. Obviously we've all stated we cannot take action on anything. If a citizen comes and complains about their water not draining properly we can tell them they need to call public works. Why does it matter if we tell them after citizens' comments or we make them wait an hour or an hour and a half and we tell them at the end of the meeting? You're giving them the same advice whether it's right after they spoke or you're making them wait. That's where I'm having the problem with this. Is there a problem with that?

Mike Serpe:

I totally understand that, Monica, except what we're doing is trying to remove the possibility on some very, very volatile situations that could come forward where we may just be emotionally charged to act and that's what you want to eliminate. You don't want to get into that dialogue. That's where you have to be careful.

Monica Yuhas:

That's what I'm having—I firmly believe, and I've said this before, if a citizen comes they deserve a response and they shouldn't have to wait that amount of time. And if we're going to give them the same answer an hour and a half after they speak, why can't we give that answer to them five minutes after they've spoken?

Mike Pollocoff:

You certainly can, and if you keep Board member comments after that you'll be in that position.

Monica Yuhas:

The comments aren't going to change because you can't engage in new business.

Mike Pollocoff:

Right. I just think it's a matter if a citizen comes up and says I have a drainage problem, you can probably say as part of citizen comments we'll direct that staff to look at that. But if they want to say, but I think it's because of what you've done, you haven't done this right. If it was always simple we wouldn't be here. But what happens is that some citizens, and if we had one of our citizens say from Carol Beach he's engineered the storm sewer down there a million times and he'll tell you how he thinks it should be draining and you should be doing this and this and this, and we had a previous Board that was directing staff that we need to dig ditches over here and do

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this. Pretty soon in a volatile situation policy decisions were being made. People were getting ditches in front of their houses that they didn't know were going to happen because they didn't know that a decision was going to be made at the meeting.

So it's that gap, it's the tension or the heat of the moment where the Board wants to respond to citizens' needs and it's more than just call public works. These are all bright people, you can do that, it's just that what the attorney is telling us is don't expose yourself to that dynamic and that's why he was saying move it to the back. A good percentage of them you could just respond to them and say, yeah, you're right, we'll send it there. It's the exceptions that cause the grief and it's the exceptions that's going to get the Board in trouble. You're going to have the press or somebody else saying, gee, you didn't tell anybody else about that meeting and you've violated open meeting laws and you have. If you've done something like that you've violated the open meeting laws.

Monica Yuhas:

But isn't that where the President comes into play and you come into play?

Mike Pollocoff:

Yes. But then you're going to have me shutting you down while you're trying to respond to a citizen. I'll do that.

John Steinbrink:

I'll call a point of order.

Clyde Allen:

For the most part, Monica, I agree totally that a lot of the comments can be made very quickly. I'll never forget my first Board meeting. It was by far the toughest meeting we've had. We probably heard citizen comments each of them that spoke three times, whether it be Plan Commission meetings, whether it be the Board meeting. There was a rapport developed there. You knew what they were going to speak on. You got to know them a little bit. It was very, very difficult on that topic and it very well could escalate into a violation. I can see that happening.

Monica Yuhas:

But it didn't because we were professional.

Mike Serpe:

One other thing I just want to bring to your attention. Many times in the very recent past people spoke at citizens' comments to make some type of statements and some Board members responded for a political grandstand immediately after citizens' comments. I personally like to do Village business the way it should be done. Whether we're agreed with by everybody or not we

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try to make the right decisions to benefit the majority. I've seen it all too often when political grandstanding was done from this Board table. I don't like to see that. I don't want to be a part of that. By doing this you're even eliminating that possibility.

John Steinbrink:

We've discussed several options here. Before us we have Ordinance #07-30 which lays it out as Item F, Administrator's Report, Item J, Village Board Comments putting it essentially at the end of the meeting. Do we have a motion on that?

Mike Serpe:

Move to leave Board member comments at the end of the meeting.

Clyde Allen:

Second.

John Steinbrink:

See how closely they go together? We have a motion by Mike, second by Clyde. Further discussion?

SERPE MOVED TO ADOPT ORDINANCE #07-30 - ORDINANCE TO AMEND CHAPTER 98 OF THE MUNICIPAL CODE RELATING TO VILLAGE BOARD ORDER OF BUSINESS; SECONDED BY ALLEN; MOTION CARRIED 4-1 WITH YUHAS DISSENTING.

John Steinbrink:

Let the record show Trustee Yuhas votes in the negative.

8. NEW BUSINESS

A. Receive Plan Commission Recommendation and Consider a Zoning Text Amendment (Ord #07-32) for the request of Gershman Brown Associates to amend a specific portion of Section 420 Attachment 3, Appendix C, Specific Development Plans, entitled "17. The Shoppes at Prairie Ridge Commercial/Office Development PUD (Ord. #06-15)" of the Village Zoning Ordinance. The proposed amendment to the PUD pertains to the "Hours of Delivery" for The Shoppes at Prairie Ridge commercial development, which is generally located south of 76th/77th Streets, north of Prairie Ridge Boulevard, east of 104th Avenue and west of St. Catherine's Hospital.

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Jean Werbie:

Mr. President, on June 25, 2007, the Plan Commission recommended approval and the Village Board approved on July 16, 2007 some zoning text amendments to repeal and recreate Section 420 Attachment 3, Appendix C. This had to do with The Shoppes at Prairie Ridge commercial and office development. As part of the PUD that they had proposed, there was a section of the PUD that covered the hours of operation. One of the specific items within the PUD stated that activities and services such as but not limited to garbage collection, recycling collection, deliveries, etc., shall be limited to the designated business of operation and the hours of delivery times for the B-2 District. Snowplowing of the development may occur during the hours as needed.

This is essentially what we're looking to amend this evening. The original hours for delivery except for snow removal were from 6 a.m. to 10 p.m. There were two tenants in The Shoppes at Prairie Ridge, in particular some of the larger tenants, one of which is JC Penney, that had some concerns with respect to the delivery hours and bringing product to the store. Even though the store cannot open before five and most likely will open much later in the morning, they needed to have all their product delivered to the site, unpacked, wrapped and stocked within the store prior to opening their doors. So as such they were specifically requesting for some more modified hours.

This is a slide that shows you the general store delivery areas and where the deliveries would be coming from. This is just south of Highway 50. On the very west side of the slide is the 104th Avenue entrance for the deliveries. As you can see, The Shoppes at Prairie Ridge starts off with Target on the far east end then we go to Pet Smart, Dick's and an electronics store and JC Penney and some additional stores. But it comes from east to the west and they'll be circulating around the back of the store.

So one of the requests that they had made and has been before the Plan Commission as a public hearing is that they would like the hours of deliveries to be modified to be from 4 a.m. to 12 o'clock midnight. However, garbage and recycling pickup shall be limited to the hours between 6 a.m. and 10 p.m. What we had asked the developer to do is to contact the adjacent landowners which happens to be Grand Prairie as well as Hospice Alliance and VK Development to find out if anyone would have any objection to these new hours of operation. And we actually did receive letters from each of them stating that they had no objection to moving the hours of operation for delivery up from 6 a.m. to 4 a.m. and then moving them back from 10 until 12. With that, this was a matter for public hearing before the Plan Commission. The Plan Commission and the staff recommend approval as presented.

Monica Yuhas:

Move to approve.

Steve Kumorkiewicz:

Second.

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John Steinbrink:

Motion and a second for approval. Further discussion?

Clyde Allen:

I've got a question. Jean, this came before us once before?

Jean Werbie:

Back in July. Actually it went to the Plan Commission at the end of June.

Clyde Allen:

And it came to us in July?

Jean Werbie:

July 16th, correct.

Clyde Allen:

What are we changing from that time?

Jean Werbie:

Sometimes what happens when developers are more intensely negotiating with clients such as large retail establishments there's always something that they may not have told them that they must absolutely need in order to locate to a particular site. And in this case there was a tenant that indicated that they needed to have delivery hours to start at 4 a.m. rather than 6. So we're modifying 6 a.m. to 4 a.m. and they're stating that they could get some delivery trucks as late as 10 or 11 for unloading so they would like to be able to unload up until midnight rather than trying to park their semis in the parking lot waiting for them to deliver that next morning. So we are just modifying the hours of delivery excluding garbage collection and recycling collection. We're giving them four extra hours.

Clyde Allen:

The original moved from 10 to 11 p.m., is that correct?

Jean Werbie:

Yes, 10 to 11 was the first and now we're going to 12.

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Clyde Allen:

Thank you.

John Steinbrink:

I believe the attorney for the developer did approach all the neighbors, and I think he talked to all but one that had no problem and concurred with the changing of the hours and didn't have a problem whether it was the Hospice or the neighbors in the area. So they did do their homework on this and brought it forward at the Planning Commission. We have a motion and a second? Other discussion?

YUHAS MOVED TO CONCUR WITH THE PLAN COMMISSION RECOMMENDATION AND ADOPT A ZONING TEXT AMENDMENT (ORD #07-32) FOR THE REQUEST OF GERSHMAN BROWN ASSOCIATES TO AMEND A SPECIFIC PORTION OF SECTION 420 ATTACHMENT 3, APPENDIX C, SPECIFIC DEVELOPMENT PLANS, ENTITLED "17. THE SHOPPES AT PRAIRIE RIDGE COMMERCIAL/OFFICE DEVELOPMENT PUD (ORD. #06-15)" OF THE VILLAGE ZONING ORDINANCE. THE PROPOSED AMENDMENT TO THE PUD PERTAINS TO THE "HOURS OF DELIVERY" FOR THE SHOPPES AT PRAIRIE RIDGE COMMERCIAL DEVELOPMENT, WHICH IS GENERALLY LOCATED SOUTH OF 76TH/77TH STREETS, NORTH OF PRAIRIE RIDGE BOULEVARD, EAST OF 104TH AVENUE AND WEST OF ST. CATHERINE'S HOSPITAL; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 5-0.

B. Receive Plan Commission Recommendation and Consider a Zoning Text Amendment (Ord #07-33) for the request of Scott and Dora Azmus owners of the vacant properties generally located south of 87th Place and west of 47th Avenue for a Zoning Map Amendment to rezone Lots 1 and 2 of a proposed Certified Survey Map from R-4 (UHO), Urban Single Family Residential District with an Urban Landholding Overlay District to R-4, Urban Single Family Residential District.

Jean Werbie:

Mr. President, I would ask that we also take Item C at the same time as both items are interrelated and we'll need separate actions on both.

C. Receive Plan Commission Recommendation and Consider the request of Scott and Dora Azmus, for approval of a Certified Survey Map to subdivide the property generally located south of 87th Place and west of 47th Avenue.

Jean Werbie:

Item C is that same property to consider the request of Scott and Dora Azmus for approval of the certified survey map and that's to subdivide their property generally located south of 87th Place and west of 47th Avenue.

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The petitioners are requesting to subdivide their property on the south side of 87th Place west of 47th Avenue. They are requesting to subdivide their property into three lots and also to rezone Lots 1 and 2 that abut the south side of 87th Place and create by certified survey map those two parcels. They are looking to rezone these properties from the R-4, Urban Single Family Residential District, and the UHO, Urban Land Holding Overlay District, just into the R-4, Urban Single Family Residential District. As you can see, Lots 1 and 2 will have service directly off of 87th Place. And at this point Lot 3 will remain as an unbuildable lot and they are not looking to do any further development with that lot at this time.

As you will recall, on May 29, 2007, the Plan Commission had approved a revised neighborhood plan for this portion of the Isetts Neighborhood, and on June 4, 2007 the Village Board approved a resolution in support of that neighborhood plan and this is for the Hawks Grove Amendment to the Isetts Neighborhood Plan. As you can see in yellow, that is the area that is identified as the proposed residential use. Kind of in the center of the plan south of 87th Place there is a future retention pond that they have identified as well.

As part of the approval of the neighborhood plan, the Village Board approved a resolution that basically says before you develop these lots then this has to be done before we develop any more lots. Then we need to take a look at further access to the south towards 89th Street or improved right of way north on 47th Avenue. But as part of that approval the Board did say that they could subdivide and create two parcels on 87th. The two lots, Lot 1 is just over 15,600 square feet with just under 95 feet of frontage on 87th Place; Lot 2 next door has the same, just over 15,600 square feet and just under 95 feet of frontage on 87th Place. Again, Lot 3 is the balance of the property which is 5.8 acres with over 415 feet of frontage on 87th Place.

As you know, Lot 3 is proposed to be further subdivided in the future pursuant to the approved neighborhood plan. As you will recall, her engineer had specifically identified that this was going to be developed in three separate phases. Phase 1 would start with the two lots. Phase 2 would be some additional lots adjacent to 48th Avenue and 50th Avenue and 88th Place, then Phase 2 would also have the roadway system. Then eventually there could be a Phase 3 but that would take additional interconnections of roadway systems to the south down to 89th Street over to Cooper Road and possibly some improvements to 48th Avenue.

There are two items on the agenda tonight for your consideration, the first of which is the zoning text amendment, Ordinance #07-33 from R-4 UHO to R-4. The staff and the Plan Commission recommend approval of the first item. Then the second item is the certified survey map or land division to create the two parcels. The approvals are such that the staff recommends approval subject to the comments and conditions as outlined in the staff memorandums.

Steve Kumorkiewicz:

We vote separately?

John Steinbrink:

Correct.

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KUMORKIEWICZ MOVED TO CONCUR WITH THE PLAN COMMISSION RECOMMENDATION AND ADOPT A ZONING TEXT AMENDMENT (ORD #07-33) FOR THE REQUEST OF SCOTT AND DORA AZMUS OWNERS OF THE VACANT PROPERTIES GENERALLY LOCATED SOUTH OF 87TH PLACE AND WEST OF 47TH AVENUE FOR A ZONING MAP AMENDMENT TO REZONE LOTS 1 AND 2 OF A PROPOSED CERTIFIED SURVEY MAP FROM R-4 (UHO), URBAN SINGLE FAMILY RESIDENTIAL DISTRICT WITH AN URBAN LANDHOLDING OVERLY DISTRICT TO R-4, URBAN SINGLE FAMILY RESIDENTIAL DISTRICT.

SERPE MOVED TO CONCUR WITH THE PLAN COMMISSION RECOMMENDATION AND CONSIDER THE REQUEST OF SCOTT AND DORA AZMUS, FOR APPROVAL OF A CERTIFIED SURVEY MAP TO SUBDIVIDE THE PROPERTY GENERALLY LOCATED SOUTH OF 87TH PLACE AND WEST OF 47TH AVENUE; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 5-0.

- D. Consider Resolution #07-53 - Preliminary Resolution declaring intent to exercise special assessment police power for the construction of municipal sanitary sewer improvements in conjunction with undeveloped land in the proposed Chateau Eau Plaines Lift Station Service Area. Affected areas are located in the vicinity of STH 50 (75th Street) south to 82nd Street and from I-94 east to 104th Avenue.**

Mike Pollocoff:

Jean, is there a map following this? This is a resolution that the Village wastewater utility is initiating. This is one of our older sewer service areas in the Village. It was served, and even at this time, it's served by a lift station in the River Oaks Subdivision. In 2004 there was significant flooding that occurred in the area. As we looked at what the flood levels were and the problems that had occurred in that area, we determined that the best course of action would be to abandon one lift station in the River Oaks Subdivision. We had modified what we called the Zirbel lift station which was on . . . Circle in River Oaks, and we also determined that the thing that would also help for sanitary sewer failures in that area is to take the waste flows that come from the Chateau area which is that platted subdivision on that map there and put it into a lift station that would do two things. One, it would divert that flow away from River Oaks and the Zirbel area, and it would also provide a way for the Village to service the properties on Highway 50 as they develop in the future.

The residents of Chateau Eau Plaines, and that subdivision was done in the late '70s and it kind of slowly filled out to the early '80s, that sanitary sewer service those residents when they bought their lots paid for sanitary sewer service. This lift station would service their waste just as the Zirbel lift station did, but the new residents, which is in the platted but undeveloped portions of Chateau Eau Plaines and those other areas, would need this lift station to get sanitary sewer service. That original plat that was approved back when we were a town at that time Kenosha County approved those, and they didn't require sanitary sewer plans to be completed before they approved a subdivision plat, so there was not a plan to service it. If that lift station wasn't there they would not have basement level service so all those houses would be slab on grade.

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This resolution authorizes the Village to start the process to conduct a special assessment hearing exercising our police powers to cause that lift station to be built. The lift station would carry an assessment with it around \$2,300 per lot on average for those Chateau lots and it grows for some of the large lots. Those special assessments would be activated at such time as the sanitary sewer is actually constructed. So the lift station goes in, it takes care of the existing Chateau residents and it's sized to handle the future residents. The future residents are going to pay for the new lift station which they need.

With that, we're looking to—we ran this plan by the Department of Natural Resources as part of our way to deal with the flooding problems we had in 2004. They've approved it. We'd like to begin construction on that this fall. We would construct a lift station on the map where it shows it then we'd put a forced main along that northern loop road in Chateau. It would enter in at 104th Avenue and then the waste water would be deposited through the Prairie Ridge development and find its way to our sewer plant.

We'd be looking at a meeting two weeks tonight for the public hearing for the affected property owners for the levying of assessments. So I'd request that Resolution 07-53 be adopted as presented.

Steve Kumorkiewicz:

Question for Mike. Clarify for me please, Mike. The new proposed lift station is going to be at 79th Street, correct?

Mike Pollocoff:

79th and 115th.

Steve Kumorkiewicz:

Thank you. So that's only going to affect the new properties, not the old properties?

Mike Pollocoff:

It's going to affect the undeveloped plat of Chateau Eau Plaines. So any lot that doesn't have a home on it currently or a lot that isn't buildable because it's floodplain or wetlands are not going to be assessed. Any lot that could be developed, because this lift station would be in place, would be assessed. That assessment would be deferred until such time as the actual sewer main were in.

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KUMORKIEWICZ MOVED TO ADOPT RESOLUTION #07-53 - PRELIMINARY RESOLUTION DECLARING INTENT TO EXERCISE SPECIAL ASSESSMENT POLICE POWER FOR THE CONSTRUCTION OF MUNICIPAL SANITARY SEWER IMPROVEMENTS IN CONJUNCTION WITH UNDEVELOPED LAND IN THE PROPOSED CHATEAU EAU PLAINES LIFT STATION SERVICE AREA. AFFECTED AREAS ARE LOCATED IN THE VICINITY OF STH 50 (75TH STREET) SOUTH TO 82ND STREET AND FROM I-94 EAST TO 104TH AVENUE; SECONDED BY ALLEND; MOTION CARRIED 5-0.

E. Receive Staff Report on Concerns about the Outlot Maintenance in the Bentz Estates Subdivision.

Mike Pollocoff:

Mr. President, Trustee Kumorkiewicz requested that this item be placed on the agenda to address the concerns and issues related to Outlot Number 1 in the Bentz Estates Subdivision. With us tonight we have John Steinbrink, Jr., Superintendent of Public Works, Pete Wood from the Department of Natural Resources, and Dan Snyder from Crispell-Snyder to provide some input into this process.

We received written correspondence from a resident in the Bentz Estates Subdivision that's been copied to all the residents I believe out there as well as Village Board members. Unless you want to ask them any question before we go through this.

Mike Serpe:

Are you asking how you want us to proceed?

Mike Pollocoff:

Yes, if the Board wants to hear from some of the citizens first or have us just address the comments we've received in writing.

Mike Serpe:

Why don't we let them talk first because you and John are going to have most of the answers.

John Steinbrink:

We're going to open it up to questions from the folks living in that area and I'm going to hold it to the folks living in that area. We're going to ask you to come forward if you have a comment or question. Give us your name and address for the record and then the staff or whoever will try and address that in the appropriate manner.

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Eve Boehme:

Good evening. My name is Eve Boehme. I live at 8242 60th Avenue. There are several concerns that we have as outlined in the e-mail that I sent to all of you. Those items that we address to you come as a group. These aren't just my ideas. We've had several meetings. We've been dealing with the Village for about two and a half years now. There's a lot of background information that I won't bore you with right now. We can get into that later if you want. But our biggest concern right now is the quality of the pond. We've had concerns. When we took over the pond in 2005 the Village, based on the way that the plat was set up the homeowners gave that to us as part of the fact that so many lots have been built on and now it was time to take it over.

Our concern was when we took that over we weren't given any instructions. Yes, the Bentz Estates declarations have in there some comments like we need to maintain the outlot in a park-like setting, and those are specific details outlined in the covenants, that if we don't maintain it to the satisfaction of the Village, comments very ambiguous, comments like that that made it very difficult for us to maintain the pond because we didn't really know what that meant. It didn't say the grass has to be four inches, the pond can't get any greener than whatever. There were no instructions to us. We were never given a maintenance agreement for the pond. And as just general homeowners we didn't know how to take care of a pond. We weren't given a maintenance agreement. We weren't given ordinances. We requested ordinances several times and were never given them. We requested ordinances on how to take care of the grass, just how do we mow the grass, how do we take care of the trees. I requested that in writing. It has not been received. The letter that I got back in response to that letter was just outlining some of the different aspects of the declarations and the covenants. It never addressed my request for the actual ordinances which we still to this day don't have.

Where we're at right now is we asked somebody from the DNR, Pete Wood, was kind enough to come out. We just had questions. I mean what's up with the pond? Are we maintaining it right? Are we maintaining it wrong? What should we do? We don't know. So Pete came out and evaluated the pond and gave us some of his recommendations and his observations. He did say to us that the DNR does not recommend running the aerator, which I call a fountain, but it's a device as you can see that spews the water up in the air, and based on several correspondences from the Village we were told we should run that 18 hours a day which, as you can imagine, the expense to run that just for the electricity is quite high. And the DNR said to us we don't recommend that you run them that high. I'll let Pete get into all the details. He's the expert of why.

But this is a retention area where the water is supposed to flow in. The ick, and sorry for my simple English, but the ick is supposed to go to the bottom and the clean water is supposed to flow out. And the aerator actually prevents that from happening. So our concern is saying, no, don't run the aerator 18 hours a day, and the Village is saying run it 18 hours a day.

We're also concerned with fertilizing. We were not fertilizing around the area, and the Village came in this summer and fertilized several times, put chemicals in the grass, cared for the trees, put a lot of chemicals in that area. And, again, we were told by the DNR we really don't recommend doing that because all the chemicals that you put in the grass end up in the water and that's not good for the water, the environment, the clean water that's supposed to flow out.

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So really our biggest concern is we just don't understand how we're supposed to maintain this. We thought we were doing a good job and then we got a letter in September of '06 saying, nope, you're not doing a good job, it's not being maintained well. Oh, by the way the pump is broken again and we got a bill for that. Again, even in September of '06 we still were never given ordinances or any direction on how the pond should be maintained.

Now our concern is the condition of the pond. The pond has been ours for a little over two years and it's a mess. I'll admit that. Again, I'm not an environmental specialist so I can't exactly tell you what but it is. Our concern is that the pond may never have been put in properly. Was it deep enough when it was put in in '03 I think and you can correct me if I'm wrong on that. But we just have a lot of questions and we're concerned not only about the ongoing maintenance expense of the pond, but what happens in a year when this thing needs to be dredged and it costs X amount of dollars?

The other issue is we're a subdivision of only 11 homes. So when John Steinbrink, Jr. gave us the budget and told us how much it was going to cost it's going to be almost \$500 a year per homeowner to maintain this lot. Between the fertilizing the lawn mowing and all those expenses plus the electricity, it's almost \$500 a year.

We came to the Village on April 18, 2007 and asked them to help us maintain this outlot because we weren't doing it up to their standards and we didn't know what else to do. We told the Village that we had a budget. Our homeowner's association budget was \$2,200 a year which was \$200 per homeowner. We asked the Village to help us maintain the lot within that budget. During that meeting on April 18th Mr. Pollocoff said to us that he thought that they could do that, that between all the connections that the Village has with people to mow the grass and take the aerator in and out that he felt that they could help us maintain that outlot within our budget. So you can imagine our surprise in eight weeks after April 18th when we got the letter stating that the budget to maintain just the outlot without any electricity was going to be almost \$3,300, which was \$1,100 over our budget without electricity. And you can imagine how much running an aerator 18 hours a day would cost.

So our biggest concern is, A, we're getting conflicting information between the DNR and the Village, and we just need clarification on how we should take care of the lot, how we should take care of the pond. Do you have any questions for me?

John Steinbrink:

Thank you.

Mike Pollocoff:

I think maybe just for everyone's information I'll go through and I have a presentation that kind of gives us the history and I guess maybe a little bit different perspective on the issues surrounding a pond. I think at appropriate times I'm going to ask Mr. Snyder and John Steinbrink, Jr., to add in some more specific comments on either the design or the budget.

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The Southeastern Wisconsin Regional Planning Commission has identified 60th Avenue as an arterial highway in regional transportation plans that have been adopted by the Village of Pleasant Prairie and Kenosha County over the next two decades. The Village of Pleasant Prairie purchased a former landscaping service yard that was a blighted property to construct an extension of 60th Avenue from approximately 82nd Street to 85th Street. The parcel of land was larger than the required right of way for 60th Avenue. At that time, it was determined by the Village Board that the remnant land would be subdivided into single family lots. The proceeds from the sale of the lots would then be used to pay for the construction of 60th Avenue. This project enabled an extension of an arterial street at no capital expense to the Village taxpayers. There were abutting properties that were in the Village but not part of a future subdivision. There were also properties within the City of Kenosha that abut 60th Avenue. The City of Kenosha was also charged for their portion of the 60th Avenue extension. So in the beginning we were implementing part of the regional transportation plan, and we found a parcel of land, had to buy the whole thing, and the properties that were created that created that eventual lot were part of that original acquisition.

In 2001 the Village of Pleasant Prairie selected the engineering firm of Crispell-Snyder, Inc., to design and prepare engineering plans and specifications for the construction of 60th Avenue and the remnant land left as a residential subdivision. complete design work followed the then current DNR guidelines and engineering design standards in 2002. Preliminary plat of the Bentz Estates Subdivision was approved by the State on May 23, and the final plat was approved on August 1, 2003 and the plat was recorded August 5, 2003.

Construction of storm water management facilities, infrastructure, roadway and grading was completed and conformed to the construction plans. Lots in the subdivision were advertised for sale on August 5, 2003. The Bentz Estates Association incorporation was complete, bylaws were recorded on August 7, 2003. Building permits were accepted on August 27, 2003.

The first Bentz Estates Neighborhood Association meeting was held at Village Hall September 7, 2005. This meeting was held to review the covenants and responsibilities of the homeowners association and to answer any questions that residents had regarding the Subdivision Declaration of Restrictions, Covenants and Easements and bylaws. There were a number of residents at that meeting who contended that they had no knowledge of any association or any maintenance responsibilities. The residents did take over the subdivision and neighborhood association. Outlot 1 was recorded and turned over to the Bentz Estates Homeowners Association on November 7, 2005.

The condition of Outlot 1 deteriorated during the summer of 2006. Village staff monitored the poor condition and identified several items that required attention. The grass was bare in areas of the side slopes causing erosion of the banks. The fountain was operating sporadically during the summer months. Algae was predominant over the entire surface area and the outlot had an overall poor appearance.

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On September 26, 2006 the department of public works sent a letter to the Bentz Estates Homeowners Association, BEHOA, reminding them of their maintenance responsibilities in the outlot. In your packet I have a letter that was submitted.

Superintendent of Public Works, John Steinbrink, Jr. had conversations with then Association President Tim Baas about the problems with the operation of the fountain. The Public Works Department picked up the fountain and requested the manufacturer to investigate why it was not operational. It was determined that the fountain was not operating because it had been damaged during its fall removal by the association. The pump was pulled to the shoreline by the electrical cord during the removal process thus the cord disconnected from the fountain. This inappropriate removal constituted negligence by the parties performing the maintenance and was not covered under the manufacturer's warranty. Thus, damages became the responsibility of the association. The association verbally refused to pay the damages. A letter was sent to the association president requiring them to submit payment to Kenosha Grounds Care who was the contractor for fountain report.

(Inaudible)

John Steinbrink:

Mr. Pollocoff is giving his report and we'll open it up to more questions coming from you folks.

Mike Pollocoff:

We needed to have the invoice paid. If it wasn't paid by the 11th the Village would levy the charges on each homeowner. On March 22, 2007 Jean Werbie received correspondence from the association, a letter from the association board members Tim Baas and Lisa Stichert. They expressed concerns that the costs to maintain the Bentz Estates outlot was higher than expected and three property owners were not paying dues estimated at that time to be \$182 a year. Both Tim and Lisa were resigning their positions. They requested a meeting with the Village to resolve some of these issues. A meeting was scheduled on Wednesday April 18th at the Village Hall attended by myself, John Steinbrink, Jr., Tom Shircel of the Community Development Department and the Bentz property owners.

Many of the same issues that were discussed at the first meeting were discussed at this meeting. There were three general areas of concern voiced by the residents. First was the breakdown of maintenance procedures. Second was the difficulty dealing with three property owners in the association who refused to make payments, forcing the others to make up the shortfall and putting the association officers in the position of asking neighbors for money. Finally, the same questions were raised regarding why the property owners had to pay for any of this because they did not view themselves as a subdivision and disagreed with the existence of covenants and responsibilities of a homeowners association.

With respect to establishing a contractual maintenance contract, it was generally apparent that the maintenance responsibilities were difficult to handle, and at this point in time they had gone beyond the association's willingness or ability to deal with. The association officers were

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resigning because of their inability to get everyone to pay the dues. Thus, without an election, there was no more association. In an effort to get the project up on schedule, the Village Administrator agreed to re-establish Outlot 1 back up to acceptable standards. The Department of Public Works spent over \$1,600 on maintenance to re-establish Outlot 1 to design specifications. The Village of Pleasant Prairie also received bids from local landscape contractors to provide ongoing landscaping and pond maintenance service.

Four qualified contractors were contacted by Village staff to compete for the contract. Two bids for maintenance were received on May 3, 2007, and attached are the specifications, bidders' instructions, bid document and responses. A letter was sent to the property owners on June 22, 2007 updating them with the results of the Outlot 1 maintenance proposals. If the property owners chose not to accept the bid response from the Village, they have the opportunity to contract with another contractor of their choice to complete the required maintenance on Outlot 1.

With respect to securing payment from the subdivision, the Village agreed to assume the accounting responsibilities on behalf of the association at no charge. The Village further agreed to use existing funds collected from the association and to obtain payment from delinquent property owners to pay for the services from July 1, 2007 to the end of the year. The maintenance charges going forward from July 1, 2007 are placed as a special charge on the monthly utility bill. If the existing property owners are not current with their payments the Village would place the delinquent special charge on the property tax bills as a lien to be collected with the property taxes.

Issues with the subdivision and the covenant requirements - At the meeting, the homeowners presented a list of 12 items for discussion. The Village staff responded to the staff items as follows: Item 1: In our initial meeting with the Village they told us the reason we must have an Association was because the DNR required a retention pond to support drainage for subdivisions which have a certain number of homes. Because our subdivision had 12 homes, we were required to have the pond. Now we have learned that three of the homes are not even draining into the pond. This reduces the number of homes using the pond for water drainage and supports dissolution of the Association.

In our response, the property owners of the Bentz Estates Subdivision, and any new subdivision in the Village, are required to have a retention basin for downstream water volume discharge control. The pond also serves to enhance the properties of the subdivision. The maintenance of the pond and outlot are a covenant upon the deed of the property that they purchased. Without that covenant, the subdivision lots would not have been created. The fact that three properties do not drain into the storm sewer basin that serves the majority of the subdivision is irrelevant. Property owners were placed on notice at the closing that Outlot 1 maintenance was a responsibility that was shared by everyone in the Bentz Estates Subdivision.

Item Number 2: By the same token, we were told that the reason the new home on the east side of 60th just across from Tim did not have to be part of the association was that his water did not drain into the pond. The homes north of 83rd Street do not either but are required to be part of the association.

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Our response: Only residents of the association are required to maintain the pond. Homes on the east side of 60th Avenue are not part of the subdivision covenants that created Bentz Estates and the association. Those parcels existed before the Bentz Estates Plat was created.

Association Item 3: There are not enough homes to support the pond maintenances, taxes, electricity, etc., that the Village is mandating. If the Village wants the pond to look a certain way they need to take it over and maintain it. A suggestion to plant wild flowers, which would greatly reduce maintenance requirements, is against Village policy.

The Village indicates the declaration of restrictions, covenants and easements for Bentz Estates require that the Bentz Estates property owners maintain the outlot to a pleasing, park-like appearance. The Village was not mandating how the maintenance occurred, just that it was done in a manner that produced the desired results for everyone in the subdivision.

Item 4: The fact that the Village came and took the pump from the pond and fixed it without permission from the association according to Tim shows that they just want us to pay for what they want.

The Village's response: The Village picked up the pump and agreed to have it repaired of any defect caused from normal use. It was previously advised by Village staff that a qualified contractor maintain the fountain. The residents performed the maintenance on their own. When the pump was being serviced at the manufacturer, it was determined that when the pump was brought in for storage it was pulled into shore by the power cord by the residents. The damage was negligent and the association was held responsible for the repair costs.

Number 5: The fact that Hideaway Homes was able to make a deal with Kenosha to use their sewer system for water drainage make it evident that the Village can get around the pond issue when they want to.

Our response is that Hideaway Homes is in a different drainage basin than the Bentz Estates Subdivision in Outlot 1. There are no deals. The storm water from Hideaway Homes discharges into a regional retention basin owned and maintained by the City of Kenosha. The Village previously contributed funds to have the basin enhanced based on the parcels that drain into that basin. The City of Kenosha basin drains into that Lake Michigan. The Bentz Estates basin drains into the Mississippi River basin. The property owners for the subdivision are required to have a retention basin per Village and DNR requirements.

Number 6: Because of the limited number of homes in the subdivision, the 11 homeowners are unfairly burdened with much higher dues than subdivisions of a reasonable size. For example, Prairie Ridge which supports two parks, retention ponds and numerous berms pay far less than our \$200 per household.

The association is legally responsible for maintenance of Outlot 1. The Village worked with the association by securing bids for maintenance at their request and has offered to help the association review bids for maintenance work. Although Prairie Ridge is a large development, there are a number of smaller developments in the Village where local associations share the

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maintenance responsibilities amongst property owners such as mowing, weeding planting beds, placing mulch, etc., to manage expenses. Ultimately the association can use the Village to secure bids or find other ways to pay for the required maintenance.

Number 7: Many of us were not advised at the time of sale that there even was an association. In fact, we were advised that there was not one in place. Per our last meeting you advised us to take this up with our realtors, but the bottom line is that they cannot change anything at this time.

The Village of Pleasant Prairie required all purchasers of property in the Bentz Estates to sign the declaration of restrictions, covenants and easements for Bentz Estates. All properties sold by the Village had this declaration signed at closing making this a covenant that runs with the land regardless of the owner. Thus, any subsequent closing also has acknowledged this covenant and responsibility. This has to be disclosed to the property owners by law. If this was not the case, we would advise property owners to contact their attorney.

Item 8: The situation on 60th Avenue is not conducive for a subdivision. There is no sense of neighborhood nor is there an opportunity to actually utilize the corner lot.

The Village response, again, Bentz Estates is a subdivision with the same public and private infrastructure amenities that many subdivisions have. The fact that the subdivision is on 60th Avenue is not relevant to the requirements that exist to perform the responsibilities required of the homeowners association. Outlot 1 was designed for storm water management and quality and, further, to maintain the aesthetically pleasing appearance of the area.

Number 9: There is still some question as to the legality of the subdivision. Up to this point we have opted not to pursue legal action.

The Bentz Estates Subdivision is a legal subdivision approved by the Village of Pleasant Prairie and the State of Wisconsin. Property owners are always free to pursue litigation if that is their desire.

Number 10: There are several families who do not pay dues. In a small subdivision this puts the officers in a very uncomfortable situation and also places an unfair burden on the homeowners who do pay their dues.

The Village response: The Village agrees with this statement. The Village has already offered to perform the collection and accounting work for the subdivision at no cost. There are other remedies available to the homeowners to collect dues from the residents that have not paid their dues that are within the powers of the covenants.

Number 11: The president and treasurer have resigned. No one has stepped up to fill the positions. Response: There is no viable association until another election is held and officers are certified.

Number 12: Generally there is a value associated with paying for and having an association. In the case of Bentz Estates the homeowners do not see the value. Over half of us look across the

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street at Kenosha, so the clauses on buildings, fences, sheds, etc. are irrelevant to us. Our home values are directly impacted by a group of homes without a similar association. The question becomes what are we really getting for our \$200 a year and where is the value for us as homeowners?

The Village agrees that there is a value associated with having a subdivision that is controlled by covenants and deed restrictions. It serves to maintain the quality of the subdivision. The real challenge is getting the association together to manage the expenses associated with the subdivision. The values of the homes and lots are directly impacted and evaluated based on other comparably sized homes and lots. Outlot 1 is managed and maintained in a park-like manner and serves to increase and maintain the value of the subdivision.

Additional items that were discussed at the meeting was traffic speeds on 60th Avenue. The Public Works Department agreed to, that's that strip that we're going to stripe 60th Avenue, to calm the traffic on there with parking lanes.

So at that meeting what the Village staff was attempting to do was different than any other subdivision that we have in the Village. We realized there was a collection problem in managing the finances. We agreed to take over that accounting work and the billing for it at no cost. We agreed to, unlike we've done with any other subdivision in the Village, step in, get the maintenance up to a standard where the pond and the landscape was in good condition. We made subsequent additional repairs to the pump for the pond. We did that at our expense. We went out and secured bids. We had to bid out of the four we asked for. I don't think I promised the price of \$200. I promised the best price we could get. Based on the numbers that were supplied by the association the prices we selected for some of those items were less than what they were charging themselves.

When the Village put together Outlot 1, there's a series of things we put in there. One is, of course, the pond and the landscaping. We put in a water sprinkler system so that during drought conditions that sprinkler system could be operated to make sure the grass wouldn't die, the plants wouldn't die, and it could be used for that. This year there was no reason to use that sprinkler system but it's there as an asset to be used in case there's a need for it. In the budget there's money for operating a sprinkler system. If it's used, it's used. If it's not, it's not. We're in a position, and as we indicated in the letter when we identified the costs we came up with, the association has the opportunity to seek bids to have that done on their own as well.

The results of those bids had a maximum of \$24.91 a month for maintenance excluding electricity. The Village also noted that funds have been turned over to the Village along with the Village's collection of delinquencies to enable the remainder of the year to be covered. On August 8, 2007, public works received a letter from resident Even Boehme. The letter informed the Village that the association had reviewed the maintenance bid and has chosen not to accept the proposal. She requested a copy of Village ordinances detailing maintenance requirements to be sent and that letter is attached to your packet. The Village does not have specific standards as to the maintenance of outlots. It is left to the discretion of the homeowners association to complete maintenance that achieves a pleasing, park-like appearance. The operation time of the

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fountain is from the manufacturer. It is the goal of the outlot to achieve water quality, quantity and functionality as required by the DNR, while maintaining a pleasing park-like appearance.

On August 9, 2007, the Public Works Department received another letter from Even Boehme requesting a copy of the permit from the DNR for the pond. John Steinbrink responded to both letters on August 17th which are attached.

When the Bentz Estates Subdivision was developed, the Village was required to submit an erosion control permit to the DNR. This permit was required for land disturbances of five acres or greater. The Village did provide the DNR with engineering plans for the construction of the basin that was part of the DNR permit. The DNR approved the permit. The construction was completed according to the permitted plan. The Village followed DNR guidelines for construction of the retention basin that were in effect at that time. The plans were submitted for review. One of the comments that Eve made was that they weren't convinced that the pond was constructed or designed correctly. I guess, Dan, if you could respond to how we came about the design in putting that together.

John Steinbrink:

Dan, if you could just give us your name and address for the record.

Dan Snyder:

Dan Snyder. The address is 417 Highridge Road, Burlington, Wisconsin. Thank you, Mike. Just to address the design a little bit I'll take you back in history. For at least the last 20 years the Village has required new developments to provide detention and retention basins so that increases in runoff associated with those developments didn't cause adverse impacts on the adjacent properties. So the Village has a very admirable track record that's the envy of many communities in Southeastern Wisconsin in requiring the types of ponds such as the pond that was installed for the Bentz Estates Subdivision.

The pond was designed in conformance with the current Village standards at that time, as well as guidelines that were in place with the Department of Natural Resources. In fact, the Village went above and beyond that even in 2002 and required that the pond be designed for water quality considerations as well. That's why the pond does have a permanent pool associated with it. The pond also has other features that were not required at that time but the Village had foresight such as a safety ledge as well as adequate storage for sediment of construction runoff.

So the Village in the design even in 2002 was ahead of the times. The pond as part of the permitting process was submitted in its entirety to the Department of Natural Resources. The plans were reviewed and a general permit was issued for the project indicating that the pond was acceptable to the Department and met the standards. In fact, I believe that if the pond were submitted to the Department today that same permit would be issued. So even five years later I feel confident that the plans would still be approved.

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I think it's important to understand, and Mike has alluded to that, that there is conflicting criteria. The engineering professions and the water quality specialists haven't resolved that conflicting criteria yet and I don't know that we ever will. But there is a water quality consideration and there is a health and safety consideration. Those don't always go hand in hand. One of the ways to try to address the water quality issue is to provide for a permanent pool, yet once we do that we don't want to have stagnant water.

I know I was at the Village Hall here recently and Kenosha County Office of Health and Safety had provided a brochure warning citizens and residents to make sure you didn't have standing, stagnant water. This is a concern about potential West Nile virus so we have that concern. So even though the permanent water surface would provide for enhanced water quality, we have to weigh that against the disadvantage of having stagnant water that can create a breeding ground for mosquitoes and other insects. So the aeration system is intended to try to address that concern. Aeration systems are still allowed. They are not permitted. There are no enforcement actions that I'm aware of anywhere in the State of Wisconsin by the Department that would prohibit you from providing aeration in ponds. So the Department doesn't even have the authority to issue enforcement actions in that regard. As Mike mentioned, the pond did receive a DNR permit in September of '02.

One other item I might want to point out is that retrofitting or upgrading of the aeration system to meet any changes of standards is always an option. But, again, it would fall back to the homeowners association to be responsible for any of those changes in the aeration system.

Mike Pollocoff:

I think if you look at the detention basins in Pleasant Prairie, and as Dan has indicated, since 1991 we've been requiring detention in any new subdivision, and the Village has undertaken some storm water management projects that would fall in the classification of regional basins, where many different subdivisions, some platted, some old CSM subdivisions, some very old subdivisions that were platted in the '40s, drain into what is a regional basin and the Village does manage those basins. But since 1991 we've required each and every new subdivision to manage their storm water in a basin that they maintain. Some of those basins are dry because back in that point in time that was acceptable. Some of them are wet. They're all different sizes. Some of them are four lot subdivisions, six lot subdivisions, 300 lot subdivisions. It's a mixed bag.

But the ongoing premise in any subdivision plat that's approved is that the residents of that subdivision are going to be required to pay for the maintenance of their detention basin or any outlots they have and not anybody else's. That's the commitment we've kept since '91 is that these things are an expense. There is latitude for property owners within that association to come together as a group and decide how they're going to accomplish that maintenance, but the Village doesn't maintain anybody's basins other than the regional basins. And one small basin, again, that pre-dated 1991 in Green Tree Estates.

I guess also Eve Boehme had contacted, as she indicated, Pete Wood from the DNR and Pete is with us tonight. I guess the question or if, Pete, you want to comment on the Village's pond and the permit that we have for it?

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Eve Boehme:

I'd like to have the . . . (inaudible) . . . that's the big issue right now . . .

Mike Serpe:

Eve, if you're going to talk to us you have to approach the microphone. We have to record this.

John Steinbrink:

We just need your name and address for the record because it's being recorded.

Eve Boehme:

Sure. Eve Boehme, 8242 60th Avenue. As I stated earlier really our biggest concern right now is, honestly, as homeowners we just don't know what to do. We have the Village saying that the manufacturer says to run the aerator 18 hours a day. So we asked the DNR to come out and just tell us what the deal was and that is not what the DNR told us. The DNR also told us based on the letter that John gave us, the fertilizer, all this whole list of things that constituted that \$3,300 we asked the DNR are all of these things necessary? And, again, we were told no. So I guess what I would like Pete's comment on is not just the condition of the pond, obviously that's important, but I'd also like him to comment to the Board what he told us as homeowners and why it's putting us in such a difficult position.

Pete Wood:

Pete Wood, 2127 West Marin Avenue, Glendale, Wisconsin. DNR storm water engineer out of our office in Sturtevant. Basically to try to keep this as short as possible we've been issuing storm water discharge permits in Wisconsin since the mid '90s. At the time in 2002 we were permitting any construction site that generated a land disturbance of five acres or more, which included this subdivision. I didn't realize, because it's kind of rare to have a subdivision that's put together by a Village, but after the meeting with the homeowners I did go back and determine that there was a permit on file for that time.

Just to make a little bit of a correction, and this has always been the case, because we get so many permit applications we operate mostly as a self-certification program where we don't actually get the construction plans. We get what's called a notice of intent. It has a lot of information in it, but basically we take the applicant's word, usually a design engineer, that they followed the rules that were in place at the time. That's the case with this one. I don't actually have the construction plans but I did see them. Dan provided them for review and I do believe that they did follow the design guidelines that were in place in 2002 for a wet detention pond which are actually still in place today.

At that time, this whole issue of aerators the DNR has always been silent on aerators. Number one, they've only become a fairly recent phenomena in storm water ponds. They weren't put in, I

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would say it's really exploded over the last five or so years, but it wasn't a standard feature of a storm water pond in the past. But what we have come to realize over the years, and we're always trying to learn things about storm water ponds, is that there's a concern with aerators defeating the purpose of the pond. We view the pond as basically, and no one wants to hear this, it's a waste water treatment device for polluted storm water that comes off our streets and our yards. There's nasty stuff in it and every time it rains, the whole purpose of the pond, storm water pond from our perspective, water runs into the pond and hopefully a lot of the stuff settles out in the bottom and clean water comes out the end and goes to the waters of the State that we're most worried about.

So the concern with aerators is that they're operating during a storm event, that they are basically defeating the purpose of the pond as a settling device. The purpose of the pond when it's settling is it's supposed to be as quiet as possible so the particles can go to the bottom of the pond. The concern with aerators and fountains is that while it's raining they defeat the purpose. So we are in the process, and this should be happening in the next month or so, we're publishing a revision to our guidelines for design and operation of wet detention ponds that will basically limit the use of aerators and fountains to certain types with certain engineering principles in mind to try to not defeat the purpose of the pond. Then also it will limit the operations times to times when it's not raining or for a short period of time after it rains. So there will be aerators and fountains that are drawing from the surface in the future so they're not stirring up the bottom sediments. Then there will also be timers and different systems to shut them off when it's raining. So that's where the future of aerators are in storm water ponds in Wisconsin but something to consider.

This pond was permitted at a time before this was in effect, so these new guidelines that we're coming up with are not retroactive. Although we will recommend them, there's no retroactive law that would force Bentz Estates to go and upgrade their aerator. But it would be recommended to do it to try to minimize these issues that we've come to talk about. So that's kind of where we are with the aerator situation. We're not out recommending them but we are going to say if you're going to use one we would recommend it operate in a certain way. So that's kind of where we're at for that.

As far as fertilizers go, that's a common sense type thing. Some of the water quality issues you see in any storm water pond are related to phosphorus. The algae growths, the plant growths, it's all related to the amount of phosphorus that comes into the pond. Obviously because we're treating storm water this stuff is ending up in the pond. Hopefully it sits in the bottom, but a lot of it gets stirred back up again in certain pond designs and phosphorus is made available to the algae and the plants. So one of the theories is the preventative maintenance theory where if you can minimize the amount of phosphorus getting into the pond in the first place that issue takes care of itself. So one thought I had was basically trying to go to a no phosphorus fertilizer. It's my understanding that's what the Village has been using anyway. But I'm also promoting that to the owners of the pond that drains to the pond is to go to a no phosphorus fertilizer so basically they try to solve their own problem in that way. There is phosphorus found in the native soils so some that you can't deal with is going to go in there anyway, but the less that gets in the less algae on its own. So that's one of the ideas we talked about was try to deal with phosphorus as best you can.

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Some of the other issues, again, a lot of this stuff is stuff we like to see, is trying to leave a no mow buffer or a minimal maintenance buffer around the pond area itself, areas of that buffer also removes some of the phosphorus before it gets into the pond. It's like a standard recommendation that you'll see in a lot of guiding documents you'll see from our State and other states about storm water ponds.

Another thing that we're trying to promote, and there is some mention of it in your storm water management report is actually using special wetland plantings within the pond and the safety shelf area that also are known to use that phosphorus and try to uptake it and keep it so there doesn't become an algae issue. So there is some options that can be done with using certain types of wetland plants in that safety shelf area. Generally anytime you have an area pond that's less than two feet deep you're going to get those wetland plant growing anyway whether you want them or not.

Another issue for this particular pond is one that we're most interested in is storm water pond maintenance and that is the idea that these ponds have a five foot pool in the middle that's supposed to accumulate. When the pond depth itself is generally three feet or less you tend to get water quality issues both that the pond doesn't function properly for removing pollutants, but then also you get these aesthetic water quality issues because the bottom sediment keeps getting disturbed by new flow coming in. So what we want to see in maintenance plans is a plan that someone goes out once or twice a year and measures the depth of sediment, and when it fills up to a point where the standing pool is only three feet deep someone has to come in and dredge it out and restore that sediment storage area. It seems to be missing from this plan so I'd recommend incorporating that, somebody checking that sediment and getting on a schedule potentially for cleaning it out.

Now, the thought is always with these ponds that they may not have to be cleaned out for 10 to 20 years but there is a cost associated with that and potentially a large one-time costs. So I did recommend they start thinking about that and maybe get some estimates on what it will take to clean it out and start squirreling away some money to deal with it when that one-time expense comes. I know they're dealing with these maintenance costs that are associated with the Village's needs and desires, but they are going to get hit someday with a dredging cost that will probably be a lot more significant I'm thinking just from what I know. So it's something to really think about is that clean out. Did I cover most of it?

Mike Serpe:

Peter or Dan or whomever. If the aeration of that pond was removed, what would that pond turn into?

Pete Wood:

It sounds like pretty much from what I've seen there sounds like there's evidence that it did become filled with algae. That's my understanding what the problem was. Again, there may be a way of dealing with that. We're trying to minimize, I mean that could be an experiment potentially of trying to control the phosphorous input which generate the algae. But it sounds like

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there will be algae which is more a secondary issue for DNR because the pond will continue to remove pollutants. It's more of an engineering concept called Stoke's Law that governs how a pond removes pollutants. It has nothing to do with whether there's algae there or not. So it's more of an aesthetic issue that obviously in a high profile area next to someone's house it's probably undesirable. But a pond maybe that's tucked away back behind homes or near a wetland in the woods maybe nobody even thinks about it because it's not so up front. So I can understand why somebody would be worried about algae.

Mike Serpe:

Would that eventually grow cattails?

Pete Wood:

From what I could see there was evidence cattails were growing in that fringe area that's called the safety shelf. Again, that's the zone of the pond that's generally less than two feet deep. They're going to grow there, right.

Mike Serpe:

And if that pond were taken over by cattails because the aeration was removed, how would that pond ultimately work to benefit that area?

Pete Wood:

It still would continue to function as a water quality pond. Generally once they reach that two foot depth in the pond they won't go any further anyway. So if the pond filled in, if you look at that hole in the middle, if you look at the pond design there is a five foot deep hole in the middle. If that has filled in, sure, the cattails would creep into that so that's another reason for keeping it open. But, anyway, there is a concept in storm water management called an artificial wetland. It is an accepted practice for treating storm water where you incorporate shallow and deep zones into a pond. So wetland plans aren't necessarily bad from a water quality standpoint. They do provide a function. It's very hard to quantify because it's not an engineering concept. You factor in this biological concept which is a little harder to deal with, but we know that the cattails do provide some function as far as pollutant uptake goes, and the pollutants themselves will continue to filter and go through the cattails.

There is an issue with cattail ponds and the plugging of the outlet structure which is another thing that we want to see in our maintenance plans is that somebody is going out a couple times a year and making sure that the outlet is functioning. If it plugs out there are issues with the way the pond functions.

Mike Serpe:

One last question for you, Pete. Then do I understand that the pond at Bentz Estates as it is right now and as it's functioning is okay and it's in the guidelines?

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Pete Wood:

From what I saw on the construction plan, yes. As long as it was built that way. There may be some issues. It's getting up there in age. Obviously the pond has filled in some but generally you expect to get 10 to 20 years before they fill up to the point you've got to clean them out. But that would be something to check and see what is that depth. What I've found, and you've probably found this also, is that these small storm water ponds tend to have these aesthetic issues more often than the large ponds. And it may be a function of having that larger pool area that those pollutants are able to accumulate in more of a thin film spread across the bottom rather than a little hole that it's supposed to accumulate in. It's a function of these small ponds.

Mike Serpe:

Pete, the reason I ask you that is because I read the article in the *Kenosha News* and it sounded like the pond was totally not in compliance.

Pete Wood:

It probably came out the wrong way. But one of the main issues is you look at an aerator that's operating 18 hours a day. And from what we know that's an issue for keeping pollutants in that pond so we're worried about that. So that's one of the issues. There were some outstanding issues about some chemical treatments that we're still trying to work through. There were some issues. Obviously not having enough information about what kind of fertilizer was being applied. Fertilizer with phosphorus in it would have just contributed to the problem.

Mike Serpe:

Just from my point of view when I read that I'd think we did something wrong here. That's how I interpreted the article. Then I talked to Mike and I was reassured that the pond was—

Pete Wood:

It's a matter of what you're trying to do with the storm water pond. People like to think they're landscape ponds but any landscaper would say they'd rather deal with a landscape pond. It's more ground water fed rather than runoff fed because runoff from any source has stuff in it. You're always fighting that battle of trying to maintain a pretty storm water pond when they'd much rather deal with a pond that's groundwater fed and doesn't have to deal with the associated pollutants that come with any kind of source of runoff whether it's agriculture or from an urban setting. So it's the perspective you come from. As a storm water pond some of these issue may be harmful the way it would function.

Mike Pollocoff:

Thanks, Pete. Thanks for your insight on that.

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John Steinbrink:

Can I ask Pete one question first? What's the biggest source of phosphorus and lawn chemicals? Where do they come from into these ponds and into our waterways?

Pete Wood:

First would be fertilizing neighborhood lawns. I think you're probably involved with that at the State level, the phosphorus ban and such. So there's work at the State level to get phosphorus out of fertilizer.

John Steinbrink:

But generally that's the low number of those bags.

Pete Wood:

Yes. Generally in Southeast Wisconsin the native soils unfortunately are naturally high in phosphorus so there is a source that you can't do much about. That stuff ends up in the streets. It even falls off cars. It can't be done much about it. I don't know if the City or anybody is doing active street sweeping in that area, but that's another idea is that if you street sweep at a pretty regular frequency you would be picking up the phosphorus that's attached to the soil particles that end up in the curb and get washed off with a rain event. That's another way of dealing with it. But in the end it's in the pond right now, too, so that's the other problem. You're kind of recycling it. Other than getting in and dredging it out, there is a source of phosphorous sitting in the bottom of that pond that's getting stirred up every time it rains and then it's available for the algae again and the other plants.

Mike Serpe:

I have one question. Who fertilizes that, the homeowners or us?

Mike Pollocoff:

Well, this year our contractors fertilized and we use on all of our parks low phosphorus. That's what was used. Again, that pond drains storm water off of subdivisions and then whatever hits the streets. We put this out on our clean water utility guidelines to use low phosphorus fertilizers wherever in the Village. It's not just this pond. It's a standard that we try to promote.

John, one of the issues that was brought up was the dredging. Do you have an estimate for what it would take to dredge this pond?

John Steinbrink, Jr.:

Yes, we did, Mike. The Village recently contracted out a local contractor and got a price of what it would cost to specifically dredge out the Bentz Estates pond. The price estimate for pumping

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down the pond and cleaning it out and hauling the spoils and all the transportation and removal costs came to \$3,365. So if the pond is designed for being dredged out every 20 years from what I've heard this evening at that amount it ends up being for a total association of \$14 a month, and you break that up over 11 property owners it ends up being \$1.27 per month over 20 years minus inflation obviously.

Mike Pollocoff:

One of the things that we're going to look at in the clean water utility as far as the next budget is to have the utility perform tests on the west ponds across the Village, a sounding, to basically find out what that sediment blanket is in those ponds and provide that information to the associations so they know what they're dealing with.

Trustee Kumorkiewicz requested that we have this meeting tonight. And in anticipation of that Ms. Boehme submitted 12 more items that she wanted to be responded to at this meeting. I have those listed up there. The first one is why doesn't the Hideaway Homes, again which is the subdivision directly east of Bentz Estates, just east of Bentz Estates require a pond? Hideaway Homes drains into 57th Avenue ending in the City of Kenosha maintained pond located at 57th and 80th. That is a pond. Hideaway Homes is required to meet the DNR requirements for storm water management and also the City of Kenosha. Bentz Estates Subdivision is in a different drainage area than Hideaway Homes. Water doesn't drain that way. Water from the Bentz Estates drains predominantly south to an unnamed tributary of Jerome Creek and ultimately to the Mississippi river.

Item Number 2: Is the pond on 85th Street the retention pond for Turnberry Estates? If so, it doesn't have a fountain and is full of cattails. If the pond Ms. Boehme is referring to is the Tuckaway Trails pond, which I think that's what it is, the reason that the DNR storm water management guidelines have evolved over years. When Tuckaway Trails was developed in 1991, the DNR guidelines required the volume of water discharged off the site to be same pre- and post-development. Dry ponds were constructed to restrict the water flow downstream from the development. Water quality was not a factor in the pre-NR151 water quality DNR standards of October 1, 2004. As Pete indicated, this storm water quality and engineering is an evolving science. I guess if you take on a continuum and look at the ponds that the Village has approved they reflect the current thought and design in engineering and regulation at that point in time.

The next item, the homeowners association was never provided with a maintenance contract referred to by the DNR that would explain to us how to maintain the pond. We would like this provided to us on September 4th. We would provide the association with guidelines from the Village storm water master plan, maintenance by the association refer to the grass areas. The Village has attached detail.

Item 3, the DNR specifically recommends against using an aerator or fountain in the pond, and yet John Steinbrink's letter to the homeowners continues to instruct us to run the fountain 18 hours per day. We just kind of went through this. The DNR allows fountains in retention ponds. The future water quality standards from DNR detail the types of fountains that are allowed and run times that promote increased water quality. Fountains in ponds add oxygen, reducing the

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amounts of surface algae; keeps the water from becoming stagnant; deters insects and minimizes West Nile virus and spread of Eurasian milfoil; and increases the aesthetics of the water body. The proposed standard they're talking about relates to non-aeration ponds is just that. It hasn't been adopted or promulgated yet. It didn't exist when we did this one. If the no aeration standard was in effect the pond would have been designed differently.

If those standards that Pete's talking about were in place today and we went to Dan and said we need a pond to drain this 11 or 12 lot subdivision, that pond may look differently. Some of the ponds that we're designing today look differently than the ones that we did when we did this one. I think one of the key things that I don't want to minimize is the Village is requiring this pond and this is an urban pond. This is not a pond that's out by the floodplain or out in a rural field. This is a pond that's in an urban area where people live. I'm sure there are some benefits to having an algae covered pond and it does some certain things, but if you have to live next to one of these things when it's like that it's not a pleasant experience. This is an urban area. There's no getting around it. There's some vacant lots across the street and land across the street and what have you, but we need this pond to perform in a way that people can be by it and live by it.

Next Item is DNR also specifically recommends against using fertilizer around the pond and yet the Village has spread fertilizer several times. Fertilizing the grass areas around the outlet berms keeps the grass healthy minimizing erosion. We want to minimize sediment going into the basin. And if we can't maintain the turf around the basin, you've got to start someplace and get it established. They recommend to use, as we've talked about, fertilizer low and contains no phosphorus. That's the only kind of fertilizer we've used and our contractors use. That's all we use in our parks. Phosphorus is one of the pollutants that the DNR is reducing in the waterways and we all want to end that.

Item 5: Although several requests have been made by various Bentz Estate homeowners, we have never been given Village ordinances related to how the outlet should be maintained including what a park-like setting actually means. We would like these provided to us at the meeting on September 4th. It is the ultimate goals of Pleasant Prairie to keep the side slopes and outlots of retention basins in a park-like setting. This maintenance improves the aesthetic appearance of the outlet. As requested in the April 18th meeting with the association and Pleasant Prairie, a list of maintenance items was bid to the local landscape professionals. The detailed list and costs were sent to the association on June 22, 2007. Those are the things we need to do.

As we indicated earlier, we have our storm water management plan that provides some guidelines. The standards is not an ordinance, it's within the covenants. It's within the plan. Maintaining a park-like setting, in every other association we have maintaining the outlet like you would maintain your own yard. That's probably maybe more simple to understand than park-like setting but that's really what we're talking about is treating it no differently than you would treat your front yard or your backyard.

Item 6: The homeowners association has never been provided with a maintenance contract referred to. I read through that one before. We'll provide the association with guidelines from our master storm water plan.

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Item 7: Pete Wood from the DNR mentioned a clean water credit that the Village receives as a result of having the storm water basin pond. Why have we not seen any of that credit applied to our budget? This is not a monetary value credit given from the DNR to the Village. The clean water credit refers to a quality standard that is required by the DNR. The Village is required by the DNR to remove 20 percent of the total suspended solids by 2008 and 40 percent by 2013. That's the credit. It's not money. It's suspended solids that we're achieving on this. If we can achieve that we can keep our costs down in the utility which in turn keeps our costs down for the clean water customers.

Item 8: We would like the Village of Pleasant Prairie to incur the cost to have a thorough analysis of the pond completed. There are serious concerns from the DNR and the residents of Bentz Estates that the pond was not installed correctly. I think Dan Snyder has indicated that the pond was installed correctly. Our engineers looked at it. They've designed it and looked at it. No one from DNR has told me the pond was constructed incorrectly or not built to the plan that was provided. We haven't heard that. I think unless Pete is telling me that tonight that we still haven't heard that. I'd take issue with the fact that the pond was not built correctly.

Item 9: Jennifer Hill who lives next to the pond states that the aerator in the pond has never worked correctly, even before the association was turned over to the homeowners, and yet we have been required to pay for continued repairs to the aerator. Since the DNR does not recommend running the aerator, we would like to remove it from the pond or run it on a minimal basis.

The fountain was found to be damaged by the association during the fall removal. The Village will check to make sure there are no other shorts in the electrical system that would cause the fountain to shut off on its own. In a discussion with Jennifer Hill, her concerns revolved around the fountain shutting down too often, not that the fountain was not performing the task it was meant to. The fountain run times are provided by the manufacturer to improve the aesthetics of the pond. The DNR recommendation referred to is not from the Department and does not accomplish the existing design or the functions that an urban pond is designed to accomplish.

Item 10: We are very concerned about the future cost maintenance to the pond beyond just the routine maintenance. That's the number that John brought up, I think \$1.27 to excavate or dredge that pond. The pond was designed to be dredged every 15 to 20 years and we provided the estimate of what it will take to clean the sediment from the basin bottom.

Item 11: Provide the homeowners with detailed specifications on how the outlet is to be maintained, not just as a park-like setting. The maintenance of Outlot 1 can be described the same as how the homeowners association would maintain their yard. A detailed list was given to the association on June 22, 2007.

Item 12: Explore the option of hooking into the Kenosha storm drain system as Hideaway Homes did or change the wet detention pond system into a dry culvert system similar to the system on 93rd Street and 39th Avenue. The basin on 57th and 80th is located, again, in a different drainage basin. We can't make the water drain up hill. Storm water won't run that way. In fact, it crosses

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the sub-continental divide so that isn't realistic. We want this pond to be wet to attain the 20 percent and 40 percent solid removal dates that we have to make in 2008 or 2009.

The basin on 39th Avenue and 93rd Street, well, there isn't a dry basin over there, there's actually a wet basin. There's a pond on 39th and 93rd, but there is a dry pond that the City of Kenosha operates on 39th and 89th. That, again, is a regional basin. I've been here 22 years and it was here before I was here. Under the design standards they had at that time that's what they designed it. I wouldn't be surprised to see the City at some point just like they did with the Gangler. pond on 80th and 57th excavate that down and turn it into a wet basin from a dry basin. Again, they've got to meet the same standards that we do.

On Friday, August 31st, Eve Boehme requested two additional questions to be responded to at the September 4th meeting. Item 13: Tuckaway Trails is located in Pleasant Prairie and the Village mows the grass and maintains the outlot grounds for that subdivision at no cost. Why doesn't the Village do the same for Bentz Estates? Pleasant Prairie does not mow any Tuckaway Trails outlots. There are several outlots from older subdivisions that Pleasant Prairie Parks crews maintain but no new outlot maintenance has been added since 1991.

Item 14: Since we have the water retention basin and we are paying to maintain that, why are the Bentz Estate homeowners also being charged the clean water utility fee on our utility bill? The clean water utility is designed to fund daily operations and to fund future capital and accounts for an aging infrastructure. A second and more principle issue is the continued maintenance and eventual replacement of storm water infrastructure. We talked a little bit earlier about sweeping the streets. The clean water utility pays for sweeping the streets and disposing of the waste that's collected by those street cleaners. Fixing the manholes, maintaining the manholes, the inlets for the storm sewer, the storm water mains, ditchways, things like that, and monitoring the quality of the water at certain outfall points within the storm water system or the drainage system of the Village is what that money goes for.

Summary: While this contention is unfortunate, and it is understood that a number of property owners question their responsibility for the pond, the Village and the property owners have entered into a permanent binding contract which has been placed as a covenant on the land. This is an action that has been repeated since 1991 on every subdivision the Village has approved.

The underlying policy for this action is that existing property taxpayers should not have to pay for the expenses caused by new development. The requirements that new developments meet are specified on their deeds, and each new owner and each subsequent owner secure their signatures on the title of the property acknowledging their responsibility. Property owners of Bentz Estates do not pay for any new developments that need improvements or to perform maintenance of those improvements, and no existing or future taxpayers should pay for theirs either. To alter this policy would establish a precedent for existing and future neighborhood associations that would be difficult to fund through the tax roll.

There is no one that escapes this, not WisPark, not the commercial development that Jean was talking about previously - Target and Penneys. Every single development has to, one, accommodate their storm water, manage it and pay for themselves, pay that cost for doing it so

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the taxpayers do not pay for it and we won't put it on the tax roll. This is a smaller association and the chance of having residents with some level of expertise in maintaining Outlot 1 are probably less than other subdivisions. This is why the Village extended the offer to take over the accounting and billing of residents in order to ensure that the property owners who don't make their payments towards maintenance would have to make payments with their property taxes or risk losing their property.

The Village has also offered to help with securing vendors or maintenance. The improvements that have been dedicated to Outlot 1 will serve the association over time and, if properly maintained, some expenses will not be recurring or necessary. For example, a sprinkler system was installed to ensure that the landscaping would not be destroyed in a drought. If those conditions don't exist neither does the cost. If the turf is maintained and we have rain you might not be fertilizing hardly at all. There are neighborhood associations that do a significant amount of landscaping by themselves, they don't contract it out. They get together on a maintenance weekend. The Village drops off wood chips for mulching the planting beds, they trim them, they take turns mowing them. There are a lot of different options and it's a Heinz 57 how every different association takes care of their own outlots, but there's a lot of different options.

I guess the miscommunication, I don't think it's miscommunication or misunderstandings of what the Natural Resources Department was stating over the Bentz pond is unfortunate. But I believe everybody understands where Pete was coming from, and Dan has adequately described what we were working to accomplish and we feel we did in designing the pond to perform what it's done. We've learned from older ponds that no aeration that the problems that we're talking about are prevalent. The Village designed and was permitted for construction of the pond by the State and under the standards that existed. We can't compare this pond, it's older but not that old, with the new standards. It's difficult. We can meet those standards but, again, that ends up being an expense for the association.

With respect to my recommendations, there are several alternatives to resolve this problem. I'm not saying I have the only ones. If the Board has some other ones I'm glad to hear them. One that I will not recommend is that the pond be allowed to overgrow as requested by the homeowners association. If that were to occur, I am advising the Village Board that the pond will ultimately fail to provide the primary function that it exists for and that is to manage storm water. Surrounding properties could be subjected to flooding during events.

I've been involved in a couple situations where the Village has gone overboard listening to people talk about water quality and preserving aquatic life, and the first time we had a good blasting rain the area flooded. We ended up redesigning or the developer had to redesign or re-work on ponds to make them work for storm water. I don't want anybody to forget that that is why it's there. The Jerome Creek area where this is is a marginal area for drainage at best. To take and put ourselves in a position where we're eliminating the storm water capacity of this pond to hold water in an event is crazy. If this Board or a future Board wants to do it they're going to get a letter from the staff saying we don't want to be responsible for the end results of this because it's not doing to be good. That's not what we want to do.

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The main reason that pond is there is to provide storm water management. We don't want any flooding to occur there. We've allowed homes to be built downstream from this pond. There's a storm sewer taking water out of the pond past those homes. Why we would allow that pond to become plugged up or function less when there's newer homes built downstream from it is just crazy. That is not an option. It might be a convenient option. It might be the cheap option for some people, but from a public safety standpoint it's not the option we can recommend.

The Village began this process offering to get bids and do the accounting for the association until bids were received, although there is no longer an association to formally agree or disagree. The Village could resort to what the covenants call for which is to perform obligations under Section 7.6 of those covenants. In the event the obligations contained herein and as continued in the final plat are not performed, the Village shall have the right, but not the obligation, to perform such function and may assess any charges incurred in the expended by the Village in enforcing these obligations.

I think on one side at our last meeting with the association, and maybe they didn't see it for what I meant it as, but I said the Village will help get you guys up on your feet, we'll do this initial work, we'll take care of this problem you're having getting everybody to pay. We'll enforce that and we won't charge you for that, and we'll get you up and running. We'll go out and get bids. If you like them, if you don't, don't take them but you've got to do something. So on the one hand I'm telling these guys they've got to live up to their obligations under the covenants, but on the other hand the Village's obligation under the covenants is not to do any of that stuff. The Village's obligation is if it's not getting done, we're going to do it and bill you. It's open and shut.

I think we've already tried to find a way to make this thing come together in a way that isn't harmful on these people when, in fact, I know the *Kenosha News* said we're being high handed with this and I don't think we've exercised any of the options that we have under the covenants. We're trying to get this thing put together. There are some things that I don't think the Village can negotiate on. One is that I think if we decide to start paying for subdivision maintenance of outlots with Bentz Estates we've got to be prepared to start paying for everybody else's because it's going to come out. It will be in the *Kenosha News* that we're doing it, and believe me if I'm an association in another subdivision I'm going to say, hey, I'm going to go ask. I'm going to say I'm not going to do it and what are you going to do, Village, and maybe you'll have to pay for it.

Everybody as adults . . . of this situation when they bought their lots and we sold the lots and we all committed to performing certain things and I think we have to do that. I think we have to maintain that pond adequately for storm water management and we have to keep it a clean, urban pond so people won't be offended being around it. I think the latitude is in how that landscaping gets done. We can sit down with them and show them what we mean by park-like setting and help them come up with a mowing plan, describe to them what some other subdivisions do when they do it themselves as far as some of the easier things. I think that the handling of the pump and the pond is best handled by a contractor. We don't even do that ourselves. But it is what it is.

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The costs that can be managed I think are the ones that they can do themselves. As far as some of these residents I've got three residents, at least that we have on our records to date, that still aren't paying. If the Village decides to rescind the offer we will handle accounting in doing the billing then the association is going to be back in the soup saying they're not going to have enough money or they're going to be struggling to get that done. If the Board wants us to continue with the offer I made for a small group of people then we can continue to do that. But I think that's probably still a difficulty that's out there. And based on the questions raised by Ms. Boehme I think there's some level of discomfort in the fact that this pond isn't needed or these costs shouldn't be needed or this water should be going someplace else. That train left the station when the plat was recorded and everybody bought their lots. It is what it is. If you have any questions I'd be glad to answer them.

John Steinbrink:

I had another gentleman that wished to speak first. Once again, I just need your name and address for the record.

Doug Steggert:

Doug Steggert, 8278 60th Avenue. Mike keeps referring to we were all signed and so on and so forth. That is inaccurate. I bought the house from someone who built it as a spec home. That person bought the property from the original builder who purchased the lot to the best of my knowledge. I have a deed that says there's no covenants. There is nothing in my paperwork that says I belong to an association. I found out about the association when I wanted to do some improvements to my property. Oh, you've got these guidelines. What are you talking about? So with all due respect, Mike, you keep saying everybody knows. No, we do not know. I've been advised by my attorney at this point I really haven't incurred enough costs to legally fight the person I bought the house from because it's going to cost me more to fight them than what I've paid for. So, I want to clear that up in front of the Board. I'm speaking for myself. Based on what I know from the other owners not all the property owners know or knew. I can show you because I've gotten from the Village the original purchase property agreement. My name isn't on them. I never signed any papers. I want that clear.

Secondly, I might have to ask you to go through your slides, but very early in the slides you referred to enhance the appearance of the subdivision. Let's be frank here. I'm sure at least more than one of you have driven down 60th Avenue. You were part of the process in putting that street in there. I want you to raise your hands and show me if you honestly believe driving down 60th Avenue that looks like a subdivision. I can drive into Tuckaway Trails and they've got a nice entrance. They've got a nice sign. I know I'm going into a neighbor. I defy you in good conscience to say that that pond is enhancing my subdivision. I may be getting emotional but I'm really aggravated about this whole thing.

Another point that was made we can't make water run uphill. The funny thing is I live on the north end of the property and there's at least a ten foot rise in that street from my house before it gets to the pond. So you're going to tell me that my house affects what happens in that pond? I don't buy it unless you can show me an engineering plan that shows that the sewer was dug grade

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level or whatever it is to get it down there. Ms. Boehme and her husband live next to me. They've got the same problem I've got. There's another house same problem. Unless you can show me the sewage plan that shows that the water runs that way it can't run uphill.

Again, why are you going to tell me that that is benefitting me in any way? For the benefit of the subdivision it talks about. There is no benefit there. All due respect to the people that live next to the property I understand their concern. But, let the cattails grow around it. I'll refer to Tuckaway Trails again and to the engineer here talking about health issues. You can't even see the pond, and you guys all know this, you can't even see the pond because there are cattails all the way around it and yet that's an urban setting as I've heard the term used. That's an urban setting. What's the difference? You're going to tell me it was built blah, blah, blah, but it's still there, it's still in an urban setting. And if we have to worry about West Nile it's still there.

I like the one especially about the algae and the Eurasian milfoil because now the best of my knowledge Eurasian milfoil only gets there if it's transported by a boat or something and I don't think we have any boats in any of our ponds. That's maybe going off track. But some of the things that are being said here aren't relevant and aren't accurate. We talked about planting wild flowers. We talked about doing stuff around the property. We were told we couldn't. We're being told it should be kept like a yard. Drive by my house, I've got a pretty darn nice looking yard. I know how to take care of a yard. But we were told we can't do it. Talk about a sprinkler system so the grass doesn't die. The grass won't die. We all know grass is one of the most resilient things there is out there. It will turn brown and it will go dormant but it's not going to die even if we don't water it.

So these arguments don't hold water. The property doesn't need to be mowed on a regular basis unless you're trying to make a picture. You're talking about a park-like setting and you're talking about an urban pond. Now, which is it supposed to be? Is it supposed to be a park or is it supposed to be an urban pond? Again, I have to be respectful of the people who live right next to it, but that's one house. Again, we all talk about these houses were here before it was built and these houses—I've lived in Kenosha a long time. I know what 85th Street looks like 35 years ago and those houses were all there, but they're all impacted by that pond even though they have no responsibility.

So, you talk about doing what we can for us and all that it doesn't make sense. There are newer subdivisions that aren't significantly newer than ours and yet their ponds are done differently. You can go over to Meadow whatever you call it and they've got three different ponds there and all three different ponds are all different. They all have fountains in them but the area around them every one of them is different. Where's the consistency? One has cattails all around it. One has got weeds on one side of it but we were told we can't plant wild flowers because they'd be considered weeds. You've got to ask yourself. Now, they've got one there that's got a nice little sign up, private property, private pond, that one is really nice and that one is all nice. The funny thing is it's right there on the street so everybody can see it.

You talked about not setting a precedent and doing special things because this is going to happen and that's going to happen. The Village made these covenants. It's not like they created—I'm all for covenants about buildings so the houses look great and all that and uniform and all that, but

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the covenants were set up for that pond. No one asked us and said, hey, what do you think?. Like I said, some of us who came after the fact we had no knowledge of it.

Some of the arguments I had probably get shot down here based on the stuff and I would ask you to go through. There's a few more things I'm sure I've forgotten but mostly that's what I want to tell you. I guess the Village, yeah, they don't want to set a precedent that you're going to take care of our property. Come on, you guys have ground crews. It doesn't take that much. It doesn't take that much and you've got different size properties. There should be a way to equalize it because yeah, we're 11 houses. It said 12 up there but it's only 11 and one of the properties hasn't got a house on it yet.

But you told us at the meeting we'll get you your bids and if you don't like it we'll revisit it. That's what we're doing here. We're revisiting it. It doesn't make sense. It doesn't add up. There's got to be a simpler way and there's got to be some latitude. The DNR said there's no reason we can't do cattails around there short of blocking the outlet. Okay, fine. Let the cattails grow. It doesn't have to be treated. Again, with respect to the engineer here, that pond versus the water that sets in the ditch or sits over by Tuck-A-Way Trails, all that water sitting there, my pond isn't going to create a West Nile epidemic. So it doesn't make sense that you want to use these arguments to back up their statements. But it really doesn't matter because in the big picture it's not that big a deal. I guess that's all I've got to say. Like I said, there was probably a lot of stuff I forgot. But for now I've been here too long and so has the rest of us. Thank you.

Mike Pollocoff:

Doug does make an important point that I thought I'd made but I want to make sure everybody understands is that there are three parcels on the north end of 60th that are not in the drainage basin that goes to the pond but they are in the subdivision. They are in the plat that was created that built that street and created those lots. It's on the face of the plat and it's in the deeds and restrictions what that is. But the storm sewer system that was put in place by the City of Kenosha that drains that are they had anticipated years ago that they would eventually annex that area and they sized and designed that storm sewer eventually for all that land to go into the City of Kenosha. Even then they wouldn't have been able to take the other parcels of land in Bentz Estates because, again, that's crossing a different drainage basin and I don't think they were able to handle it. So he is right that those parcels do not drain into that pond but they are part of the plat.

With respect to when we created the plat and the original closing documents, Jean and I, those parcels were conveyed with all that understanding and that was signed off on. If Doug and his wife have something different, somewhere between the person who bought the land and developed it or whatever did something with the deed that's illegal. The deed is the deed, and I think if someone went back and looked at the original conveyance in the plat it's clear. We can't create a lot and convey it unless all that's been signed off on and approved. I know that to be the case with every single lot.

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I think the other issues he brought up are the issues around the edge. Those are the issues I brought before you requesting that the Village do and I guess I'm advising you contrary to that or some gray area outside of that.

Eve Boehme:

If I could just make a couple of closing comments. This will be it. I feel like we've made no progress. I feel like we've talked about a bazillion things.

John Steinbrink:

One more time we need your name and address for the record. It's a little machine and the lady that transcribes it has no idea who is speaking.

Eve Boehme:

She doesn't know my voice yet?

John Steinbrink:

Not yet. She may.

Eve Boehme:

Eve Boehme, 8242 60th Avenue. Again, I feel like we haven't made any progress. I feel like you guys know, the rest of the Board knows what we all know, but I guess I would just ask the Board, and I understand you can't make a decision tonight, but if you could maybe just think about what we said and take two things into consideration. First of all, if you would please review the letter that John sent to the homeowners on June 22nd, because a couple of the slides kept talking about he describes in this letter the way that we're supposed to maintain the lot and it doesn't. I have the letter right here. What this letter describes is what the Village has done to bring the property up to par. Weed control, lawn fertilize, tree circle and planting, mulching trees, pond treatment chemicals, pump maintenance, spring cleanup, water meter and sprinkler and maintenance, again, to the tune of \$3,300. So, again, I don't feel we have any better idea right now on how to maintain that lot than we did an hour and a half ago. So if we could at least get you to say to us these are the things that you need to do. I don't know that we need to do tree circle and plan bed weed spraying. That's \$180. Some of these items on here maybe we don't need to do them all.

And the other thing, if we could just talk about how much of a reasonable amount of time a day it is to run that aerator. I personally think 18 hours is excessive. The DNR seems to think we can run it but we don't need to run it 18 hours. That's a lot of electricity to be run the whole summer when you only have 11 lots to pay for it. If we were 60 or 70 lots it wouldn't be as big of a deal, but because it's so small that electricity cost, and you all know because you have homes and you know how it is, it's expensive. So I would ask you to at least consider those two things and maybe just get back to us and see if there isn't a compromise we can come to. A, if you could give us clear guidelines on how we need to maintain it.

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If we could talk a little bit more about this dredging thing. You're saying it shouldn't happen for 15 or 20 years, but the DNR is saying they have concerns already because of the way the sediment is in there. So if we could talk about that. The pond is five years old. I don't know if we can wait 10 or 15 more years to dredge that. Yes, spreading the cost over 20 years \$1.17 a month per home, that's not a problem. But if we're talking doing that last summer that's a different story. So if I could just ask you to consider a couple of those things and then get back to us I'd appreciate it. Thank you.

Monica Yuhas:

Eve, I have a question for you. You're asking for specifics from John Steinbrink, Jr., as to how tall the grass should be. You're asking for specifics.

Eve Boehme:

This estimate right here says that the grass is going to get mowed 28 times at \$46 each. Now, 28 times, the summer is here five months or four months, do the math. I don't mow my grass 28 times and I don't get letters from the Village saying my grass looks bad. I don't do all of this stuff to my yard and I don't get letters from the Village saying that I'm not maintaining my lot properly. I guess we have no--some of us have more issues about maintaining the pond than others, but we understand that it is what it is. What we want are guidelines.

We feel like we're being asked to maintain this pond better than our own homes. I'm telling you I don't do all this stuff to my own house and I've never received a letter from the Village saying, Mrs. Boehme, your yard doesn't look well kept. So I guess we just would like more clarification. Is all this stuff necessary? Does the grass really need to be mowed 28 times in a summer? \$46 each mowing? Isn't that a little excessive? It's not that big of a lot. Just some of those specific things. And then the big, honestly, for us is that aerator. I'm not asking is it necessary to take it out. I'm being sensitive to Jennifer who lives next to the pond. She has a family. I understand that. But 18 hours a day is just very, very expensive and I think just maybe a little excessive. So maybe we could come to a happy compromise with the DNR and the Village to say 10 hours a day or 6 hours a day or whatever it might be for the duration of the summer.

Mike Pollocoff:

One thing I want to make sure that Eve and the owners understand what we left that initial meeting with was the Village was going to come up for bids to maintain this one, so we're asking a contractor prospectively to look out over a season and tell us what it's going to take assuming you're not going to have to do anything. We met with the association, there was no agreement on the association where one of the property owners was mowing it, initially wasn't getting paid. Then that got to be burdensome and they asked for \$40 a mowing and they weren't getting paid that.

So what we left that meeting with was the homeowners association was in such conflict as to what needed to be done and who was going to be paid for it that what the Village was providing

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was complete service in these bids. We asked the contractor we're going to ask you to perform this contract and you tell us what it's going to be. As I said before, and I've been by all those homes and you all have nice homes and you have nice yards, the standard is no different than your yard. You don't bring in a contractor to weed your flower beds or your shrub beds. You do them.

If the association can come to that level of understanding and say, okay, we know what we have to do, you go out and look at what you have, we're going to weed it when it needs to be weeded. We're going to go put some mulch in it when it needs mulch, and we're going to mow it when it gets high enough when it needs to be mowed. When it gets really dry you don't mow your grass two times a week, but I bet you last week you did mow it two times a week. So it is what it is.

But when we ask a contractor to submit a bid he's going to say I don't know what kind of summer I'm getting and this is what I'm going to be bidding. That's the bid we came up with because the homeowners had not come to a conclusion on who was going to do what and how. I could care less whether either one of these contractors get the bid. It's not my problem. If you guys decide amongst yourself that Eve is going to mow it the first week of the summer it needs to be mowed, and Jennifer is going to mow it the second, or you guys are going to hire Jack's Mow Service, the Village doesn't care. It should be maintained like your own yards.

You have complete discretion which is what we do with homeowners associations to decide that. What the Village is requesting is in the end it have that park-like atmosphere which is just like your front yard. It's like Prairie Springs Park. It's just like Becker Park. It's just like Rolling Meadows Park. We mow those when they need to be mowed. We weed them when they need to be weeded. We mulch them when they need to be mulched. But John does a budget each year that says I don't know how much it's going to rain this year so I've got to budget to know if I have to mow that thing twice a week for six weeks for some reason I've got the money in the budget to do it. You as an association if you were to contract that come up with the same logic. If you as an association decide we're not going to contract this out, we're going to mow it, at some times you're going to have to mow more than others.

The same thing with fertilizing it. You shouldn't have to fertilize it, but if the grass does go dormant and it starts turning to dirt which it did this last year you've got to go in and rebuild the turf. Hopefully you don't let it get to that point.

Eve Boehme:

But I think our biggest concern is, honestly, again you just said you drive down our street and we all have nice yards. We thought we were maintaining it properly. Again, we weren't given clear instructions in '05 when it was turned over to us. We were doing the best that we could, honestly. I mean we weren't just throwing our hands up and saying we're not going to do anything. We thought we were doing what we needed to do and obviously it wasn't good enough.

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Mike Pollocoff:

No, it wasn't good enough because the association when you came together decided it wasn't good enough. We said there was a problem and you need to work on some things. And when the dirt banks started showing on the sides of the pond it had gone too far.

Eve Boehme:

So would the Village be open to at least talking about doing wild flowers since the DNR recommends putting plant life or whatever—

Mike Pollocoff:

The DNR is talking about two different things. We're talking about one thing and the DNR is talking about another. I think we need to make sure, and Pete if I'm wrong jump up and say so, but there's two type of ponds and this is an urban pond. If you guys want to have some wild flowers along that shoreline to some extent and that doesn't get crowded out by what pops up along that shelf I guess that's not a problem. But by and large it's a grass setting is what we're looking for because that's going to be the most manageable. If you want to make that whole thing wild flowers I can show you a lot of wild flower patches that are put in and we've even tried to do it in parks and they end up looking terrible because it's more than what you think. The best way to get some of the really natural wild flowers to grow is to burn them. Every couple years burn them off and they don't want to do that either. They don't want that happening around them.

Really when we say park-like setting it's what you do in your yard. If you guys do what you do in your yards it's fine. I guess we didn't see that and I don't think the homeowners association saw it when we met because there was issues about what was getting done and how it was getting paid for. If you need John to write up a thing that says if the grass gets to four inches mow it to one inch or two inches. We can do that kind of stuff. But it really is no different than what you do in your yard.

Eve Boehme:

But I think some of these things on this list I don't do in your yard. You've got \$180 for tree circle and plant bed weed spraying. What is that?

Mike Pollocoff:

If you've got trees out there that have mulch around them and there's a bed there, if the weeds are growing you can do one of two things. You can go pull the weeds yourself and mulch it or you can have a contractor do it. Again, when we developed that bid it was based on the premise that we're bringing somebody in to do everything because you guys aren't doing anything. Like you just said, that was the premise, this thing has come apart, give us a price for what it takes to do everything.

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Eve Boehme:

There's a couple things on here like spring cleanup \$75. What is that?

Mike Pollocoff:

If there's dead branches, if the mulch is gone, if there's trash that's there. Again, you're asking a contractor to do everything, to take care of that. If you take your own yard and for some reason you couldn't take care of it anymore and you have to have somebody come in and do it what would you want them to do?

Eve Boehme:

I think what you've given us is a little bit more information that we at least as an association can talk about it and decide whether we want to go your route or whether we want to try to put the association back together and do something on that. The one thing that we can't decide is the aerator. We have said we don't run it to run 18 hours a day and you've said, too bad, it has to. I guess what we would like is for you to work with us on that. I personally don't think it needs to run 18 hours a day. The DNR didn't seem to think that it had to run 18 hours a day. If the manufacturer is saying that it needs to run 18 hours a day do they know where it's going? Do they know what purpose it's supposed to serve? An aerator in a pond there is different than an aerator in a pond somewhere else. You've said that. So I think it's reasonable for us to at least talk about it and maybe come to a conclusion that we could run it a little bit less than 18 hours a day because that is a huge expense. Electricity, as I said, is a huge expense in all of this. So I guess we're just asking you to talk about it and work with us on that rather than saying, no, the manufacturer says it has to run 18 hours so it has to run 18 hours.

Mike Serpe:

I have a question. Mike, in reference to the aerator, is there times of the year when the aerator is not as necessary to run as others? For example, in the fall of the year we know that's when the algae builds more.

Mike Pollocoff:

It's really from the spring through fall. In the winter you pull it out. The aerator that was purchased—

John Steinbrink, Jr.:

We plan on running the pump from April 1st to around October 31st so it's around 32 weeks or about 224 days give or take a little bit.

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Mike Serpe:

But, John, in that time what I'm getting to is it necessary to run the aerator in that period that you just described 18 hours a day?

John Steinbrink, Jr.:

I guess to answer your question is one of the biggest concerns is the algae. And that's the reason why we're running the aerator is to eliminate some of the algae that's on the surface. Most people do a lot of fertilizing in the spring. They do it in the fall and they do some more in the summer. Even if you look at the pond right now the pond has a lot of algae on it because it hasn't been run as often as it should be.

Mike Serpe:

But this time of the year most ponds do have a lot of algae.

Mike Pollocoff:

When people are fertilizing their lawns—

Mike Serpe:

But it seems earlier in the year the necessity of aeration might be not as necessary as it is towards this time of the year.

John Steinbrink, Jr.:

But that's when there could be a build up of all the phosphorus.

Mike Serpe:

Am I wrong on that Dan?

Dan Snyder:

Yes, you are. The spring of the year you have an algae bloom so everything is turning over. I have a pond in my backyard and the worst time for me is in that March, April, May. Once you get it under control if you do your proper maintenance it's going to take care of itself. But it's in the spring of the year when you really have to hit it and you have to hit it hard early.

Mike Serpe:

What about

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Dan Snyder:

It's continuous.

Mike Serpe:

You have to run it.

Dan Snyder:

I've heard, but I haven't seen because I wasn't involved, but I've heard that the manufacturer said for this operation it should be 18 hours. You could go back to the manufacturer I guess.

Mike Pollocoff:

So we've given them the plans for the pond, the area to cover, what do we need to accomplish what we want? I guess the best example of a pond that does that is the one on 39th and 93rd in Meadowdale. They run that—

Eve Boehme:

But what's interesting to note when we met in April you guys basically took it over and the pond right now is a mess. Ask Jennifer and she'll tell you. She lives next door to it. You guys have been maintaining it since April and it's a mess right now.

Mike Pollocoff:

There were problems with the electric on it as we've indicated, and then we've had people modifying the pump run times on it to have it pump less. Given what's going on there that's the exact opposite of what we need to do.

Eve Boehme:

If you look at that pond the only place there isn't algae is where the water sprays. All around the edge is algae and the cattails were cut. So it seems to me that if the cattails were left in there it might have helped with that a little bit. But you guys came and cut the cattails out.

Mike Serpe:

What does that pump run on, 220?

John Steinbrink, Jr.:

Yes, it is.

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Mike Pollocoff:

The pump had been set to run five hours a day?

John Steinbrink, Jr.:

Yes, it was set to turn on around 3:30 and turn off around 9 p.m., and somebody just changed the setting this weekend.

Eve Boehme:

That was two days it ran like that. Prior to that it was running 18 hours a day. So it's not like it was running five hours a day for months. It was two days. That's it.

John Steinbrink, Jr.:

Correct.

Eve Boehme:

So all the yuck and all the scum in all the pond was based on you guys taking care of it. We haven't touched it since April. So the condition that it is in right now is because of what you guys have done. So if you guys can't maintain it and keep it the way it's supposed to how in the world are we supposed to be able to?

John Steinbrink, Jr.:

I think a lot of the algae that's on the surface has a lot to do with the 17 inches of rain we've had this month in August. I would assume that most everyone uses a fertilizer that has a lot of phosphorus in it. If you don't do that then the 17 inches of rain with all the phosphorus drains all that phosphorus into the pond and hence we have a lot of algae.

Eve Boehme:

We can't control what that house to the west does. That little white house to the west is not Bentz Estates. Jennifer could say, okay, I'm not going to use phosphorus or whatever and the rest of us could, but if those people to the west of the pond do we can't control that because they're not in our association and then we're right back where we started from. I'm just saying it's difficult—we're frustrated because the pond looks awful and you guys have been taking care of it since April. So how are we supposed to take care of it better when you guys are the experts using contractors and you can't keep it looking good either.

Mike Pollocoff:

To be honest with you, Eve, I think the pond was looking pretty good. The cattails had been cut down, it was clearing up. I think it was in great shape until the big rains came. I guess I'd have

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to respectfully disagree with you. Right now it does look tough but it was running the 18 hours, and I think that up until those rainstorms that pond was clear and it was staying clear. Jennifer is here. She looks at it every day. I don't know what her thoughts are.

Eve Boehme:

I guess I would just ask you to review a couple of the things about our concerns and if you could get back to us and let us know. I guess that's all we can do.

Mike Serpe:

Those are reasonable requests and I think they can be handled.

Eve Boehme:

Thank you.

Steve Kumorkiewicz:

John, a question for you. How big is the pond?

John Steinbrink, Jr.:

I think it's .11 acres of water surface area.

Steve Kumorkiewicz:

No, I'm talking about the pump.

John Steinbrink, Jr.:

It's a two horsepower pump.

Steve Kumorkiewicz:

And it's running 18 hours.

John Steinbrink, Jr.:

So if you have a 230 volt service that runs a two horsepower pump that runs 13 amps and you're paying about ten cents per kilowatt hour 18 hours a day, it ends up being around \$5.38 to operate that pump per day 18 hours at those requirements.

John Steinbrink:

We need your name and address for the record.

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Jennifer Hill:

Jennifer Hill, 8464 60th Avenue. I live right next to it. I have to deal with this pond unlike the people at the end who don't have to live next to it. If that fountain didn't run the whole pond would be covered with the algae. Obviously you can see that the only place that's not covered with it is where the fountain is. The other thing that they don't get to experience is the smell. There have been many days this summer I couldn't go outside. I couldn't go in my garage. The stink was terrible. I shouldn't have to live like that. But the people on the end don't understand that because they don't deal with it every day.

The cattails I don't have a problem with the cattails, but my concern when we talked to Pete was what happens if the whole thing fills in with cattails? What impact does that have on the pond doing it's job. That was my concern with it. Fertilizing the grass, last year the association took very poor care of that area.

(Inaudible)

Jennifer Hill:

Well, you didn't live next to it. It was bad. Even when I had company over they were appalled by how that looked. Like I said, they don't live next to it so they don't have to deal with it but I do. I agree with Mike, you guys did a wonderful job of cleaning it up and I appreciate that. I know nobody else does but I do. Thank you. The wild flowers to me it's going to look like weeds and I have to live next to that. I don't want to live next to a lot that's full of weeds. Coming to the fertilizer if that grass around the pond is not taken care of like it wasn't last year it filled all with weeds. Those weeds went into my yard. Now I need to fertilize to get rid of those weeds. Whatever happens to that pond is going to affect me directly. I know that I'm outnumbered by my association but I believe I should have a voice, too. I wanted you to hear my concerns about what I have. Like I said, I want to thank you all for cleaning it up.

Cindy Noridge:

Hi, my name is Cindy Noridge, 8368 60th. I disagree with her how it was taken care of. My husband was one of them that was mowing the lawn. He was faithfully out there very week mowing it. We brought our weed whacker down. We rolled it down the street. I agree that we did a good job. My husband would go around the tree with the weed whacker and maintain it. While Jennifer and her husband sat on the deck and looked at us and did nothing. If she didn't like the way we did it they should have come out and helped us but they did not once offer to help us. That was one of my issues.

Then me and my husband went and took some pictures of different fountains in Pleasant Prairie. My husband talked to Mike Serpe and he told us that one of the park-like settings was the one on 43rd and 93rd Street. I think it's called Meadowdale Estates. We went to take pictures. They do have cattails around it, but if you look up really close the water was muddy even yet with the cattails. So I don't consider that a park-like setting.

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Then we went to another place, it's called Village Green in Pleasant Prairie. It had a pond but no aerator and the water was pretty decent. There was no scum in it. We took the pictures. The same Meadowdale Estates on 39th and 97th and they had the two aerators. Again, they had cattails around it but they really didn't, you know. So, like I said, I disagree with that.

And what the guy was saying about us not getting certain things, we're another one. The guy we bought it off of he didn't inform us there was an association. He denied it right in front of our face when we signed our contract. We said, is there an association? He goes, sign, sign, sign. He didn't supply us with anything to let us know there was an association involved in this thing. If we knew, we wouldn't have bought that house. Thank you for listening.

John Steinbrink:

Mike, is there a law in real estate about disclosure?

Mike Pollocoff:

Yes, there is.

John Steinbrink:

So it's a private matter between the new owners and the old ones. Comments or questions?

Mike Serpe:

Whether or not we totally agree with one another I want to commend Mike for taking the amount of time for putting something like this together. I know he spend a lot of time because I live right behind the Village Hall and I saw him here most of the weekend. I probably learned more about this thing in the last two hours than I knew about it in the last ten years. I think the requests from the homeowners association, at least the requests that Eve made, are reasonable. I think we can supply them with at least some guidance in what to do. I do believe that what this Village has offered as far as continuing the accounting for the homeowners association is a huge benefit for you, for the homeowners, because they don't have to worry about going and having to collect for those that don't want to collect. One way or another those fees would be paid and I would recommend that you continue with that offer.

I said to Dennis when he called me the other night, and this is before I talked to Mike even further on this, it is a small subdivision, 11 lots, maintaining one outlot, and I learned and at least Mike then reminded me that there are many, some of which are smaller, doing the same thing. Yes, as much as you don't like to hear this there's no way that we could take over some of those duties as a Village and do the same or at least offer the same services to other subdivisions that have ponds. That wouldn't be fair to the rest of the taxpayers in the Village and we have to look out for everybody.

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We'll continue to work with you. At least that would be my recommendation. I think what Mike has offered tonight is some good thought process. It would be nice if this homeowners association would come together and work as a nice close knit neighborhood to maintain that pond. They would save themselves a lot of money. The estimates that John got it's true that you ask for it so many times but chances are that's the ultimate or maximum amount of times you'd have to do maintenance. It's probably in reality a lot less. So he probably gave you a budget that's quite probably bigger than what it's going to come out to be and a lot of the things you could do yourself to reduce that amount.

If there's something that after tonight that anybody thinks about or we can come up with obviously we'll share it with Eve and she can share it with the homeowners association as well.

John Steinbrink:

A question of Mike. Are we providing them with more bids?

Mike Pollocoff:

Right now we're at the point that they've rejected the bids we supplied them. We're still doing the accounting. There is no homeowners association. They need to have an election to have somebody represent them. They've got at our last billing three property owners that are delinquent on their payments who are ineligible to be officers or vote for officers. So at some point we need to keep the maintenance up or something has to happen. They have to find somebody that's going to do it that they can enter into a contract with which is why they would need to have their association to activate. Other than that we end up doing it and billing them for it. So I think time is of the essence only to the extent that things don't just stop growing.

We can help them, as I said before, come up with the list that we gave them that we put out to bid and say, okay, here's some things that we believe you guys could do but then they would have to agree to do them. The pond, we can ask again. I don't know that we can engage in some Kentucky windage estimates of is 18 good, is 17 better, is 12 right? I don't know. We're relying on the guy that designs it based on our design for what the basin is. If we want to have another engineer look at it I guess that's an option but something needs to happen out there. Right now the association is on its knees as far as moving forward. I've seen a lot of questions as to what we have to do but I haven't seen a lot of willingness across the board as to which way to go, whether to contract it or do it themselves or what have you. So in that position the Village is put into the position to enforce the covenants to do what we have to do and bill it in absence of anything else being done.

John Steinbrink:

I think the explanation as far as how it's maintained and referred to how you would maintain your own yard is a pretty simple method.

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Mike Pollocoff:

We can write that down and get it to be like a cookbook.

Monica Yuhas:

I think that would be helpful.

Mike Pollocoff:

We'll do that. That will be that. But, again, they need as a group to sit down together and decide what it is they're going to do.

John Steinbrink:

Sir, you had a comment or a question? Once again, your name and address for the record.

Jim Boehme:

My name is Jim Boehme, 8242 60th Avenue, Eve Boehme's husband. My big thing is, like Mike Pollocoff said earlier, when that subdivision was created it was created as a through street, and so I don't really consider it a subdivision. I consider it a through street and you're saying it's a subdivision. Nobody I know, I know a lot of people that drive through that I work with that didn't know that was a subdivision. You built it as a through street so I don't think it's considered a subdivision and we shouldn't be charged for a pond that is a through street and not a subdivision. You're calling it a subdivision and like Doug said it's not, it's a through street. You created it for traffic alleviation. I think the Village should take the burden of a lot of that.

The other thing I have is what if somebody drowns in that pond? There is no insurance on that pond. If somebody falls in and drowns in that pond who is liable for that if you're maintaining it for us, the homeowners? Just the other thing I'd like him to answer is we've been there five years and it already looks like it needs to be dredged and he's looking at a 20 year pond so I would just like him to comment more on that. We've been there five years and you're saying that it's good for 20 years so those are my couple of things I just want you to comment on.

Mike Pollocoff:

We believe it's probably 15 to 20 years to dredge it. As I said, we'll do a sounding on it next year. I don't know if Pete said it needs to be dredged now. We know it's an expense that's out there and we've given you an estimate of what it's going to be. But I think to say it has to be dredged now—Peter, do you think it needs to be dredged now? At least that's what they've indicated you said is the case.

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Pete Wood:

That's the million dollar question that I think you can only answer by going out and checking the depth. The algae the way it's being described and shown in the pictures is an indication that there's something happening in that pond that's maybe out of the ordinary which may mean that—the theory behind these ponds is the stuff that's coming in including the phosphorus goes to the bottom of the pond, then the water itself acts like a shock absorber and protects the sediment from getting stirred up again. With that amount of algae that could be happening where that new water is coming in and the sediment is built up enough that it just keeps stirring it back up and providing more of a source of food to the algae. So I think it's worth checking to at least see where you're at and go from there. But there's a possible indication that it's already got plenty of sediment in it already.

But the other issue is really when I look at the pond design a large percentage of it is the safety shelf, so there could be simply sediment accumulating in the safety shelf and because it's a pretty large area and relatively shallow that's the sediment in the safety shelf that keeps getting stirred up and that's one of the reasons why the City of Kenosha doesn't like safety shelves. Obviously it's there for children that fall in. They can actually physically stand up, but I know they don't like them and they don't put safety shelves in their ponds. I don't know if that's an option for this one. It could be something that's thought about just from that standpoint of maybe making a smaller safety shelf during an eventual dredging project, making the actual pond, the deep hole, bigger. That's all part of something that can be talked about as you move on.

Jim Boehme:

My other thing was what if somebody drowns in the pond? Who is liable for that?

Mike Pollocoff:

We have recreational immunity. If it's a body of water and kids get in there, we have that at our lakes, Lake Andrea, unless the property owners do something negligently and make it so kids get in there by mistake. I don't believe that's an issue.

Jim Boehme:

I've just heard different that we should probably be insuring ourselves if somebody—

Mike Pollocoff:

You can insure yourself for it, but there is that immunity for bodies of water in Wisconsin.

Jim Boehme:

Can you just comment on that it was created, what I understood, you created that as a through street or traffic alleviation and you turned it into a subdivision even though it's traffic alleviation.

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Mike Pollocoff:

This kind of comes to the source of the problem and you hit it right on the head, is that you and other people that live there don't believe they live in a subdivision. A subdivision in Wisconsin is a division of land and the lots that people can purchase and buy. There are subdivisions that are circles. There are subdivisions that are squares. There are subdivisions that are lines. There are subdivisions that are massive lots. All it takes is five lots and you have a subdivision. You are in a subdivision. It might not be Tuck-A-Way Trails, but when you bought that lot you bought a subdivided lot that was of the Bentz Estates Subdivision. It was recorded as such. That's what it was.

The fact that we put a through street there was your street. It's an arterial street. Just like the people that live north of you in the Gangler Subdivision there are no through streets, that's the Gangler Subdivision. They live in a subdivision and it goes straight up north. I think as long as the people who bought property there feel like they're not in a subdivision they haven't signed onto the fact that they own a lot in a subdivision that has an element of responsibilities that I have to do. That's why this thing keeps—it's like the guy that runs into the wall and circles around and runs into the wall again because it just won't go away. That's a subdivision. I can't change that definition. That definition has been Wisconsin law for I don't know how long.

When land is divided by people, whether it's a farmer or the Village or a developer, there's a certain law we have to follow, that process, to create lots that people will buy title to that are important investments to them. We have a full list of requirements we have to follow. The Village is required to approve that and have hearings, put conditions on it before it's created, then we have to send it off to the State of Wisconsin who has to certify, yeah, you've done everything right. These lots in this subdivision are legally created. So when you look at a subdivision you can't think of a subdivision just like you see in the Sunday paper where Neumann is selling homes or Vigansky or whatever. A subdivision is any five lots or greater that's created. That creation of those lots for people to buy and build homes on carry with it responsibilities and rights and privileges that can't be taken away by anybody. We can't take away the responsibility we've entered into you with and you can't take away the responsibility you've entered into. Everybody has to go into that situation knowing what they signed up for.

As long as the citizens feel like they really don't live in that subdivision and they have those that's where this thing is going to fall apart every single time. You're in a subdivision. The fact that it doesn't say Bentz Estates at the end of the road doesn't mean it's not Bentz Estates. If you look at the plat it says Bentz Estates. If you look at your deed it says Bentz Estates and it's on 60th. We built 60th and the remnant lots were turned into a subdivision. We put them up for sale with all the legal requirements that we had to meet.

Steve Kumorkiewicz:

Mike, where Monica lives is a typical example of what you're talking about.

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Mike Pollocoff:

That's not a subdivision. That's a CSM, certified survey map.

Steve Kumorkiewicz:

. . . they can't make a subdivision . . . originally tried to do that and they couldn't.

Mike Pollocoff:

But still lots are created with responsibilities and obligations on the person who buys them and the person who sold them.

John Steinbrink:

Other comments or questions?

Steve Kumorkiewicz:

How deep is that pond?

Mike Pollocoff:

Five feet is what the design is from the anticipated water line, from the normal water line.

Mike Serpe:

You've got our e-mail addresses. You've got our phone numbers. Keep in contact. We'll get through this some way or another.

Monica Yuhas:

John, you're going to put our specifics as to grass height requirements?

John Steinbrink, Jr.:

Right. Actually, what I'm going to end up doing, and I'm going to keep going back to this letter that I put out on June 22nd that says you know—the reason we line itemed each of those was to give the residents an option if they want to do that line item or not. Maybe I should use that exact language. But it says we received bids for maintenance for the outlot located on 60th Avenue and 85th Street for the 2007 season. Details are as follows: Mowing the grass 28 times a year at \$46 a mowing.

Mike Pollocoff:

But what we need to do is tell Eve when do they mow the grass? She wants to know—

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John Steinbrink, Jr.:

In exact heights. So if it's four inches they need to mow it down to three.

Mike Pollocoff:

She says they don't know when to mow the grass so we'll set up a height for when they--

John Steinbrink, Jr.:

You want that specific?

Monica Yuhas:

Yes.

Mike Pollocoff:

She wants to know what does weeding the shrub beds means. That means if there's weeds in the beds they're pulled out or they're eradicated with an approved chemical to kill them and when they should look at that and when it should happen. I think just so there's no miscommunication we're saying do it like your front yard and she's saying she wants to know specifically what it is they have to do. So we'll write down specifically for each one of those items you have on that list what that entails.

Monica Yuhas:

I'll be honest, I wouldn't know how to treat a pond with chemicals and it's on here.

John Steinbrink, Jr.:

Right, but that's why we got it from a contractor allowing that much money for the budget or most people would not treat their own pond with chemicals.

Monica Yuhas:

Is that something that has been done at this pond before?

Mike Pollocoff:

Yes.

John Steinbrink, Jr.:

Yes. It was treated once this spring and it's actually due for another treatment on Monday.

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Steve Kumorkiewicz:

One question about a pond. That pump has to be taken out by professionals?

John Steinbrink, Jr.:

It has to be what?

Steve Kumorkiewicz:

Taken out, removed, by professionals, the pump?

John Steinbrink, Jr.:

It doesn't have to be. You could run it year 'round. Just the movement of water would keep it from freezing, but for the sake of not having them run it year 'round telling them they can take it out during freezing weather. The pump manufacturer actually recommended 24 hours a day but we kind of said if you want to just run it 18 and turn it off at night that's fine, too. So we will come up with a detailed specification for how to mow grass, when to mow it, how deep, the direction it has to be mowed, the fertilizing how often, what types of fertilizer, the diameter ring around the tree, everything like that. So we'll come up with that much detail and we'll have that soon.

Monica Yuhas:

Thank you.

Steve Kumorkiewicz:

And include also the removal of the pump?

John Steinbrink, Jr.:

Correct.

John Steinbrink:

I don't believe any action is taken. Follow up will be done. Is that correct, Mike? Because we did receive the staff report and listened to the residents on their concerns.

Mike Pollocoff:

Yes.

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Monica Yuhas:

How long will that be?

Mike Pollocoff:

How long will what be?

Monica Yuhas:

For a follow up as to the progress on this?

Mike Pollocoff:

We're going to prepare that list and we're going to send one to every single member of the subdivision because we don't have an officer identified. Eve has volunteered to be the contact point but I think legally since there is no identified officer we have to correspond with everybody. We'll ask them to come back in for another meeting and say here's what we think you need to do. Then we'll sit down with them again and see help walk them through what we think they can do or if they want to do it or how they want to pay for it. There's enough money in the budget to finish the year but it's really getting the budget set up for next year so they know how much they want to spend and they have to figure out what the expenses are how we close the gap. That's my next recommendation after we get that list put together.

F. Consent Agenda

- 1) **Approve the request of Pat Metzger, owner for a Certified Survey Map to subdivide the property located at 10101 28th Avenue into three parcels.**
- 2) **Approve Letter of Credit Reduction for Ashbury Creek.**
- 3) **Approve Letter of Credit Reduction for Creekside Crossing.**
- 4) **Approve Letter of Credit Reduction for Hideaway Homes.**
- 5) **Approve Letter of Credit Reduction for Bain Station Crossing.**

SERPE MOVED TO APPROVE CONSENT AGENDA ITEMS 1-5 SUBJECT TO CONDITIONS SET FOR BY STAFF; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 5-0.

9. VILLAGE BOARD COMMENTS.

Monica Yuhas:

I have a quick one. I did do a second shift ride along this Saturday night, and I'd like to thank Chief Wagner, Lieutenant Ratzberg. I had the pleasure of riding with Sergeant Biernat and Officer Brown. It was a very busy night, very busy, hit and run, some speeding, fireworks. It was a very busy night so it was nice to see everything in operation because when I rode first shift nothing really went on. I know Clyde has rode second and third and nothing has really gone on.

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So I hit it lucky Saturday night because we were busy all night long. It was great to see what the officers do. And it was nice to see the Fire Department also involved in the accident, seeing the personnel help the injured. It was a very good evening for a ride along. So thank you. I appreciate it.

10. ADJOURNMENT.

**SERPE MOVED TO ADJOURN THE MEETING; SECONDED BY KUMORKIEWICZ;
MOTION CARRIED 5-0 AND MEETING ADJOURNED AT 10:15 A.M.**