

**VILLAGE OF PLEASANT PRAIRIE
PLEASANT PRAIRIE VILLAGE BOARD
PLEASANT PRAIRIE WATER UTILITY
PLEASANT PRAIRIE SEWER UTILITY
9915 39th Avenue
Pleasant Prairie, WI
August 1, 2011
6:00 p.m.**

A Regular Meeting of the Pleasant Prairie Village Board was held on Monday, August 1, 2011. Meeting called to order at 6:00 p.m. Present were Village Board members John Steinbrink, Monica Yuhas, Steve Kumorkiewicz and Mike Serpe. Clyde Allen was excused. Also present were Mike Pollocoff, Village Administrator; Tom Shircel, Assistant Village Administrator; Jean Werbie-Harris, Community Development Director; John Steinbrink Jr., Public Works Director; Kathy Goessl, Finance Director; and Vesna Savic, Deputy Village Clerk. Six citizens attended the meeting.

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

John Steinbrink:

Today the pledge is going to be led by Chelsea Goessl, Ms. Pleasant Prairie. If you'd please rise and join us in the Pledge of Allegiance. Thank you, Chelsea.

- 3. ROLL CALL**
- 4. MINUTES OF MEETINGS - JULY 11, 2011**

Monica Yuhas:

Motion to approve.

Steve Kumorkiewicz:

Second.

John Steinbrink:

Motion by Monica, second by Steve. Any additions, corrections, changes, anything you don't like about it?

YUHAS MOVED TO APPROVE THE MINUTES OF THE JULY 11, 2011 VILLAGE BOARD MEETING AS PRESENTED IN THEIR WRITTEN FORM; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 4-0.

- 5. CITIZEN COMMENTS**

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Vesna Savic:

Chelsea Goessl.

John Steinbrink:

Congratulations.

Chelsea Goessl:

Thank you very much. Chelsea Goessl, 7115 89th Avenue. I'd like to take this opportunity to thank you for allowing me to represent as Ms. Pleasant Prairie 2011. I'd like to become more involved to promote the Village, the RecPlex and to also grow the pageant for next year. Also, don't hesitate to let me know of any events you'd like me to come to. Thank you.

Michael Serpe:

Thank you and congratulations.

Michael Rodgers:

I'm here on behalf—I wrote a letter there for you about the storm sewage project that you have a grant for that you're looking for easements on properties and whatnot. I don't even know if that's being addressed today. Here's the letter that was sent.

John Steinbrink:

If you want to give it to Vesna.

Michael Rodgers:

I'm Michael Rodgers, address 9004 24th Avenue, Pleasant Prairie. On the property they're asking for a 20 foot easement. A 20 foot easement on this property would put one foot from the existing house that is there, okay? And then it would chop this lot to a nonbuildable lot, that if that house ever burns down and I want to rebuild on there it will not be possible because now I won't have 60 foot frontage. So that's my concern.

John Steinbrink:

Anything else to add, Mike?

Michael Rodgers:

No, sir.

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John Steinbrink:

Okay. This is citizens' comments. We can't take action on anything here as it comes up because it wasn't a public notice item. But Mike can--

Mike Pollocoff:

I can tell you that the Village Board is not acquiring properties, it's the Community Development Authority which is a different body altogether. And right now there's a lot of people asking for easements so we can maximize the impact or the effect the storm sewer would have in there. But we haven't had a lot of luck securing them. The easements aren't a taking of the complete property. The property is still usable, but we need an easement. We can't do public improvements on private property so an easement allows us to get in there.

We've really been getting some push back on it. I think at some point I'm going to recommend that we delete the part of the project where we need easements and put the storm sewers just in the street. The storm water will continue to have to run across the properties to get to the storm sewer, but that's the best we can do, because right now we haven't been funded to go through and acquire properties and go through an extensive legal action. Everybody wants money for their easements and I can't blame them but we don't have the money. Right now this project is not being assessed. We're not assessing the individual property owners any additional cost for the project. I appreciate your offer of \$79,000, but that would be one-third of the money we have left to put pipe in, so that alone tells you if we have to do things like that it's just a nonstarter, we won't be doing it.

But ultimately I'll provide a response on behalf of the Authority to them, a written response, and if we want to pick up your offer we'll give you a call and you can come to the next Authority meeting. But I don't want to mislead you either. Yours and other ones are making it look like we won't be doing that storm sewer.

Michael Rodgers:

And that's fine. The thing is the easement I couldn't agree on 20 feet. That is like a foot away from the house. And once you have an easement a lot of times then if you ever go to build you don't acquire that--you don't count that part as my land. If you're trying to build a property it's no longer a 60 foot frontage. If you have a 20 foot easement it would be 55 foot frontage. So such a large easement is really what I'm concerned about.

Mike Pollocoff:

Right. We need 20 feet to build it, because when you're building it you have equipment in there. We could look at making a temporary easement of probably ten feet and a permanent easement of ten feet.

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Michael Rodgers:

Something like that is more functional. But 20 foot realistically it would be about this far from the house that's standing there. That's one of my major concerns.

Mike Pollocoff:

We have a lot of people to deal with.

Michael Rodgers:

I'm sure you do.

Mike Pollocoff:

And the only way we can do this is if we get donations for the easements. If we have to buy them then—we'll go back to the next step is to put the storm sewers in the street and then the water has to find its way to the storm sewer as it crosses the back lots and comes to the front lots and gets to the street. It's not as desirable but at least there's someplace to put it. We'll get a letter back to you.

Michael Rodgers:

Okay, thank you.

Mike Pollocoff:

Do you want this back?

Michael Rodgers:

Yes, please. Thank you.

Mark Dupey:

Mark Dupey, I live at 9705 8th Avenue. My issue is I've come in and asked about getting a water meter put on my well. The reason is I was gone last October until this May, and I'm leaving this Monday and I probably won't be back until June. That's going to go for the next three years. So basically you're charging me for water and sewer that I don't use. The house is empty. I'm there three months a year maybe. And what I asked them to do in the office is it possible to put a water meter on my well so you could read the amount of water used and bill me accordingly. No garbage goes out. There's no one living in the house. I can get neighbors to sign affidavits; I can show you receipts from my being gone from motels and my termination from my job. So basically I asked if I could put a meter so they could read the water and then bill me according to water use, because right now they're doing a flat fee of like 10,000 gallons or something or 5,000. I can't remember. Six? And 6,000 gallons is a lot of water for one man to use.

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So what I ask is I know they have meters that you guys have on houses that have water that they can read from the street, they're digital. I would incur the cost if I could get you guys to bill me only for the water used. I shut the well off; I shut everything down, the heat's down real low. I have neighbors that watch the house. So basically what I'm trying to do is not be billed for something or services that are not being used.

John Steinbrink:

Okay, once again, this is citizens' comments. If you had called somebody ahead of time we could have arranged to put something on the agenda for you. We can't do anything tonight here because it hasn't been noticed.

Mark Dupey:

That's what I'm here to find out. Okay, so I have to call who to get on the agenda?

John Steinbrink:

Vesna.

Vesna Savic:

The Village Administrator's office.

Mark Dupey:

The Village Administrator's office and then it would be three weeks from now?

John Steinbrink:

Two weeks.

Mark Dupey:

I'll be in Washington State working probably. Is there any way I can do this by registered letter?

Mike Pollocoff:

I can tell you what to do, we just can't make a decision on it tonight.

John Steinbrink:

We can't act or do anything here tonight. We can have somebody get in touch with you.

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Mike Pollocoff:

If you want to slip me a note with your phone number on it we can give you a call tomorrow.

Mark Dupey:

Or I can come in tomorrow or the next day. I just need to know how to start this procedure.

Mike Pollocoff:

Like I say, we can give you a call. I know my schedule is pretty booked tomorrow but I can have somebody get ahold of you and let you know. Like I say, jot your phone number down on a piece of paper so we don't have it in the record.

John Steinbrink:

What was your address there, Mark?

Mark Dupey:

9705 8th Avenue, Carol Beach area. I can tell you my phone number if you want.

Mike Pollocoff:

I just as soon it not be on the public record.

Mark Dupey:

That's fine. I can come in tomorrow and give it to somebody, is that what you're saying?

Vesna Savic:

Come over here and give it to me. There are no other speakers.

John Steinbrink:

Anyone else wishing to speak under citizens' comments?

6. ADMINISTRATOR'S REPORT

Mike Pollocoff:

Mr. President, I have a couple things. One is this last weekend at the RecPlex the Illinois State Swimming Championships were held. It was the largest meet we've ever had there. It was 1,380 swimmers, and it was over a four day period. And then they figured there was between two and three people that came with the swimmer, their family or what have you. So we had quite a

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crowd, and there was significant impact on the economics of the area. All the hotel rooms were booked. I think every Italian restaurant was filled because they were all looking for pasta. They wanted to know if there were any small local Italian restaurants in town. We said we think there are a few and we'll give you their names and you can go to them. So it was a really nice event.

Right now it looks like there's a good chance that we'll have what's called a Speedo event that's somewhat similar but it's going to be in March which, again, is a good time to bring people from outside the area and pack up hotel rooms and restaurants. And it looks like we're also going to be on track to have a Junior Preliminary Olympics event there as well.

Also, I mentioned that the RecPlex received an award as an aquatic dream design nationally for competition pools. And Chris is going to be getting out a report on that and a letter. It's nice to see the place getting recognition and doing well.

Secondly, the other thing that I want to talk about is a public meeting, not a hearing, it's going to be a meeting here Saturday at ten o'clock that the State is going to be conducting. And they're going to be giving people an opportunity to come look at the maps for the roundabouts and describing how to drive through them. And then there are also going to be representatives right following the meeting that will be at the roundabout site that people while someone is there to help them they can drive through and see how it works and give it a spin before we open it up for real.

That's the primary purpose for the meeting. We're not going to have a meeting to redesign it or talk about whether or not it should be there. I think that's already happened. And it's really important for the people around the area that think they might be using, are a little uncertain, it's an opportunity that they can come try it without having full traffic conditions. Right now we're looking at opening it midweek. Once that's opened up then they'll shut down Springbrook and finish that construction in that roundabout. We didn't want to have both intersections closed at the same time. So they're getting the signage up this week, and they'll get it landscaped a little bit later on. It's more important that we get it done so we'll be ready to go. Those are the main two things I had.

Michael Serpe:

Just a comment. We have a couple new faces in the audience. I'm not going to make a comment on the roundabouts because that's a State project. But in reference to the RecPlex and the IcePlex and the Olympic pool, for those that don't know Mike Pollocoff that entire building is his vision but he'll never take credit for it. It's always somebody else. It's always the Board, it's always the department heads, everybody but Mike. This Village is Mike Pollocoff's vision. And to hear the success that that place is enjoying and the success that this Village is enjoying it just makes me feel good. We couldn't ask for a better leader than what we have on hand right now. Thanks, Mike.

Mike Pollocoff:

Thank you.

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John Steinbrink:

So what Trustee Serpe is saying if it tanks you get all the credit, too.

Mike Pollocoff:

Tom Patrizzi is going to help me if it tanks. I know it won't.

John Steinbrink:

That concludes Administrator's Report.

7. UNFINISHED BUSINESS

John Steinbrink:

Items A and B, are those being continued to August 15th?

Mike Pollocoff:

Yes, I'm requesting those be tabled to August 15th.

John Steinbrink:

We need a motion to do so.

Steve Kumorkiewicz:

So moved.

Michael Serpe:

Second.

John Steinbrink:

Motion by Steve, second by Mike for tabling until August 15th Items A and B under Unfinished Business. Any discussion?

KUMORKIEWICZ MOVED TO CONTINUE ITEMS A AND B UNTIL THE AUGUST 15TH MEETING; SECONDED BY SERPE; MOTION CARRIED 4-0.

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8. NEW BUSINESS

- A. Consider Resolution #11-26 - Final resolution authorizing the levying of a special assessment against the benefited property as security related to a collateral agreement with the Village of Pleasant Prairie and the State of Wisconsin for a 1993 Transportation Economic Assistance Rail Agreement.**

Mike Pollocoff:

Mr. President, as you know we've been going through the process recently of modifying our agreement with EMCO as they've taken possession of the former Lawter property. That property had obtained through the Village a grant, a transportation economic systems grant, to construct a rail spur to that site. That was done, and it's been used by Lawter, it's been used by Eastman, another subsequent user, it's been used by Hexion and now finally EMCO has it.

One of the provisions of the original grant was in order to keep that grant the owner has to commit to do two things. One is to use it. You can't just decide, well, I have it and I'm not going to use it anymore and I won't take rail deliveries. And, secondly, you agree that you're going to get permission from the State as well as the Village before you sell your place or make a decision like that.

The grant that was provided in '93 totaled \$147,500. Well, previously in a different economic time a mortgage was placed on the property for \$147,500, or there was a cash bond that was filed to do that. That's a lot of money to put on hold for something that shouldn't happen or we don't think is going to happen. With our attorneys and EMCO's attorneys we said let's treat this as a special assessment. It would have a lien on the property. In fact, the Village would in this case have a higher standing lien, but we could defer it so that it's not something that we're going to collect unless the worst happened, if something was to happen and EMCO went out of business and the subsequent user might not use the rail spur or something like that. And at that point the Village would activate the assessment and then it would come due. So they don't really owe us \$147,500 because they haven't breached the agreement or they haven't failed on it, but it stands out there as a security.

So this resolution recognizes all of the documents that have brought us to this point, identified exactly where the rail spur is out there because there's been numerous other rail spurs that have been constructed since this initial spur was construct, and it provides an agreement for how this whole process is going to be taken care of should we come to this point.

This is a meeting, a special assessment hearing on this. EMCO has already agreed to the terms of this. They've agreed that they don't need to be noticed, they've waived their rights to a notice, they've agreed to have this placed on their property. But, nonetheless, the State Statutes still require that we go through this process to do it. So with that, Mr. President, I'd recommend that we open a hearing and if anybody has any questions or comments on the proposed deferred assessment we deal with that now.

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John Steinbrink:

So this is a public hearing now?

Mike Pollocoff:

Right.

John Steinbrink:

Is it noticed as a public hearing?

Mike Pollocoff:

Yes, it is.

John Steinbrink:

Okay, I have it under New Business.

Mike Pollocoff:

Well, we sent it out as a notice.

John Steinbrink:

I will open a public hearing for Item A. Anybody wishing to speak? Anybody wishing to speak? Hearing none I will close the public hearing and open it up to Board comment or question.

Michael Serpe:

To satisfy the whims of the State I'd move approval of Resolution 11-26.

Steve Kumorkiewicz:

Second.

John Steinbrink:

Motion by Mike and second by Steve for adoption of Resolution 11-26. Further discussion on this item?

Steve Kumorkiewicz:

A question for Mike. Mike, the meeting we had there's no possibility we have to return money to the State?

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Mike Pollocoff:

Well, if the special assessment was activated and we collected \$147,500 we would return that to the State.

Steve Kumorkiewicz:

It would go back to them after we collect it but not from the Village.

Mike Pollocoff:

Right.

Steve Kumorkiewicz:

Okay, that's a protection for us. Thank you.

John Steinbrink:

No further discussion?

SERPE MOVED TO ADOPT RESOLUTION #11-26 - FINAL RESOLUTION AUTHORIZING THE LEVYING OF A SPECIAL ASSESSMENT AGAINST THE BENEFITED PROPERTY AS SECURITY RELATED TO A COLLATERAL AGREEMENT WITH THE VILLAGE OF PLEASANT PRAIRIE AND THE STATE OF WISCONSIN FOR A 1993 TRANSPORTATION ECONOMIC ASSISTANCE RAIL AGREEMENT; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 4-0.

- B. Consider Resolution #11-27 - Final resolution authorizing construction of public improvements and levying special assessments against benefited property with the construction of municipal storm water improvements located in the right-of-way at 11606 47th Avenue.**

Monica Yuhas:

Mr. President, I'd like to recuse myself from Item B considering I'm one of the assessed properties.

John Steinbrink:

Okay, the record will reflect that.

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Michael Serpe:

All we're doing is approving this and setting a public hearing, or are we approving the assessment?

Mike Pollocoff:

No, this is the public hearing.

Michael Serpe:

Okay.

John Steinbrink:

Once again, a public hearing and I'll open it up to public comment or question.

Mike Pollocoff:

Mr. President, this project involved three properties along 47th Avenue directly south of 116th Street. And we've had an ongoing problem where we've had standing water on the property adjacent to the southern-most parcel where water was not draining effectively down to 116th Street. We came up with a design that would accommodate a 10 year interval event storm, and we've done work on the southern-most two parcels as they have already signed a waiver of notice of special assessment where they've agreed to be assessed for this amount of money.

We haven't completed the storm water improvements that are required on the corner parcel because we need to conduct this hearing first. There are some numerous related improvements that are not part of this project that the Village has done as part of our work in the storm water utility. And with that, those are a drainage way that's going to be constructed further to the south, a cross-culvert that's draining water from the east side of 47th Avenue over to the west side which is following the natural topography of the property. So in those cases the storm water utility picked up 100 percent of the cost to rehabilitate that existing infrastructure.

What this improvement will do is it conveys a larger amount of storm water down to 116th Street rather than ponding it and having it get to a point where it floods over the property going to the west or stands there and it just waits for evaporation to run. We've had complaints of sump pumps running at a fairly high and regular rate during these flooding events. And we've just improved 47th Avenue with a new course of asphalt, and we previously improved 116th Street the previous year with asphalt.

So what we want to do is be able to convey this water away from the roadway so the roadway lasts, convey it away from the properties so the properties aren't flooding, and I think we're doing this for a relatively minor cost I mean as storm water projects go. I'm not saying that \$1,387 is a small amount of money, but given what we face typically in storm water projects this is pretty good. The work involves the extension of a 24 inch corrugated metal that's elliptical, yard inlets

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and inlet covers and then the labor to prepare that work. The project cost is being paid for 50 percent by the clean water utility, which is that portion that property owners pay on their monthly bill, and the rest is being assessed. So the average assessable cost per property is \$1,387.

As I indicated earlier we have signed documents from Gregory West and Jeffrey and Monica Yuhas for their portions, and the remainder to be assessed tonight is for Robert Reeves in the amount of \$1,387. If the Board authorizes the project to proceed upon closing of the hearing and adopts the resolution, the work would take place sometime this month, and then it would be placed—we'd send a notice this October to Mr. Reeves indicating whether or not he wishes to pay the amount in full or have it go on the property tax roll. So with that those are the pertinent issues concerning the project. I'd recommend that we open up the public hearing at this time.

John Steinbrink:

That being said I will open up the public hearing now. Public comment or question? Anybody wishing to speak? We ask that you come forward, use the microphone, give us your name and address for the record. Anyone wishing to speak?

Monica Yuhas:

I would.

John Steinbrink:

Does she need to go there or can she talk from there?

Mike Pollocoff:

She needs to go to the podium.

Monica Yuhas:

Monica Yuhas, 11626 47th Avenue. I would like to thank the Village for taking on this project. I know with the improvements that were being done to 47th there has been a standing water issue for a long time since we've lived on the property since '95. And I know that Mr. and Mrs. West as well as myself and my husband are happy to see that water is finally going to move north down 116th instead of being funneled from our sump pumps out to the culvert and then moving south. So we're happy with the project and thank you.

John Steinbrink:

Anyone else wishing to speak? Hearing none, I'll close the public hearing and open it up to Board comment or question.

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Michael Serpe:

Mr. Reeves, is he living in the house right now?

Monica Yuhas:

No.

Michael Serpe:

So I understand he's going through some—

Mike Pollocoff:

The Village has no knowledge of where he is officially.

Michael Serpe:

Okay. With that being said I think I agree with you, Monica. I think it's a project that's well worth the wait in having it done, and I would move approval of 11-27.

Steve Kumorkiewicz:

Second.

John Steinbrink:

Motion by Mike, second by Steve for adoption of Resolution 11-27. Any further discussion?

Steve Kumorkiewicz:

Yes, a question for Mike. Mike, you're talking about putting a culvert in the road to drain on the east side of 47th to the west side?

Mike Pollocoff:

We've already done that.

Steve Kumorkiewicz:

Oh, we did it before, okay. So how many—is that going to affect 47th? Because I've got an idea the east side of Terra Heights is lower than 47th, correct?

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Mike Pollocoff:

This will improve the side drainage there on the east side of 47th because now there's a place for that water to go and get away. But the range of topography that side is overall higher than the west side.

Steve Kumorkiewicz:

East side.

Mike Pollocoff:

No, the east side is, the west side is lower because that's how we have it running, and then it's going to go straight north to 116th.

Steve Kumorkiewicz:

Terra Heights is actually going lower.

Mike Pollocoff:

Well, not at that point. There's a ridge line.

Steve Kumorkiewicz:

No, I'm talking about you go west—you go east, okay, that section over there is lower than 47th.

Mike Pollocoff:

Without having the topographic map up here I guess the best I can tell you is topographically there's a ridge line that's east of 47th Avenue that doesn't go all the way into Terra Heights. So you're right the bulk of Terra Heights does drain to the east. But there's a portion that drains to this side. We can't make it drain east because that would take another big storm sewer. So we want to work with the topography here, have it drain to that new pipe we put in which is where it wants to go.

Steve Kumorkiewicz:

Okay, thank you.

John Steinbrink:

We have a motion and a second.

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SERPE MOVED TO ADOPT RESOLUTION #11-27 - FINAL RESOLUTION AUTHORIZING CONSTRUCTION OF PUBLIC IMPROVEMENTS AND LEVYING SPECIAL ASSESSMENTS AGAINST BENEFITED PROPERTY WITH THE CONSTRUCTION OF MUNICIPAL STORM WATER IMPROVEMENTS LOCATED IN THE RIGHT-OF-WAY AT 11606 47TH AVENUE; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 3-0 WITH YUHAS RECUSED AS REQUESTED.

- C. Consider the request of Phil Godin, agent for Sunny Prairie, LLC for the First Amendment to the Declaration of Covenants, Conditions, Restrictions, and Easements for Sunny Prairie Subdivision.**

Jean Werbie-Harris:

Mr. President and members of the Board, this is a request by Phil Godin who is the developer of the Sunny Prairie Subdivision. This subdivision is located just east of 47th Avenue just kind of to the south and to the west of the Whispering Knolls Subdivision. The petitioner or the developer is requesting specifically to modify a couple of the declaration of covenants as they pertain to garage doors where he is requesting that they be located in the front or side of the residences.

He's indicated that he would like to have a 50 percent maximum coverage of aluminum siding on the buildings, the single family homes within the development, and finally that outbuildings and temporary structures are not permitted uses. However, on a case-by-case basis they could be approved at the discretion of his ACC. These have been submitted as they have reviewed all of the documents and are signed for the Village's review and approval. And the staff recommends approval of the modified declaration. Again, Sunny Prairie has five lots adjacent to the Whispering Knolls Subdivision. Staff recommends approval as presented.

Steve Kumorkiewicz:

So moved.

Monica Yuhas:

Second.

John Steinbrink:

Motion by Steve, second by Monica. Further discussion.

Steve Kumorkiewicz:

The five original lots only, five lots.

Jean Werbie-Harris:

There are only five lots and none are built on yet.

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John Steinbrink:

We have a motion and a second. No further discussion?

KUMORKIEWICZ MOVED TO GRANT THE REQUEST OF PHIL GODIN, AGENT FOR SUNNY PRAIRIE, LLC FOR THE FIRST AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, AND EASEMENTS FOR SUNNY PRAIRIE SUBDIVISION; SECONDED BY YUHAS; MOTION CARRIED 4-0.

- D. Consider the request of Thomas L. Richter of Richter Realty and Investments, Inc. receiver for Regency Hills-Creekside Crossing, LLC for the Second Amendment to the Declaration of Restrictions, Covenants and Easements for Creekside Crossing and Creekside Crossing Addition #1 Subdivisions.**

Jean Werbie-Harris:

Mr. President and members of the Board, this is the second amendment to the declaration of restrictions, covenants and easements. This is for the Creekside Subdivision, the Creekside Cross and Creekside Crossing Addition #1 Subdivisions. Specifically this property is in receivership right now, and the petitioners are looking to do some cleanup with respect to the original declarations. We do have a representative here representing the owners of the property.

Specifically, they are asking for a couple of different amendments, basically the first one of which has to do with residential uses for the property. They want there to be a general provision that any type of residential use is going to be permitted in the balance of the development of Creekside Crossing. Again, before anything can actually be approved for any type of density change or change from multifamily to single family, it does need to go back through the conceptual process and the platting process of the Village. So they're just trying to be a little proactive with respect to some modifications to their declarations.

A second modification has to do with that the developer as long as they own one or more of the lots or outlots they reserve the right to carry out the functions of the ACC which is the Architectural Control Committee. Another is I think this has to do with respect to the developer having benefit and the ability to enforce the various requirements of the association. It says for a period of 50 years from the date of the declaration. I'm not sure, I'd have to refer to David to find out exactly what was different with respect to this particular paragraph, so I might have to refer to him.

There is a provision that the developer has the right to assign the development agreement from one developer to another. And, again, that's with the understanding that that developer needs to get the approval of the Village Board with that approval not being unreasonably withheld. But we just want to make sure that if there's a transfer of ownership that they understand that there's a transfer of development responsibilities, and then that next developer has the financial stability to carry on any of the obligations of the particular development.

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I think that's it. I'm not sure if David you want to make any comments. I'm not sure if the Board has any questions regarding that second paragraph. I'm sure he'd be happy to address any other concerns that you may have.

John Steinbrink:

David, would you care to address anything Jean left out or add to it? Give us your name and address for the record.

David Galowitz:

Yes, sir. David Galowitz, 200 West Madison, Chicago, Illinois, and I'm here on behalf of the receiver. The property is in foreclosure. There's a receiver appointed as Ms. Werbie here stated. The only other two comments I would have is that we're also removing a provision that's currently in the declaration that provides that the original developer MasterCraft builders would be the exclusive builder within the subdivision. Obviously at this point now that's not going to happen so that needs to get removed. So really it's just a bunch of housekeeping stuff that we're seeking approval of.

The one paragraph that Ms. Werbie-Harris was referring to with the 50 years that's actually the text of the original paragraph that's in the original declaration. The only thing that was added to that was originally the declaration said when the developer conveyed the last of it's Lots, with a capital L, which was a defined term, and the way lots are defined, I've got my fancy little laser pointer so if you'll excuse me for a second, it's just the single family lots along the east side. Well, there's this whole big area out here which has not been yet developed, and it's very conceivable that these lots will be sold and developed long before the balance of the property would be. So it's really just adding in language that says that the declarant will retain its rights under the declaration until the last of the lots or outlots, that undeveloped parcel is actually defined in there as an outlot. So really what it's doing is it's adding this into the mix. And it says when it's the last of basically everything that's going to be developed out there is sold then the declarant relinquishes its control.

Michael Serpe:

I'm a little confused on this. The remaining outlots that are not developed you say that's going to be a mixed—it could be a mixed development of residential use, single family and condo?

Jean Werbie-Harris:

At this point we don't know. I mean the way it's been platted and the way it's been laid out in our plans that the balance of the property is to be identified for condominium ownership. The bank and receiver they're all concerned because of the market at this point as to whether or not that's the best economical way to develop the balance of the subdivision. So they want to keep their options open to come back to the Village to say maybe we're going to look at another type of residential development out there other than condo.

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Michael Serpe:

So when they're ready they'll come back to the Plan Commission.

Jean Werbie-Harris:

They'll have to come back through the entire planning process.

David Galowitz:

And we went through this with the Village Attorney and Ms. Werbie-Harris and added language to this to make sure that it's very clear that this document is not meant to be any type of amendment to the current zoning of the property. So we wanted to make it real clear to anybody who reads this that ultimately the land use is the zoning, not this document.

Michael Serpe:

Okay, sounds good.

Mike Pollocoff:

I just had a couple questions to make sure I understand as well. I can truly understand your desire to be relieved of having just condominiums only. But I think as we evaluate that and as we look forward to whatever extent any of us have a crystal ball that's worth a damn, I think part of the reason that there was such a heavy concentration for condominiums was to get the density up, in that second phase that remains to be done there are some significant improvements that are yet to be made. So that if you do come back and you get it rezoned to single family, I guess I'd want to make sure that everybody understands that the fact that those improvements get costlier on a per unit basis is going to be a burden that the developer is going to bear, and that our approval tonight of authorizing that lower density or that change in density in no way means that we're going to be participating in any to make those improvements possible because they've now become harder to collect the amount of money you need in order to make those improvements.

David Galowitz:

Absolutely. And that's why we tried to be very clear in here that we're not trying to seek to amend the current land use classification or the zoning ordinance. This is just a private set of restrictions, it's a declaration and we're cleaning this up. If at some point a development becomes economically viable at this or some less density, believe me I think there would be a lot of people hopefully knocking on your door wanting to do something out there.

Michael Serpe:

I have another question. If that were to be developed as planned, let's say we didn't have the economic downturn that we're experiencing, all of that would have been a part of the homeowners association, is that right?

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Mike Pollocoff:

Right.

Michael Serpe:

I understand where the petitioner is coming from, but now if it were to go to single family, to those that are presently there paying X number of dollars for maintenance, that conceivably could be increased significantly with the less dense housing?

Mike Pollocoff:

Yeah, I mean you know you still have with higher density housing you do have some higher expenses for like public fire protection. So it's not a complete change in that, but I guess that would be something I guess I'd let you decide.

David Galowitz:

It's a very good question, Trustee Serpe, and I'd be happy to address that. There's actually two different associations out there. There's a homeowners association which broadly covers all four corners of what you see out there as Creekside Crossing Subdivision. There's also separately a condominium association which only covers the condominium components of it. The declaration that we're seeking to amend is the homeowners association, the overall one. The condominium association, again a separate association, already takes care of its own stuff. So this change shouldn't impact that association. I'm glad you brought that up. We didn't discuss the fact that there's really two associations out there.

Jean Werbie-Harris:

And maybe to further clarify is it your intention that the new area would have a separate association as well?

David Galowitz:

Yeah, I've not seen any development in the last 20 years where there isn't some association no matter what the product is.

Jean Werbie-Harris:

But that wouldn't be combined with the other two but maybe as another stand alone?

David Galowitz:

It could be a stand alone or it could be part of this association. That's something that once we know what the product is and, again, I say we as a collective we, the future developer. That most

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likely will not be us, but I would imagine that the future developer when they come to you to plat that property one of the things that's often a typical request is, okay, what are you going to do for an association, what are your covenants going to look like? That's pretty typical and I would expect that to happen here.

Steve Kumorkiewicz:

My concern is you're talking about two homeowners association, the existing one and the future one. They are all located between the same limits, it doesn't change. I can see to have two associations for that because there's going to be a problem with that. We have a . . . with that between Prairie Trails East and West . . . the five houses that were built in . . . 39th south side those five houses are included with the covenants . . . here, correct?

Jean Werbie-Harris:

No. The Woodfield Estates Subdivision, the five homes or six homes just west of 39th Avenue, south of 110th Street, they're not in the Mission Hills association.

Steve Kumorkiewicz:

No, west of 39th I'm talking about south of 110th.

Jean Werbie-Harris:

Yes, west of 39th and south of 110th that's not a part of Mission Hills.

John Steinbrink:

Okay, we're not dealing with that tonight.

Steve Kumorkiewicz:

No, no, I want to know as an example that could happen over there.

Jean Werbie-Harris:

Right, and they haven't made a decision one way or another as to how they're going to move forward with respect to combining the associations. That's what Mr. Galowitz just indicated, that they're going to wait for that development plan to be put together and brought forward, and then some decisions will be made at that time.

Steve Kumorkiewicz:

Okay.

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Michael Serpe:

I think it would be a welcome site if we just got a plan that says we're going to start building some homes. With that, let's hope that happens sooner than later. I move approval of the second amendment to the declaration of restrictions, covenants and easements.

Steve Kumorkiewicz:

Second.

John Steinbrink:

Motion by Mike, second by Steve. Further discussion? Hearing none, thank you, sir.

David Galowitz:

Thank you very much. Have a good evening.

SERPE MOVED TO GRANT THE REQUEST OF THOMAS L. RICHTER OF RICHTER REALTY AND INVESTMENTS, INC. RECEIVER FOR REGENCY HILLS-CREEKSIDE CROSSING, LLC FOR THE SECOND AMENDMENT TO THE DECLARATION OF RESTRICTIONS, COVENANTS AND EASEMENTS FOR CREEKSIDE CROSSING AND CREEKSIDE CROSSING ADDITION #1 SUBDIVISIONS; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 4-0

E. Consent Agenda

- 1) Approve Operator License applications on file.**
- 2) Approve Operator License renewal late applications.**

Monica Yuhas:

Motion to approve.

Steve Kumorkiewicz:

Second.

John Steinbrink:

Motion by Monica, second by Steve. Any discussion on Items 1 or 2?

YUHAS MOVED TO APPROVE CONSENT AGENDA ITEMS 1 & 2; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 4-0.

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9. VILLAGE BOARD COMMENTS

John Steinbrink:

Once again congratulations Chelsea. Is it one year? It's not a five year term, it's a one year term. I was trying to extend it out and get you more benefits. But you're going to be going to school, too, aren't you? Okay. And where are you headed off to school at?

(Inaudible)

John Steinbrink:

Okay, not very far. The other things we have is in Pleasant Prairie we have the Extreme Home Makeover for Pleasant Prairie, Wisconsin and Pleasant Prairie and Kenosha. So if you know of a deserving family in Pleasant Prairie please contact Jean or Mike or Vesna and we'll get that forwarded. The deadline is running out here. It was extended I believe and we have a little more time with that.

I want to congratulate everybody on a very nice Prairie Family Days. It once again was geared to the family. The kids had a lot of fun. It was unfortunately a little bit too hot, but a lot of volunteers and a lot of good effort out there. I think everybody had a good time and a successful fireworks with no rain. Anytime you can get no rain and fireworks that's a good combination. Any other Board comments?

10. ADJOURNMENT

SERPE MOVED TO ADJOURN THE MEETING; SECONDED BY YUHAS; MOTION CARRIED AND MEETING ADJOURNED AT 6:53 P.M.