

**VILLAGE OF PLEASANT PRAIRIE
PLEASANT PRAIRIE VILLAGE BOARD
PLEASANT PRAIRIE WATER UTILITY
PLEASANT PRAIRIE SEWER UTILITY**

**9915 39th Avenue
Pleasant Prairie, WI
July 18, 2011
6:00 p.m.**

A Regular Meeting of the Pleasant Prairie Village Board was held on Monday, July 18, 2011. Meeting called to order at 6:10 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; Mike Spence, Village Engineer; John Steinbrink Jr., Public Works Director; Paul Guilbert, Jr., Fire & Rescue Chief and Vesna Savic, Deputy Village Clerk.

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**
- 3. ROLL CALL**
- 4. MINUTES OF MEETINGS - JUNE 20, 2011**

Monica Yuhas:

Motion to approve.

Steve Kumorkiewicz:

Second.

John Steinbrink:

Motion by Monica, second by Steve. Any additions or corrections?

YUHAS MOVED TO APPROVE THE MINUTES OF THE JUNE 20, 2011 VILLAGE BOARD MEETING AS PRESENTED IN THEIR WRITTEN FORM; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 4-0.

- 5. PUBLIC HEARINGS - CONTINUED FROM MAY 16 AND JUNE 20, 2011 MEETINGS.**
 - A. Consider Meadowdale Estates Addition #1 concrete paving project.**
 - 1) Resolution #11-10- Final Resolution Authorizing Construction of Public Improvements and Levying Special Assessments against benefited property with the construction of a concrete paving project on 97th Street, 98th Street, Meadowdale Lane, 43rd Avenue and 96th Place in Meadowdale Estates Addition No. 1.**

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Mike Pollocoff:

Mr. President, we've previously met on this item, and we at that time held a public meeting which was continued until today's date in order to give the interested parties from VK Development owners the opportunity to be able to attend the meeting. They weren't able to make the public hearing at that time. So the main purpose of the continuation was to be able to give them the opportunity to comment on the proposed project tonight, and as well as anyone else that lives in that project area that's affected by the proposed assessments for the paving and the landscaping. Again, this is an open hearing if they want to comment as well. That being said, if you want to open up the hearing we can start.

John Steinbrink:

We'll open up the hearing for public comment or question. Did we have a sign up list? Please give us your name and address for the record.

Albert Solochek:

Good evening. My name is Albert Solochek. I'm an attorney that represents Foundations Bank which was the secured lender in regard to VK Development. Since the last meeting there has been a deed in lieu of foreclosure and special warranty deed transferring approximately 33 lots to Foundations Bank. With your permission I'd like to submit an affidavit.

John Steinbrink:

Okay, and if you can speak more into the microphone. We're having a little trouble picking it up.

Albert Solochek:

I apologize. Is this better? What I've submitted for the Board's consideration this evening is an affidavit from Glenn Stadler who is a Senior Vice President and Chief Lending Officer of Foundations Bank. As I say, Foundations Bank now has stepped in the shoes of the former developer and owner having received now title to the 33 lots. The concern and response and, quite frankly, objection that the bank has to this special assessment or the reopening of the special assessment, and I think you are more familiar than I am concerning what occurred here, the long and the short of it was that there was some reconstruction with asphalt and then a road was put in concrete which, as I understand it, the developer had not consented to.

But, nevertheless, that occurred and as a result of that prior to January of this year Mr. Stadler knowing the situation of VK Development at the time and that what have in fact occurred the transfer of the property to the bank was going to occur, contacted the Village to determine what were the outstanding obligations that were due and owing. And he was told and as referenced in his affidavit, that there was an amount of \$93,191.27 that was due which was all inclusive, including but not limited to all special assessments. With that understanding, the bank given the backdrop of what I just explained, made payment of that \$93,191.27.

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Lo and behold it is then, and to this day we're not quite sure what it is all for or why it has occurred or evolved this way, but then we are told that, no, that wasn't the extent of the special assessments but, in fact, there is now an additional \$42,662 that now appears as some additional special assessment relating to the street and the pavement of the streets. Basically my client is saying in the first place it may ought to not have been done the way it was done, but you can't go backwards, so that's spilt milk so to speak. But then when it comes and asks the Village what are all of the expenses, it is told all of the expenses, and in reliance on that it pays all the expenses. We believe that it is only fair that this assessment not be charged because it's now the owner of the 33 lots, and it will have to absorb that assessment.

We don't believe it's fair. Legally we don't think that that would be appropriate because of the theory of accordant satisfaction, that being when one is told what do you owe and you paid what you owed. That should be the end of it, and also the reliance or the promissory estoppel reliance argument as well. So we would respectfully submit if there was a mistake, if there was an oversight, whatever the rationale was for this, we believe it's only appropriate that what the bank was told, what the bank acted upon and what the bank relied upon should stay as the status quo, and this additional assessment should not be charged. I'll wait when you call the question about the tree assessment. I think you're taking those separately. So that's basically what I would have to say on the street. I can welcome any questions or comments.

John Steinbrink:

Alright, thank you.

Albert Solochek:

Thank you for the opportunity.

John Steinbrink:

Anyone else wishing to speak on this item for the public hearing. Do you want that entered into the record, Mike, what he submitted?

Mike Pollocoff:

Yes.

John Steinbrink:

Do we need a motion for that or we just submit it?

Mike Pollocoff:

Yeah, let's get a motion to include this into the record of the hearing.

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Michael Serpe:

I'd make that motion.

Steve Kumorkiewicz:

I second that.

John Steinbrink:

It's the paper he submitted to us, the affidavit. We have a motion by Mike—

Michael Serpe:

Yes.

John Steinbrink:

—second by Steve.

Steve Kumorkiewicz:

Yes.

Michael Serpe:

We have citizens.

John Steinbrink:

We'll get to you in one second.

SERPE MOVED TO ENTER THE AFFIDAVIT SUBMITTED BY ALBERT SOLOCHEK, ATTORNEY REPRESENTING FOUNDATIONS BANK IN REGARD TO VK DEVELOPMENT, INTO THE RECORD; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 4-0.

John Steinbrink:

It's submitted. Yes, sir, would you care to speak? We need your name and address for the record.

Gary Epping:

Gary Epping, Lot 104, Meadowdale Addition 1. We didn't come here tonight to talk about this issue, but I guess my question is we ended up paying the assessment for that additional concrete

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work in a bill that we received this year from the Village. I'm trying to gather what's been paid or what's been agreed to at this point in regard to the concrete. Is that still an open issue I guess is my question.

John Steinbrink:

Okay, I think the Administrator could—Mike, do you want to address that now or wait?

Mike Pollocoff:

The assessment notice that you received last year prior to the property taxes, did you pay it off in full or did you—

Gary Epping:

Yeah, we paid it off in full this year.

Mike Pollocoff:

That would be based on the previous special assessment that was levied. So that part of the assessment has been satisfied. This truing up of the assessment would be again mailed out to you this fall, and then that would show up on—you have the choice to pay it before the end of October with no interest or you if you wanted to put it on the tax bill.

Gary Epping:

I'm sorry, my wife and I are a little bit confused about this whole thing. But is there more assessment in regard to the street forthcoming?

Mike Pollocoff:

Right, that's what this—the additional assessment is what's related to the hearing that we're having tonight—

Mike Spence:

\$907.

Gary Epping:

No, the landscaping part, yes.

Mike Pollocoff:

That's the next hearing.

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Gary Epping:

That's at the next hearing?

Mike Pollocoff:

Yeah.

Gary Epping:

That's what we really originally came for, but when this gentleman from Foundations came up and explained up that they had paid some money toward the road work improvement or—

Mike Pollocoff:

The same just like you did. Foundations as I understand his presentation Foundations Bank made a payment based on the assessment schedule that was in place in total, and you did the same thing and then the Village has determined that there was additional costs that weren't satisfied.

Gary Epping:

May I ask when that assessment payment was made because—it would have been recently then?

Mike Pollocoff:

We don't have those records up here.

Gary Epping:

The question obviously was—because we didn't buy our lot until late June of last year.

Mike Pollocoff:

Alright. Well, the assessment notice went out in the fall, and payments need to be paid by the end of October I believe. So I'm not sure when they made their payment. I don't have that record in front of me.

(Inaudible)

John Steinbrink:

You need to come forward and just use the microphone.

Albert Solochek:

The record that I have would be showing payment on January 18th of this year.

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Gary Epping:

Okay, that clarifies it for my wife and me. Thank you very much.

John Steinbrink:

Anyone else wishing to speak? If not, I'll close the public hearing and open it up to Board comment or question. Mike?

Michael Serpe:

Mike, explain to us how the process worked that we sent out the notice of payment which in Foundations' case was \$92,000 and some, and then the additional one. Bring us up to date on how that—

Mike Pollocoff:

When you go through a special assessment, and we had had bids on the project to complete it, and that was the basis of our original assessment and there were a number of factors that took part of that. The most significant part was how much is it going to cost to construct a concrete road, take out what asphalt is there, make curb repairs, things like that. And then the second part of it is part of this project involves the original asphalt section that was from the first phase of the Meadowdale Assessment. The Village had an agreement with VK. He was going to pay for whatever work was necessary to get the road in condition so that it could have its final course of payment and the Village had determined that given the state of construction on that development that concrete was necessary, that putting another course of asphalt even if we had taken the old asphalt out would result in the same product.

Subsequently, VK didn't live up to the agreement. I think the agreement still rests with the property that Foundations has acquired or the lots that they've acquired and then there was probably some additional work that took place as well on the project. Statutes provide the opportunity for the Village—we have to do one of two things when a project is done. If the project comes in under assessed value or under the assessment, then we have to reduce the assessments by the amount that the project saved and that's virtually what happens almost all the time. The project comes in—we estimate them and we build in contingencies to it, and we rarely exceed the total project cost. So the people never pay more than what the actual costs are. So if the actual costs are less, their assessment is reduced.

In this case the project came in over so to bring the project whole and not have the Village taxpayers pay for the paving in that subdivision then we reopen the special assessment, assess the additional costs that are a part of the project and that's where we are in this. Mike, you have the other expenses that were—were there any other expenses associated with that other than the—

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Mike Spence:

It was pretty much some extra costs that were incurred actually during the construction of the road. There was additional curb repair. There was just the number of items that added up. So then when we chewed up the numbers after the project, as Mike said, it was more than what was originally estimated.

Michael Serpe:

One more question. Had VK still owned Meadowdale Estates and the economy turned to what it is today and they were still operating, they would have been responsible for all the repairs and the corrections that road needed because of deterioration and it didn't build out, but it deteriorated so it had to be replaced.

Mike Pollocoff:

Right. But they don't exist. They didn't exist functionally at that point. That letter of credit was gone. They weren't able to meet the requirements of the letter of credit they had.

Michael Serpe:

And all of this is in writing in agreements with VK.

Mike Pollocoff:

Right.

Michael Serpe:

And Foundations accepted all those agreements and took over the ownership of the remaining lots?

Mike Pollocoff:

Right. My recommendation is I disagree with parts of counsel for Foundations comments. But I think what I would recommend we do is forward that affidavit to the Village Attorney, have him comment on it, and then table the final resolution 11-10, the special assessment to authorize this until our next meeting. Provide opportunity to review the affidavit of counsel and comment and provide a written opinion back to the Board and then go from there.

Michael Serpe:

I think it's a good idea and I'd make that motion.

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Steve Kumorkiewicz:

I'll second it.

John Steinbrink:

Motion by Mike, second by Steve. So we're not going to close the public hearing—

Mike Pollocoff:

No, we'll close it and table the resolution that levies the assessment.

John Steinbrink:

But we need to close the public hearing before we entertain the motion.

Mike Pollocoff:

Right.

John Steinbrink:

Further comment or question? Yes, you need the microphone and give us your name and address for the record.

Albert Solochek:

Albert Solochek representing Foundations Bank. On this procedure will we receive a copy of the comment from the Village Attorney and have an opportunity to at least respond?

Mike Pollocoff:

Oh, yes, I'd like to get that done before the next meeting so you guys can hash it out among yourselves.

Albert Solochek:

That would be appreciated. Thank you.

John Steinbrink:

If there are no further comments or questions I will close the public hearing and open it up to—

Michael Serpe:

John, I would make a motion to table this Resolution 11-10 until the next—

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Mike Pollocoff:

The first meeting in August.

Mike Pollocoff:

Until the first meeting in August with the understanding that we will send the correspondence that was delivered to us from Foundations to our attorney for evaluation and come back at that time.

Steve Kumorkiewicz:

Second.

John Steinbrink:

Further comment or question?

SERPE MOVED TO TABLE CONSIDERATION OF RESOLUTION #11-10- FINAL RESOLUTION AUTHORIZING CONSTRUCTION OF PUBLIC IMPROVEMENTS AND LEVYING SPECIAL ASSESSMENTS AGAINST BENEFITED PROPERTY WITH THE CONSTRUCTION OF A CONCRETE PAVING PROJECT ON 97TH STREET, 98TH STREET, MEADOWDALE LANE, 43RD AVENUE AND 96TH PLACE IN MEADOWDALE ESTATES ADDITION NO. 1. TO ALLOW THE VILLAGE ATTORNEY TO REVIEW THE AFFIDAVIT SUBMITTED BY FOUNDATIONS BANK; SECONDED BY KUMORKIEWICZ; MOTION CARRIE 4-0.

B. Consider Meadowdale Estates Addition #1 street and cul-de-sac landscaping project.

1) Resolution #11-11 - Final Resolution Authorizing Construction of Public Improvements and Levying Special Assessments against benefited property with the construction of a street and cul-de-sac landscaping project on 97th Street, 98th Street, Meadowdale Lane, 43rd Avenue and 96th Place in Meadowdale Estates Addition No. 1.

Mike Pollocoff:

Mr. President, this item is the same as the previous item. We opened up the public hearing and counsel for the Bank requested the opportunity to be able to partake in the hearing and present information and was not able to be here until tonight. This resolution just shortly was, again, there was no money left by the developer to complete the landscaping that was required. We put together a schedule that levies the assessment for that to take place where it hasn't happened on cul-de-sac islands, but the phase the other landscaping in as they sell lots and we have a known buyer there that's able to take care of the landscaping and maintain it rather than putting all the street trees in with vacant lots and then have people working around and having their construction work around the trees. So this is a little bit different than the other one in the sense how it's being

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implemented but that's where we are. With that information on that I'd recommend we open up the hearing for this resolution.

John Steinbrink:

Okay, with that I will open the public hearing. We have a list of speakers.

John Steinbrink:

And once again we need your name and address for the record.

Albert Solochek:

Yes, Albert Solochek, 324 East Wisconsin Avenue, Milwaukee, Wisconsin. I would agree with Mr. Pollocoff that there is a little differentiation on this situation. However, I think my comments are applicable as is the affidavit that was submitted your Board concerning what had occurred and, again, this position that when the Bank contacted the Village it was told this is the final and complete amount without any further assessments that were going to be due. With respect of the Board I would appreciate if you would take the same procedure that you adopted for 11-10 and have that submitted to your Village Attorney, have him comment, let us have the opportunity to comment, and that may be at least the best way to resolve these, because I think these do go hand in hand. So my comments would be the same, the affidavit would be the same, but I believe that the process that Mr. Pollocoff suggested would be quite applicable and would work well for this 11-11 as well. Thank you.

John Steinbrink:

Alright, thank you. Anyone else wishing to speak on this item?

Gary Epping:

Thank you. Gary Epping, Lot 104, Addition 1, Meadowdale. When myself and another gentleman that lives on our street, we plan to live there, we talked about this, and we suggested that in terms of the foreclosure and how Foundations would meet the obligations of the original intent of the subdivision which is where this case differentiates from the upgrades that were made in regard to the concrete. There was some thought that it would be discussed with the Village attorney at that point, and in build up to this resolution review there was nothing mentioned about that. Has that been considered at this point?

Mike Pollocoff:

The aspect of going after the developer for breaching their-

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Gary Epping:

Well, in terms of from a foreclosure standpoint that the Bank must consider all of the tenants of what was originally established in this subdivision and make good on those as part of the foreclosure procedure.

Mike Pollocoff:

I think what's different now versus when we had our last hearing was at that point the developer was still in place.

Gary Epping:

Correct.

Mike Pollocoff:

And in visiting with counsel the developer had nothing left to go after. We probably would have spent more in legal fees to get something out of an entity that didn't exist. Now, that may not be the case. The Bank in taking the place of VK may be the ones we go after. It's a sorry story that nobody is happy with, but I'd have to ask counsel what the chances are proceeding in an action against the Bank if they don't proceed with the development requirements. That is different from when we met last time.

Gary Epping:

I think there's a differentiation between this situation and the first one which was an upgrade beyond what was originally intended, and I think an upgrade that was a good upgrade. But here this is something that we expected as part of our purchase and was in place as a part of our purchase. So the issue is will that be honored by legal means in the foreclosure between the developer and the Bank?

Mike Pollocoff:

I think that's an appropriate question to bring before Village counsel. As long as they're going to be looking at the Bank's concept on this, we'll ask the question since the nature of ownership has changed since our last hearing. I'll get that back to you before we meet again. My recommendation is that this resolution be tabled until our next August meeting and acted on at that point.

Gary Epping:

Okay, that sounds reasonable to me.

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John Steinbrink:

Thank you. Is anyone else wishing to speak? If not, I will close the public hearing and open it up to Board comment or question.

Michael Serpe:

John, I would make a motion that we send Resolution 11-11 to Village counsel for his evaluation and hear this at the August meeting.

Monica Yuhas:

Second.

John Steinbrink:

Motion by Mike, second by Monica. Further comment or discussion on this motion? favor?

SERPE MOVED TO TABLE CONSIDERATION OF RESOLUTION #11-11 - FINAL RESOLUTION AUTHORIZING CONSTRUCTION OF PUBLIC IMPROVEMENTS AND LEVYING SPECIAL ASSESSMENTS AGAINST BENEFITED PROPERTY WITH THE CONSTRUCTION OF A STREET AND CUL-DE-SAC LANDSCAPING PROJECT ON 97TH STREET, 98TH STREET, MEADOWDALE LANE, 43RD AVENUE AND 96TH PLACE IN MEADOWDALE ESTATES ADDITION NO. 1 TO ALLOW FOR A REVIEW BY THE VILLAGE ATTORNEY OF THE AFFIDAVIT SUBMITTED BY FOUNDATIONS BANK; SECONDED BY YUHAS; MOTION CARRIED 4-0.

6. CITIZEN COMMENTS

Brian Barclay:

Good evening. Brian Barclay, 11128 61st Avenue. I just wanted to get some update on the water drainage situation in our neighborhood. Last time we talked about the subject there was a DNA report indicating that there might have been some changes in the land to the east of us and there was going to be some investigation done by the Village to look into it further. We haven't heard any more word so I'm interested to find out what the outcome of that was, if there's a report available for review and what the next steps were. Thank you.

John Steinbrink:

Thank you.

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Mark Wistor:

Good evening, Mark Wistor, 11203 61st Avenue, and I just agree with Mr. Barclay and I'm here to find out what the result of that report was also. Thank you.

John Steinbrink:

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

7. ADMINISTRATOR'S REPORT

Mike Pollocoff:

Mr. President, a couple citizens just commented under citizens' comments, and Mike if you want to give everybody an update of where we are on that project?

Mike Spence:

Relative to the DNR or the full project?

Mike Pollocoff:

Both.

Mike Spence:

Both, sure, certainly. Relative to your question regarding the information that we had received from the DNR we did have our consultant go out there and do some surveying. He also talked to I believe a number of the property owners. At that point he was unable, or this firm was unable to determine if there had been any significant filling in a wetland area. According to the natural drainage there was a lot of flow that does flow to the southeast. I guess what I would like to suggest relative to that is I'm going to speak a little further with our consultant about that particular issue, and then also get with community development in terms of responding to the DNR on their comments. And as part of our response to the DNR comments we'll respond to that as well.

Relative to the overall project, we did do some preliminary engineering, and later on in the agenda this evening there is an item for Board approval to do detailed engineering construction documents to actually put together storm water management modifications to 61st Avenue. So that's a little bit further on in the agenda.

Mike Pollocoff:

I think the key thing to take away from what Mike said is that we got the DNR on one side saying there's filling, the survey work isn't that conclusive and we've got to get those two issues squared

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away. Even still once we come up with a solution which way that is, if it's not significant or is significant we think that the best long-term answer is not to just take that fill out and then let whatever drainage water is sitting in that lower area. The best thing that's going to take care of everybody's problems is come up with a plan that's as cost effective as possible to convey that storm water out of there and get it away from the developed areas into an approved drainageway. I think that's really the end goal is where we want to be.

Mike Spence:

And just to add on that one of the things that we're looking to do is basically take the water to the south and then to the southeast. So regardless of what's happening on that property to the east, we're trying to get the water away from the residences and away from the road there. That's the path that we're taking. We can still look at that other issue as a side issue a well. But the main thing now is we're confident that we're going in the direction to actually solve the storm water issue.

Mike Pollocoff:

The other thing, Mr. President, under my comments, we suffered through one really significant storm and one that was not quite as bad. Most of the storm damage was fairly well limited - the intense storm damage was between Lakeshore Drive or the shoreline into 32nd. Some areas west we had some tree damage, but the heaviest was concentrated in that area. We've put a notice out to residents saying that we're going to be budgeting for four weeks to get this picked up and that doesn't always mean that we're just going to not visit anybody's site for four weeks, but this is a large problem. Some people are doing all they can to get their branches and debris out to the street and they won't get it on the first trip. So we'll be back again to pick up whatever comes out that they couldn't get out the first time.

We have the crews that we have available to do it, and we've also brought on a contractor to do it. John tells me it's 16 employees with trucks. We have five chippers working on grinding all this stuff up. We're going to get going on it as fast as we can. But if you think about it, if you watch a chipper pull up to a site and they're feeding the branches into it, it's not a real whiz bang fast operation. It takes a while to do it. And then after we get the branches out—I mean the roadways were cleared, in fact I think public works did a pretty good job of getting the roadways opened up right away coordinating with the gas and electric utilities. Not with a chipper, but we'll have another truck come by and get the heavier logs and sections of trees that we have. We're getting a piece of equipment with an attachment that's going to basically grapple these things so we don't have guys picking them up and hoisting them into a dump truck. That's going to be problematic.

We've expanded the hours at the Prange for people to drop off branches if they've got branches they feel that they can move by themselves and get them there without waiting on us, that's fine, they can be there, but we're going to work through this. We're going to be applying for disaster assistance. Given the subsequent storm that happened in Illinois, I think we're going to meet the test for total damage. Right after that we had a storm come in from the other direction and we caught some trees on the other side of the Village. It wasn't as bad as the first storm. I really appreciate the citizens' patience with this. They've been working with us trying to get to

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everybody and get everything picked up as we can. We'll get this thing picked up and behind us before the next big rain or whatever is in store for us. Those are my comments tonight.

8. NEW BUSINESS

Monica Yuhas:

Mr. President, I was just going to ask that Item I be moved to the beginning of the agenda.

John Steinbrink:

Motion by Monica to move Item I to the head of the schedule here.

Steve Kumorkiewicz:

Second.

YUHAS MOVED TO CONSIDER NEW BUSINESS ITEM I; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 4-0.

I. Consider Engineering Services Contract for the Piche Stormwater Project located in the vicinity of 111th Street and 61st Avenue.

Mike Spence:

Mr. President and members of the Board, the item that you have before you is really the next step in the process to formulate a storm water plan for the Piche Subdivision. As I indicated previously, we had R.A. Smith do some preliminary engineering and some surveying. The item before you tonight is actually to hire them to do the actual engineering plans, construction plans and specifications. The figure on the Board there is actually the area where we'd be doing drainage improvements. The anticipated project is a combination of culverts and swales similar to what we did in Carol Beach Unit 2. We believe this, as I had indicated, we'll be able to drain the water to the south and then ultimately to the southeast.

The agreement before you tonight is to hire R.A. Smith to work with us to put together the final plans and specifications at which point then the decision can be made to proceed further with the construction of the project. So I'm recommending that this contract with R.A. Smith be approved tonight and we move forward with the final design of this project.

Monica Yuhas:

Mike, on this project I don't see a--after everything is done I'd like to see a neighborhood meeting where residents can come to the Village Hall like we've done in other storm water projects so they can talk with the engineers and have their questions answered. Even though that's not listed, is that something that can be done?

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Mike Spence:

Yes, we can accommodate that and depending on where we are with the budget we might be able to even do it within the budget or there might be a slight increase. Certainly that can be accommodated.

Monica Yuhas:

Okay, with that I'd like to move for approval to award the contract for engineering services.

Michael Serpe:

Second.

John Steinbrink:

Motion by Monica, second by Mike. Further discussion on this item?

YUHAS MOVED TO APPROVE AN ENGINEERING SERVICES CONTRACT TO R.A. SMITH FOR THE PICHE STORMWATER PROJECT LOCATED IN THE VICINITY OF 111TH STREET AND 61ST AVENUE AS PRESENTED; SECONDED BY SERPE; MOTION CARRIED 4-0.

John Steinbrink:

Brian, did you have a question on this item? I've closed all the hearings but we'll--

Brian Barclay:

Brian Barclay, 11128 61st Avenue. I just wanted to respond to Mike's comments. I appreciate that the storm removal proposal might be the optimum way to remove the water from the area, but I don't know that it's appropriate to decouple it from the other item of discussion which was the changes in that land to the east of us. Because at some point there will be an assessment made, and I believe that that's where it becomes relevant again as to whether or not there were changes there. Because, if we dismiss that or decouple it, that assessments going to fall on the rest of the citizens of the neighborhood as opposed to potentially an individual or individuals who have made changes and diverted the runoff water into our area.

Because as the record shows from earlier meetings this is a new occurrence over the last four years. As residents that have lived in the neighborhood for some time through large rainfalls, never experienced the problems that we've experienced in 2007. So that was my comment. I just didn't want us to completely decouple the two items. I don't necessarily think it's all the Board's responsibility to follow up on whether changes have been made or not to that area, but I wanted the record to show that it should remain coupled for now.

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John Steinbrink:

And I think it was stated the fact finding part is not concluded yet, is that correct, Mike?

Mike Spence:

That's correct. We have an opportunity now because this is the same consultant that we worked with previously, and we'll, again hearing your concerns, go back and take a look at that and really evaluate whether or not there's cause to prove that there was some drainage modifications made that weren't approved by the Village.

Brian Barclay:

Thank you. I'm grateful for your consideration.

John Steinbrink:

Alright, thank you.

- A. Receive Plan Commission recommendation and consider Ordinance #11-18 and Ordinance #11-19 to amend two (2) existing Planned Unit Development (PUD) Ordinances for Prime Outlets to reflect the name change of the Outlet Mall to Pleasant Prairie Premium Outlets and to make minor changes related to Temporary Tenant Signs and vending machines.**

Jean Werbie-Harris:

Mr. President and members of the Board, this is a request for zoning text amendments, Ordinance 11-18 and 11-19. It's the request of Prime Outlets of Pleasant Prairie. What they are requesting to do is to modify two of the existing planned unit development ordinances that they have currently for the Pleasant Prairie Outlet Center.

Specifically, the first ordinance was Ordinance 02-71. It was amended on September 18, 2006 as 06-43. This ordinance relates to sign regulations for the development of Prime Outlets at that time. Prime Outlets at Pleasant Prairie is specifically now, actually last summer or last fall was purchased and it's known as Pleasant Prairie Premium Outlets. And what they were looking to do last fall is on a temporary basis they started modifying some of their signs out at the center, and they did that with the zoning administrator's approval. And what they've done now is they've kind of updated all of the documents related to their planned unit development with respect to their logo and their colors, and they'd like to modify all their signs, their primary and secondary monument signs and all the other signs out at the center to reflect their new look, their new logo and the new owner and the new name as Pleasant Prairie Premium Outlets.

The other changes that they have out there relate to the temporary signage that they placed on the outlet stores. In some cases there are tenant spaces that are there for less than a year, less than 60 or 90 days, and so we were looking for a more economical but yet nice looking way to put up

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signage on the wall of the buildings. And so what we've done with the second PUD we've outlined a number of different ways, two or three different ways, that they can put the lettering and the signage on the building. Even though it's temporary it's not going to be very expensive especially since it's a short-term tenant stay.

One of the last things that they had requested as part of a modification to the PUD was to increase the number of vending machines out at the center because it was something that had been requested that additional vending machines be placed in each of the additional phases. And we set forth specific restrictions as to where they can be placed in the center, that they can't block pedestrian walkways, they can't be in the parking lots and so on and so forth. So we set forth some restrictions as to where they can be, and the zoning administrator would approve their specific location when and if they decided to put some additional machines out at the center.

So with that, they are looking for approval of the planned unit development Ordinances #11-18 and 11-19. Again, not major changes, but we just wanted to make sure that the name changes and the signage and the colors and everything with respect to the new ownership are brought up to speed with respect to what they're looking to do to improve the look of the center. The other thing I'd like to add is that as part of their imaging of the new center they are looking also to do some significant painting in phases I through IV which will again bring forth the same colors and the feel that was constructed initially with phase V. Staff recommends approval. The Village Plan Commission held a public hearing on both of these PUDs and they recommended approval as presented.

Michael Serpe:

Do you need individual motions or can they be taken together?

Jean Werbie-Harris:

Separate action would be good.

Michael Serpe:

Move approval of 11-18.

Monica Yuhas:

Second.

John Steinbrink:

Motion by Mike, second by Monica of adoption of Ordinance 11-18. Further discussion?

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SERPE MOVED TO CONCUR WITH THE PLAN COMMISSION RECOMMENDATION AND ADOPT ORDINANCE #11-18 TO AMEND CHAPTER 420 ATTACHMENT 3 APPENDIX C SPECIFIC DEVELOPMENT PLANS 2, RELATING TO CHAPTER 420-137 FOR PRIME OUTLETS; SECONDED BY YUHAS; MOTION CARRIED 4-0.

Michael Serpe:

Move approval of Ordinance 11-19.

Steve Kumorkiewicz:

Second.

John Steinbrink:

Motion by Mike, second by Steve for adoption of Ordinance 11-19. Further discussion on this item?

SERPE MOVED TO CONCUR WITH THE PLAN COMMISSION RECOMMENDATION AND ADOPT ORDINANCE #11-19 TO AMEND CHAPTER 420 ATTACHMENT 3 APPENDIX C SPECIFIC DEVELOPMENT PLANS 13, RELATING TO CHAPTER 420-137 FOR PRIME OUTLETS; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 4-0.

- B. Receive Plan Commission recommendation and consider Ordinance #11-20 to rezone approximately six (6) acres of the property located at 5900 93rd Street from the A-2, General Agricultural District to R-4 (UHO), Urban Single Family Residential District with an Urban Landholding Overlay District.**

Jean Werbie-Harris:

Mr. President and members of the Board, the petitioners own two adjacent properties located just north of 93rd Street. It's approximately at the 5900 block. They own six acres of land. What they are requesting to do is a lot line adjustment which is what they're processing right now, but also as part of that is to modify the zoning in order for the lots to be created. There's approximately six acres will be one of the parcels, 21 acres will be the other parcel. The six acre parcel would need to be rezoned from the A-2, General Agricultural District, and that would then go to the R-4, Urban Landholding Overlay District. The balance of the land, which would be approximately 21 acres, that would remain in the A-2, General Agricultural District. The R-4 District requires that lots be a minimum of 15,000 square feet with 90 feet of road frontage, and the A-2 District does require that there be 200 feet of road frontage and ten acres.

As you can see on the zoning map you can where the land that's cross-hatched is identified where the land would be put into the R-4 designation, and the balance of the property would be put into the A-2 designation. This is a matter that was before the Village Plan Commission at their last meeting, and the Village staff and the Plan Commission recommend approval.

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One of the things I'd just like to note on the very north end of the property there is a small area that's zoned C-1. There's been no recent wetland delineation, so that delineation and that designation will remain as the C-1, Lowland Resource Conservancy District, because of the wetlands. I'd like to also add that farming or agricultural uses including livestock would not be allowed on the six acre parcel that was created, but the remaining 21 acres would be allowed to have livestock and conduct agricultural activities.

Steve Kumorkiewicz:

I make a motion to approve the zoning map amendment.

Monica Yuhas:

Second.

John Steinbrink:

Motion by Steve, second by Monica. Further discussion on this item?

Michael Serpe:

Just a question. Jean, I don't disagree with the livestock, but doesn't that qualify by more than five acres?

Jean Werbie-Harris:

I'm sorry?

Michael Serpe:

On the six acre parcel doesn't that qualify.

Jean Werbie-Harris:

If they wanted to place it into the A-3 which is that General--there's an A-3 district which has like a general agricultural hobby farm-type designation, but she does not have enough road frontage in order to qualify for that classification.

John Steinbrink:

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

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KUMORKIEWICZ MOVED TO CONCUR WITH THE PLAN COMMISSION RECOMMENDATION AND ADOPT ORDINANCE #11-20 TO REZONE APPROXIMATELY SIX (6) ACRES OF THE PROPERTY LOCATED AT 5900 93RD STREET FROM THE A-2, GENERAL AGRICULTURAL DISTRICT TO R-4 (UHO), URBAN SINGLE FAMILY RESIDENTIAL DISTRICT WITH AN URBAN LANDHOLDING OVERLAY DISTRICT; SECONDED BY YUHAS; MOTION CARRIED 4-0.

- C. Receive Plan Commission recommendation and consider a Certified Survey Map to subdivide the property located at the southwest corner of 95th Street and Green Bay Road into two (2) parcels.**

Jean Werbie-Harris:

Mr. President and members of the Board, this is the request of Chad Navis, agent for Towne Lakeview, LLC. He's the owner of the property at the southwest corner of 95th Street and Highway 31 or Green Bay Road. They're requesting a certified survey map to subdivide their property into two parcels, a Lot 1 which would be at the north end and Lot 2 at the southern end. The property is bounded by Highway 31 on the east, 72nd Avenue on the west, 95th Street on the north and 99th Street on the south. This is also a project that went before the Village Plan Commission at their last meeting, and there is, in fact, a site and operational plan that was approved for Lot 1 for an approximate 60,000 square foot speculative building for the Towne Investment Group.

Specifically, Lot 1 is proposed to be 4.95 acres with significant frontage on three streets, and Lot 2 is 11.15 acres, again, with frontage on three streets or abutting three streets. Neither of the lots will have direct access to Highway 31. Access will be from 99th Street, 72nd Avenue, and one emergency access driveway will be permitted from Lot 1 to 95th Street.

This certified survey map actually has quite a few easements that were placed on the document, a dedicated 30 foot sanitary sewer and water main easement, a 15 foot storm sewer easement, a dedicated permanent limited drainage facility easement, a dedicated 20 foot general utility easement, and dedicated vision triangle easement. And all of that language is reflected on the certified survey map, not only restrictive covenants but the dedication and easement provisions.

The Village staff and the Plan Commission recommended approval subject to all the comments and conditions as outlined in the staff memorandum for the creation of this parcel. Again, at this time they're looking forward to move forward with construction on Lot 1. On Lot 2 at this time there will be some temporary topsoil stockpiled on that site, and they're going to be doing some grading that might come up to Lot 2 and just cross into Lot 2, but they're not looking to pursue any development immediately on Lot 2.

Steve Kumorkiewicz:

So moved.

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Monica Yuhas:

Second.

John Steinbrink:

Motion by Steve, second by Monica. Further discussion?

Steve Kumorkiewicz:

It was well discussed in the Plan Commission meeting last week.

John Steinbrink:

Chad, I notice some water on the one site. Will there be ducks on there for . . . or is that just—

(Inaudible)

John Steinbrink:

We have a motion and a second and no further discussion.

KUMORKIEWICZ MOVED TO CONCUR WITH THE PLAN COMMISSION RECOMMENDATION AND APPROVE A CERTIFIED SURVEY MAP TO SUBDIVIDE THE PROPERTY LOCATED AT THE SOUTHWEST CORNER OF 95TH STREET AND GREEN BAY ROAD INTO TWO (2) PARCELS; SECONDED BY YUHAS; MOTION CARRIED 4-0.

D. Consider an amendment to the Chiwaukee Prairie Land Management Agreement between The Nature Conservancy and the Village originally approved on April 18, 2011 for land south of 116th Street within the Chiwaukee Prairie.

Jean Werbie-Harris:

Mr. President and members of the Board, you are correct, there is a five year agreement that was approved by the Village Board back in April of this year. It was an agreement that allowed The Nature Conservancy of Wisconsin, which is a nonprofit organization dedicated to preservation, protection and restoration of natural areas and ecological systems down in the Chiwaukee Prairie, to go ahead and maintain those areas of the Chiwaukee Prairie that were owned and are owned by the Village of Pleasant Prairie.

That agreement was signed, and once it was forwarded back up to the attorneys and other people at The Nature Conservancy, they realized that there was a slight discrepancy or misunderstanding, and that was that the legal description did not technically include the Village's unimproved roadways south of 116th Street, which are identified in red on your slide as well as on the overhead screen, which do not have any public improvements constructed in them, so they would like to continue because they have never been constructed to manage those area as well.

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So the revised legal description identifies the distinct parcels but also refers to and references all of the Village unimproved road right of ways which they would like to maintain. So Exhibit A is being amended for that purpose. The staff recommends approval of their request to include these areas as it was intended, but now it's more clear as part of the agreement.

Michael Serpe:

So moved.

Steve Kumorkiewicz:

Second.

John Steinbrink:

Motion by Mike, second by Steve. Any further discussion?

SERPE MOVED TO APPROVE AN AMENDMENT TO THE CHIWAUKEE PRAIRIE LAND MANAGEMENT AGREEMENT BETWEEN THE NATURE CONSERVANCY AND THE VILLAGE ORIGINALLY APPROVED ON APRIL 18, 2011 FOR LAND SOUTH OF 116TH STREET WITHIN THE CHIWAUKEE PRAIRIE; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 4-0.

E. Consider Resolution #11-21 to initiate an amendment to the Village of Pleasant Prairie 2035 Comprehensive Plan and the Village Zoning Ordinance related to the updated Kenosha County Farmland Preservation Plan and the Agricultural Preservation zoning requirements.

Jean Werbie-Harris:

Mr. President and members of the Board, this is a resolution 11-21 to initiate some amendments to the Village's Comprehensive Plan as well as the Village ordinance. Over the past year or year and a half I have been working as the Village's representative on a technical advisory committee working on the Farmland Preservation Plan for Kenosha County. Even though the Village only has one parcel actually participating or identified for participation, the entire County needs to be a participant in the plan whether to say that there are parcels that are going to be included in participation of the preservation plan or not included.

I will go into significant detail with the Plan Commission and the Board when I present the full Farmland Preservation Plan to you in the next month, because we are just finalizing the draft at this time. But basically as part of the Wisconsin Working Lands Initiative as part of the 2009-2011 State budget, the Wisconsin Farmland Preservation Program was significantly rewritten, and some of the provisions and regulations were changed. And so for that reason and the fact that our existing plan was done back in the 1980s by Kenosha County, that we needed to have our plan updated before the end of this calendar year in order for the townships and villages

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throughout Kenosha County to be eligible to participate if they choose to participate in the program.

The purpose of this resolution then is to introduce the process by which we can initiate a comprehensive plan change for the farmland plan as well as make any modifications and evaluations of our zoning ordinance as part of the A-1 District and the APO District which are the two districts for zoning purposes that we recognize for agricultural preservation in Pleasant Prairie. So with that, I'd like to have the Village Board approve this resolution to initiate the process.

Steve Kumorkiewicz:

I make a motion to approve Resolution 11-21.

Monica Yuhas:

Second.

John Steinbrink:

Motion by Steve, second by Monica. Further question or comment on this item? I think sometimes there were more questions than answers when we started looking at this and there probably still are.

Jean Werbie-Harris:

There are. In fact, one of the changes just came down I think basically this week, I just got a confirmation that Rocco had received that there was a fee that was charged. It's a conversion fee whenever land was rezoned out of the Agricultural District, and that conversion fee or that development fee that was imposed a couple of years ago has now just been eliminated. It was a penalty or a fee that was charged when you converted land and agricultural zoning status to some type of development status. So things are still constantly changing with respect to some of the rules and regulations regarding the working lands initiative. But the problem is that we do have a deadline to have the plan completed, and it has to be approved by each of the local communities and it has to go through the County Board and their process before the end of the year. So we are trying to work through all of those issues, and we hope to get through at least all of our issues in the next 30 days.

Steve Kumorkiewicz:

I have quick question, John. Jean, that fee used to go to the State, correct?

Jean Werbie-Harris:

Correct.

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Steve Kumorkiewicz:

Okay.

John Steinbrink:

We have a motion and a second. No further question or comment?

KUMORKIEWICZ MOVED TO ADOPT RESOLUTION #11-21 TO INITIATE AN AMENDMENT TO THE VILLAGE OF PLEASANT PRAIRIE 2035 COMPREHENSIVE PLAN AND THE VILLAGE ZONING ORDINANCE RELATED TO THE UPDATED KENOSHA COUNTY FARMLAND PRESERVATION PLAN AND THE AGRICULTURAL PRESERVATION ZONING REQUIREMENTS; SECONDED BY YUHAS; MOTION CARRIED 4-0.

F. Consider Resolution #11-22 to initiate the discontinuance of a portion of 103rd Street between 8th and 11th Avenues at the request of the Wisconsin Department of Natural Resources.

Jean Werbie-Harris:

Mr. President, this is a project also that we initiated with the Wisconsin DNR last fall. We ran into some complications as we were running through the process, and now they're starting the process over with us. It's Resolution 11-22 for the discontinuance of a portion of 103rd Street. This is between 8th and 11th Avenues down in Chiwaukee Prairie.

The Wisconsin DNR, as you know, had been acquiring some land in this area over the last several years. They now have acquired all of the properties abutting to 103rd Street with the exception of a couple of lots right at the very far east end at 8th Avenue. And there was some concern as to whether or not they could place a T-turnaround or if they had to place a cul-de-sac or what type of turnaround needed to be provided at the end of 103rd Street in order for the Village to support the discontinuance. And the staff of the engineering department and public works has been working with Marty Johnson, and so I think that we have now been able to work through the process with respect to a permanent cul-de-sac turnaround that's going to be constructed at the east end of 103rd Street by the Wisconsin DNR.

So we're initiating the process to discontinue, again, that portion of 103rd Street just east of 11th Avenue as you can see as noted by the red line and arrow. That's the area where the street is going to be vacated and removed by the Wisconsin DNR. We did have some issues because there are some State endangered species in the area, so we had to move the cul-de-sac a couple of times. But we finally have a location which we will be presenting at the public hearing for this discontinuance. The staff recommends approval of Resolution 11-22, again, to initiate the discontinuance of a portion of 103rd Street between 8th and 11th Avenue.

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Michael Serpe:

I've got a question. Jean, the lots to the right of the arrow they're not owned by the DNR?

Jean Werbie-Harris:

Actually, the two that are—this lot is not owned, this lot is not owned and this lot is not owned. But the situation is we need to put in a temporary or I should say a cul-de-sac without a center landscaping island right here. And because of that we're going to encroach into the lots in this area. So we're not actually vacating that portion of the street because there's going to be a cul-de-sac at that location. So they would have liked to bring it all the way to 8th Avenue but they did not own these two or that third lot.

Michael Serpe:

And the cul-de-sac is going to be on whose property?

Jean Werbie-Harris:

It's going to be in the Village's right of way, and then it's going to encroach on two lots owned by the DNR here and two lots owned by the DNR right there.

Steve Kumorkiewicz:

How wide is it over there?

Jean Werbie-Harris:

How wide is the right of way?

Steve Kumorkiewicz:

Yes.

Jean Werbie-Harris:

It's 60 feet wide is the right of way. I don't know how wide the street is, maybe 20 some feet, 24 feet, 16? It's pretty narrow.

Steve Kumorkiewicz:

(Inaudible)

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Jean Werbie-Harris:

Again, this area, Unit 7, this was probably platted back in the '40s. Many of the streets down there were platted at 60 wide right of way.

Steve Kumorkiewicz:

I thought we had 66 feet for the side.

Jean Werbie-Harris:

Oh, you mean the head of a cul-de-sac?

Steve Kumorkiewicz:

Yes.

Jean Werbie-Harris:

No, the minimum that the Village has accepted is 100 feet for a cul-de-sac head. So that's why they'll need to encroach into those adjacent Lots 10 and 11 and 9 and 10 on the south.

Michael Serpe:

And the lots that are owned by private individuals there they're buildable lots?

Jean Werbie-Harris:

Lot 12 has an existing home on it, and I could not tell you without a doubt without looking at recent wetland delineations if those are buildable. What I can tell you is they're not interested in selling to the DNR at this time because the DNR would have purchased them.

John Steinbrink:

Mike, you had a question or a comment?

Mike Pollocoff:

I have a comment. I fundamentally have a problem with this. And the reason I do is that when the Village and the County and SEWRPC and every agency that was involved in the Chiwaukee Prairie Plan worked on that plan, this area was not identified as an area to be acquired. That was part of the compromise that took place where some lands were going to be acquired, some lands were going to be left for development, and everybody made their best bargain or deal on it and everybody took whatever lumps they took on that plan to get it. And, in fact, this area is in our sewer service area for sewer service.

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Subsequent to that, the DNR decided, well, we didn't get what we wanted in the compromised land use plan, we still think these are important lots to buy so they started buying them up. There are white fringed orchids on there. I'm not saying they're not environmentally significant, but that wasn't what the deal was that was made. My concern is that the longer that the Chiwaukee Plan goes without being finished, the longer that the Village deals with the conflicts that exist between the people that live down there, the Conservancy lots that are there, people waiting to convey their lots. These are difficult budget times for everybody, and it's difficult for the State. I think this should be done at some point, but I think they should comply with the requirements of the plan first, expend their resources on the lots that need to be acquired first, spend their resources to vacate the roads that were part of the plan first, and then come back and do this one up that's special for them.

My belief is we owe it to the property owners that are in the Chiwaukee Prairie Plan itself to have their issues addressed first because that was the essence of the plan. That was like a four year plan. There was so much wrangling that went on with that and everybody had to live with the end result. The fact that the DNR came back and said we're going to buy these and we want you to treat this like the Chiwaukee Prairie Plan and once we've acquired the parcels now you vacate the street. A street vacation doesn't cost us much more than the time we spend on engineering and planning it, but somebody is going to pay to put a cul-de-sac in. Somebody is going to pay to remove the street, what road bed there is. That's all fine and good. But I'm just saying that should be done in the plan area because I think we owe it to the property owners in the plan area to get this plan completed for what they agreed to, not completed based on what other priorities there are across the tracks and very close to this site.

I haven't had any problems with the other item we have on the agenda where we agree to treat the right of ways like everything else, vacating Village right of ways that are vacant or not constructed and the abutting vacant properties if they're in compliance with the plan. Right now for the twenty some years that we've been administering that plan, I feel like we're the only ones that are really living up to both ends of the plan. We've got to take our licking when the people don't like the fact that we can't put improvements in their area. We've got to take our licking when the people have a lot that they want to get sold and they can't because DNR is not paying for it. We're the only one that's living up to that agreement. And when it's convenient for somebody else to go buy lots that they couldn't get in the plan, everybody is just supposed to live with that. This has happened here with DNR and it's happened up in Unit 6 with the Barnes Prairie Rescue Coalition. That's fine if they want to do that, but on the other hand I don't think we should diminish the efforts that the property owners in the Carol Beach compromised area get by not having their work done, not having those lots acquired, not having all those areas managed and letting that stuff go.

I just don't want to have a hearing and getting everybody's hopes up or dealing with it, and then really coming back and saying at that time, because I would make the same recommendation at the hearing. I want to make it now because we surely can do this. This meets the—any other area in the Village if somebody acquired the land on both sides you'd be entitled to—they could ask to have the street vacated and go from there. But what makes this different is it's in Chiwaukee Prairie, it wasn't agreed to as part of the plan, and they came in after the fact and said we didn't get it there but we're going to go ahead and do it anyway. I think the people that are stuck with

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living with the plan are entitled to have those State resources used to either acquire their property, improve their property and do that work first. Once they get that stuff done then they can go play around in the other areas of Chiwaukee Prairie that they like.

I don't want to say it to be belligerent, but we deal with those people every day about the problems they have in Chiwaukee Prairie. I think we made a deal and sometimes we don't like it but we've been enforcing the deal or the plan even handling it all along, and I just recommend we (inaudible) doing that.

Steve Kumorkiewicz:

Mike, are those lots buildable over there or not?

Mike Pollocoff:

No, they're prime wetlands. They're good wetlands. But there was other good wetlands that were allowed for development. Unit 2 was developed. All things being equal would we have allowed that to happen knowing what was going to happen? Maybe not, but we did and we lived with the results of doing that. And there were people that—I don't think should be developed and I don't think it will be developed because they own it, they're going to stop the development of it. It's not going to develop. I'm just saying in a time of scarce resources if we're going to be building cul-de-sacs and taking out roads, spend that money on finishing acquiring lots that are still not acquired.

Steve Kumorkiewicz:

I agree with you, Mike. I'd like to make a—

Mike Pollocoff:

Let Jean have it because we're at odds over this. Not odds but we just disagree with each other.

Steve Kumorkiewicz:

But we have a problem with them all the time. They change their mind (inaudible).

Mike Pollocoff:

Most of the time we work with them pretty well, but I disagree with them on this one.

John Steinbrink:

Jean, do you care to comment?

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Jean Werbie-Harris:

I would. There are a number of areas down in Chiwaukee Prairie that they cannot yet do a street vacation because there's one private property that has not conveyed and there hasn't been a willing seller/willing buyer. Unfortunately this is one of those areas that the DNR did go outside the plan and acquire these lots because of the significance of the wetlands. The area that they did acquire is not buildable. They intend to use grant funds and other funds other than taxpayer dollars to remove that gravel and to construct that cul-de-sac and to restore that area back to a natural prairie.

This is something that actually I've been working on with Marty for a very long time. I don't see that there's any concern or problem with respect to the neighborhood should this go back to a natural prairie area. If they were abandoning some other projects in Chiwaukee Prairie and not taking interest in other lots for land acquisition purposes then I would say I'd be very concerned. But they are still working as diligently as they had before, even though their funds are somewhat limited, to acquire additional lots and to try to create more block areas for management purposes. The more contiguous of an area the easier it is for maintenance purposes.

And, yes, they did deviate from the original plan, but they have been a very good working partner with us in managing the Chiwaukee Prairie as well as The Nature Conservancy has south of 116th Street. Marty Johnson is not here this evening because it's not a public hearing so I did not ask him to be here tonight because we were just initiating the process. Through this resolution a public hearing would be scheduled not less than 40 days thereafter.

As Mike said, could these lots have been built on? Possibly. Way back when between 1987 and '97 when there was a Corps of Engineers area wide fill permit issued to the Town of Pleasant Prairie which we continued to implement, the DNR did not and the EPA and no one in the Corps of Engineers did not reissue or renew that permit, and they would not issue fill permits in this area. I'm not sure if this is another area where we have very high water tables or concerns or problems with respect to poor soils but it's likely. So this really isn't an area that should be developed.

John Steinbrink:

So the resolution is setting up a public hearing?

Jean Werbie-Harris:

It's just setting the public hearing not less than 40 days thereafter.

John Steinbrink:

And we can continue our airing.

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Jean Werbie-Harris:

We can.

Michael Serpe:

Right now if we left this as is we'd have to maintain that road, plow it and maintain it?

Jean Werbie-Harris:

Yes.

Mike Pollocoff:

Well, yeah. You'll give up X amount of money for road aids on it but it's not a high maintenance road. I mean it's basically—in fact we run a plow down it. I mean there's some benefits to having some circular access on it. I don't think the road should be improved, I don't think the lots should be built on. I'm just saying that when people talk to us about they can't get their lot bought and DNR says we only have so much money, I'm just saying rather than doing this live up to your commitments in the plan and then come back. I agree with the DNR and everybody saying that this should be preserved, but I think it will be preserved because they own it. But rather than spend the money to put a cul-de-sac in and dig everything out, I think everybody is farther ahead if they go ahead and—

Michael Serpe:

Have we approached them on this, what you're saying, and if we have what was their answer?

Mike Pollocoff:

In my discussions with them this is really significant wetland and they'd like to preserve it.

Jean Werbie-Harris:

And wetlands have a tendency to migrate and to grow given the soil conditions. And once the road bed and the material is gone they feel that the wetlands would migrate across into that other area.

Michael Serpe:

And Marty is going to be here at the public hearing?

Jean Werbie-Harris:

Yes, we hope.

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Michael Serpe:

Okay, I'll move approval of Resolution 11-22 and set it for public hearing.

Steve Kumorkiewicz:

I second that.

John Steinbrink:

Motion by Mike, second by Steve for adoption of Resolution 11-22. Further discussion?

Monica Yuhas:

Jean, will notices be sent out to residents in the area on the public hearing?

Jean Werbie-Harris:

All of those residents adjacent and abutting and within a certain distance will receive notification. They did before because we've held these public hearings before last summer or last fall.

John Steinbrink:

Further discussion?

Steve Kumorkiewicz:

I agree with what Mike says, but . . . first and see what happens.

John Steinbrink:

I agree with Mike, too. We go back to those times when we did this and it was as contentious as it could get. There was an agreement reached. Unfortunately we're the only ones living up to this.

Michael Serpe:

It puts the Village in a bad position.

John Steinbrink:

So we will have a public hearing and we'll have our say again. We can slap the DNR around some more.

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Steve Kumorkiewicz:

I have a question for Jean. Jean, in this issue the permits issued in that area in 1996 or '95–

Jean Werbie-Harris:

The fill permit, the area wide fill permit?

Steve Kumorkiewicz:

Yes.

Jean Werbie-Harris:

December 31, 1997.

Steve Kumorkiewicz:

'97?

Jean Werbie-Harris:

Yes.

Mike Pollocoff:

But they couldn't be filled because DNR started buying them immediately so the fill permit didn't meet anything because they had already breached the plan.

John Steinbrink:

Okay, I'm going to call the question.

SERPE MOVED TO ADOPT RESOLUTION #11-22 TO INITIATE THE DISCONTINUANCE OF A PORTION OF 103RD STREET BETWEEN 8TH AND 11TH AVENUES AT THE REQUEST OF THE WISCONSIN DEPARTMENT OF NATURAL RESOURCES; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 4-0.

John Steinbrink:

We'll see everybody here at the public hearing.

G. Consider Resolution #11-24 to dispose of Fire & Rescue Department surplus equipment.

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John Steinbrink:

Did you get any buyers while you were up front, Chief, or did anybody call?

Chief Guilbert:

I'm Paul Guilbert, Jr. I'm Chief of Fire and Rescue. I'm at 8044 88th Avenue. In the 2010 capital improvement program we were authorized to buy a new inflatable rescue boat. That boat has since come and it's ready to go in service. We're looking to dispose of a 1995 Zodiac inflatable boat and the trailer. The trailer that was with the '95 would not accommodate the new boat that was purchased. And I specified that it does not include a motor. The motor was given to us on loan. We did find a company that has transferred ownership that provided us with the motor and we don't see a clear title to it being ours other than loan. We're going to work to get that motor back to them. So the request is to approve the resolution to dispose of the 1995 Zodiac inflatable boat and trailer.

John Steinbrink:

Have we approached them about being good corporate citizens and donating it to the Village?

Chief Guilbert:

That's the next item, sir.

John Steinbrink:

I always like good corporate citizens.

Monica Yuhas:

Motion to approve Resolution 11-24.

Steve Kumorkiewicz:

Second.

John Steinbrink:

Motion and a second for adoption of 11-24. Any discussion?

YUHAS MOVED TO ADOPT RESOLUTION #11-24 TO DISPOSE OF FIRE & RESCUE DEPARTMENT SURPLUS EQUIPMENT; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 4-0.

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H. Consider recommendation to purchase an outboard motor for new Fire & Rescue Department boat.

Chief Guilbert:

Sir, again, I'm Paul Guilbert, Jr., Chief of Fire and Rescue. This is a request to purchase a new outboard motor for the rescue boat we just took ownership of. The motor that I just asked you to dispose of or that we're talking about disposing of would not fit on this new boat. It's a different style, it wasn't going to work. We approached two local companies, one here in Pleasant Prairie, one in Sturtevant and we solicited government pricing. This request is to purchase the motor for \$4,811.36 from BRP which you may know as Bombardier, their Evinrude operation. It's manufactured in Sturtevant and we'll buy it from a local dealer.

That was the best price we were able to negotiate. The company that was more local to us gave us the best, it was called an accommodation pricing. One, they couldn't equal or better than the Evinrude motor. And, two, the motor that they could have provided was not as appropriate for our operation as was the one from Evinrude. So although we did try to get better pricing, that is good government pricing and that is our request to purchase a new outboard motor.

Michael Serpe:

What kind of motor is that, Paul, an inboard?

Chief Guilbert:

Outboard.

Michael Serpe:

I didn't realize they were this expensive. Not that I'm against it, but I just didn't realize they were this costly.

Steve Kumorkiewicz:

What size, how many horses?

Chief Guilbert:

It's a 40 horsepower.

Michael Serpe:

No sense in having a boat without a motor so I move approval.

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Monica Yuhas:

Second.

John Steinbrink:

We have a motion by Mike, second by Monica. Further discussion?

SERPE MOVED TO AWARD A CONTRACT TO BRP (A/K/A BOMBARDIER) TO PURCHASE AN OUTBOARD MOTOR FOR NEW FIRE & RESCUE DEPARTMENT BOAT IN AN AMOUNT NOT TO EXCEED \$4,811.36; SECONDED BY YUHAS; MOTION CARRIED 4-0.

John Steinbrink:

Thank you, Chief. Item I we've already taken care of.

J. Consider award of contract for the South Kenosha Drainage Swale Project.

Mike Spence:

Mr. President and members of the Board, before you you have the contract for Reesman's. This is to construct the drainage swale by the former Manutronics building. This is a continuation of the grant work that the Village received from the Community Development Block Grant. This project will remove an existing culvert that is undersized north of the Manutronics building, and in its place we will be putting in a drainage swale that will run from the west on the west side of the property there, and then the swale will come around and will end up discharging into a culvert underneath 24th Avenue.

The project was bid on July 5th, and we had some really good bids. We received six bids for the project. The low bid was from Reesman's Excavating and Grading. The second bid was from Native Construction. They're the ones that did the tear down of part of the existing Manutronics building. As you can see there was about a \$470 difference between the first and second bids. And actually the first four bids were pretty close so we were glad to see that.

The engineer's estimate on the project was \$180,000 so, again, that was a good bidding climate. I'd like to recommend that the bid be awarded to Reesman's Excavating and Grading in the amount of \$138,399.80. Reesman's has done work for the Village before successfully and does good work. so I'd like to recommend that this contract get awarded to Reesman's.

Steve Kumorkiewicz:

So moved.

Monica Yuhas:

Second.

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John Steinbrink:

Motion by Steve, second by Monica. Native, are they local?

Mike Spence:

They're out of Kansasville. I think one of the first times that I had worked with them is in the demolition of the Manutronics building. Reesman's hasn't done any work for a couple years in the Village so I think they were really hungry. Somebody at Native is probably kicking themselves.

John Steinbrink:

We have a motion and a second.

Michael Serpe:

Mike, just a question for you. I received a communication about the right of way being on one side instead of split ten feet and ten feet. It's a 20 foot right of way I guess that he's complaining about that's on his property. He's asking why it couldn't be split.

Mike Spence:

If I understand you correctly, Mike, that's going to be part of the next project where we're actually putting in the storm sewers. We are addressing that. We were originally looking at having an easement entirely on the back of these properties solely for the reason of trying to get it moved forward. Because now when we split it then we have to get like six more easements, and if one person doesn't agree—but in any case we are pursuing that as an option.

John Steinbrink:

We have a motion and a second.

KUMORKIEWICZ MOVED TO AWARD A CONTRACT FOR THE SOUTH KENOSHA DRAINAGE SWALE PROJECT TO REESMAN'S EXCAVATING & GRADING IN AN AMOUNT NOT TO EXCEED \$138,399.80; SECONDED BY YUHAS; MOTION CARRIED 4-0.

K. Consider Resolution #11-25 Amendment of the 2011 Budget related to the February 2011 snow emergency.

Mike Pollocoff:

Mr. President, we had a significant snow emergency this last year, and we did receive some federal assistance. But as part of that we need to re-allocate funds. Resolution 11-25 authorizes

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the adjustments to the Village budget and transfers necessary to bring the budgets into compliance. I'd recommend Resolution 11-25.

Monica Yuhas:

So moved.

Steve Kumorkiewicz:

Second.

John Steinbrink:

Motion by Monica, second by Steve. Any further discussion?

YUHAS MOVED TO ADOPT RESOLUTION #11-25 AMENDMENT OF THE 2011 BUDGET RELATED TO THE FEBRUARY 2011 SNOW EMERGENCY; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 4-0.

L. Consider Resolution #11-23 - Preliminary resolution declaring intent to exercise special assessment police powers in connection the levying of a special assessment 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, this resolution relates in part to the TEA grant and that facility use agreement that the Board recently adopted. As part of receiving that grant from the State government who in turn received it from federal DOT, the State wants and we want, too, a commitment that if for some reason the business there, in this case it's EMCO but it could be somebody in the future, stops operations, we have to pay the State back and the State has to pay the feds back the money for that grant. And it ends up being the project has been long done. It's one of those things that we're trying to find a way to enable it to take place without having to require EMCO or any other subsequent user to place cash on account.

So what we're recommending is that this resolution be adopted. EMCO signed an agreement where they agreed to a special assessment and they're waiving their hearing rights. So we would adopt this resolution, and the amount that we will assess on that property equals the amount that it would take to reimburse the State for the amount of that rail crossing. We're going to defer that, and we will not activate it until such time as EMCO or a subsequent user is out of compliance with the agreement. That would be using the line, they take the line out, something that would affect the use of that rail spur. Some of the long negotiations we had was one sure way to get a lien on the property and get it taken care of so it's out there for as long as they're there without requiring them to post this money and having it just sit there in the case of something happening

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in the future. So I'd recommend that the Village Board adopt Resolution 11-23 for the special assessment.

Michael Serpe:

So moved.

Steve Kumorkiewicz:

Second.

John Steinbrink:

Motion by Mike, second by Steve. Any further discussion?

SERPE MOVED TO ADOPT RESOLUTION #11-23 - PRELIMINARY RESOLUTION DECLARING INTENT TO EXERCISE SPECIAL ASSESSMENT POLICE POWERS IN CONNECTION THE LEVYING OF A SPECIAL ASSESSMENT 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.

M. Consider disallowance of claim submitted by Progressive Insurance for vehicle damage caused by a construction barrel located on Interstate 94.

Mike Pollocoff:

Mr. President, we received a claim for damages as you indicated from Progressive Insurance for damages done to a car by a construction barrel. We're recommending that this claim be disallowed because the incident took place on I-94 and we weren't involved. With that, I'd recommend that the claim be disallowed and the Clerk be directed to forward the disallowance to Progressive Insurance.

Michael Serpe:

Why wasn't Progressive just told you've got the wrong jurisdiction here?

Michael Serpe:

We did.

Michael Serpe:

How fast was that barrel going when it hit that car? Move to disallow.

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Steve Kumorkiewicz:

Second.

John Steinbrink:

Motion by Mike, second by Steve for disallowance. Further discussion?

SERPE MOVED TO DISALLOW A CLAIM SUBMITTED BY PROGRESSIVE INSURANCE FOR VEHICLE DAMAGE CAUSED BY A CONSTRUCTION BARREL LOCATED ON INTERSTATE 94; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 4-0.

N. Consider reappointments to the Community Development Authority.

Mike Pollocoff:

Mr. President, the Community Development Authority appointees are in large part dictated by State Statutes. Two Board members serve on the authority. Currently yourself and Trustee Yuhas are the Board appointed members. The other member is Larry Nelson from Bane-Nelson, Inc. I'm recommending, again per statute, that the Trustees are appointed to a one year term. I'm recommending that Larry Nelson's term be until August 5, 2014. The statutes also proscribe that the members of the CDA have experience in either finance, construction, labor relations, horticulture, and we have that. Larry, of course, is involved in the construction business so he's a good fit and he's been a good member for the Authority.

Michael Serpe:

I'll make a motion to approve or agree with the recommendation of the Village Administrator.

Steve Kumorkiewicz:

Second.

John Steinbrink:

Motion by Mike, second by Steve. Further comment or question? I have to agree with Mike. Aside from Trustee Yuhas and myself the other people on there are very engaged with what happens in the Village, expertise in their field and have a lot of input. Like all our Commissions we have some very good people on them. I think we're very fortunate, and they really add to the quality of the Village.

Mike Pollocoff:

You guys do a good job on there, too, not to say you don't.

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John Steinbrink:

But I mean it's citizen input that really makes the difference. These folks, whether it's this Commission or Planning Commission or others they do their homework, they're engaged and they care about what happens in the Village and everybody shares the same goal. We're going to move forward. It's a shame the State couldn't work in that same fashion because we'd be much better off. We have a motion and a second.

SERPE MOVED TO APPROVE THE REAPPOINTMENTS OF JOHN STEINBRINK; MONICA YUAHS (ONE-YEAR TERMS) AND LARRY NELSON (THREE-YEAR TERM) TO THE COMMUNITY DEVELOPMENT AUTHORITY; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 4-0.

O. 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 for approval of the consent agenda items 1 and 2. Any discussion on items 1 or 2?

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

9. VILLAGE BOARD COMMENTS

Monica Yuhas:

Mr. President, I have a comment. The last few weeks I've received numerous phone calls and emails regarding traffic on 60th Avenue. Some of it had to do with truck traffic, being overweight going down 60th Avenue. I know Chief Wagner and John Steinbrink, Jr. have been working to enforce traffic laws. I know John has put out signs so people are aware of that fact. And my concern is and also the concerns of the residents who live in that area is that the reconstruction on Highway 50 is going to be starting next year, and it's going to be a lengthy process. And what is going to happen to that traffic once that project starts? A lot more traffic is going to be going down 60th Avenue.

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I know that there is a jurisdictional transportation plan that has been adopted by the City of Kenosha, and I would like to ask staff to prepare a resolution requesting that the City of Kenosha follow that jurisdictional plan and connect 82nd Street to Old Green Bay Road. It's something that we need to look at for the future as development improves and traffic is increasing. I know I asked Chief Wagner to just give a brief synopsis of what he has seen with 60th Avenue as well.

Chief Wagner:

Good evening. Chief Brian Wagner, 8600 Green Bay Road. Just a little bit of history. Going back to when 60th Avenue was extended south to 85th Street, and from that day forward we've seen a significant amount of traffic on 60th Avenue. It's a thoroughfare and it's built that way. But as folks become more and more aware that they can get from Highway 50 to 85th Street on 60th Avenue that road is seeing more and more use. And we've received a lot of complaints from residents. This Board has had before it a number of issues related to 60th Avenue. So this is a problem that's been out there for a significant amount of time.

For our part we deal with this as best we can. There's a lot of traffic on 60th Avenue but there's not that much where I can justify putting a police officer there to monitor traffic all the time. I mean we have a large jurisdiction. There's a lot more of them than there are of us, so we have to allocate our resources accordingly.

Recently we've seen an increase, I'd say over the last year or so, we've seen an increase in truck traffic that comes down 85th Street contrary to the ordinances there and goes north on 60th Avenue from 85th Street enroute to Ocean Spray. That's been an ongoing problem as well and one we've discovered is due in large part to some programming that Garmin has done in their GPS devices. If you input the Ocean Spray address and you're coming from the south Mr. Garmin directs these truck drivers up 31, down 85th Street north of 60th Avenue.

Now, we've had extensive conversations with Ocean Spray in regard to this. We've asked them to please talk with their carriers and the folks that they contract with and people that are coming and going picking up and dropping off loads, and the shipping folks have agreed to do that and I believe that they have done that. But the problem has continued. We'll continue to attempt to deal with it from an enforcement standpoint, but the problem is that we can't be there all the time. I think anything that can be done to take some of the stress off of 60th Avenue, and if that means that the City opens 82nd Street to Old Green Bay Road to alleviate some of that congestion I think is a positive thing. I think it's a good step, certainly a step in the right direction.

Michael Serpe:

Brian, when that came forward in the City to connect 82nd Street to Old Green Bay Road, the police department in Kenosha recommended that it go through. And the residents got together, showed up in mass at City Hall and the Alderman didn't follow the plan. They gave into the—and for as many houses that are there, that's the only entry/exit in that whole subdivision. Something happens, a water main break, a fire nobody is getting out. That's where we were coming from when we recommended that that road go through to Old Green Bay Road. If it comes forward

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again, which I don't know if the City is even going to entertain it, I'm sure those neighbors are going to organize again and fight it. But I agree it should go through.

Chief Wagner:

For our purposes or for our part I should say I would certainly recommend and support Mrs. Yuhas' idea that the Board would pass a resolution recommending that 82nd Street be continued all the way west.

Monica Yuhas:

Thank you, Chief. And I understand that the City of Kenosha has a final say so. But as a Village Board we have a due diligence to the residents that live on 60th Avenue in the Village to do everything we can and everything that we have at our fingertips to show them that we're doing everything we can. If the City isn't going to follow the plan, what good is the plan?

Michael Serpe:

That's right. What if you had a house one block west of 60th Avenue on 82nd Street, you're going to be putting up with all the traffic west of you as many times a day going back and forth past your house, but the people on the far end who don't want that opened they don't care about that because they're going to inconvenience you. That's just selfish thinking on my part, at least I feel it's selfish thinking. I support what you're doing here. I think it's a good idea. I don't know if the City is going to agree with it but we'll see.

Steve Kumorkiewicz:

Chief, can we put signs no trucks allowed on 60th?

Chief Wagner:

Those signs exist, they're there.

Monica Yuhas:

They're brand new signs with flags.

Chief Wagner:

Right. And 85th Street is posted as well and has been forever which is how we've been able to enforce it to date.

Steve Kumorkiewicz:

The problem that we have over there is half is City and half is Village. That's the problem.

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Monica Yuhas:

I appreciate everything, Chief Wagner, you and your department is doing and also John and his department in getting signs posted and doing as much enforcing as you're able to. The residents are appreciative of it. I'm just trying to take it to the next step and see what comes for fruition from that.

John Steinbrink:

Prairie Family Days July 23rd and 24th. Thank you, Chief. Is that our motto on here, Made in Pleasant Prairie. And on the back we have printed by W.D. Hoard & Sons Company, Fort Atkinson? I didn't even know how we contact them. In going back to the Hoard Dairymen Mr. Braig had a relative one time on the cover of the Hoard Dairymen Magazine. I'm a farmer and I can't even get on it but his relatives were on it. I didn't even know there was a printing company out there, so that's an interesting thing to note. There's a low bid printing company out there.

Jean Werbie-Harris:

They print the Village's Play-by-Play, and they offered to donate the printing of the tickets for the raffle.

John Steinbrink:

So they branch out from printing magazines.

Michael Serpe:

One other comment. If I could ask Chris Lopour a favor. On one of the next Village Times that goes out, not immediately, maybe a special little section in there telling the people the benefits of volunteering for some of our triathlons, the fun we have and the pleasure you get out of doing it. We can always use a few more.

Steve Kumorkiewicz:

It's the same people all the time.

John Steinbrink:

Those are perks or benefits?

Michael Serpe:

Well, you get a t-shirt and you get to mark up everybody's arms and legs with numbers.

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10. ADJOURNMENT

YUHAS MOVED TO ADJOURN THE MEETING; SECONDED BY SERPE; MOTION CARRIED 4-0 AND MEETING ADJOURNED AT 7:50 p.m.