

**VILLAGE OF PLEASANT PRAIRIE
PLEASANT PRAIRIE VILLAGE BOARD
PLEASANT PRAIRIE WATER UTILITY
LAKE MICHIGAN SEWER UTILITY DISTRICT
SEWER UTILITY DISTRICT "D"
9915 39th Avenue
Pleasant Prairie, WI
July 5, 2005
7:30 p.m.**

A Regular Meeting of the Pleasant Prairie Village Board was held on Tuesday, July 5, 2005. Meeting called to order at 7:30 p.m. Present were Village Board members Alexander Tiahnybok, Steve Kumorkiewicz, Jeff Lauer and Mike Serpe. John Steinbrink was excused. Also present were Mike Pollocoff, Village Administrator; Jean Werbie, Community Development Director; Kathy Goessl, Finance Director/Treasurer and Jane Romanowski, Village Clerk.

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**
- 3. ROLL CALL**
- 4. MINUTES OF MEETING – JUNE 6, 2005**

KUMORKIEWICZ MOVED TO APPROVED THE MINUTES OF THE VILLAGE BOARD JUNE 6, 2005 MEETING AS SUBMITTED IN THEIR WRITTEN FORM; SECONDED BY TIAHNYBOK; MOTION CARRIED 5-0.

5. PUBLIC HEARINGS

- A. Continued Hearing to Consider Construction of Roadway Improvements on 43rd Avenue South of 107th Street and Final Resolution No. 05-37 Levying Special Assessments.**

Mike Pollocoff:

Mr. Serpe, we conducted a public hearing at our last Board meeting, and that hearing was continued to this meeting. At the last meeting we had presented a proposed schedule of assessments that levied special assessments in compliance with the contract bids that were supplied to us by the developer of the subdivision that's adjoining this property. And in the proposed assessment schedule that had been based on a unit price.

There was discussion by property owners as well as the Board about allocating that out on a per foot basis. Since the assessment schedule has been mailed and noticed as a unit price basis we continued the hearing. Tonight we have both schedules. The Board has the authority to modify those schedules under the statutes, but this is a continuation of that hearing.

To begin with, before we open up the public hearing, I'd like our Engineer, Bob Martin, to describe the project and the proposed schedule of assessments under the two alternatives that we've arrived at.

Bob Martin:

I believe the first few slides are familiar to the Board from the last meeting. I wasn't present at that meeting, but this shows the basic project location and scope of the work. As you'll notice, the beginning of the project is the termination of a road project that's proceeding with a new subdivision. So there's . . . feet of paving that goes towards the overall at the developer's cost. I believe there were some previous conditions of the road shown in the next few slides.

From this slide, I did receive a call from Mr. Gilliam, and one thing that he had pointed out is if you look at this particular point where the project begins, which is the Hunter's property, and that's where this project is leading up to, Mr. Gilliam lives on this property, and you'll notice that this property corner is quite a bit different from his property corner and asked if that was going to be credited. When I looked at the plans there is a 32 foot difference between where the project will end on his property and their project begins. So to get everything square to begin with, this was the second original. This one was based on front footage. This is Mr. Gilliam's 175 foot frontage and everything is calculated based on those numbers, and I corrected or adjusted that I should say, where the 32 foot was taken off and that adjusted to 143 feet. So the net effect was his assessment, if it were assessed by front footage, would go down and everybody else's would go up. That's the net effect.

I'd just like to point out that, again, if you go by the front footage the \$11,489.62 would be for the Sharp property at 206.05 and so on just adjusted by the front foot with that adjustment. By an equal share amount it's rounded \$10,450. So there's quite a big variance between the front foot method for some property owners and not for others. And there's a disparity between 12 percent at the lowest paid parcel and around 28 percent for the highest paid. So that's when I originally looked at the assessment, and I looked at if it were similar to a cul-de-sac where you have a street leading into a cul-de-sac, the end parcels really don't have a lot of front footage but they benefit from the street. And when you have a large disparity between these assessments, that was the rationale looking at the equal share as opposed to the front foot. So that's really the difference here.

It was my understanding that Mr. Sharp had requested that he be taken off the assessment rolls. This is what the assessment would look like if you stopped the road at the Sharp property which is the last property to the north on the west side. And you can see the overall assessment goes down, the construction costs go down substantially because you don't have the cul-de-sac at the end which is for a turnaround, and so you can see that the overall cost, again, there's quite a large disparity between parcels, and the average goes down about \$7,500 per parcel. So there's a pretty significant difference between if you would assess on a parcel basis, whether it be for this particular application of the project or not.

I might just want to point out that the road is basically going back the width of the street which is in round numbers 20 feet, and a regular set of this road would be 32 with curb and gutter. So we've eliminated curb and gutter and eliminated the substantial width to come up with these numbers. They are, again, estimates, and the people would be charged on whatever the actual cost is by whatever the method the Board would approve tonight.

Village Board Meeting
July 5, 2005

When you start splitting some hairs, there's also where you come in from the curb and gutter paving into this section we're coming from approximately 32 feet into 20 feet, so you've got those tapers where you have additional gravel, you've got the additional asphalt paving, and that lands on two properties, and that lands on the Gilliam property and the Hunter property. So if you start splitting hairs again who does that really benefit? Well, it benefits everybody in my opinion. So if there's any questions concerning the methods of assessing I'd be happy to answer those.

Mike Pollocoff:

I guess just to reiterate some things that were commented on at the previous hearing, if the Board authorizes the project to proceed, road projects are done in phases in the Village, so we'd be building the base course of the road this year, the stone. Asphalt would come in with the second year asphalt of the subdivision, and then the third lift would be later than that. Even though there's not any home construction taking place on this little strip of road here, which is what usually dictates that last lift of asphalt, it would be my recommendation just to ensure from the Village's standpoint the longevity of this road to continue to do it over a three phase period so that we know that there's no settling that's going to occur on that road over time. There is no water on this road so at some point if water is extended down the road we'd either be looking to the people to provide easements to us or we'll be digging up the road.

(Audience):

There is water

Mike Pollocoff:

No, there isn't water all the way to the end of the road. There will be water coming down to a portion of it. If the project proceeds, and the first phase is completed prior to October 1st, the Village would send out a notice to the residents indicating they could choose to pay the assessment in total or finance it with the Village over a ten year period at nine percent of the unpaid balance. If the project isn't completed, if that first phase of construction isn't done before October 1st, then we would wait one year and bill the following year. Under statutes we can only go out one time. The assessment and various schedules we have three that are presented to the Board, but that final one takes out the Village property and the Sharp's property. The Village's long-standing policy is not to accept a special assessment. That ends up being a project cost of the people in the area rather than taxpayers. So that would significant reduce the project.

One of the things under the statutes you're levying an assessment based on the benefits derived by the people who are going to receive that special assessment. Everybody is going to receive some level of benefit. That benefit has to be, in order for the assessment to withstand a challenge, it needs to be equitable in its application. The expense and the appropriation and the allocation of expenses also need to be equitable based upon the benefit. I've seen this issue argued every which way and I've seen it resolved in court different ways. The Village has done some special assessments where there was a cul-de-sac where in order to achieve some uniformity in how the assessments were done we took the front end of a cul-de-sac where you have very narrow frontage, added that to the back lot of the cul-de-sac where it's really wide, added those together

Village Board Meeting
July 5, 2005

and divided by two to come up with some reasonable nexus of how much that road meant to each individual property owner.

Typically when we're in a sanitary sewer or water assessment where you're equating how much linear feet of pipe is crossing a property, with the opportunity to divide that property in the future, those benefits occur on a front foot basis, because it kind of moves more easily with that type of assessment. Even then at times if you have irregular lots, irregular widths or people who are going to be paying for an oversized main that method doesn't even work. So that's why in this case our initial one and even the subsequent here we're looking at how much more benefit is someone going to derive from a unit cost versus a front foot cost. And is it reasonable to expect that somebody would pay either over one-third of the total project cost for one lot when there's six lots involved, or over one-fourth of the total project cost, again, when there's six lots involved. That really kind of runs to the equity argument. Is the assessment equitable? Is it fair? Are the people receiving any different benefit as you go lot by lot. And I think that's the thing that the Board is going to have to consider and weigh in the comment in the public hearing.

My understanding is that if the Board authorizes the project to proceed contractors are reasonable ready to go and to get under way and to get started so we can get the first course which is the stone down for this year. With that, Mr. Serpe, if you'd like to open up the public hearing for comments.

Mike Serpe:

This is a matter for public hearing. Jane, I'm sure we have sign ups. The only thing I ask is that when you approach the microphone you please give us your name and address.

Mike Haun:

Thank you. Mike Haun, 10747 43rd Avenue. A couple of overall comments. Regarding Sharp's desire not to continue the road, I can fully understand that from a pure economic position. However, I guess if I could get the road done free to within 20 foot of my driveway I would benefit all of that surfaced pavement down to my particular piece of property. The overall dust and grime in the area has been reduced significantly and I pay nothing. It's a wonderful deal for them but I'm not sure of the bigger picture if that's really fair to others in the neighborhood or the Village in general.

Roads typically should not just stop and culminate into a nothing piece of gravel. I would think it would make for a much nicer neighborhood if there was a little turnaround at the end and it goes all the way down. So although I don't have strong, strong feelings about it, I believe that there is benefit also to the Sharps in all due respect to them. And then I think that the bigger concern longer term is certainly there will be different levels of ability to pay for this, whether it's spread over ten years or all at once, from neighbor to neighbor. And so I think that the payment schedule becomes a major factor in the shorter term decisions about whether to want a road there or not. Those are all economically driven decisions. They certainly are not aesthetic decisions.

So with that said, we happen to have a piece of property that I think the total difference whether we split it five ways versus frontage is like \$1,000 or less for us, so I don't really care personally.

Village Board Meeting
July 5, 2005

And I think that maybe we could allow the neighborhood to decide which way is most fair for all the people that they want to input into that process.

In the meantime, the storm sewer work I think is done. I believe that the pond has value, even though I was told last time someone mentioned that the pond has no value to the Village. But the fact of the matter is the entire storm sewer system dumps into that pond, and I think it has value not only to the neighborhood but also the Village. And so for the Village to not participate in the assessment process for their frontage I don't fully understand that but I'm not going to argue it tonight. Thank you.

Mike Serpe:

Thank you.

Daniel Bozarth:

Daniel Bozarth, 10736 43rd Avenue. I am definitely in favor of putting a road in. My biggest problem, as Mike talked about, is equitable assessment on the properties. When you go to sell that property the more frontage you have the more that property is going to be worth. I really do have a problem paying for somebody else's improvement. And as I mentioned last meeting when I owned both properties before I had to split my properties I owned Hunter's and the property I own now, when they came through with the sewer they had to go all the way to the edge of my property even though that didn't benefit me and I still had to pay for it. I've owned quite a bit of property in Kenosha and Pleasant Prairie over the years, and any assessment I've ever had has always been by the frontage. I don't have a problem if Mr. and Mrs. Sharp don't want the road. I do believe, as Mike said, it would be better for the neighborhood, but my main concern is that people be assessed equitable as to the value that it's going to increase their property value. Other than that I don't have a problem.

Mike Serpe:

Thank you.

Jason Gilliam:

Hi, Jason Gilliam, 10797 43rd Avenue. I have no problem with the road either, but I would like it to be assessed by the square footage. I know Mike brought up the Hunter's property and they would have to pay a third or whatever their percentage is of the frontage. Obviously they have the most frontage, and I brought this up at the last meeting they're not here because they don't even live in town. They run their property as a rental property, so let them raise their rents for the property. I own a lot of rental property and that's what I would do. So they can raise their rent and they should pay for their fair share. Thank you.

Mike Serpe:

Thank you. Anybody else wishing to speak? Anybody else?

Village Board Meeting
July 5, 2005

Mike Pollocoff:

Since this is a public hearing, I received an e-mail from Mr. Hunter to read into the record.

Jane Romanowski:

And I also have one from Lisa Sharp.

Mike Pollocoff:

Okay, you go first.

Jane Romanowski:

This was received July 1st from Lisa Sharp, a resident at 10706 43rd Avenue. She indicates, "As a new resident on 43rd Avenue in Pleasant Prairie, we are not in a position to take on the extra financial debt, which paving of the road would incur for us. We would also like to propose to the board, that the developer of the housing development should take on some of the financial responsibility as well. As the road improvements will enhance the selling of the properties in this subdivision. In addition, the city of Pleasant Prairie is owner of the pond on 43rd Avenue, and should take responsibility for their fair share of footage in front of the pond. We would appreciate the board take into consideration.... if indeed, the road must be paved, then we would like to see the amount to be paid divided between the five home owners involved. As it is the benefit of all persons whom live on this street. Another option would be, to end the road at the point in which the developers is responsible, this would save everyone involved the cost."

This is the e-mail that Mr. Pollocoff just alluded to. This from Jeff and Elizabeth Hunter at 10800 43rd Avenue. "My wife and I wish to have the following read into the record for tonight's hearing on constructing a roadway on 43rd Avenue north of 109th Street. First let me say that both my wife and I embrace the proposal to install a real city street. We also appreciate the city's oversight to ensure that the roadway is constructed properly ensuring that all the homeowners in our neighborhood will enjoy the mutual benefit of quality paved street. Might I also state that we are also looking forward as well to the reduced dust levels in our home. When the initial assessment was received we felt very good about it as that distribution of costs correctly recognized that assessment should be based on each individual's benefit derived from the improvement. In the case of a roadway, the benefit to each individual household is paved access to their home. Whether that is one foot or 100 feet the benefit to each homeowner is equal. Either there is a road built with proper width and depth of construction or there is not. We do not support the revised proposal to distribute the assessments based on frontage. Whether I am charged the original fee around \$6,000 or the new fee over \$14,000, my benefit is exactly the same, a road to my driveway. Each homeowner in the assessment area will derive exactly that benefit, a road. It is interesting to note that between the first assessment and second assessment all but one homeowner is now paying more for this equal benefit of this improvement. This hardly seems like the fair and equitable intentions that an assessment should bring. I don't know if this paragraph is appropriate, I'll leave that to your discretion. As an equally ridiculous method for distributing payment based on derived benefit perhaps we could base assessment based on length each resident travels from the starting point of the road to their home since they would use

Village Board Meeting
July 5, 2005

more of the road surface increasing wear and tear on the road. Why should I pay for unused portions of the road? Thus, we respectfully ask the Board to consider the equal benefits each homeowner receives from this improvement and to distribute the cost based on the benefit received, not the frontage of the home.” Again, this is from Jeff and Liz Hunter with the address of 10800 43rd Avenue.

Mike Serpe:

Anything else, Mike?

Mike Pollocoff:

I have one more thing. There was a comment Mr. Haun made and I want to make sure everybody understands this. When this project was put out, we have the assessment schedule, and if for some reason the assessment was to be more than what this schedule shows, then the Board must convene another hearing, readjust the assessment level to the higher amount. If the assessment is lower than what we anticipate tonight, that lower amount is what we bill. The Village can't bill for anything other than what the actual costs are. So if there's contingencies, engineering, whatever the monies that are spent, whatever ends up being spent on this road, if it's less than what we've anticipated tonight that amount will be billed and nothing else. And there's a complete report and record of the contracts, the tonnage of stone that's delivered, the time that the inspector spends out there. or anything that we spend on that project is available for review, but that's what is billed on the assessment.

Typically these things aren't exactly what we say they're going to be, and 99 percent of the time they're less by some amount, because this based on an estimate. Every now and then we have one blow on us and it's like one every five or six years, and even then it's not by a lot. So what the residents or the affected property owners will be billed is whatever it costs.

Mike Serpe:

Since nobody has any further comments I'll close the public hearing and open it up to Board comments.

Steve Kumorkiewicz:

I'm a little disturbed in this case because I don't recall when we used assessment by units, not by the foot. I remember when 43rd Avenue was built back in '95, and all the roads that were built in the Village . . . were basically on the front footage. . . . a unit isn't fair because what we're doing is the person who has more section of the road he's going to pay for the other one who has the largest footage. That's one concern I have right there.

I know that road very well. I remember when it used to be flooded over there we used to go over there. I have a concern with the financing, I think that we can do it for 9 percent in ten years, but I do believe you can get a mortgage or even a commercial loan today for a lower interest than the Village has, am I correct in that, Mike?

Village Board Meeting
July 5, 2005

Mike Pollocoff:

Correct. When the Village charges interest, part of that interest cost that we collect is to secure ourselves from unpaid debt. Because when people don't pay their assessments rather than putting it on the tax roll what the Village does is take the accrued interest we've collected from the project and that covers any unpaid assessments. Where if someone were to secure a home equity loan or some other line of credit they can typically do a little bit better because they're not dealing with that issue.

With respect to your first comment, 43rd Avenue was done on a front foot basis but every lot was the same width, and that's what makes these assessments--each one is different. Chateau Eau Plaines is a perfect example where we went on a unit basis because it's a not of curvy roads, it was cul-de-sac, and it was hard to make that nexus between the benefit and the cost. So on this one here again you've got broad sweeping curves on this road and you have different sized lots. If an assessment is happening typically in the City or some of the older parts of the Village where you have real uniform platting, 75 foot, 75 foot, 75 foot, then it really gets to be a moot issue. You can go on footage or units and it will be the same and everything is the same. In the Village we have a lot of subdivisions with curvilinear roads and bit lots and lots with small frontage or large rear yards or vice versa. It makes it difficult to go on front footage.

Alex Tiahnybok:

I can understand both sides. I can clearly understand both sides' concerns about the equity or lack of equity in terms of how is this paid for. Without a doubt, though, if you have a paved road in front of your property the assessed value of your property goes up you'd like to think in some kind of consistent fashion with the amount of cost incurred by installing the road. So I think there's still a lot of validity to the linear footage concept.

Also, when you look at these properties, another perhaps innovative idea of assessing how this is paid for, obviously we have curves and different lot sizes, are assessed values of properties ever used as a criteria for dividing up the expense of a project like this? Clearly the Sharp property is a larger piece of property than the Bozarth property. Maybe looking at assessed values would give us some kind of criteria. Because it looks like the equal share amount unfairly penalizes certain owners and rewards others, and then the linear footage seems like it has the reverse effect. I think the arguments are very valid. If you're driving up 43rd Avenue, the Sharp property and the Bozarth property are going to benefit from the pavement in front of the Hunter property, and I don't think the Hunter property is going to benefit from the pavement in front of the Sharp property. So there's definitely some inequity in using the linear foot method. I still think perhaps the assessed value route may be something to look at.

Mike Pollocoff:

Assessed value is not used under Wisconsin statutes for the basis of assessment, because the nature of the special assessment is you're assessing for an improvement that addresses a need that provides a benefit to solve the problem. And the nature of a property assessment is based on the value of property, and that value is determined what that person's contribution of government is. When you indicated that the paving assessment would raise assessed values, what raises assessed values is what the fair market price is for property and homes. When these homes at some point

Village Board Meeting
July 5, 2005

go for sale or when they're revalued in another year, they're going to be compared to a home on a street that's paved versus one that's on an unimproved road. So for property tax assessments really the premise of that and the equity of that is that those who have larger, more valuable homes that's reflected in the marketplace as being valuable they're going to pay a higher percentage of the property taxes than someone who has a smaller home, not as valuable, not reflecting current market values. Those kinds of transactions and thought process as it relates to how much should you allocate for the need of the road tend to get lost. The basis of a special assessment doesn't treat people on a basis of their income or their ability to pay or their income power or the value of their home because that's not what falls into whether you get sewer, whether you get water, whether you have improved access to your home. Those items by statute are separated out.

Although, in the way that doesn't happen is if the Board decides to not special assess a property for streets and just put that on the tax roll where property owners say I need my road paved, increase taxes for it, and then that expense gets increased across the tax base. That's how you would translate that type of improvement to be based on the value of the home. If you're doing the Village I guess that's not a problem, but when you're doing segments of it then everybody gets anxious about that. But as far as the impact of this improvement, because they get specially assessed it's really how that translates how their properties compare from a market standpoint to other properties that are similar. Some states do it the way you're talking about. If your house is worth \$500,000, and there's \$2 million of value on the project area we divide it that way. In Wisconsin, in a large part due to the conformity clause, that doesn't happen.

Steve Kumorkiewicz:

I do remember what they did in Illinois, I think it was the Lakeshore Water District there was a lot of complaint because the person who got 1,000 feet of frontage paid the same amount that someone who has 45 feet and I thought that was very unfair at the time and I see the same situation here. Because why the guy who has little frontage should pay for the larger one? It's subsidizing it. Everybody should pay equally for what they get.

Alex Tiahnybok:

Can we apply that to school district taxes, too, linear footage? I think a lot of people would like that idea.

Steve Kumorkiewicz:

We used to have school impact fees.

Bob Martin:

I just might add that there should be a basis for the decision, obviously. Because the old saying on assessments is the only good one is the one that stands the test of a protest and that could come after the job is completed. So when they get a levy is when the proof of the pudding comes I guess. It's not necessarily right now either.

Village Board Meeting
July 5, 2005

Mike Serpe:

When all of us purchase property, I think we make a conscious decision on when we buy a lot it's either small or large, and pretty much most of us know that if you're going to buy a lot of frontage at some point in time you're going to pay extra for that land that you own, and I think that's very much the case here in the Hunter case and the Sharp case, everybody. I have to say that I lean towards the across the foot frontage for assessing on this. In the case of the Hunters, they have a large lot, they made a conscious decision to have that as a rental property. I know there's benefits on owning rental properties as far as sheltering some money for lack of a better statement or word. I think the question here tonight is do we include all properties or do we eliminate the Sharp property at the end. I have to agree with Mr. Haun that I think there is a benefit to the Sharp property to a point. I think that's the real decision whether or not we divide this up equally or across the foot frontage. I think we have to decide are we going to include everybody or are we going to eliminate one?

Jeff Lauer:

This is more less of a question than clarification maybe. That road that's rocked right now is there sewer and water underneath that or no?

Mike Pollocoff:

There's sewer and that was put in over ten years ago. And then storm sewer was recently installed under part of it. It really was never a designed road bed that was built there. There was just gravel put down over the years. So the assessment schedule before you tonight anticipates putting in that 12 inches of stone and grading that out.

Jeff Lauer:

I kind of agree with what Mike is saying and Mr. Haun. I don't remember if it was Jason Gilliam, but I thought there was a couple folks who said they would agree doing the whole road. So I kind of see that that's a better fit as well. It's kind of a hard call.

Mike Pollocoff:

I can tell you if you stop before the street ends, every time someone drives all the way to the end and they come back they're going to track whatever--because at the very end, if you go farther north, and think back to those pictures, the road condition deteriorates significantly which means you're getting into dirt and clay and you'll run that right up against the road as you travel south as is shown right there.

Steve Kumorkiewicz:

A question for Mike. Mike, the builder here when he built the subdivision west of 43rd, they're going to have curb and gutter or storm sewer, right?

Village Board Meeting
July 5, 2005

Mike Pollocoff:

Correct.

Steve Kumorkiewicz:

Is that going to be included in this project?

Mike Pollocoff:

No.

Steve Kumorkiewicz:

Because from this point down . . . goes down and around. That's what I was wondering about. So then it's going to go to 108th or 109th . . . just where is the end of the cul-de-sac?

Mike Pollocoff:

There's roadside ditches that will be constructed with this road to pick up water coming off the properties, water coming off the road. There's a storm sewer that's coming from the south going north that all falls into the pond. And then I believe after the road is done it pitches back to the south from the north end to that same point. So the low point of this road will be where that pond comes up against the road. If you want to show that up there, Bob. And the people in previous meetings or discussions indicated they had no interest in having curb and gutter and they wanted to maintain the rural profile of the road. So there will be ditches, and there is storm sewer that's really conveying--the purpose of that is to convey that water out of Whispering Knolls past them into the pond. They're still going to need roadside ditches to take care of the water off their yards and the water off the road.

Steve Kumorkiewicz:

That existing pond right now are we going to have two ponds over there?

Mike Pollocoff:

There's two ponds in the sense that there's the existing one in Prairie Lane Heights and then there's another pond in Whispering Knolls.

Steve Kumorkiewicz:

The other one next to 43rd?

Mike Pollocoff:

Right.

Village Board Meeting
July 5, 2005

Steve Kumorkiewicz:

Which one is higher?

Mike Pollocoff:

In elevation?

Steve Kumorkiewicz:

Yes.

Mike Pollocoff:

Whispering Knolls. The in road elevation I'm not sure what that was. Do you know what the difference is in elevation from the pond in Prairie Lane Heights to the Whispering Knoll pond?

Bob Martin:

No, I don't know. I know generally speaking, though, that the new pond in Whispering Knoll is going to provide a significant relief because all that water used to run off farm field down to 43rd and that has to be contained now, so it's going to be released at a much lower rate than into the storm sewer. So there's quite a bit of relief from that standpoint.

Steve Kumorkiewicz:

So we're going to be discharging less water to the Prairie Lane pond and more to Whispering Knolls?

Bob Martin:

Whispering Knoll used to be the farm field just ran off down to 43rd. Now there's a large detention/ retention facility that will hold the water and it will let it out at a smaller rate through the storm sewer going down to the old pond.

Steve Kumorkiewicz:

Okay.

Mike Serpe:

Anybody else, gentlemen? A couple decisions we need to make here. Do we do the whole road, the across the foot frontage or divide it up? Those are the issues. I think there's a benefit here for the whole road.

Village Board Meeting
July 5, 2005

Jeff Lauer:

If I may ask, and hopefully my last question, of the three folks who spoke tonight, Mr. Bozarth, Mr. Haun and Gilliam. Would you be in favor of having the whole road done?

--:

Yes, I would.

--:

Yes.

--:

Yes.

Jeff Lauer:

So all three would be in favor of that. Thank you. And it appears from Mr. Hunter's e-mail-

(Inaudible)

Steve Kumorkiewicz:

One comment I'd like to make, too. If we end that road right at the Sharp property just for him driving in and out of that, he's going to see deterioration of the pavement right there . . . because he's going to be using that road. In my opinion we should do the whole road. Sooner or later the road is going to have to be done complete. Do it now and we don't have to come back again, and it's going to be cheaper to do it now rather than sometime in the future. That's one way to look at it. . . . I get a private loan, don't finance it through the Village and the cost is going to be cheaper.

Jeff Lauer:

I'd like to make a motion to have the whole road paved.

Mike Serpe:

And at what rate are you going to use? The frontage or the equal amounts?

Alex Tiahnybok:

Are these separate matters?

Mike Serpe:

Village Board Meeting
July 5, 2005

I'm waiting for the motion. I think you can include them in one myself.

Mike Pollocoff:

You can combine them. The person making the motion can combine them, just be specific that it's the entire project with no exemptions and then the basis of how you want the assessment to be, on front footage or unit cost.

Jeff Lauer:

I make the motion based on front footage to do the whole road.

Steve Kumorkiewicz:

I second that.

LAUER MOVED TO ADOPT RESOLUTION #05-37 WITH THE ENTIRE PROJECT AS PROPOSED COMPLETED AND ASSESSED ON A FRONT FOOT BASIS; SECONDED BY KUMORKIEWICZ; MOTION CARRIES 4-0.

6. CITIZEN COMMENTS – None.

7. VILLAGE BOARD COMMENTS – None.

8. NEW BUSINESS

A. Receive Plan Commission Recommendation and Consider Ord. #05-29 and #05-30 for a Zoning Map and Zoning Text Amendment for the request of Kurt Meeske, agent for Prime Outlets at Pleasant Prairie, LLC, to rezone the proposed Phase V from B-3 (UHO), Regional Retail Business District with an Urban Landholding Overlay District to B-3 (PUD), Regional Retail Business District with a Planned Unit Development Overlay and to amend the Village Zoning Ordinance pursuant to Chapter 420-137 of related to the specific zoning regulations applicable to the PUD.

Jean Werbie:

Trustee Serpe and members of the Board, what has been requested this evening from Prime Retail is the expansion of their Phase V development. And along with that Phase V development out on 120th Avenue and south of 108th Street, they are proposing two leasable buildings for 149,450 square feet of retail floor space, an 11,000 to 13,000 square foot court building known as the Lodge, and two 3,500 square foot restaurant retail outlet pads.

Before you on the floor is a scaled model of the Prime Retail Phase I through IV, as well as Phase V development and the Lodge. If you have not had an opportunity to look at it we'll be talking about it this evening, and you might just want to step down while I'm talking and take a look at it.

It does give you a good perspective of how things lay on the land with respect to the aerial photography and the existing center and what's being proposed.

Specifically as part of the zoning map amendment this evening, they are requesting to rezone three of the Phase V properties from the B-3, UHO, to the B-3, PUD. In other words, they're taking off the Overlay District and they're placing on it a very specific planned unit development overlay ordinance that is unique to this particular property. The B-3 District is the Regional Retail Business District. The existing Prime Phases are I through IV, and they are currently zoned B-3, PUD. There is an area on the site that's on the very far western and southern portion of the property that is identified as wetlands, and that particular area is zoned C-1, Lowland Resource Conservancy District.

With respect to the surrounding zoning of the subject property, to the north is B-4, Freeway Service Business District. It consists of a vacant parcel immediately east of the Radisson Hotel, and an I-1 Institutional District which is the Village's own water tower. To the south of the property is B-3, PUD, and C-1, which is Phases I and II of Prime Outlets, and A-2, General Agricultural District, which is the James Hart farmstead which is about approximately 108 acres. To the east of the site is zoned B-5. It's Freeway Office District consisting of two vacant parcels that are owned by WisPark, LLC. And to the west is B-3, PUD, which is Phases III and IV of Prime Retail.

As required by the ordinance, there are some specific requirements, and we've written specifically into the text of the PUD for this particular site some requirements. It specifically requires and reinforces that Prime will continue to provide for this development and uses on this site in conformance with the Village Comprehensive Plan and the underlying zoning. It facilitates the development that it will not be contrary to the general health, safety, economic prosperity and welfare of the Village. It encourages proper maintenance of the structures, landscaping, parking area, lighting, signage, general site development and to promote an attractive and harmonious commercial regional retail center. Again, we've always supported planned unit developments when it creates and maintains a unified business development within the Village.

Next, to achieve a business environment of sustained desirability and economic stability which will operate as that uniform development. To avoid unreasonable adverse effects to the property values of surrounding properties. To allow flexibility with several dimensional requirements and design requirements of the Village zoning ordinance.

In order to have the Village grant the PUD there has to be defined community benefit. We've talked about this in the past and it's a requirement in order to grant a PUD. They have provided various items for us to take a look at as defined community benefits including increased tourism, tourism related spending, increased associated secondary spending, increased retail shopping options, construction of a center court area, the Lodge, which will provide for additional services to Prime Retail and the entire region, increased employment opportunities during construction and after construction, increased Village real estate tax revenues and increased State and Kenosha County sales tax revenues.

The PUD tax amendment. Minimum lot sizes are going to be amended to allow two 3,500 square foot outlots; to allow one existing parcel to remain at a very small size, less than an acre; to allow an existing parcel to be improved that's less than an acre which is a GTE Verizon utility substation building; and that all of their parcels shall have minimum lot sizes of five acres except for any free standing commercial communication stations on the property.

Other modifications that we looked at that are included within the PUD is that to guarantee access throughout the site because not all the properties abut upon a public street. Pedestrian and vehicular cross-access easement agreements are required and must be provided to the Village. That lot frontage on public street that no individual lot will be required to have that frontage but collectively they will have the required frontage on 120th Avenue, 116th Avenue and 108th Street. That minimum growth floor area per structure can be reduced down to 3,500 square feet, and in this case there are two different outlot structures that they have initially identified as possible restaurants or retail buildings that would be as small as 3,500 square feet. And for building height, all buildings including the center court Lodge building within the development shall not exceed 40 feet in height. This center court Lodge building, however, shall not exceed 50 feet in height, and the tower element on the center Lodge shall not exceed 75 feet of height. This is something that was discussed at length at the Plan Commission public hearing, and Plan Commissioners were able to come down and take a look at the models and the drawings, and based on the location of the center court building, which is the Lodge building, it was determined that the height of the building and the tower did not seem out of scale, and because of the considerable distance of almost 1,000 feet in some cases to the adjacent roadways that it fit right into the center, and with the tower element it could provide some amenities on the tower such as clocks or some type of identification that could help identify not only the center but where you were and a good central meeting place for shoppers and others that were going to the center. This is a good elevation of the Lodge building, two different elevations. Again, the model shows you all four sides of the Lodge.

Minimum building setbacks. In your packets and on the overhead slide all of the areas that have little clouds around them those are various modifications or reductions that we felt were necessary in order to accommodate this site and this development for parking and the structures on this particular lot and location. We didn't feel that any of the reductions were excessive. We felt that with those reductions that the site as a unified development fit nicely on this particular property.

A couple of other modifications that we wrote into the PUD, detached accessory buildings, trash enclosures, would be allowed in that they are constructed of materials that are complimentary to the principal structures. Number of principal structures per lot more than one since we have multiple buildings, and with the cut through's we've got even more individual principal structures on this property. Sign requirements, all signs would need to comply with the existing PUD sign ordinance in effect which is 02-71 that was adopted in 2002. If, in fact, they would like to revisit the signage for the entire site then we would amend or modify that original PUD that was approved by the Village. And municipal services compliance with the June 6, 2005 Village Board agreement with Prime related to municipal water connection, fire suppression issues, security issues, construction timing, guarantees and performance bonds which we have covered in a previous meeting.

Village Board Meeting
July 5, 2005

Some of the final ones I'll highlight for you. Construction design standards and roof lines. All buildings except the center court Lodge and any building constructed on either outlot could have flat roof lines similar to what's out there with existing Phases I through IV needs to be consistent and uniform, but with the newer buildings and even with Phase VI we are introducing some tower elements with a little bit higher elevation and architectural features to the roof line. Screening of all roof mounted mechanical units, and that's something that we are looking towards making sure that mechanical units are set back further on the building so that they're not in the face of the people when they're in the parking lot or in the adjacent roadways. And construction design standards to allow EFIS on the main retail portion of the Prime development buildings. EFIS can be used as an accent material on the other three buildings, the Lodge and the two outlots as long as it's above a ten foot elevation on that particular property.

That is a highlight of the zoning map and text amendments as pursuant to their request. This was a matter before the Village Plan Commission in public hearing. The Plan Commission and the staff recommend approval of both Ordinance #05-29 and 05-30 as it relates to zoning map and zoning text amendments for the Prime Outlets of Pleasant Prairie.

Mike Serpe:

Thank you, Jean. Petitioner have anything to add? Gentlemen?

Steve Kumorkiewicz:

I'd like to make a simple comment. I was in the cabinetry business for the last nine years. I haven't seen anyplace . . . Cedar Rapids and I went to Michigan and Ohio, and this is one of the most beautiful I saw so far. I like the design, I like the presentation, and I go shopping over there and see the people coming from out of state just to shop here. Fifty eight percent of the customers come right here to Prime Outlets. But, just as a comment, I would like to see those clocks in the Lodge, but I'd like to see one thing more. I'd like to see to have an observation point above the clock, same as the Allan Bradley Tower in Milwaukee. They've got four faces, a clock in each one of them, and in the top is a restaurant or observation point where people can see all around, because that's going to be higher even than the Interstate. I'm correct, Bob? The elevation of the tower is going to be above I-94, right, by 75 feet?

Mike Serpe:

I don't think so, is it? That's quite a bit.

Jean Werbie:

I don't know the elevation of I-94.

Mike Serpe:

That would be awful high. I don't think that's going to happen.

Jean Werbie:

Village Board Meeting
July 5, 2005

I don't think you'd be able to see the clock that far, 1,000 feet. That would be pretty far.

Mike Serpe:

Just a question. Are we still on schedule with the construction plans? Is that still on track?

Kurt Meeske:

Yes.

Mike Serpe:

That's good. Anybody else have any comments?

Jeff Lauer:

I just want to say I'm excited for this and I look forward to seeing it. I think the tower is really going to be an icon. I've been already telling people about it, too, so I think it's going to be a real great thing. I'd like to make a motion to approve this.

LAUER MOVED TO ADOPT ORD. #05-29 AND #05-30 FOR A ZONING MAP AND ZONING TEXT AMENDMENT FOR THE REQUEST OF KURT MEESKE, AGENT FOR PRIME OUTLETS AT PLEASANT PRAIRIE, LLC, TO REZONE THE PROPOSED PHASE V FROM B-3 (UHO), REGIONAL RETAIL BUSINESS DISTRICT WITH AN URBAN LANDHOLDING OVERLAY DISTRICT TO B-3 (PUD), REGIONAL RETAIL BUSINESS DISTRICT WITH A PLANNED UNIT DEVELOPMENT OVERLAY AND TO AMEND THE VILLAGE ZONING ORDINANCE PURSUANT TO CHAPTER 420-137 OF RELATED TO THE SPECIFIC ZONING REGULATIONS APPLICABLE TO THE PUD; SECONDED BY TIAHNYBOK; MOTION CARRIES 4-0.

B. Receive Plan Commission Recommendation and Consider Ord #05-31 for a Zoning Text Amendment to amend Section 420-78 K. (1), related to aggregate permitted background commercial advertising sign area.

Jean Werbie:

Members of the Board, the Village staff has re-evaluated and is presenting for you this evening a modification to Section 420-78 K. (1) as it relates to the aggregate permitted background commercial advertising sign area. The definition of that particular sign is that it's the total area of commercial advertising signs that's permitted to exist on a property used for any business, manufacturing, institutional, recreational or agricultural purpose or use exclusive of their primary monument sign, secondary monument sign, freeway sign, identification, drive through customer sign or on site informational signs or window signs or temporary signs.

What it does include is the signs that are actually on the building and advertising the building. And what we were coming across with respect to a number of commercial uses that we are working with and you're going to be seeing shortly is that there are some commercial uses that vary in size from about 1,000 to 10,000 square feet, and based on its particular use, whether it's a restaurant or retail use, often need a little bit more signage than what our ordinance requires. We knew that when we drafted the ordinance we drafted it very conservatively. We didn't want to hand out too much area for additional signage until we knew from the businesses whether or not it was needed. And we wanted to make sure that we were consistent with respect to the various uses.

So we have come up with a modification to what was allowed for in the original sign ordinance to allow some additional signage for those structures that are greater than 5,000 square feet. For example, we have a restaurant that is going to be coming up, and based on where they're located, I've got a couple of restaurants now that have double and triple frontage on public streets. And so many of them need that frontage and visibility along the main highway or arterial, but that's not their main entrance. The main entrance is on the flip side or reverse frontage road. So they need some identification signage at that location, and in many cases they're a part of unified business developments, so if you're shopping down there you want to be able to see what's that building. We want to know what it is. Is it a restaurant or another retail store? So we wanted to give a little bit more flexibility to the businesses to be able to distribute their signage on one, two, three or four sides. We've not limited them to only having it on one or two sides, but with a little bit larger square footage they can decide where they want to place their signage so it makes the most sense for them and for the customers that they're trying to attract.

As you get up into the higher numbers of the larger buildings, what we typically find is they are involved in a planned unit development similar to Prime and VK Development and some of the others that have larger commercial projects we'll be able to have some flexibility with PUDs and to give them the additional signage of the individual tenants in their particular centers.

So the staff is recommending a modification to this section and approval of Ordinance #05-31. The Plan Commission reviewed this and held the public hearing and recommended approval subject to the corrections and the additional square footage that's allowed.

Steve Kumorkiewicz:

We were in the Planning Commission and I'd like to see that from six levels to seven levels as we've got right now. Based on that I'm going to move to adopt Ordinance 05-31 for the zoning text amendment.

KUMORKIEWICZ MOVED TO ADOPT ORD #05-31 FOR A ZONING TEXT AMENDMENT TO AMEND SECTION 420-78 K. (1), RELATED TO AGGREGATE PERMITTED BACKGROUND COMMERCIAL ADVERTISING SIGN AREA; SECONDED BY TIAHNYBOK; MOTION CARRIES 4-0.

C. Consider Annexation Ordinance #11 for the request of J. Michael McTernan of O'Connor, DuMez, Alia and McTernan S.C. agent for Timothy Christensen and

Village Board Meeting
July 5, 2005

Thomas Cummings for the annexation of the properties located at 12207 Wilmot Road and 12125 Wilmot Road into the Village of Pleasant Prairie from the Town of Bristol.

Mike Pollocoff:

Mr. President, we received a petition from the property owners through their Attorney, Mr. McTernan, to annex their property into the Village of Pleasant Prairie. It's shown on the map there as two single family residential properties located along Highway C. These properties are located within the Village growth area as defined in the Pleasant Prairie-Town of Bristol Settlement Agreement for orderly development.

The properties surrounding this are also currently owned by the Village of Pleasant Prairie as part of the acquisition area by the Community Development Authority. The properties, as indicated in the staff report, are currently in the floodplain of the Des Plaines River Watershed. Jean, are they in the floodway or just floodplain do you know?

Jean Werbie:

Floodway.

Mike Pollocoff:

So the floodway is the most restrictive part of it. That's actually where the channel is so to speak during a flood. So with the annexation of these properties that would conclude all the annexations that would occur in this area north up to Highway C. It would be my recommendation that the Village accept the petition for annexation, and that the notice of this annexation be forwarded to the Community Development Authority to begin the process for acquisition to include in the other lands that have been acquired by the Authority.

Jean Werbie:

I just wanted to mention and I needed to note also that these parcels will be zoned C-1, Lowland Resource Conservancy District and FPO, so those will be the temporary zoning classifications that they'll come in under. And at an appropriate time we will initiate the process for the public hearing to put them in their permanent classification.

KUMORKIEWICZ MOVED TO ADOPT ANNEXATION ORDINANCE #11 FOR THE REQUEST OF J. MICHAEL MCTERNAN OF O'CONNOR, DUMEZ, ALIA AND MCTERNAN S.C. AGENT FOR TIMOTHY CHRISTENSEN AND THOMAS CUMMINGS FOR THE ANNEXATION OF THE PROPERTIES LOCATED AT 12207 WILMOT ROAD AND 12125 WILMOT ROAD INTO THE VILLAGE OF PLEASANT PRAIRIE FROM THE TOWN OF BRISTOL; SECONDED BY TIAHNYBOK; MOTION CARRIES 4-0.

Village Board Meeting
July 5, 2005

D. Consider the request of Ted Pickus, agent for Prairie Trails, LLC owner for a six month extension of the Conceptual Plan for the proposed Prairie Trails East Subdivision.

Jean Werbie:

Members of the Board, the petitioner is requesting a six month extension of the conceptual plan for the proposed Prairie Trails East Subdivision. It's generally located between the Kenosha County Bike Trail and 25th Avenue north of 128th Street. The conceptual plan was conditionally approved by the Board on July 19, 2004. It's valid for a period of one year. Prior to the expiration of the conceptual plan the preliminary plat needs to be submitted. The petitioner has been working on satisfying the conditions of the approval and has submitted a draft of the preliminary plat and preliminary engineering plans.

Upon review of the draft preliminary plat the following items still remain outstanding, and they are outlined in the staff comments included of which are the traffic impact analysis needs to be approved by Lake County; preliminary engineering plans need to be reviewed and approved by Kenosha County; a tree survey preservation plans needs to be prepared which indicates the types and size of the trees to be preserved and protected on the site; a tree preservation and maintenance plan for outlot 2 needs to be submitted; written approval from the Department of Natural Resources on the wetlands stakings needs to be provided; and then changes to the preliminary plat as specified in the June 10, 2005 staff memo.

The staff based on their request recommends an approval of a six month extension of the conceptual plan approval for the proposed Prairie Trails East development subject to the conditions of the July 26, 2004 conceptual plan approval letter, with condition 56 being amended to read, the conceptual plan approval will be valid for a period of one year, and in this case I'm recommending six months. And the preliminary plat will require that all these details be submitted as the petitioner submits for preliminary plat approval.

Steve Kumorkiewicz:

A question for Jean. I'm kind of confused on one year and six months . . . January 12, 2005.

Jean Werbie:

The original approval was for one year until July, and now we're granting a six month extension to January. If you want to grant another one year you can do it until July of 2006.

Steve Kumorkiewicz:

So we're going to put a six month extension now?

Jean Werbie:

You're granting a six month extension from their expiration date.

Village Board Meeting
July 5, 2005

Steve Kumorkiewicz:

That will be January of 2006.

Jean Werbie:

I'm sorry, you are correct. I wasn't sure what you were getting at. Yes, 2006.

Steve Kumorkiewicz:

Now we have had this before were we . . . the conceptual plan for six month. We've given one extension.

Jean Werbie:

In conceptual plans you've given one extension. With respect to preliminary plats you've granted an additional extension.

Steve Kumorkiewicz:

So we already have one extension with this?

Jean Werbie:

No. The original approval was good for one year, and now you'd be granting one six month extension.

Mike Serpe:

How many extensions do we maximum give . . . developer.

Steve Kumorkiewicz:

That's what I'm getting at.

Jean Werbie:

For any approvals I think you've granted two or three. I'd have to go back.

Steve Kumorkiewicz:

I think that we did two with the bank right here.

Jean Werbie:

It wasn't a subdivision. It was a commercial development.

Village Board Meeting
July 5, 2005

Steve Kumorkiewicz:

I'm reluctant to grant an extension because of the changes in the State laws or the ordinance they're going to have to be subject--this extension has to be subject to any future change included in this period.

Jean Werbie:

It could be if that's part of your motion.

Steve Kumorkiewicz:

I would make a motion that way, that any changes . . .

Mike Serpe:

Doesn't that automatically happen?

Jean Werbie:

Typically they would be. At this point the conceptual plan would be subject to any comments and conditions as outlined in the staff memorandum.

Mike Serpe:

Right, but I was under the impression in the past I thought that any ordinances that were adopted during that extension period would be applied to that development.

Jean Werbie:

If I make that specific requirement as we go through preliminary and final plat that's correct. I'm not sure if that's in the original comments that we stated, but it is with preliminary and final plats because they're granted for a longer period of time.

Mike Serpe:

So at some point in time any new ordinances will be caught in the next phase?

Jean Werbie:

That's correct.

Mike Serpe:

Okay, I don't know if it's necessary to go that far.

Village Board Meeting
July 5, 2005

Jean Werbie:

You may. To be honest there were a lot of conditions with the conceptual plan and not having it in front of me I don't know if that's one of the conditions.

Steve Kumorkiewicz:

I want to make sure we're protected with that.

Mike Pollocoff:

If someone makes that motion I would include that in the motion if that's what you want.

Steve Kumorkiewicz:

Yes, I make a motion to include any change being adopted and should be added to the conceptual plan approval.

Village Board Meeting
July 5, 2005

KUMORKIEWICZ MOVED TO APPROVE THE REQUEST OF TED PICKUS, AGENT FOR PRAIRIE TRAILS, LLC OWNER FOR A SIX MONTH EXTENSION OF THE CONCEPTUAL PLAN FOR THE PROPOSED PRAIRIE TRAILS EAST SUBDIVISION TO JANUARY 12, 2006 WITH THE ADDITION THAT SUCH APPROVAL IS SUBJECT TO ALL ORDINANCE AMENDMENTS ADOPTED FROM JULY 26, 2004, THE ORIGINAL DATE THE CONCEPTUAL PLAN WAS APPROVED; SECONDED BY LAUER; MOTION CARRIES 4-0.

- E. Consent Agenda**
- 1) Approve Bartender License on File.**
- 2) Approve Letter of Credit Reduction for Arbor Ridge Mass Grading**
- 3) Approve Letter of Credit Reduction for Arbor Ridge Development.**
- 4) Approve Two Letter of Credit Reductions for Whispering Knolls.**

KUMORKIEWICZ MOVED TO APPROVE CONSENT AGENDA ITEMS 1-4 AS PRESENTED; SECONDED BY TIAHNYBOK; MOTION CARRIES 4-0.

9. ADJOURNMENT

KUMORKIEWICZ MOVED TO ADJOURN THE MEETING; SECONDED BY LAUER; MOTION CARRIES 4-0 AND MEETING ADJOURNED AT 8:45 P.M.