

**2010 BOARD OF REVIEW
VILLAGE OF PLEASANT PRAIRIE
MARCH 30, 2011
8:30 A.M.**

A Meeting of the Pleasant Prairie Board of Review was scheduled on Wednesday, March 30, 2011 at 8:30 a.m. Present were Board members John Braig, John Burke, Jill Sikorski and James Kennedy. Also present were Rocco Vita, Village Assessor and Jane Romanowski, Village Clerk.

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. RECEIVE OBJECTION WITHDRAWAL AND HEARING WAIVER FROM SMV PLEASANT PRAIRIE LLC FILED SEPTEMBER 30, 2010 FOR THE GRAND PRAIRIE HEALTH AND REHABILITATION CENTER LOCATED AT 10330 PRAIRIE RIDGE BLVD.**

The Village Clerk indicated at the September 29, 2010 Board of Review meeting, the SMV matter was discussed and the Village Attorney and Village Administrator recommended the Board issue a subpoena requesting a copy of the current lease from the property owner. For the record, SMV withdrew their objection by filing an Objection Withdrawal and Hearing Waiver with the Village Clerk on September 30, 2010.

**KENNEDY MOVED TO RECEIVE AND FILE THE OBJECTION
WITHDRAWAL AND HEARING WAIVER FROM SMV PLEASANT PRAIRIE LLC;
SECONDED BY SIKORSKI; MOTION CARRIED 4-0.**

- 4. DISCUSS SETTLEMENT AGREEMENT BETWEEN THE VILLAGE OF PLEASANT PRAIRIE AND WALGREENS CO.**

Rocco Vita stated the Settlement Agreement between the Village and Walgreens has been presented to the Board and the press. Mr. Vita stated although he was not part of the negotiations or the settlement process, the Village Board and administration felt it was in the best interest of the Village to come to terms with Walgreens Co. in this matter that has been spanning the last five years. Mr. Vita further stated the settlement agreement does not address whether the method of valuation was correct or incorrect and it does not preclude the Assessor's Office from valuing the property as it had in the past going forward in 2012. Further, the Settlement Agreement does not preclude Walgreens from coming to the Board of Review again in the future.

John Braig inquired whether the Assessor was involved in the negotiations between Walgreens and the Village in arriving at a number or was this more between the Board and Walgreens?

Rocco Vita stated negotiations of this type never really involve the Assessor. The Assessor determines the value. Lawyers negotiate numbers.

John Braig stated his understanding of the statutes is the Assessor establishes a value. The Board of Review in effect watches over, observes the Assessor and has the power at that point to modify an assessment. After that, modifications to an assessment are a function of the court.

Rocco Vita confirmed the statement was correct.

John Braig indicated in his understanding, the statutes do not allow two parties to get together and negotiate an assessment.

Rocco Vita stated the process was Walgreens filed a suit against the Village and the court supports the settlement. The settlement agreement will be filed with the court in place of the ongoing case, and the court has endorsed and supported the settlement.

John Braig affirmed in other words, the court has the final word on modifying this assessment.

Rocco Vita stated yes and that there are a lot of opinions as to the worth of the statute used for this process. Mr. Vita further stated it is a frustrating statute for all municipalities. With this particular avenue of appeal, the objector appears before the Board of Review but bypasses the appeal process of letting the Board of Review's determination go up to Circuit Court for review to see whether the Board made the correct decision based upon the evidence presented to it by both parties. Mr. Vita explained essentially what happens is the property owner has the ability to file a claim for excessive assessment after they pay a portion of their tax bill. If the community denies the claim, which is typical in Wisconsin, then the property owner files a lawsuit against the community in Circuit Court indicating the value is excessive and basically the objection starts over. The property owner can hire their appraiser to provide the value that they want. The communities are still obligated to defend their value as they have done in the past but also need to hire a lawyer and hire competent experts to deal with the specific experts provided by the property owner. It puts communities at an economic hardship to defend these claims and they are becoming more and more prevalent through time. But these negotiations are typical, and always done between lawyers – someone in the community needs to agree, like the Board agreed to this offer that the lawyers negotiated.

John Braig indicated in this situation, Walgreens initially appeared before the Board here, didn't reach satisfaction so in effect they went to the next step which really is the court step.

Rocco Vita agreed and stated there are two avenues of appeal to the courts – by certiorari which reviews the record made through the Board or Review process and the claim for excessive assessment which is a do over in front of the courts.

John Braig asked if any action was required on part of the Board.

Rocco Vita indicated there was not but the settlement agreement in and of itself withdraws Walgreen's Board of Review action for 2010.

Jill Sikorski asked if the Village looked into what type of financial impact this would have or were there provisions in the budget set aside for these types of refunds.

Rocco Vita indicated the Village has been tracking this knowing this has been coming along - always knowing there is a possibility. It just so happens that this year presented itself as a favorable time to accomplish this from the Village's perspective on an economic or financial perspective. Mr. Vita further stated that often times it is the community which has the smallest part on the tax bill that is set to defend these types of cases, and it is the school district and the counties that are generally benefitting from the value. It is the communities left to defend it though because the communities contract or hire the assessor. In Wisconsin, through the Department of Revenue, the communities are able to charge back the taxing entities which means the school district, the county and Gateway have to refund their portion of the taxes collected back to the Village. Typically the Village's portion of a tax bill is 19 percent so in reality the Village's portion of the settlement will be about 19 percent in the end.

Jane Romanowski stated for the record the Village Board approved the settlement agreement on March 21, 2011.

5. FINAL ADJOURNMENT

John Braig inquired as to the schedule for the remainder of this year.

Rocco Vita stated for 2011 he is currently working on a preliminary schedule and the Board may meet again in the middle of June.

John Braig stated this is not a revaluation year.

Rocco Vita confirmed that 2011 is not a revaluation year for the Village.

Jane Romanowski indicated the Board will just have to meet just once before the 1st Tuesday in June and then as scheduled thereafter.

**SIKORSKI MOVED TO ADJOURN THE 2010 BOARD OF REVIEW;
SECONDED BY KENNEDY; MOTION CARRIED 4-0 AND THE BOARD ADJOURNED
AT 8:45 A.M.**