

**VILLAGE OF PLEASANT PRAIRIE
COMMUNITY DEVELOPMENT AUTHORITY
Village Hall Auditorium
9915 39th Avenue
Pleasant Prairie, WI
December 19, 2007
4:00 p.m.**

A meeting of the Pleasant Prairie Community Development Authority was held on Wednesday, December 19, 2007. Meeting called to order at 4:00 p.m. Present were John P. Steinbrink, Phil Godin, Tom Reiherzer and Larry Nelson. Mike Serpe, Kate Jerome and Gary Hutchins were excused. Also present were Mike Pollocoff, Executive Director; Jane Romanowski, Secretary; and Jean Werbie, Community Development Director.

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. MINUTES OF MEETINGS - NOVEMBER 21, 2007**

NELSON MOVED TO APPROVE THE MINUTES OF THE NOVEMBER 21, 2007 CDA MEETING AS PRESENTED IN THEIR WRITTEN FORM; SECONDED BY REIHERZER; MOTION CARRIED 4-0.

4. CITIZEN COMMENTS

John Steinbrink:

Anybody wishing to speak? Hearing none, we'll close citizens' comments.

- 5. COMMISSION COMMENTS**
- 6. NEW BUSINESS**

- A. Consider Resolution #07-02 approving a Certified Survey Map to subdivide the properties located east of 120th Avenue (East Frontage Road) and north of STH 165 and identified as Tax Parcel Numbers 92-4-122-192-0300 and 92-4-122-192-0305 into two parcels.**

Jean Werbie:

The first item on the agenda is a resolution to support and approve a certified survey map. Since we have a number of items on three different agendas this evening, I do have just one presentation, so I'll start by giving the presentation regarding this particular request and then Mike Pollocoff will follow up with that request.

On the slide is a copy of an aerial photograph for a certified survey map that's proposed. The petitioner, which is the Community Development Authority, is requesting the approval of a

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certified survey map to subdivide properties that are generally located on the east side of 120th Avenue which is the East Frontage Road and north of Highway 165. The Tax Parcel Numbers are identified as 92-4-122-192-0300 and 92-4-122-192-0305. The properties are currently zoned B-5, Freeway Office District, and C-1, Lowland Resource Conservancy District, and a portion of the property is located within the FPO or Floodplain Overlay District. The existing zoning designations on the properties will remain at this time.

As shown on the certified survey map that you have in your packets, Lot 1 is proposed to be 11.52 acres with 726.23 feet of frontage on 120th Avenue, and Outlot 1 is 28.17 acres proposed. It has no frontage on a public road and is intended for environmental protection purposes. As you will note in the certified survey map Outlot 1 has an asterisk and that means specifically that that area by itself is not considered buildable, and the intent is that it will be at some point combined with the larger Conservancy property to the east. With that I'll turn it over to Mike Pollocoff.

Mike Pollocoff:

Mr. Chairman, this resolution authorizes the Authority or requests that the Village Board and the Plan Commission approve the CSM as presented. As Jean indicated, the plan for this is for what's identified as Lot 1 to be developed for sale at some point in the future. There's sewer and water on that site. Then Outlot 1 is to be, after it's been delineated by this survey, we would have an appraisal prepared to determine the value on it, and at that point we'd be looking to donate it to the Kenosha-Racine Land Trust. The Kenosha-Racine Land Trust is a nonprofit group that their goal is to protect the floodplains along the Des Plaines River Watershed, and this would enable them to with the value that we've placed on that land use it for leverage to apply for more grants to acquire more floodplain within the Des Plaines River Floodplain.

This would be in addition to the open space that's been recommended for approval by the Pleasant Prairie Park Commission for the acquisition or for the sale at no cost to the Kenosha-Racine Land Trust. As such, this resolution is requesting that we approve the CSM as prepared and begin the process to transfer Outlot 1 to the Land Trust. It would be my recommendation we adopt Resolution 07-02.

Larry Nelson:

What kind of uses is allowed under B-1?

Jean Werbie:

B-1 is actually a Neighborhood Business District, but this property is currently identified as I believe a B-5 which is a Professional Office District at this time.

Mike Pollocoff:

As a reference point this parcel is immediately north of the WisPark holdings on the north side of 165 and I-94.

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John Steinbrink:

Other comments or questions?

Phil Godin:

Move for adoption of the resolution.

Tom Reiherzer:

I'll second that.

John Steinbrink:

Motion by Phil, second by Tom on adoption of 07-02. Any other discussion?

GODIN MOVED TO ADOPT RESOLUTION #07-02 APPROVING A CERTIFIED SURVEY MAP TO SUBDIVIDE THE PROPERTIES LOCATED EAST OF 120TH AVENUE (EAST FRONTAGE ROAD) AND NORTH OF STH 165 AND IDENTIFIED AS TAX PARCEL NUMBERS 92-4-122-192-0300 AND 92-4-122-192-0305 INTO TWO PARCELS; SECONDED BY REIHERZER; MOTION CARRIED 4-0.

- B. Consider the Development Agreement including attached Exhibits for the request of the PDD-1 Pleasant Prairie Land Association, Inc.; PDD LLC; PDD II LLC; KABA Development, LLC; the Village of Pleasant Prairie Community Development Authority and the Village of Pleasant Prairie (collectively, the "Initial Parties"); regarding the development of real property included within the Village's Planned Development District No. 1 ("PDD-1"), located generally west of I-94 and between County Trunk Highway C on the north and County Trunk Highway Q on the south in the Village.**

Jean Werbie:

Members of the Community Development Authority, as some background information regarding the PDD-1 and the development agreement, I'd like to just go into a little bit of the zoning that was conditionally approved by the Village Board for this property. Over the past one and a half years the applicants, along with their professional, legal, architectural planning, civil engineering and traffic consultants, as well as the Village staff and our consultants and attorneys, have worked very diligently together in order to put together and formulate a Planned Development District #1 or a PDD-1. The PDD-1 property is generally located west of the Interstate, and it is located approximately between County Trunk Highway C on the north and south to County Trunk Highway Q, again, west of the I-94 West Frontage Road.

In order to establish the PDD-1 zoning text and proposed zoning map district which includes all the new sub districts, the following zoning text and map amendments were proposed and conditionally approved by the Village Board on April 2, 2007, the first of which is a zoning text

amendment and that was Ordinance 07-09, and it created the text for Section 420-154 of the zoning ordinance for a Planned Development Zoning District to be known as Planned Development District #1. The second was the zoning map amendment, Ordinance #07-10, which created the mapping change for PDD-1 with zoning classification including zoning sub districts that are more specifically set forth in 420-154. The Shoreland District, the Floodplain District and the C-1, Lowland Resource Conservancy Districts were not amended and remain on the particular property.

As you can see on the slide is a copy of the zoning map for the particular property reference. The PDD-1 is a very unique, complex and large scale development with distinctive project characteristics whereby the proposed development and the use of the PDD-1 property is not practical under the Village's traditional zoning ordinance districts, thus the need for a Planned Development Zoning District was created. It is important to realize and to understand that the PDD-1 sets forth in part regulations pertaining to a potential, gated campus-like complex where the gated portion is not accessible to the general public for uses centered on healthcare and pharmaceutical research and development included related business offices and other related uses. The main portion of the campus that was identified with the zoning is identified as the CA area or the core area sub district.

The establishment of this PDD-1 does not necessarily require that Abbott Laboratories will be a company or the only company that locates within the core area subdistrict. Instead, it might be a host of multiple property owners on this particular site. But those companies will be centered on healthcare and pharmaceutical research and development including related business offices and other relates uses that develop lots within the CA area of the PDD-1.

To this date the Village has not received any formal written commitments towards the time line for development for this project, but we have written the document in such a way that it is general enough in order to proceed and it provides flexibility to the landowners to proceed at this time.

The PDD-1 is a 170 page land use management and zoning regulation tool for the development of the property. The PDD-1 takes into account that the property may develop with multiple lots and multiple separate property owners. Additionally, PDD-1 also establishes zoning regulations pertaining to the three peripheral sub districts which are identified as the BA-1, BA-2 and BA-3 areas. Again, those are along the southern portion of the development site, the southeastern corner and then at the very northeastern corner of the site.

As you can see, on the slide is a conceptual development plan was a part of the PDD-1 document. This conceptual plan does set forth where the public roadway system would be located around the exterior of the development site, and it also sets forth an internal looped roadway private system for the campus.

The PDD-1 is very unique. By statute the PDD-1 is different than any other type of zoning district. The PDD regulations do not have to be uniform so it can be very site specific and it is. And a PDD cannot be imposed unilaterally by a municipality on the landowner. All the landowners must consent to the PDD. In this case Abbott needed a finally approved zoning framework in place that offered flexibility that it needed in order to buy a company, relocate a

division, sell off a division, or have in place to put without going through the months long process to an uncertain end.

This PDD-1 is able to provide the required flexibility by reference to the conceptual development plan that you have just seen by reliance on a site and operational plan approval requirement the Land Division and Development Control requirements of the Village, and by reliance on a development agreement which we'll be presenting to you this evening. And this relates specifically to the public and private infrastructure that's needed for this proposed development.

As part of Section D. of the PDD document that is entitled Development Agreement which is part of Chapter 420-154 of the zoning ordinance, it's noted that the PDD-1 covers and regulates a myriad of development-related topics. The development agreement section specifies in detail the necessity and the requirements for a development agreement for public and private infrastructure improvements and the requirements for the development to the property. The development agreement as presented this evening shall be entered into between the Village and each of the owners of any portion of the property as a condition precedent to the adoption and the effectuation of the PDD ordinance.

The development agreement includes these different sections and discussion: It includes discussion on the preliminary engineering design plan for required public and private roads; sanitary sewer and water systems and storm water management facilities to serve such development in the property; a related preliminary storm water management report based on the hypothetical build out of PDD-1; and related documents identifying the components of such facilities required in connection with any development in each of the 19 specific areas of the property in providing the storm water management model and other mechanisms needed to adjust and refine the master facilities plan as incremental development proceeds.

I'll be showing to you this evening six different maps as shown on the easels across the room that identify the development maps and then each of the incremental phases of the sewer, water, storm sewer, curb and gutter. Those documents are also in your development agreement at a reduced scale. In addition, the preliminary engineering plans which should be in the inside front cover of your binder are also on the table along with the storm water management reports if you would like to see something at a larger scale or if you have any specific questions. We do have representatives here that could answer those very specific details if you have questions.

So now going forward with the development review, the development agreement overview. The approval and the execution of the development agreement by the Village and the owners, again, is a condition precedent to the effectuation of the zoning which was created by PDD-1 and Section 420-154 of the ordinance. The development agreement is proposed to be entered into between the various parties, Pleasant Prairie Land Association, Inc., which is the owners association; PDD, LLC; PDD II, LLC; KABA Development, LLC; the Village of Pleasant Prairie Community Development Authority; and the Village of Pleasant Prairie.

The PDD-1 property is legally described and is shown as Exhibits A through F in the development agreement. The functions of the Pleasant Prairie Land Association are, among others, to enforce the agreement and facilitate the implementation of the development agreement.

The parties anticipate that development of the PDD-1 property will occur incrementally over a substantial but indefinite period of time, that such development may occur in a leapfrog manner, and that such development may involve multiple unrelated property owners. The development of the property may include various sized buildings and a wide variety of potential configurations and arrangements.

As I mentioned previously, the required public or private improvements will be constructed incrementally as the development proceeds and as the Village requires such construction to occur. Preliminary engineering design plans for certain roadway, sanitary sewer, water and storm water management facilities to serve the development and use of the property have been prepared as well as the preliminary storm water management report. I'm going to go over these quickly. We can always come back and look at these slides in detail.

The first is the development area overview. Again, the entire site has been identified and broken up into 19 potential development areas. The next slide is the slide that identifies private roadway requirements. Again, there will only be public roadways on the periphery of this development, so the County Trunk Highways, the frontage road system, those will be the public roads. All the rest will be private within this development. Next are all the sanitary sewer requirements to service this entire development. We have the sanitary sewer system with specific diameters of pipes, lengths of pipes. There's a map that identifies specific water requirements within the development. There's a specific map that identifies the water main with the specific diameters for this project.

Continuing with the development agreement overview, the Village anticipates that it will commence construction in 2008 of certain tax increment finance projects, the TIF projects, that have already been approved under the tax increment project plan and these consist of the following: The expansion and partial relocation of 120th Avenue, the west I-94 Frontage Road between Highway C on the north and Highway Q on the south, the construction of public sanitary sewer, water and storm water management improvements along 120th Avenue, and certain additional storm water management improvements that would be east of 120th Avenue and west of I-94. These improvements will serve the development of the PDD-1 property.

The Village also anticipates initiating in 2008 as already approved TIF projects the construction of the following: County Trunk Highway Q improvements, public sanitary sewer, water and storm water management improvements along County Trunk Highway Q, and one of the things that has been identified is that a new Village water tower in the northwestern portion of the PDD-1 property would commence only at such time as the tower is needed to maintain the fire flow at 3,500 gallons per minute for three hours. Obviously that will not be immediately.

Other items as part of the overview, the State or Kenosha County improvements to the I-94/County Trunk Highway C interchange and to the Highway C to the north of the PDD-1 property, County Trunk Highway Q to the south of the property, and to County Trunk Highway U to the west of the property will be required to support the development and the use of the PDD-1 property. Additional right of way will need to be required to be dedicated for the adjacent highway widening project.

The PDD and PDD II have indicated their desire to relocate or to have relocated to the County Trunk Highway Q corridor the American Transmission Company or the ATC electric power transmission line currently located along the western edge of the property. Funds from the sale of the portion of the KABA property pursuant to an agreement dated as of April 7, 2006 by and between the Wisconsin Department of Commerce and KABA may be available to pay for some of the cost improvements to the I-94/County Trunk Highway C interchange and to County Highways C, Q and U. These funds will be required by the State and the County authorities to support the development and the use of the PDD-1 property and may be available to pay for some or all of the costs of relocating the transmission line.

The PDD-1 ordinance imposed aggregate limitations, and Mike may be going into detail in this section, but there was a significant amount of discussion and narrative that talks about waste water and water service for this property. So, again, the PDD-1 ordinance imposed aggregate limitations on first the maximum amount of waste water for all uses and the development within the PDD-1 property that can be discharged to the Village's waste water system. Second, the maximum amount of waste water for all healthcare production manufacturing uses within the PDD-1 property that can be discharged to the Village's waste water system. And, finally, the maximum amount of Village water for all uses and developments within the PDD-1 property that it can use unless and until additional distribution line capacity is added to the Village's waste water system and/or the Village's water system as provided for in the agreement.

And, finally, with respect to the development agreement overview, there are a couple of items that the staff is in the process of continuing to review and to work with the developers on, and there are three things that I'd like to point out and note that we do need to have these all completed within a timely manner and as referenced in the development agreement. The first is a declaration that is being prepared for the PDD-1 property. In your packets and also e-mailed to you was some additional information. There was some correspondence that went back and forth between the attorneys from Abbott and the Village attorneys and our staff as part of our review of the initial documents that were submitted. These declarations do need to be finalized, and I believe the end of January is when their cutoff date is to get those submitted to us for some final reviews.

The next is bylaws for the association, and my understanding is that the traffic study is currently being updated with some additional new information. So we do need to have those all completed and we have set forth specific time frames for that work to be completed. With that I would like to turn it over to Mike to see if he would like to add any additional comments or information related to the development agreement.

Mike Pollocoff:

Thank you, Jean. If you turn to Page 37 of your agreement, one of the responsibilities of the Authority within this agreement is to convey certain properties that the Community Development Authority acquired over to Abbott. If you look at the map highlighted on here, by and large it's about 53 acres in total, but it's this piece here and that is composed of land that was acquired as part of the frontage road realignment in the project that we did in cooperation with the State of

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Wisconsin. It also included one of the book stores and an RV sales yard. The second piece of property is roughly in here. That was another adult book store use.

In this agreement the Community Development Authority is agreeing to convey those properties at no cost to the PDD-1 after they've obtained 300,000 in square footage of construction. When that happens then the Authority would make that transfer of the property. One of the things that was the mission of the Authority at the time we adopted the redevelopment plan was in the first instance to identify blighted areas in there. The second was to acquire it and eliminate it. And the third would be to provide for redevelopment. So as the development proceeds along and they achieve that benchmark of 300,000 square feet, then the land would be dedicated to them.

There may be some land that is subtracted from that and that would really be additional right of way that the Department of Transportation may acquire for any modifications they're making along the Interstate. So I really believe that the mission of the Authority is accomplished by this project. There's no question that as this development occurs over time it's going to satisfy what well could be all of our best hopes for what we planned to do when we began the process to redevelop that area. This is one of the specific items that is related to our responsibilities in this agreement.

Secondly, as part of the redevelopment plan, and Jean touched on this and I think it's important to keep this perspective, Tax Increment District #2 as it was amended about seven years ago, we identified certain levels of improvements that needed to be made in this area, the first of which was the Frontage Road realignment which came down here, then finally it was the rework of this remaining Frontage Road as it borders the PDD-1 property. In addition, we're going to go even farther down and, again, this is part of the redevelopment plan, almost down to 116th Street.

We've undertaken the first phase of the Frontage Road realignment. You can go out there and drive on that at this point. Sewer and water has been brought across the Interstate. Water has been run north on the Frontage Road from County Trunk Highway Q. There's also work, as Jean indicated, that's going to be done on County Trunk Q right along here for the expansion of that roadway and sewer and water. Our initial plans are to expand that roadway within the Phase 1 parameters of the traffic study in this development.

These improvements would take place irrespective of whether or not this development proceeds. When the Village prepared the pro forma for the TIF 2 amendment, this TIF District goes from the Village limits right here all the way over to Green Bay Road. So it encompasses a large part of the WisPark holdings. It's also south of Highway Q down here. These projects need to proceed as part of our project plan for that TIF District. The PDD-1 property was included in the TIF District but no plans were made for improvements within that property at the time we developed that initial TID. We felt at some point it would, but these improvements along the Interstate needed to occur for a number of reasons. One is to justify the acquisition of the properties, but secondly it was a goal of the Authority to kind of set the table for development to occur in this area and we've done that.

So our ability to retire those bonds on those improvements are not tied to any development occurring on this site. Our ability to retire those bonds is based on the performance of the

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remaining area of the TIF District. At the time we did the TIF we anticipated nothing more than agricultural values that would be placed on the land that PDD-1 owns, but that's work that we need to have done in order to complete our project plan, and it will suffice to serve that development at such point as they get ready. But that's the relationship of the two. We're not doing this now to facilitate Abbott or PDD-1 immediately, but we do need to do it to complete the project plan.

Within the agreement we've identified that the Village would be willing to undertake sewer and water improvements for the PDD-1 site at some point in the future when they're ready to go. We've had just all along excellent discussions and working through developing ways to put this together with representatives from Abbott. It's been a great working relationship and they've been cautious and careful about making sure the Village was not put in a difficult position. They've worked really hard to make sure that was the case. I know on my behalf and the staff's we appreciate that and they're going to be an excellent corporate citizen at such time as they get ready to start. Like I said, they show a great amount of concern on how we're going to be able to deal with this. It's not burdensome and the Village is well protected.

So tonight I'd recommend that the Authority adopt the development agreement as presented with the understandings of the conveyance of the property from the CDA to the PDD-1 eventually and forward it onto the Plan Commission and the Village Board. If there's any questions I'd be glad to answer them.

Larry Nelson:

Has there been any discussion on the LEED facilities, environmentally efficient buildings when they're built?

Mike Pollocoff:

We've had some discussions with them and I believe they're looking at it, the LEED, but I'm not sure that they're there. We could discuss that with our architect but we have not required that as part of this agreement. But we're leaving that up to the owner to work through that as they complete the individual or specific architectural design on the buildings.

Larry Nelson:

The current road infrastructure, going to page 35, says 600,000 square feet of new buildings can be basically handled with the infrastructure.

Mike Pollocoff:

Right.

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Larry Nelson:

Jean answered the first part of my question which was going to be who is responsible for any further road and site improvements to this site. The other part of my question was going to be are we or the landowners association working with the DOT in making them aware of the situation of what's going to be required for the total build out of this property and the surrounding areas that Pleasant Prairie also owns? And, with that, is there any estimation on the amount of buildings that can be built once the infrastructure is properly done?

Mike Pollocoff:

The answer to the first question is we've had numerous discussions with DOT, and John Steinbrink has been facilitating that with the State. Abbott is in the process of completing the traffic study which is really going to give everybody the data they need to evaluate what improvements needs to take place. Our engineers as well as the project team from Abbott feel that that first phase development, what we're doing with the Frontage Road improvements now as we've already planned in our TIF District, are going to be able to accommodate that and we'll be okay.

When we developed our agreement with KABA that's one of the main sources of revenue to take care of those off site improvements. I think that's going to evolve. If you think back to when we prepared the WisPark plans, again that was 1,600 acres over a big area, and that traffic plan did evolve over time. We've had discussions with the County Executive about participating on the County Road projects and they've indicated their willingness to do that. Like I say, we do have that once source of funds. One of the County roads in the Village. Q, we're going to be improving as part of our TIF District. But we'll have a better picture of it once that traffic study is completed.

Larry Nelson:

My main concern is, too, the information that's required to the DOT. They're obviously redesigning the road and redesigning ramps, to make sure we get them the information in a timely manner.

Mike Pollocoff:

We've already done that. In fact the Highway C interchange has already—on the Interstate highways that's a 50 year design. So we took what the maximum development would be for the PDD-1 site and that interchange is being designed for that maximum use because that thing has to last for 50 years. So that is in place. That's already funded.

Jean Werbie:

And if I can add to that, the DOT did present a series of plans back on December 6th to the Kenosha area to identify as part of their public hearing all of the improvements up and down the Interstate as well as County Highway C. And we actually do have those plans that are 60 percent

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complete and the drawings and the aerials back by the Village staff offices so we can show you those. But they were keenly aware from the first part of the traffic study that was provided to them exactly what was going to be needed for the various stages of build out for this campus. We're just updating and providing more refined information with a new traffic study to them in the next few months.

Larry Nelson:

And my final comment was going to be I think your staff did a great job putting this together. It's very inclusive. A lot of my questions that I had actually written down were answered in its entirety. So thank you for a good job for putting this together. I know it took a lot of work to complete this.

Mike Pollocoff:

Thank you. It was a good team on both sides.

Phil Godin:

Mike is the CDA portion of this entire parcel 55 acres?

Mike Pollocoff:

53.92.

Phil Godin:

And is it your opinion that as a result of this development agreement the CDA parcel value will be enhanced?

Mike Pollocoff:

Definitely, the remaining parcels.

Phil Godin:

Explain what may happen to the CDA parcels since we're the CDA if no further action was taken after today.

Mike Pollocoff:

If the development didn't proceed in the worst case scenario the land would not be conveyed to PDD-1 because it wouldn't have achieved the 300,000 square foot threshold to be able to acquire the land so the land would be sitting. The value that the Authority is losing is not value that is financial. Virtually 95 percent of the land that we're going to be conveying to PDD-1 is wetlands and floodplain. It's land that did have buildings on it, but as part of the redevelopment plan we

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required those adult book stores and the RV place that land was lowered, put into the floodplain and revegetated with wetlands. That was the purpose of it. So what value there was in there was put in the wetlands which we need and which is going to be good for the PDD-1 site. So in the worst case scenario if for some reason they don't build the wetlands and the floodplains remain with the authority but we haven't conveyed them because they haven't started.

Phil Godin:

And this 53 acres is just a small portion of all of the land that the CDA obtained title to in the last three years, right?

Mike Pollocoff:

Right. It's probably about 25 percent of what we acquired.

Phil Godin:

So we also have that other 75 percent which we have been marketing and working on different proposals to try and maximize value, right?

Mike Pollocoff:

Right. This all along, in fact, these improvements this land was all done with tax exempt funding because we didn't really plan on from the first instance before we knew about Abbott we didn't plan on selling it. It was really going to be for conservation work.

Phil Godin:

This particular part of the PDD-1?

Mike Pollocoff:

Right.

John Steinbrink:

Other comments or questions from Commission members?

Phil Godin:

I move for adoption of the development agreement.

Larry Nelson:

Second.

GODIN MOVED GO APPROVE THE DEVELOPMENT AGREEMENT INCLUDING ATTACHED EXHIBITS FOR THE REQUEST OF THE PDD-1 PLEASANT PRAIRIE LAND ASSOCIATION, INC.; PDD LLC; PDD II LLC; KABA DEVELOPMENT, LLC; THE VILLAGE OF PLEASANT PRAIRIE COMMUNITY DEVELOPMENT AUTHORITY AND THE VILLAGE OF PLEASANT PRAIRIE (COLLECTIVELY, THE "INITIAL PARTIES"); REGARDING THE DEVELOPMENT OF REAL PROPERTY INCLUDED WITHIN THE VILLAGE'S PLANNED DEVELOPMENT DISTRICT NO. 1 ("PDD-1"), LOCATED GENERALLY WEST OF I-94 AND BETWEEN COUNTY TRUNK HIGHWAY C ON THE NORTH AND COUNTY TRUNK HIGHWAY Q ON THE SOUTH IN THE VILLAGE; SECONDED BY NELSON; MOTION CARRIED 4-0.

- C. Receive letter by *Kenosha News* to the Wisconsin Attorney General regarding meeting notices.**

Mike Pollocoff:

Mr. President, in your packet we've received a copy of correspondence that was sent from the *Kenosha News* to the Attorney General of the State of Wisconsin commenting on the Village's CDA practice of entering into Executive Session. My request is that we receive that file and we have a later item for discussion in Executive Session. We need a motion to receive and file.

Phil Godin:

So moved.

Tom Reiherzer:

Second.

GODIN MOVED TO RECEIVE LETTER BY *KENOSHA NEWS* TO THE WISCONSIN ATTORNEY GENERAL REGARDING MEETING NOTICES; SECONDED BY REIHERZER; MOTION CARRIED 4-0.

7. CONSIDER ENTERING INTO EXECUTIVE SESSION:

- A. Pursuant to Section 19.85(1)(e) Wis. Stats. to deliberate or negotiate the purchase of public property, investing of public funds, or conduct other specified public business, whenever competitive or bargaining reasons require a closed session with Centerpoint Properties for land owned by the Community Development Authority generally located South of CTH Q and west of the 120th Avenue right-of-way.
- B. Pursuant to Section 19.85 (1)(g) Wis. Stats. to confer with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved with respect to a letter from the *Kenosha News* to the Wisconsin Attorney General regarding meeting notices.

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Kevin Long:

My name is Kevin Long. My address is 7945 North Fairchild Road in Fox Point, Wisconsin. This item, actually the next two items relate in some sense to the letter received from the *Kenosha News* in the fact that the Wisconsin Courts, the Appellate Courts, both the Wisconsin Court of Appeals and the Wisconsin Supreme Court have provided some guidance in the last several months regarding closed meeting issues and they deal primarily with three topics. The topics are when is it appropriate for bodies such as the CDA to go into closed session. The second topic is what is appropriate in meeting notices for closed session items. And the third topic is what should be done in open session before a body such as the CDA goes into closed session.

There's somewhat of a fact specific analysis that happens in all of these and throughout the decisions of the Courts they've said they don't want to overburden public entities and they appreciate the good work that all of you citizen volunteers do in serving on these Boards. But, notwithstanding that, there are a couple of guideposts that the Courts have given us now and those include the following: That in our notices we should indicate some mechanism that we feel is appropriate that tells the public here's in general what's going to be talked about and voted upon to go into close session. For instance, you would say John Doe versus the Community Development Authority of the Village of Pleasant Prairie. The Courts say in our notices rather than just saying consider entering into a session we should say in the notices we're going to consider entering into an Executive Session to discuss legal strategy respecting John Doe versus the Community Development Authority of the Village of Pleasant Prairie. That's the first thing.

The second thing has to do with when you vote on that. Rather than just voting in general the Courts say you should discuss a little bit about in open session about what is going to be discussed in closed session. The example, again, would be the same. Well, the CDA is involved in a litigation, John Doe versus the Community Development Authority of Pleasant Prairie, we're going to decide whether to go into closed session to discuss legal strategy with counsel.

The other issue that typically happens in closed session, at least most often, has to do with development proposals and that's certainly one that the CDA is involved in and will be involved in in the future. And what the Courts have said in the cases that came down in the last few months is that the CDA needs to do an analysis about whether or not it can go into closed session or should go into closed session, and it needs to discuss in closed session just the things that need to be in closed session. And what they've said particularly is that simply because a developer asks to go into closed session doesn't necessarily mean that the CDA should go into closed session. In fact, in one of the cases that particular reason for going into closed session was positive and the Court said, no, that's not a sufficient reason.

However, the Court did say that it is a sufficient reason to go into closed session if the Board wishes to discuss negotiation strategy with respect to that particular development proposal. So those are the things that I think—you'll notice that in the notices that went out for this meeting we did provide additional information respecting the closed session items. There are two of them. And then secondly when you vote on the next two matters, 7.A. and 7.B., it should be proceeded

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in some session by what it is that's going to be discussed. I can do that for you in general because I'm familiar with them.

7.A., pursuant to Section 19.85(1)(e) to deliberate or negotiate the purchase of a public property, investing of public funds, or conduct other specified public business whenever competitive or bargaining reasons require a closed session respecting negotiations respecting the Centerpoint properties for land owned by the Community Development Authority generally located South of County Trunk Highway Q and west of the 120th Avenue right of way. It is appropriate for us to say in open session here that that is what we'll be talking about, and what we'll be talking about is negotiation strategies with respect to that piece of property.

We can do these in order or I can give you the description of 7.B.

John Steinbrink:

Probably give us the description of 7.B.

Kevin Long:

Okay. 7.B., in fact, discusses the letter that was received from the *Kenosha News*, and it will in general be answering questions that you have respecting the letter and what it means or what it doesn't mean with respect to potential litigation. The letter does not indicate we are going to pursue litigation. It's more in some ways a helpful letter saying we think that the CDA should be mindful of these new cases and we certainly will be discussing that in closed session, or we will be discussing that in closed session should the CDA decide to enter into closed session.

John Steinbrink:

Any questions or comments for Attorney Long. Hearing none, thank you.

Jane Romanowski:

We would need a motion, a second and a roll call vote for each item individually.

John Steinbrink:

So Mr. Long's description is sufficient for our noticing here this evening.

Jane Romanowski:

Yes.

Tom Reiherzer:

I make a motion that we go into closed session on Item A.

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Phil Godin:

Second, 7.A.

John Steinbrink:

REIHERZER MOVED TO ENTER INTO EXECUTIVE SESSION PURSUANT TO SECTION 19.85(1)(E) WIS. STATS. TO DELIBERATE OR NEGOTIATE THE PURCHASE OF PUBLIC PROPERTY, INVESTING OF PUBLIC FUNDS, OR CONDUCT OTHER SPECIFIED PUBLIC BUSINESS, WHENEVER COMPETITIVE OR BARGAINING REASONS REQUIRE A CLOSED SESSION WITH CENTERPOINT PROPERTIES FOR LAND OWNED BY THE COMMUNITY DEVELOPMENT AUTHORITY GENERALLY LOCATED SOUTH OF CTH Q AND WEST OF THE 120TH AVENUE RIGHT-OF-WAY; SECONDED BY GODIN; ROLL CALL VOTE – STEINBRINK – YES; GODIN – YES; REIHERZER – YES; NELSON – YES; MOTION CARRIED 4-0.

John Steinbrink:

Then on Item B we're looking for a motion.

Tom Reiherzer:

I'll make the same motion to go into closed session for 7.B.

Larry Nelson:

Second.

REIHERZER MOVED TO ENTER INTO EXECUTIVE SESSION PURSUANT TO SECTION 19.85 (1)(G) WIS. STATS. TO CONFER WITH LEGAL COUNSEL FOR THE GOVERNMENTAL BODY WHO IS RENDERING ORAL OR WRITTEN ADVICE CONCERNING STRATEGY TO BE ADOPTED BY THE BODY WITH RESPECT TO LITIGATION IN WHICH IT IS OR IS LIKELY TO BECOME INVOLVED WITH RESPECT TO A LETTER FROM THE KENOSHA NEWS TO THE WISCONSIN ATTORNEY GENERAL REGARDING MEETING NOTICES; SECONDED BY NELSON; ROLL CALL VOTE – STEINBRINK – YES; GODIN – YES; REIHERZER – YES; NELSON – YES; MOTION CARRIED 4-0.

John Steinbrink:

The Commissioners will return to open session for the purpose of adjournment only. No other business will be conducted.

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8. RETURN TO OPEN SESSION

After discussion was held, **GODIN MOVED TO RETURN TO OPEN SESSION; SECONDED BY REIHERZER; ROLL CALL VOTE – STEINBRINK – YES; GODIN – YES; REIHERZER – YES; NELSON – YES; MOTION CARRIED 4-0.**

9. ADJOURNMENT

GODIN MOVED TO ADJOURN THE MEETING; SECONDED BY REIHERZER; MOTION CARRIED 4-0- AND MEETING ADJOURNED AT 5:22 P.M.