

**PLEASANT PRAIRIE PLAN COMMISSION MEETING
VILLAGE HALL AUDITORIUM
9915 39TH AVENUE
PLEASANT PRAIRIE, WISCONSIN
5:00 P.M.
June 12, 2006**

A regular meeting for the Pleasant Prairie Plan Commission convened at 5:00 p.m. on June 12, 2006. Those in attendance were Thomas Terwall; Wayne Koessler; Andrea Rode; Jim Bandura; John Braig; and Larry Zarletti. Michael Serpe, Judy Juliana and Donald Hackbarth were excused. Also in attendance were Michael Pollocoff-Village Administrator; Jean Werbie, Community Development Director.

1. CALL TO ORDER.

2. ROLL CALL.

Tom Terwall:

Before we move ahead, I'd like to on behalf of the Plan Commission welcome Andrea to this group. I'm sure you're going to be an asset. That's for sure. It won't take long to get up to speed. I understand with your experience it should come fairly quickly. So hopefully we do things a little differently here than we do in Illinois, but we'll see what happens.

Andrea Rode:

Thank you. It's really a pleasure and an honor to be here and to have been asked to serve on this Board.

3. CORRESPONDENCE.

Jean Werbie:

Mr. Chairman I have two things. First of all, I have before you a copy of the Village of Pleasant Prairie Plan Commission listing of names, phone numbers and term expirations for the Plan Commissioners for your files. If anyone needs it in an electronic copy we can certainly send it to you in that form as well.

The second thing I just wanted to mention is in the *Kenosha News* last week there was some discussion regarding the Devonshire Subdivision. It mentioned that this item was going to be taken up by the Plan Commission on Monday night. And actually it's not this Monday night but it's two weeks from Monday night because we were referring to a public hearing notice that was being published. So Devonshire is not on the agenda tonight. I'm not sure if anyone is here to talk about the Devonshire project but it is not on the agenda tonight. It is on the agenda for Monday night, June 26th.

Tom Terwall:

Thank you.

4. CONSIDER THE MINUTES OF MAY 8 AND MAY 22, 2006 PLAN COMMISSION MEETINGS.

Wayne Koessl:

Mr. Chairman, I move we approve them as presented in written form.

Larry Zarletti:

Second.

Tom Terwall:

MOVED BY WAYNE KOESSL AND SECONDED BY LARRY ZARLETTI TO APPROVE THE MINUTES OF THE MAY 8TH AND MAY 22ND MEETINGS OF THE PLAN COMMISSION AS PRESENTED IN WRITTEN FORM. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

5. CITIZEN COMMENTS.

Tom Terwall:

If you're here for an item that's on the agenda and listed as a matter of public hearing, we would ask that you hold your comments until that public hearing is held so that your comments can be incorporated as an official part of the record of that hearing. However, if you're here to discuss an item that is not a matter of public hearing, or if you have a question or comment about an item not on the agenda, now would be your opportunity to speak. It's just that we would not be able to take any action because it's a non agenda item. Is there anybody wishing to speak under citizens' comments?

6. OLD BUSINESS

A. TABLED PUBLIC HEARING AND CONSIDERATION OF A ZONING TEXT AMENDMENT at the request of Kurt Meeske of Prime Outlets at Pleasant Prairie LLC, owner, for a Zoning Text Amendment to amend Chapter 420 Attachment 3 Appendix C Specific Development Plans 2. of the Village Zoning Ordinance pertaining to amending the year 2002 Prime Outlets at Pleasant Prairie Planned Unit Development Ordinance.

Tom Terwall:

I'll need a motion to remove it from the table first of all.

Larry Zarletti:

So moved.

Wayne Koessl:

Second.

Tom Terwall:

MOVED BY LARRY ZARLETTI AND A SECOND BY WAYNE KOESSL TO REMOVE THIS ITEM FROM THE TABLE. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? Now that we've got it off the table, the action that's recommended is that this item be continued to be tabled until when, Jean?

Jean Werbie:

Until July 24th.

John Braig:

So moved.

Jim Bandura:

Second.

Tom Terwall:

IT'S BEEN MOVED BY JOHN BRAIG AND SECONDED BY JIM BANDURA TO TABLE THIS ITEM UNTIL THE JULY 24TH MEETING OF THE PLAN COMMISSION. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

7. NEW BUSINESS

A. PUBLIC HEARING AND CONSIDERATION OF A PRELIMINARY PLAT for the request of Ronald Christman, agent for Paramount Ventures, LLC owners of the property located east of 88th Avenue at Lexington Place to convert Lexington Village Apartments to Condominiums.

Jean Werbie:

Mr. Chairman and members of the Commission, the petitioner is requesting approval of a Preliminary Plat to convert Lexington Village Apartments to Condominiums. The property is located east of 88th Avenue at Lexington Place.

Lexington Village Apartments and associated infrastructure was installed in 1997 pursuant to the Development Agreement approved by the Village and entered into between the Village and Paramount Ventures, LLC and Ener-Con Builders, Inc. on September 23, 1997. Lexington Village consists of two 6-unit buildings and nine 12-unit buildings for a total of 120 units on the 19.888 acres of property. The development has a net density of 6.59 units per net acre. All units have individual entrances and 2 bedrooms that range in size from 1,090 square feet to 1,160 square feet. Two units in each of the 6-unit buildings and four units in each of the 12-unit buildings have one car attached garages and the remainder of the units have a two car attached garage.

The sewer that is installed throughout the development has been dedicated to the Village and with this conversion, the water system, which was installed in 1997 pursuant to the Village public water main specifications, is proposed to be dedicated to the Village and be a public water main. The storm sewer facilities within the Development will remain private utilities and Lexington Place will remain a private roadway. These two facilities will be owned and maintained by the Lexington Village Unit Owners Association, Inc.

On May 19, 1997, the 1.7 acres of wetlands on the property were rezoned to C-1, Lowland Resource Conservancy District, and the non-wetland areas were rezoned into the R-10, Multiple Family Residential District, and the entire property was put into the PUD, Planned Unit District. Even though the project was originally developed as a Planned Unit Development, in 1997 the Village did not write specific ordinances for PUD. With the conversion of the apartments to condominiums, a PUD Ordinance will be required that sets forth the specific requirements for this development. Developing as a PUD will specify regulations giving flexibility with dimensional requirements of the Village Zoning Ordinance provided there is a defined benefit to the community. Attached is a draft copy of the PUD Ordinance for this development. At the time that the Final Condominium Plat is considered and application for the Zoning Text Amendment to amend the zoning ordinance to create the PUD is provided, it will be submitted and considered by the Plan Commission and the Village Board.

Again, the purpose of this request this evening is to create a preliminary condominium plat from the apartment project that currently exists since 1997. With that, this is a matter for public hearing.

Tom Terwall:

This is a matter for public hearing. Is there anybody wishing to speak on this issue? Anybody wishing to speak? Anybody wishing to speak? Hearing none, I'll close the public hearing and open it up to comments and questions from Commissioners and staff.

John Braig:

It says that they're going to dedicate the water main to the Village or the Village will accept responsibility. Will the incremental revenue from 120 units separately metered and billed compensate the Village for the additional responsibility of maintaining the water main?

Mike Pollocoff:

We could have to change the metering situation. We have been maintaining that line as it is. Not that a main of that nature takes a lot of maintenance.

John Braig:

Is each building metered separately and individually now?

Mike Pollocoff:

Yes.

John Braig:

But the units are not?

Mike Pollocoff:

Right. So under a condominium there's going to be a flat fee that's placed on each unit in addition to the meter charge.

John Braig:

Are there going to be 120 accounts there?

Mike Pollocoff:

No. It will still be the same number of accounts, but each one is going to have instead of just a one flat fee for the building there will be a flat fee for each one of the units in that building that will be greater than just a single flat rate.

John Braig:

Who is going to pay--for an individual account for one building, who will receive and be responsible for that bill?

Mike Pollocoff:

The association. And that bill would be made up--the composition of that bill would be different. It will be based on number of units within a building rather than just one meter charged at a fixed fee for the entire building. Now it's going to be for the number of units. Our Public Service Commission order differentiates between a rental property and owned property and how the unit charges are based. So will it make up the spread? Probably the maintenance of the main is not a serious issue. That's a 100 year main. The biggest maintenance issue is hydrants and valves. That's paid for through the fire protection fee that's levied based on the value. We believe that the value of this assessment will increase by being an owner occupied property rather than a rental property. Then it won't be based on the value of the rents. It will be based on the market value of those units.

John Braig:

And how are the charges for the Clean Water Act, the impervious surface charges, determined?

Mike Pollocoff:

That doesn't change. That would still go to the association. The ratio of pervious to impervious area remains the same.

John Braig:

Okay, thank you.

Tom Terwall:

What percentage of the units are going to be sold and which percentage of the units are going to be retained for rental? And of those for rental who will they be owned by?

Jean Werbie:

Well, I don't know the second question. The first question is they have put together restrictive covenants in their declaration of condominium that sets forth that no more than 20 percent of the total number of units would be available for rent at any one point in time, which means that they would need to have a minimum of 80 percent that are always owner occupied. The new limited organizations, the Lexville LTD that they are creating for this, my understanding is that that organization is going to be owning some of the units and then renting them back to some of the tenants. So they're still working out some of those details with each of the tenants out there with their attorney. As you know, it's a rental project so they need to give everyone an opportunity to buy their units and/or finish out the lease terms or enter into some type of new lease arrangement with them if they're going to continue to be rental. But, again, 80 percent will need to convert to owner occupied.

Tom Terwall:

So the 20 percent that are available for rent will include those owned by Lexington or Ener-Con or whoever, plus individual units that are privately owned and for whatever reason the person wants to rent it out?

Jean Werbie:

Correct. The maximum number will be 20 percent. It doesn't matter who they're owned by.

Wayne Koessl:

Mr. Chairman, this is a preliminary plat and I'm sure that any issues that have to be attended to will be answered by the staff before they bring it back as a final. With that, I would move approval that we send a favorable recommendation to the Village Board to approve the preliminary condominium plat.

Jim Bandura:

I'll second.

Wayne Koessl:

Subject to the conditions outlined by staff.

Tom Terwall:

IT'S BEEN MOVED BY WAYNE KOESSL AND SECONDED BY JIM BANDURA TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE PRELIMINARY PLAT SUBJECT TO THE TERMS AND CONDITIONS OUTLINED IN THE STAFF MEMORANDUM. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered. As you know, former Town Chairman Don Wruck lives in this area. I pick him up probably once a week to go to breakfast, and I'll tell you this is an outstanding maintained facility. It's probably one of the best apartment/condos that I've ever been in. It's really well maintained.

B. PUBLIC HEARING AND CONSIDERATION OF AN AMENDMENT TO SECTION 395-75 A OF THE LAND DIVISION AND DEVELOPMENT CONTROL ORDINANCE relating to Sidewalks.

Jean Werbie:

Mr. Chairman and members of the Commission, this is an ordinance to amend Section 395-75 A of the Village's Land Division Ordinance and Development and Control Ordinance as it relates to sidewalks. What we had learned after going through the provisions in the Land Division Ordinance and some of the other public improvement standards within the Municipal Code, we noticed that there was a conflict with respect to how the provisions for sidewalks were originally drafted back in the early 1990s. So we are proposing through this public hearing this evening that Section 395-75 A be amended as follows, and this is how the general requirement would read:

General requirement. Subject to this Chapter and Chapter 405, Public Improvement Projects, concrete sidewalks shall be required on a case-by-case basis wherein the Village Board determines that the amount of pedestrian traffic and the risks to pedestrian safety justify the installation of sidewalks.

As you can see, with the scored area below that, there were provisions that sidewalks could be required in all subdivisions, in all commercial developments and in institutional developments, and over the years we have found that the Village has not been requiring sidewalks in many areas, only those very well traveled areas, those areas with high pedestrian count and in commercial areas that were part of the unified development. So as a result, we wanted to make sure that the ordinances were clear with respect to what the Village's intent was with respect to locating sidewalks.

Tom Terwall:

Before I open the public hearing just a question. Is it your intent or your understanding that enforcement of this ordinance will occur only at the time that the home is built? I'm thinking, for example, of an area where traffic does not dictate the need for sidewalks, but in the next five or ten years somebody builds a school adjacent to this property so now you've got kids walking past homes that were not previously well traveled. Could the Village at that point then go back and require installation of sidewalks ten years after a home is built? Or, is it your understanding that this ordinance can only be enforced at the time of construction.

John Braig:

Could you require and defer the requirement indefinitely?

Mike Pollocoff:

I think it would be based at the time you do the building permit or CSM, of course. Other than that it would have to be a special assessment through the statutes governing that. So once you let an area--that's why the Comprehensive Plan is important and the Transportation Plan. If we anticipate that a school is going to be located someplace and it's along a road that will be an arterial or it could be a heavy traffic road, I think we need to have the sidewalks put in the initial step or at least have the financial guarantees put it. Because other than that you would have to go back, the Village would have to borrow the funds to put in a sidewalk, levy assessment, carry the debt until that sidewalk is paid off if you waited to another time.

Tom Terwall:

This is a matter for public hearing. Is there anybody wishing to speak on this issue? Anybody wishing to speak? Anybody wishing to speak? Hearing none, I'll close the public hearing and open it up to comments from Commissioners and staff.

Jim Bandura:

Just one quick question to the staff. Is there going to be any guidelines for the case by case basis? Are you going to set standards?

Jean Werbie:

I think our guidelines as Mr. Pollocoff indicated would be if there is a neighborhood school that's adjacent or a neighborhood park, or if there is an interconnecting trail system that would allow a subdivision to be connected to that trail system, all of which we're going to be working on with respect to the Park Commission very soon is a new trail system and along local arterials. Those are the circumstances that we have in the past on a case by case basis looked at sidewalks. But just an internal subdivision, single family subdivision that's not interconnected to any of those items that I just referenced, we have not required sidewalks.

Tom Terwall:

How about to get from tot lot park to tot lot park under the new park plan that Madison is trying to hoist on us?

Jean Werbie:

No.

Larry Zarletti:

I just want to be clear on the ability of the Village to go to people who don't have a sidewalk and later require them to put one in. By approving this ordinance is that what we're doing?

Jean Werbie:

Let me step back. When we approve a new subdivision, there are some dedications and easement language that is placed on the face of the plat and on the last pages of the plat that specifically sets forth that at any point in time that the Village Board can require sidewalks within the right of way that's being established, and dedicated by the developer to the Village for public improvements purposes. It does include the provision that sidewalks may be required in the future by the Village. So the subdivision is put on notice every time that there is a subdivision plat and it's recorded on that plat that there could be a sidewalk at some point in the future.

Larry Zarletti:

How long have we been doing that?

Jean Werbie:

Since about 1992 or '93.

Larry Zarletti:

So if you were pre-'92 or pre-'93 I'm just trying to get ahead of this thing for maybe some of the people who could be affected that are outside that window, what would we do, take that on a case by case basis also? Or, by passing this ordinance those people will be responsible to pay the amount to put the sidewalk in?

Mike Pollocoff:

Pre-'92?

Larry Zarletti:

Pre-'92.

Mike Pollocoff:

The only way that people can be responsible for paying for the sidewalk is after the Village contacts them, puts the notice out that we're going to levy a special assessment to put the sidewalks in that they're going to be charged, and that they're going to have the opportunity to come speak at a hearing unless the Village becomes significantly flushed with cash and we just do it at no charge. I don't see that happening. So there's two steps. One is that, as Jean said, anything from '92 on that space is provided for in the plat so that could happen. But we didn't at that time require the developer to provide the Village with funds to put that sidewalk in the future, so the only place we have to put those sidewalks in if they're needed is to go back to the people and say, okay, do you want a sidewalk, first question. The second question do you want to pay for it? And then the Village has to have the funds in hand to carry the debt for that sidewalk.

Tom Terwall:

Wayne?

Wayne Koessl:

Thank you. Commissioner Zarletti asked the question I was going to ask.

Tom Terwall:

If there's no other questions, what's your pleasure?

Jim Bandura:

Move for approval.

Andrea Rode:

Second.

Tom Terwall:

IT'S BEEN MOVED BY JIM BANDURA AND SECONDED BY ANDREA RODE TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE LAND DIVISION ORDINANCE AMENDMENT. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

C. Consider the request of William Redlin, the property owner, for a Certified Survey Map, to subdivide the property located at 12121 45th Avenue.

Peggy Herrick:

On October 7, 2002 the Village Board conditionally approved a Certified Survey Map to subdivide this property located at 12121 45th Avenue; however, the petitioner did not satisfy all of the conditions of approval and record the Certified Survey Map within 30 days of Village Board approval, therefore that Certified Survey Map is not valid.. At this time the petitioner is requesting to subdivide the property located at 12121 45th Avenue, Parcel Number 92-4-122-351-0192 and they're proposing to create one additional parcel.

The property is currently zoned R-4 (UHO), Urban Single-Family Residential District with an Urban Landholding Overlay District. The R-4 zoning district requires a minimum lot area of 15,000 square feet and 90 feet of frontage on a public road.

Lot 1 is proposed to be 29,387 square feet with 140.9 feet of frontage on 45th Avenue. The proposed Lot 1 is vacant and has a 20 foot wide sanitary sewer easement that traverses the property near the proposed south property line. The Redlins granted the Village a 20 foot wide sanitary sewer easement in 1993. A new single-family dwelling on Parcel 1 will be required to connect to municipal sanitary sewer within that easement. Pursuant to the 1985 Kenosha County Topographic Map, there is a drainage course that traverses through the northern portion of this Lot 1. This storm water drainage course shall be preserved, including if/when the development of a new single-family dwelling occurs on Lot 1. A detailed storm water drainage plan, prepared by a Wisconsin Licensed Land Surveyor or a Wisconsin Professional Engineer shall be provided upon the submittal of permits for a new single-family dwelling on Lot 1.

Lot 2 is proposed to be 59,603 square feet in area with 139.28 feet of frontage along 45th Avenue. Lot 2 is improved with a single-family home and a swimming pool with a surround deck located in the rear yard. The existing single-family dwelling on Lot 2 with the address of 12121 45th

Avenue is currently serviced by both municipal sanitary sewer and municipal water. The home is connected to sanitary sewer that is located within the existing 20 foot wide public sanitary sewer easement on the southern portion of the proposed Lot 1. The home is connected to a private municipal water lateral that extends from the water main in 44th Avenue which is east of this property. The location of the existing private water easement shall be shown on the CSM. In addition, since the existing private sanitary sewer and water laterals serving Lot 2 will be located on a portion of Lot 1, these private laterals shall be located within a private sanitary sewer and water access and maintenance easement. These private easements shall also be shown on the CSM

On July 2, 1992, the owners signed Waivers of Notice of Special Assessment for both Municipal Water and Sanitary Sewer for the 139.28 feet of frontage for Lot 2 only. With the proposed CSM, the owners are required to sign a Waiver of Notice of Special Assessment for Municipal Sewer and Water for the remaining 140.9 feet of frontage. The owners will be responsible for paying the sanitary sewer fees pursuant to the Waiver of Notice of Special Assessment signed in 1993 in the amount of \$6,074.20. In addition, the Waiver of Notice of Special Assessment for sanitary sewer for the remaining 140.9 feet of frontage in the amount of \$9,140.50 shall be signed, recorded and paid to the Village prior to recording the CSM.

45th Avenue is an unimproved road surface, therefore, the owner shall also sign a Waiver of Notice of Special Assessment for future roadway improvements for the entire frontage of both Lots 1 and 2.

According to Mr. Rich Hooper of We Energies, no additional utility easements are required as a part of this land division.

The land division conforms to the Village's Land Division and Development Control Ordinance, Village Zoning Ordinance and all other relevant Ordinances or requirements of the Village.

Village staff recommends approval of the CSM subject to the conditions as listed in the staff report and there are 13 of them.

Tom Terwall:

Comments or questions? Is that road really a dirt road, 45th Avenue?

Mike Pollocoff:

There's some gravel on it but it's not built to Village spec for a base.

Tom Terwall:

That's not in Pleasant Homes then?

Mike Pollocoff:

No.

Tom Terwall:

Comments or questions?

Jim Bandura:

Just a quick one. Is the petitioner aware of the conditions? Are you aware of the conditions set forth by staff?

--:

Yes.

Jim Bandura:

Move for approval.

Larry Zarletti:

Second.

Tom Terwall:

IT'S BEEN MOVED BY JIM BANDURA AND SECONDED BY LARRY ZARLETTI TO SEND A RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE CSM SUBJECT TO THE TERMS AND CONDITIONS OUTLINED IN THE STAFF MEMORANDUM. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

D. Receive Reports and Discuss Act 477 relating to Impact Fees.

Mike Pollocoff:

Mr. Chairman, in your packet you have Act 477 which was one of the Bills that was recently adopted by the Legislature and signed by the Governor that limited a municipality's ability to collect impact fees as it relates to the acquisition of equipment and recreational facilities. There's also a second part of the impact fee that took away a municipality's ability to get a payment in lieu of fees for parkland. That same law also restricted a County's ability to collect impact fees.

Impact fees have been around the books for many years. The Village enacted them back in the early '90s, as we were in a growth spurt at that time, basically for storm water, park and schools. The school impact fee was lobbied by the home building industry and that was taken off the table as something that we're permitted to look at. And the remaining impact fees were subjected to a fairly rigorous test, it's a needs analysis proscribed by the State Statutes, as to what could be collected. There was a length of time where the statute was subject to some legal challenge. There was concerns whether or not it would hold up. Our counsel after a while felt that we would be able to withstand a test if we were prudent in how we were setting the fees.

The Village did that in 2004. We established fees of \$2,381 per residential dwelling unit which were composed of fire, EMS, police, public works, parks and recreation. Under the new legislation that fee is now reduced to \$1,490. Commercial developments had a fee of \$3.16 per thousand. The new fee is \$1.94 a thousand. The biggest part of the equipment equation that was removed from the statute for many communities was to be able to secure as new development occurred pick up capital equipment, snow plows, street cleaners, fire engines, ambulances, those things that are needed to take care of each development as a community grows rather than having the municipality issue debt to pay for that.

In Pleasant Prairie's case, we've been under a self-imposed moratorium for three years prior to this year. This year and next year we're under a State imposed freeze, and the freeze is not dollar for dollar. There's some wiggle room. Right now the Village in this budget year had \$69,000 more that we could have taxed than we did, but the Village Board had decided to keep property taxes at the same rate as the previous year, so there was some accommodation for growth but not as much as was allowed. The other financial impact on this is that probably for the last four years the Village Board has also consciously decided not to enter into a long-term debt for general fund purposes. General fund purposes are those same areas, police, fire and rescue, public works and parks. The purpose of that is to reduce the strain on the general fund that property taxes that are levied, that part of the debt that goes out of the property tax levy, so that as time went on we wouldn't have that in there.

The legislation was basically as legislation goes in Madison in came out very fast. It came through committee with I think it was three public hearings in one day that were needed on it. The amendments were made. It made it to the floor and over to the Governor in about a month. And the Governor had it for probably half a month. There was a little over \$300,000 in campaign contribution money that was provided to both sides of the aisle to facilitate the passage of this. The *Milwaukee Journal* probably secured the most important quote that I think municipal officials need to be aware of, is that the builders that promoted this bill felt that this was a good start in that they were going to come back and work for more changes to it. The bill was written in the Senate by a builder who is also a Senator. So I think the handwriting is on the wall for municipal governments that this vehicle for financing the cost of growth is disappearing.

What makes it difficult for the Village is if somebody wants to know what the impact of a freeze is all you have to do is look at the Village's budget right now. If you sustain a freeze environment for a period of time you're where we're at where we really don't have the capital available to sustain growth. Typically this Plan Commission and the Village Board as you look at the proposals that come before you in a year some of the residential proposals like Meadowdale Farms, Prairie Ridge where you have larger homes, larger lots, bigger values that are going to pay us since taxes are based on the value of property they're going to pay a greater amount. You're

going to have some developments that have smaller homes and smaller lots that are going to help balance out the residential economy that are going to address another group and you approve those.

The way that's happened over the years is the community has been able to kind of look at these and make sure that there was nothing specific in those developments that was going to cause us undue headaches from a standpoint of a budget which would be transportation, storm drainage, those improvements that the Plan Commission wants to make sure that are in place, but some are winners and some are losers and we were able to sustain that over the long haul in the Village. I know some people say that's not the case, but the Village has a tax rate of \$3.54 per thousand for a full service municipality. We're in the top 60 of the State. We're 60 and we're the 26th largest community in the State so we have a low tax rate regardless of what you might hear. I don't know how you get it much lower than we have it.

Now that we're frozen and now that we can't collect that incremental increase for equipment, we really don't have anyplace to go. The Village Board talked about this at their last Board meeting, the problems with not being able to collect money for equipment along with the inability to carry out the park plan. The initial thought was to take a look at a moratorium on new development because every development we take if we can't collect any more money from it than we're going to give then we're just digging ourselves in the hole.

The staff has been evaluating ways to approach this, and it appears to me that the real policy question that the Village is dealing with that we can bring the best information to the Plan Commission and the Board is that we evaluate development from two angles. One is that strictly from the land use and the zoning perspective. Does it meet our requirements for the comprehensive plan? Does it fit in well? Does the zoning make sense. Then the second thing is the fiscal analysis of development. No long can we afford to take a look at a development and say this one is not going to pay its way from a tax standpoint on the premise that the next one would compensate for it. The Legislature took that ability away from the Village and every other government.

We're going to be performing an analysis on every development proposal, not only residential but commercial and industrial, taking a look at from a matrix standpoint what is the value of that facility, how many people are going to be living in that unit or working in that unit, what's the transportation needs for a commercial or industrial or residential? What are the demands for fire protection which gets measured two ways by the number of bodies that are in a place and then the value of what you're protecting. There's definitely an intrinsic or more effort spent to protect a million dollar house than a \$200,000 house. Not that one is less important than the other one, it's just there's more boards and area to cover when you're doing suppression at a fire. Same thing for police. The more value in a home there's more value to be protected, there's more area to be protected, and, again, you have to balance that off with the number of people that are in the site.

The other area is public works. How many linear feet of roads are we going to be required to plow and maintain and own for quite a while? How many linear feet of storm sewer, sanitary sewer and water are we going to need to take care of? How many vertical feet of sanitary manholes and storm manholes do we have to take care of? Those are more problematic than the linear feet of sewer and water. Then we're going to measure that against the absorption rate of a development.

If you take a look at, as an example and I'm only singling them out because they're close at hand, Village Green Heights, right now that development is six houses short of being 50 percent complete with at least everybody being ready to move in there. There are some houses that are not quite there and there's vacant lots. But from the day we approved that plat, we assumed responsibilities for doing patrol in there. We assumed responsibilities for providing fire and rescue. We assumed responsibilities for snow plowing, and we're not going to be able to fully recoup what that development is going to be able to bring us in property taxes for a period of time. That absorption rate the longer that is the longer that those remaining taxpayers are going to pick up that spread until that development comes on.

So as these proposals come before the Village, I'll be preparing a fiscal note indicating based on what the developer has represented to the staff and to the Village that their development build out is going to be what the financial impact is. We have a chart up there, if you want to go to it, it's a table. That \$69,731 that's all the money we have to work with for next year in round numbers, and it will change a little bit, for increases in fuel, increases in insurance, health insurance, life insurance, property insurance, increases in utilities. The same things that are driving every one of our own personal budgets is driving the Village budget, and the State has determined that's how much money we have left to work with. So the next question is how much do we cut existing services to Village residents to accommodate the new bulk of area that we need to take care of under development. We did have at one point that money to be able to say we do have the money to be able to address our capital needs so we're not going to be going back to the residents to take care of that. That's gone.

When it comes to roadway improvements the County lost their ability to levy an impact fee, something they didn't do but they really should have looked at doing, in order to make sure that the County road system is going to be taken care of or their services. So all that's off the table. Tonight the Commission heard the Lexington Village preliminary plat. Under the State law, and again this is legislation that the developers were able to craft, that preliminary plat unlike the conceptual plan is basically once they have that plat they're ready to go. You really can't deny anything other than the major changes. So when we see a preliminary plat come before the Commission, the staff will be making a recommendation at that time whether or not that development will pay its own way. If not, then the staff will be recommending at least for that portion of the plan denial, because we're not going to have the money to take care of it because all we have is \$69,000. That's what the State of Wisconsin has determined that we need for next year to take care of our added expenses.

At that point the developer has a couple of choices. One is to make a contribution to the Village so that they can proceed. That's their call. It's not a condition of the plat. It's not a condition of the preliminary plat. It's not a deal. It's where we're at. We're under levy limits. The Board can statutorily not do anything else. The only thing we can do to help the developer is have the rest of the taxpayers--we can incur debt and borrow money to pay for that period so that we're able to accommodate development, or the developer could make a contribution. And then the third thing that the State has determined under levy limits is that any time a community feels that there's an important need to be met that we can have a referendum. We can have a referendum for a development like Devonshire to determine whether or not the Village residents want to raise their taxes to accommodate that difference that we're not able to accommodate in our budget because of the levy limits. That's where we're at.

It was tough enough under the existing impact fee legislation to make the ends meet, but now we're pretty well sandwiched between levy limits and no impact fees. There really isn't a lot of room to move. For those people that feel there's a lot of extra money in the budget we went through close to 80 hours of budget hearings last year, and I think we didn't remove very much. In the Village's budget there isn't a lot to remove.

This doesn't go anywhere to address any of the other problems like schools, County needs, anything else because we don't have any authority to address those. That's beyond our limits. That situation exists. There are some preliminary plats that the Plan Commission has approved, and there's some final plats out there that are off to the races. That \$69,000 is going to also have to take care of them along with our insurance, fuel, utilities and all those other items. It's not what anybody wants to hear, but that's the state of public finance in Wisconsin today, and there really is no pot of money. As much as it's been promoted that there's waste in government, the Board didn't find any waste in the last budget or the budget before that or the budget before that or the budget before that. This is where we're at.

We have plenty of people wanting us to TIF, provide for buildings, provide for all sorts of things. There's all sorts of demands on our money, but there's less and less and less control or ability for the Village to be creative and do something. We're where we're at. So I think in order to ensure the long-term health of the Village, and from a financial standpoint we're in good condition because we've been frugal. We've tightened down our budget and we have a fund balance. We have money in the bank to guarantee our bonds are going to get paid, that we can do the things we need to do, but unless we're going to eliminate and deplete our reserves and start issuing debt for new development, I can't give the Plan Commission or the Village Board any other recommendation than if a development comes to us that doesn't show positive on the ledger sheets I'm going to be recommending denial. I would strongly encourage that the Plan Commission and the Board consider that as we look at preliminary plats, certified survey maps, plats in order to stop that. We can't stop everything that's already--we have to live with everything that's been created and that's difficult enough.

You take a look at some areas of Carol Beach where it was platted many, many years ago and those areas demand a lot of services because there's not improvements in there. So we have our old deck of cards that was dealt to us that we have to work with and that's life and we have to deal with it, but what we certainly don't need to do is create more problems for ourselves to accommodate development.

Do you have any questions? We're going to have Devonshire be the first subdivision that's going to be put to the test here. We'll be bringing an outline of the financial model to the Village Board at their next meeting to consider. If we're not done I'm going to recommend that the Devonshire development be tabled until we're ready to go. We don't have any room to play with it anymore. Jean, if you have anything you'd like to add?

Jean Werbie:

No, I think you've covered everything.

Tom Terwall:

I'm just wondering, and I'm not suggesting, but I'm just wondering out loud whether we even need Village government anymore. If John Gard and the rest of those fellows in Madison are going to do everything for us, maybe we can save some money by eliminating the Village Board and Plan Commission and let them run everything. That way we won't even have to spend that money. That might be something.

Jim Bandura:

Go through the State and have them approve everything or disapprove it. This absolutely makes no sense. What you're saying, Mike, is that you're going to put a number to this to see if this new development comes in and makes the grade and is in positive territory for monies? Is that what I'm hearing?

Mike Pollocoff:

We've looked at that always, but we're down to chickens and eggs now. We're really going to get it down as tight as we can.

Jim Bandura:

Just one more question. The Board or Plan Commission do they have the ability to deny a subdivision or a development if it doesn't really meet or make the grade?

Mike Pollocoff:

I think we have to be careful how we do this. And certainly, and you've heard me say some less than flattering things about the people who proposed this legislation and paid the legislatures for it. This isn't retribution. This is where we're at. I think as the Plan Commission considers proposals we have to be up front and say that we can't afford it, and the reason we can't afford is because we need to stay compliant with the statute on levy limits. We can't go over that. Because if you do go over it, say that we tell Madison as much as it might feel good to go to hell, what they'll do is they'll just withhold whatever State aids we have to make up the difference. So you're not going to win that game.

So the denial has to be based on the fact that we're not able to comply with the State law that requires our levy to be set at a certain level unless we got three relief valves. One is let the developer make a contribution and that's not an impact fee. We're saying here's what we can afford and what we can't afford. If they want to donate some money for the fire truck or whatever that expense is they can. Or, they have the opportunity to ask the Village to issue debt for their development to pay for the operational shortfall. Or, they have the opportunity under the statute under levy limits to have the Village petition the voters for a referendum on whether or not they want to pay for the shortfall.

Jim Bandura:

So when you're going to figure this cost to the subdivision, I can see this becoming an accounting nightmare for the Village. I can just see the cost of doing this is going to absorb too much time for other important stuff.

John Braig:

We should be able to come up with an empirical formula, though.

Jim Bandura:

Are you going to take into account time that you guys have to spend on this?

Mike Pollocoff:

I'd be less than straight with you if I said these initial ones are going to really test us as we put this model together. But our intent is that we do have a number of databases and we want to create a model that's going to be able to draw from the existing databases so that we can plug in the variables to make that work and we want to do that but that won't happen right way. Right now there's really nothing that we can't do for the developer under the law that we're going to have to do this work if we want to make this thing come out.

John Braig:

In the past on any number of occasions when somebody comes in proposing a new development, we've encountered lots of objections and antagonism on the part of citizens who, in effect, liked what they had but didn't want somebody interrupting or obscuring their Village or their prairie view. In those instances I think I know it's been my view and I think everyone else's that a developer has the right to make a proposal to develop land and to proceed. I think that's an important consideration and we should adhere to it. But by the same token we have an obligation to protect the citizens that are here now and not impose an additional cost or burden on them in effect subsidizing a developer.

I don't want to oversimplify this but I think it is relatively simple. In my view if a developer is making a proposal that's going to cost this Village more money than we can take in taxes or revenue we in good conscience can't put that burden on the citizens that are here. So I'm saying if the staff can put together numbers, the approval process while not contingent on that, but the obligation that we have to protect our existent citizenry against excessive cost is on us to hold off or turn it down until some financial arrangements are made that neutralizes that added cost.

Tom Terwall:

Or at least let it go to referendum and let the people decide.

John Braig:

Yes.

Tom Terwall:

Ask the guy are you willing to have your taxes go up \$100 so Cathy Stepp and her husband can make \$200,000 more in the next subdivision. That's what you're going to do. I'm willing to do that. I think that's the only fair thing to do.

Wayne Koessl:

Commissioner Jim over there brought it up. To turn down a subdivision we're going to have real cause for it, because under the zoning laws we'll end up in court. Everyone knows that residential development never, never pays their fair share of taxes when you take in the County, the schools and municipality. I think it's going to be hard for staff to come up with something that's going to almost be an iron clad ordinance, because there's going to have to be flexibility and negotiation almost with every developer to get it accomplished. How long do you think before you're going to be able to bring something like that forward, Mike, or are we going to do it on an individual development basis?

Mike Pollocoff:

I think we have to do it on an individual development basis only because it's really going to be tied back to the particulars of that development. Jean has asked the developers that have proposals out right now we want to know all that physical data as far as the infrastructure at the conceptual stage before we get to final plat. We want to know what the building envelope is. What's the value of the homes? What's the absorption rate? We want to be able to estimate what our building permit revenues are going to be so we can subtract them from the impact. .it's a lot of work and it's going to get a legal review before we run it out.

You're right, there's no shortage of people looking to litigate with us. But I still come back to the same thing at the end of the day that the State has decided that we can only raise taxes \$69,000 across a \$9 million budget. So we really don't--I don't know that we really have a lot of choices.

Wayne Koessl:

Another comment. I never thought I'd hear our Chairman want to place out Village in the hands of Madison.

Tom Terwall:

They've already taken it.

Larry Zarletti:

Mr. Chairman, seeing that this takes effect on June 13th, so what happens on June 14th when we had been collecting X amount of dollars for impact fees and someone comes in and wants to build a house? What's going to happen.

Mike Pollocoff:

Their impact fees--

Jean Werbie:

Will be reduced.

Mike Pollocoff:

--by State law our ordinance is in violation of the State statutes, so those portions of the ordinance are eliminated and so instead of collecting \$2,381 we begin collecting \$1,490.

Larry Zarletti:

And we're just going to do that until?

Mike Pollocoff:

We have no choice. Until the Board amends the statute or until the State decides there's more of the impact fees they want to take off. That's where we're at. So the fees we've collected we're going to use because they were collected for use. It would be illegal to do anything else with them. But right now it just got cheaper to build by almost \$900.

Larry Zarletti:

So for the time being we're going to conduct business as usual until we can figure out a way to--

Mike Pollocoff:

There's two separate things going on here. Everybody that has a lot that's been created, and there's a significant number of lots in that pool whether they're preliminary platted, final platted, already there, all those people are going to pay the lower price instead of the higher price. So when we calculated these impact fees we assumed that we had these vacant lots and were going to happen. They're going to track along and we can't do anything with them. The State has already said cut them loose from those impact fees. Besides the one thing there's nothing we can really do about that. That just keeps on going.

Larry Zarletti:

So when we get a recommendation from the staff now under staff comments, terms and conditions, are you saying one might be that we would disapprove it because of the impact it would have on the Village?

Mike Pollocoff:

If the financial test didn't meet it I would recommend denial.

Larry Zarletti:

Then my question to staff would be that I think you're going to need to find out, as Jim was saying earlier, what teeth do we have to do that? I mean if somebody dots the i's, crosses the t's, brings in what would have been approved two months ago or a month ago, and now we're not

going to recommend approval to the Board because of the impact it's going to have on the Village, I'd like to know where we stand legally to do that.

Mike Pollocoff:

We've had discussions with counsel about that, and based on two statutes that significantly impact the Village's operations we do have the--we'll have the legal language that enables us to do that, but the guidance we have at this point is we're well within our rights because we can document clearly that we're not going to be able to--to be honest with you, we're not going to be able to take care of the budget as it is with all the lots that are already created. We're going to be behind the eight ball without that, with all the laws already through the gate.

Larry Zarletti:

So what do we plan to accomplish tonight? Just discussion on the item, right?

Mike Pollocoff:

Yes, and get some input from you guys as to if you think this is crazy or--

Larry Zarletti:

You have to go by what the law changes to on the 13th, period. So what you do from there is do some brainstorming and if the Board comes up with some better plan, grand plan, where you can make it work some other way that's fine.

Jim Bandura:

Mike, you mentioned that the developer is going to have to establish a cost for this, am I correct, and give it to you or do we do it?

Mike Pollocoff:

They're going to give us the data of the nature of the improvements and the infrastructure so that we can develop the cost. We'll take all the information they have, too.

Jim Bandura:

Because as a developer I think they can push numbers around and I'd rather trust the Village's numbers and everything assigned to it.

Jean Werbie:

Last week I contacted 13 active residential developers that are in some stage of the development pipeline with the Village, from the neighborhood plan all the way up to the final plat. The ones that I think could reasonably come before us in the next 30 to 90 days. And the staff put together a spreadsheet for them to put together and send back to me, and I've already had three developers already do that, the very specific data of how many lineal feet of road, sanitary sewer, water main, the vertical elevations of storm manholes. It's kind of detailed information, but any

developer who is progressing to develop sometime in the next 30 to 90 days knows this information. They've bid out this information, have engineering plans that shows this information, and our engineer is actually going to do a double check on some of that. But we've gotten some of their contract documents as well to see whether or not this information is accurate, plus the other information that Mike had indicated from the number of phases, absorption rate and different things like that.

What Peggy reminded me is that for the last several years we've actually been tracking absorption rate in our department so that we know basically how long it's taking to build out the new subdivisions and how many vacant lots that we have available as of January 1st of any given year in any given subdivision that's been platted within the last so many years in the Village. So if someone says that the absorption rate is going to be 80 percent in the first year. we're going to take that into some suspicion and we'll see what we've done in other subdivisions of comparable size and quality. So we are working very diligently.

In answer to one of your questions, Jim, we hope that we will have all this information together so that the first fiscal analysis will be ready for the Devonshire development on the 26th. I can't guarantee it but we are working towards that end. And once we've established the frame work, because we're doing it all by hand now, and all the department heads are gathering information by hand, eventually we hope before the end of the summer to put together a computerized model based on the standards and the criteria and by inputting certain levels of information it will help to calculate this much quicker than we could.

Jim Bandura:

Will you plan on breaking that down for us, too? I'm just thinking of the man hours that you guys have to put in on this junk.

Jean Werbie:

It will be a lot of time. We are going to spend a lot of time on this.

John Braig:

There's another aspect of this. First of all, we're talking about being forced into spending money that we don't have and have no means of raising. We've got really an impossible situation. The aspect I'm looking at is through the League of Municipalities or whatever groups or organizations we have I think the staff has to make whatever efforts they can to show more of a unified front, because this has got to change in Madison. I know we've got one representative here in this room that supports us, but he's not the majority.

Mike Pollocoff:

I can tell you it's not pretty but the League of Municipalities, the Alliance of Cities, the County Association, for the last three or four years have been impotent. The reason they have been is because we don't make contributions to candidates. That's what drives legislation in Madison and we don't use taxpayer dollars to do that and that really sets the agenda. And if you look at the erosion that's occurred in municipal government and the County government over the last few years, the two move together.

Tom Terwall:

The other thing, John is, and I was giving it some thought the other night, Pleasant Prairie and Somers, for example, are heavily impacted because of the growth and development going on here. But take the City of Milwaukee there is no development. If a house burns down they build a new one. There's no new subdivisions and there can't be because they're land locked. And there's a lot of communities that find themselves in that same situation. They could care less about this. They're not even impacted.

Larry Zarletti:

This reminds me a little bit of the price of a gallon of gasoline. Seriously, you drive by the gas station and you pull in when you need gas. There's not a thing you can do about what the price of gasoline is. And when our legislators pass an act such like this that's going to affect us, unless it's reversed we're forced to just deal with it. So what's going to happen at the pumps is people who have a car and can't afford to get it from point A to point B to buy their gas are going to cut back. The same thing is going to happen here. It's going to be tough on the staff, it's going to be touch on the developers, and I think you said it more than once we're just going to have to deal with it.

Tom Terwall:

Speaking of gas, did you see why gas went up six cents a gallon over the weekend? According to the paper it was because the hurricane season started. Not because we had a hurricane but the season started. So that justified the latest increase.

8. OTHER SUCH MATTERS AS AUTHORIZED BY LAW.

John Braig:

I've got two items. At our last meeting Commissioner Hackbarth expressed some frustration that some of the rules or some of our ordinances are not always being adhered to or policed properly. In that regard I support him. It was sometime late last year Deluxe Video was before this group asking for approval of something or other. And in the discussion it was pointed out that they had stored materials outside their building which is in violation, and they acknowledge that they had no awareness of it. Subsequent to that they did remove materials to the parking lot. I went by there last week and they've got a bunch of materials stored in the parking lot again. I think we should either enforce the rules or get them off the books.

I don't make a practice of driving all around the Village looking for violations. I just happened to see this, and I'm confident that the staff puts on more miles in this Village than I do, and I'm sure that if they kept their eyes open they might see some of this and address it.

The other item I have is regarding the Shoppes at Pleasant Prairie and Target. Is there any progress on that or are we still waiting for additional development?

Jean Werbie:

With respect to your first comment, the staff does not go looking for zoning violations, but I can tell you that we can frequently get anywhere from three to five complaints in our office on a weekly basis, many of which that we are issuing citations on now and it is very consuming in staff time. Unless someone brings it to our attention, I'm not driving through the industrial park looking for violations to cite any of our tenants out there. If there's something of grave concern, a health or a safety issue, or if it's something that I know that they're knowingly violating, I will certainly call them immediately and let them know of the concern or problem.

John Braig:

That supports my point. If you're not going to enforce a rule it's unfair to people who adhere to them if you just ignore it when it's violated on the part of others.

Jean Werbie:

Again, I'm not ignoring any zoning violations of this Village when they're brought to my attention or to my staff.

John Braig:

When they're brought to your attention. But when you see them you should address them, too.

Jean Werbie:

I do and my staff does as well. We don't avoid violations just for the sake of avoiding them. Again, the situation is that if it's brought to our attention, we will bring it to the attention of the property owner. And if we feel it's not being addressed we will issue citations. We've done that this week with two different citations. Again, we can get anywhere from 100 to 200 to 300 violations in any one year, and to be honest the ones that are the most serious get the first attention, then it goes down in order from there. We have to set priorities based on the Village of our size.

The second thing that I wanted to mention was that Don Hackbarth had mentioned about a tree that he believed was being cut down on the Jelly Belly property. I did have an opportunity to speak with the President's secretary regarding that, and actually the tree had come down during a wind storm on May 18th and most of it had snapped off. They had contracted with a landscaping firm that had cut down the balance of that tree and then cut up the rest of that tree. It's their intention to try to preserve and protect as many trees on that property as possible. It's not their intention to cut down those trees. Again, that was a misunderstanding on Don Hackbarth's opinion I think and we took care of that the next day.

The final thing is with Target, and we have spoken with Target on two different occasions with respect to the security matters and the security ordinance, surveillance ordinance. We did get all of that worked out last week with our Police Department and the staff and their staff, and they are going to be putting together a written agreement.

The second item had to do with the aesthetics of the building. There were two or three points that have been addressed but not all of the points. Their architect knows of our concern and we've been communicating with them over the last week. They had been busy the week before and then their architect was out of town, but my understanding is that they're not trying to close in the next few weeks, that they're putting it off a couple more weeks so that we can address all of the issues before that gets finalized.

Tom Terwall:

I think it's important, and I trust that Target management got that message at the last meeting, but as much as we think it would nice to have a Target Store here, we're not ready to roll over and play dead and let them do whatever they want. Other communities don't do it and I don't think we have to either. If they want to be here then they need to follow our rules, because that's a primary entrance into this community and people are going to see that early on. We're spending countless money on the other main entrance on I-94 as you come in from the State line to improve our image as an adult book store owner. I don't want to make it any less of an image on Highway 50.

Jean Werbie:

They understand.

Tom Terwall:

Good.

9. ADJOURN.

Larry Zarletti:

So moved.

John Braig:

Second.

Tom Terwall:

All in favor signify by saying aye.

Voices:

Aye.

Tom Terwall:

Opposed? We stand adjourned.