

**VILLAGE OF PLEASANT PRAIRIE
PLEASANT PRAIRIE VILLAGE BOARD
LAKE MICHIGAN SEWER UTILITY DISTRICT
9915 39th Avenue
Pleasant Prairie, WI
September 8, 2009
6:30 p.m.**

A Regular Meeting of the Pleasant Prairie Village Board was held on Tuesday, September 8, 2009. Meeting called to order at 6:30 p.m. Present were Village Board members John Steinbrink, Monica Yuhas, Steve Kumorkiewicz, Clyde Allen and Mike Serpe. Also present were Michael Pollocoff, Village Administrator; Jean Werbie, Community Development Director and Vesna Savic, Deputy Village Clerk.

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**
- 3. ROLL CALL**
- 4. MINUTES OF MEETING - AUGUST 17, 2009**

YUHAS MOVED TO APPROVE THE MINUTES OF THE AUGUST 17, 2009 VILLAGE BOARD MEETING AS PRESENTED IN THEIR WRITTEN FORM; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 5-0.

- 5. CITIZEN COMMENTS – None.**
- 6. ADMINISTRATOR’S REPORT**

Mike Pollocoff:

Nothing tonight, Mr. President.

- 7. NEW BUSINESS**
 - A. Receive Plan Commission recommendation and consider Ordinance #09-49 to correct the Village Zoning Map and rezone the field delineated wetlands on the vacant property located on the south side of STH 165 (104th Street) at approximately 63rd Avenue into the C-1, Lowland Resource Conservancy District.**

Jean Werbie:

Mr. President and members of the Board, you have before you zoning text amendment Ordinance 09-49. It’s the request of David and Amy Petersen, owners, to correct the zoning map and to rezone the field delineated wetlands on some vacant property that’s located on the south side of Highway 165 at approximately 63rd Avenue. This would be placed into the C-1, Lowland Resource Conservancy District.

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Specifically, the petitioner is requesting an amendment to correct the zoning map as a result of a wetland staking by Wetland and Waterway Consulting, LLC. That staking was completed in April of 2006 and approved by the Wisconsin Department of Natural Resources on July 26, 2006. It's identified as Tax Parcel 92-4-122-271-0016.

The purpose of the zoning map amendment is to correct the field delineated wetlands by placing those that were identified as wetlands into the C-1 category. The remainder of the property would be R-4, which is an Urban Single Family Residential District with an Urban Landholding Overlay District as shown on the slide. This is a matter that was before the Plan Commission as a public hearing on August 24, 2009. The staff and the Plan Commission recommend approval.

Steve Kumorkiewicz:

We were at the meeting of the Planning Commission. Consequently I believe there would be no questions. I'd make a motion to approve.

Clyde Allen:

Second.

John Steinbrink:

Motion by Steve, second by Clyde. Any further discussion on this item?

Mike Serpe:

Just a question. Jean, the property to the north does that have a home on it now?

Jean Werbie:

The area that's identified in yellow on the slide?

Mike Serpe:

No, just above the yellow.

Jean Werbie:

There are homes along 165 adjacent to this property.

Mike Serpe:

This wetland would probably go into that lot then, right?

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Jean Werbie:

Likely that it would. Because it probably just doesn't cross right at the property line, but it probably does extend to the north in this particular area?

Mike Serpe:

Okay, thank you.

John Steinbrink:

Further comment or question?

KUMORKIEWICZ MOVED TO CONCUR WITH THE PLAN COMMISSION RECOMMENDATION AND ADOPT ORDINANCE #09-49 TO CORRECT THE VILLAGE ZONING MAP AND REZONE THE FIELD DELINEATED WETLANDS ON THE VACANT PROPERTY LOCATED ON THE SOUTH SIDE OF STH 165 (104TH STREET) AT APPROXIMATELY 63RD AVENUE INTO THE C-1, LOWLAND RESOURCE CONSERVANCY DISTRICT; SECONDED BY ALLEN; MOTION CARRIED 5-0/

B. Consider an Amendment to the Development Agreement for the Creekside Hill Certified Survey Map to complete the Phase 2 and Phase 3 Required Public Improvements associated with CSM 2520 prior to 75% of the homes being completed within the development.

Jean Werbie:

This is a request by the Creekside Hill, LLC, developer, and this is an amendment to the development agreement that was originally entered into between the Village and the developer. Specifically what the developer is requesting is to complete the second and third year or phase improvements of the subdivision in one year. So they're asking to compress the second and third year improvements into one construction season or cycle.

There's actually four different lots that were created as part of this development. Two of those lots are developed with home sites and there are two that are undeveloped. So 50 percent of the lots in this subdivision are completed. The developer understands that they would need to provide the Village with an extended guarantee or warranty for an additional year, and they did get their pricing and are willing to move forward at this time to complete the second and third year improvements, which is that third lift of asphalt, second lift, curb and gutter, street trees in the subdivision.

Steve Kumorkiewicz:

I have one question for you, Jean. The curb and gutters over there that's going to run right to the creek over there on the south side

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Mike Pollocoff:

I believe, if I'm not mistaken, it drains to 39th Avenue and then it goes into the detention basin over there. But I don't have the plans in front of me.

Jean Werbie:

They do have a detention basin on the very east side, east/southeast side, and then eventually that does drain to the Tobin.

Steve Kumorkiewicz:

Okay, thank you.

Mike Serpe:

Move approval of the amendment.

Monica Yuhas:

Second.

John Steinbrink:

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

SERPE MOVED TO APPROVE AN AMENDMENT TO THE DEVELOPMENT AGREEMENT FOR THE CREEKSIDE HILL CERTIFIED SURVEY MAP TO COMPLETE THE PHASE 2 AND PHASE 3 REQUIRED PUBLIC IMPROVEMENTS ASSOCIATED WITH CSM 2520 PRIOR TO 75% OF THE HOMES BEING COMPLETED WITHIN THE DEVELOPMENT; SECONDED BY YUHAS; MOTION CARRIED 5-0.

C. Consider an Amendment to the Development Agreement for the Ashbury Creek Subdivision to assign responsibilities to Burco Holdings, LLC.

Jean Werbie:

Mr. President and members of the Board, this is an amendment to the development agreement between the Village of Pleasant Prairie and Alpha Land, LLC. The developer is requesting to complete an assignment to another party for the Ashbury Creek Subdivision. This is similar to another one we have done with the Village. Specifically, the developer would assign the agreement and any and all responsibilities and obligations of this subdivision to a new developer. The name of the developer is Burco Holdings, LLC. Burco Holdings then acknowledges that they would be financially responsible and basically take over the responsibilities of the developer in completing out that subdivision.

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As you know, this subdivision had its first and second phase of improvements complete, so we just have final improvements in phase 3 to be completed. There are some homes completed in this subdivision, but at this point they are requesting for this assignment in order to complete the rest of the development. The staff recommends approval and everything is in order, and we do have the assignment documentation attached to this agreement.

Steve Kumorkiewicz:

Make a motion to approve.

Clyde Allen:

Second.

John Steinbrink:

Motion by Steve, second by Clyde. Further comment or question on this item?

KUMORKIEWICZ MOVED TO APPROVE AN AMENDMENT TO THE DEVELOPMENT AGREEMENT FOR THE ASHBURY CREEK SUBDIVISION TO ASSIGN RESPONSIBILITIES TO BURCO HOLDINGS, LLC; SECONDED BY ALLEN; MOTION CARRIED 5-0.

D. Consider Award of Contracts for painting, drywall and HVAC for the LakeView RecPlex 50 meter pool addition.

Mike Pollocoff:

Mr. President, if you recall our last meeting we rejected a single bid for painting and coatings at the RecPlex. This time we received two bids. One person tried but they submitted the wrong correspondence in the bid envelope. It was a letter to somebody else so somebody is in trouble. The low bid at this bid opening was Thomas Mason in the amount of \$166,277. We had an amendment on the project as well for painting the steel in the fabrication shop before the steel has gone up. And the reason you want to do that is you really can't guarantee that you get a good paint job on the site. You have the steel and the roof that goes over it, and it's hard to get all the crevices painted. If you look at the existing pool at RecPlex we had that painted on site, and you can see where we're going to be going back and having to recoat that pool deck, the steel deck. So I think that's money well spent because I'm not sure if we even got a price on correcting the problems that we're having at the existing pool. So the low bid would be Thomas Mason in the amount of \$220,799. Ruffolo included that in their base bid of \$262,799. Our construction manager, Riley, and myself are recommending that the contract be awarded to Thomas Mason.

And steel studs and drywall at the site the low bid was submitted by Olympic Wall Systems in the amount of \$81,335. The low bid was submitted by N.J. Schab. They would not be qualified for bidding and they submitted no bid bonds. They were not responsive to the requirements of the

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bid. And low bid, of course, was Olympic Wall Systems. So we encourage Schab to play by the rules and bid again if there's another opportunity.

On HVAC we received four bidders. The low bid was submitted by J.F. Ahern at the base bid of \$2,037,000. We extensively reviewed these bids. The second low bid was submitted by Southport if you look at Exhibit F. Their base bid is \$3,000 higher. The alternate number 15 that you can see, Southport's bid was not responsive to the request. We were looking for an alternate cooling stack system and they bid a reconfiguration of everything. We felt that upon review that Ahern provided the best lowest price and they have more experience in doing geothermal than the other bidders. So we're recommending a contract to Ahern in an amount not to exceed \$2,037,000.

Steve Kumorkiewicz:

I make a motion to approve with a question.

Monica Yuhas:

Second.

John Steinbrink:

Motion by Steve, second by Monica. Steve?

Steve Kumorkiewicz:

Mike, you said that this steel is going to be painted in the shop or whatever. . . . connected in the pool because I imagine there's big columns, right?

Mike Pollocoff:

Right.

Steve Kumorkiewicz:

They are going to paint in the same way that we've got I'm assuming, because that's got to be epoxy paint for that? Because the joints they're going to have to repaint.

Mike Pollocoff:

The real problem in painting above the pool is that, if you can picture a truss coming up and it comes out like this and there's two pieces that fit side by side. And then right above that you have the metal pool deck. You can spray in there but you're not guaranteed that you're going to get all the metal covered. You have to remember this is a chlorine atmosphere. It's really caustic. So what they do is everything is going to be painted at the shop. And then when they do the connection work there they can touch it up as touch up needs to happen. But we want to have

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it painted in the shop, have it inspected for the mill depth of paint on the iron, especially in all the places where we're going to have a hard time getting access to them later on to make sure the project covers. There will definitely be some paint on site. What we're trying to do is ensure that all the parts of the steel that it's going to be hard to have access to get coated properly at the factory before it's shipped here.

Steve Kumorkiewicz:

My concern is that there's going to be a water

Mike Pollocoff:

We're going to use a special paint. It's call tmemec. It's the same kind of paint we use inside our water tanks and towers. It's ideal for this application. But if you don't get it on there it doesn't matter what the warranty is on. You have to cover the metal.

John Steinbrink:

We have a motion and a second. Any further comment or question?

Clyde Allen:

Mike, Thomas Mason I've never heard of them and I don't know if I missed something in the prior packets we got but I don't recall the name. Have we used them before?

Mike Pollocoff:

No, we haven't. But I went through their pre-qualification application and they've done a lot of work. They haven't done any work for us. They were financially capable and they have the experience and Riley was familiar with them. But, you're right, we haven't seen them at the Village.

Clyde Allen:

Thank you.

John Steinbrink:

Any other comment or question?

Mike Serpe:

Is his motion for all three of these bids?

John Steinbrink:

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I believe so, is that correct that the motion is for all three of the bids?

Steve Kumorkiewicz:

Yes.

John Steinbrink:

Second is for all three of the bids?

Monica Yuhas:

Yes.

John Steinbrink:

Okay, yes it is. We have a motion and a second.

KUMORKIEWICZ MOVED TO AWARD A CONTRACT FOR PAINTING TO THOMAS MASON; A CONTRACT FOR DRYWALL TO OLYMPIC WALL SYSTEMS AND A CONTRACT FOR HVAC TO J.F. AHM FOR THE 50 METER POOL ADDITION AT THE LAKEVIEW RECPLEX; SECONDED BY YUHAS; MOTION CARRIED 5-0.

E. Consider Resolution #09-29 to rescind a Letter of Credit draw for GB-MA Pleasant Prairie LLC approved August 17, 2009.

Mike Pollocoff:

Mr. President, this resolution rescinds the authorization that was previously adopted by the Board for a reduction in a letter of credit. The work was done and the developer paid for the work with cash, so the Finance Department is recommending to approve this authorization to reduce the letter of credit be withdrawn.

Clyde Allen:

Motion to approve.

Mike Serpe:

Second.

John Steinbrink:

Motion by Clyde, second by Mike. Any further comment or question?

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Steve Kumorkiewicz:

Yes, what section . . . what part?

Mike Pollocoff:

I believe it was going to be the interior mall, curbing and paving work. Again, that's the last thing. We're really at the bottom end of that letter of credit so the last that's done is the paving and curb.

Jean Werbie:

It was just the final punch list items that they had to complete.

Steve Kumorkiewicz:

Okay, thank you.

John Steinbrink:

Other comments or questions?

ALLEN MOVED TO ADOPT RESOLUTION #09-29 TO RESCIND A LETTER OF CREDIT DRAW FOR GB-MA PLEASANT PRAIRIE LLC APPROVED AUGUST 17, 2009; SECONDED BY SERPE; MOTION CARRIED 5-0.

F. Consider Ordinance #09-50 to correct Chapter 250-3 relating to single projectile firearm and weapon regulations.

Mike Pollocoff:

Mr. President, this ordinance is to correct an error we had in our recodification. Chief Wagner is here to describe the changes that need to be made to correct that.

Chief Wagner:

Chief Brian Wagner, 8600 Green Bay Road. Mr. President, this ordinance essentially it does two things. It corrects the error that Mike spoke of during the recodification. And it also brings the ordinance in line with the Wisconsin State Law. As everyone is aware, the Attorney General issued an opinion back in April relative to the legality of openly carrying firearms. And the changes that we're proposing in this ordinance will bring the ordinance into line with the Attorney General's opinion and also with the holding of the Court.

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Steve Kumorkiewicz:

I've got a question. How come we eliminate in 250-3.A. within 300 feet of any occupied dwelling? I remember we used to have that all the time.

Chief Wagner:

Right. We're actually not—that requirement is actually part of the Wisconsin State Law which is adopted elsewhere in our ordinances. So by lining that out in this particular ordinance we're not eliminating that requirement. We're simply—the problem with having that in this section the way it's written here is it has the effect of changing the entire meaning of this paragraph to the extent that it means completely the opposite of what it was intended to mean. That's the error that we're trying to repair.

The requirement that you cannot shoot firearms within 300 feet of any occupied or unoccupied dwelling is a part of the Wisconsin State Statutes, and we have that particular statute adopted under 250-1 of our ordinances already.

Steve Kumorkiewicz:

So we are covered.

Chief Wagner:

We are covered, yes.

Steve Kumorkiewicz:

That's my question. Thank you, Chief.

Mike Serpe:

John, I don't think anybody is going to be hurt by adopted this ordinance. I'd move approval of 09-50.

Steve Kumorkiewicz:

Second.

John Steinbrink:

Motion by Mike, second by Steve. Further discussion on this item? Questions for the Chief? Hearing none, thank you, Chief.

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SERPE MOVED TO ADOPT ORDINANCE #09-50 TO CORRECT CHAPTER 250-3 RELATING TO SINGLE PROJECTILE FIREARM AND WEAPON REGULATIONS; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 5-0.

G. Consider denial of Keah Sapko Operator License Application.

Mike Pollocoff:

I'll have the Chief come back up to the mic and describe why this recommendation is for denial.

Chief Wagner:

Mr. President, Chief Brian Wagner, 8600 Green Bay Road. Keah Sapko applied for an operator's license on August 18, 2009. You have a staff memorandum before you and it's pretty self-explanatory. Essentially the routine investigation that the police department did revealed that she had been convicted on April 22, 2009 of operating while intoxicated second offense. And pursuant to the guidelines that the Board established in Chapter 194 of the Municipal Code, she is ineligible to hold an operator's license having been so convicted within five years. For that reason staff is requesting that this license be denied.

Mike Serpe:

Move to concur with the Chief's recommendation.

Clyde Allen:

Second.

John Steinbrink:

Motion by Mike, second by Clyde. Any other discussion on this item? Hearing none, thank you Chief.

SERPE MOVED TO DENY THE OPERATOR LICENSE APPLICATION OF KEAH SAPKO FOR FAILING TO MEET THE GUIDELINES OUTLINED IN THE MUNICIPAL CODE AS IT RELATES TO PREVIOUS VIOLATIONS; SECONDED BY ALLEN; MOTION CARRIED 5-0.

H. Consider Resolution #09-30 to rescind approval of a Lease Agreement with JSO Technology LLC approved by the Village Board May 4, 2009.

Mike Pollocoff:

Mr. President, the Village Board approved an agreement with JSO Technologies to lease and co-locate some spaces for their business at LakeView RecPlex where that room is. We executed the

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agreement. JSO to date has not executed their agreement. As such, I'm recommending that we rescind our approval of the agreement and be able to put this back out on the street again or have the opportunity to lease that space to someone else.

Mike Serpe:

Were they going to take the whole room?

Mike Pollocoff:

Yes.

Mike Serpe:

And they've given us nothing since we offered this agreement to them?

Mike Pollocoff:

They hung onto it. They said it's difficult because the economy is bad. They would like to rent smaller pieces of it. I guess I'm open to talking with them about that, but I don't want to have an open lease sitting there. It really kind of stops us from being able to seek other partners on this.

Mike Serpe:

We didn't do anything to that room for their benefit?

Mike Pollocoff:

No.

Mike Serpe:

So nothing was spent as far as preparation?

Mike Pollocoff:

Right.

Mike Serpe:

I'd move to concur with the Administrator's recommendation to rescind the lease.

Monica Yuhas:

Second.

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John Steinbrink:

Motion by Mike, second by Monica. Any comment or question on this item?

SERPE MOVED TO ADOPT RESOLUTION #09-30 TO RESCIND APPROVAL OF A LEASE AGREEMENT WITH JSO TECHNOLOGY LLC APPROVED BY THE VILLAGE BOARD MAY 4, 2009; SECONDED BY YUHAS; MOTION CARRIED 5-0.

I. Consent Agenda

- 1) Approve Operator License Applications on file.**
- 2) Approve Letter of Credit Reduction for the Creekside Hill development.**
- 3) Approve Letter of Credit Reduction for the Shoppes at Prairie Ridge and Target Store development.**

Steve Kumorkiewicz:

Move to approve the consent agenda.

Monica Yuhas:

Second.

John Steinbrink:

Motion by Steve, second by Monica.

KUMORKIEWICZ MOVED TO APPROVE CONSENT AGENDA ITEMS 1-3; SECONDED BY YUHAS; MOTION CARRIED 5-0.

8. VILLAGE BOARD COMMENTS

Steve Kumorkiewicz:

I have a question for the Chief. I have a comment and question at the same time. I was really impressed to see our guys with the ambulance and the fire trucks on 39th Avenue collecting money for MD. I think that's very commendable. How did we do with that?

Chief Guilbert:

I'm leaving here for training and I will let them know that. I'm Paul Guilbert, Jr. I'm Chief of Fire and Rescue. I'm at 8044 88th Avenue. Again, I'm off to training. I'll let them know that. They had the money counted today at a local bank, approximately, and the exact number is on my desk, \$17,500.

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Steve Kumorkiewicz:

That's pretty good.

Clyde Allen:

Wow.

Chief Guilbert:

Which they're very proud to announce exceeded another fire department right next door to us by about \$300.

Steve Kumorkiewicz:

That's what I was looking at.

Chief Guilbert:

The collected at Springbrook and 39th and Highway H and Highway 50 for two days, Saturday and Sunday.

Steve Kumorkiewicz:

93rd and 39th. Congratulations to the crew for a job well done.

Chief Guilbert:

Thank you, sir. I'll let them know that.

John Steinbrink:

Maybe you could just spray those boots with a little odor eater. When they come up to the window and you roll that down and they waive that in your face.

Steve Kumorkiewicz:

It kind of smells but it's okay.

Chief Guilbert:

Thank you.

John Steinbrink:

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Thank you, Chief.

Steve Kumorkiewicz:

Just kidding.

John Steinbrink:

Other Board comments or questions? Mike, we have one triathlon left in September, is that correct?

Mike Pollocoff:

Danskin will be back the 27th of this month. We still have a month to go and they have 2,000 people pre-registered already. It's going to be a pretty good race. Of course, it's the latest we've had a race and I think it's the latest they've ever had a race. The water temperatures are good at Lake Andrea. I won't vouch for the air temperature that morning but they're looking forward to it. I think they've already expressed their desire to come back again.

Steve Kumorkiewicz:

Mike and I will be there early.

John Steinbrink:

Other Board comments?

9. **CONSIDERING ENTERING INTO EXECUTIVE SESSION SUBJECT TO SECTION 19.85 (1)(C) WIS. STATS. TO CONSIDER EMPLOYMENT, PROMOTION, COMPENSATION OR PERFORMANCE EVALUATION DATA OF ANY PUBLIC EMPLOYEE OVER WHICH THE GOVERNMENTAL BODY HAS JURISDICTION OR EXERCISES RESPONSIBILITY.**

John Steinbrink:

The Board will return to open session and that's for the purpose of adjournment only. No other business will be conducted.

Clyde Allen:

Motion to go into executive session.

Mike Serpe:

Second.

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ALLEN MOVED TO ENTER INTO EXECUTIVE SESSION SUBJECT TO SECTION 19.85 (1)(C) WIS. STATS. TO CONSIDER EMPLOYMENT, PROMOTION, COMPENSATION OR PERFORMANCE EVALUATION DATA OF ANY PUBLIC EMPLOYEE OVER WHICH THE GOVERNMENTAL BODY HAS JURISDICTION OR EXERCISES RESPONSIBILITY; SECONDED BY SERPE; ROLL CALL VOTE – STEINBRINK – YES; YUHAS – YES; KUMORKIEWICZ – YES; ALLEN – YES; SERPE – YES; MOTION CARRIED 5-0.

10. RETURN TO OPEN SESSION.

After discussion was held in closed session; **ALLEN MOVED TO RETURN TO OPEN SESSION; SECONDED BY SERPE; ROLL CALL VOTE – STEINBRINK – YES; YUHAS – YES; KUMORKIEWICZ – YES; ALLEN – YES; SERPE – YES; MOTION CARRIED 5-0.**

11. ADJOURNMENT

ALLEN MOVED TO ADJOURN THE MEETING; SECONDED BY SERPE; MOTION CARRIED 5-0 AND MEETING ADJOURNED AT 8:10 P.M.