

REGULAR VILLAGE BOARD MEETING MINUTES

Wednesday, May 20, 2020

Time: **6:30 pm**

Place: **Virtual Meeting hosted at Mukwonago Municipal Building/Board Room, 440 River Crest Court**

Call to Order

The Village President Winchowky called the Zoom Virtual meeting to order at 6:30p.m., hosted in the Mukwonago Municipal Building, 440 River Crest Ct.

Roll Call

Board Members present: Daniel Adler
Eric Brill
Jim Decker
Darlene Johnson
John Meiners
Roger Walsh
Fred Winchowky, Village President

Also present: John Weidl, Village Administrator
Mark Blum, Village Attorney
Ron Bittner, Public Works Director
Dave Brown, Utilities Director
Diana Dykstra, Clerk-Treasurer
Diana Doherty, Finance Director
Kevin Schmidt, Police Chief
Jeff Stein, Fire Chief
Ben Kohout, Village Planner
Jerad Wegner, Village Engineer
Bob Harley, Supervisor of Inspections

Pledge of Allegiance

Comments from the Public

Hearing none, public comment was closed at 6:33pm.

Public Hearings

Public Hearing on an amendment to public facilities impact fees in accordance with Wis. Stats. § 66.0617, and proposed Ordinance imposing/amending public facilities impact fees.

Hearing no comments; public hearing was closed at 6:34pm.

Consent Agenda

All items listed are considered routine and/or have been unanimously recommended by the Committee of the Whole and will be enacted by one motion. There will be no separate discussion of these items unless a Board member so requests, in which event the item will be removed from the Consent Agenda and be considered on the regular agenda.

6.1 Approval of Minutes of March 10, 2020 and May 6, 2020 Special Village Board Meeting, and March 18, 2020, and April 15, 2020 Regular Village Board Meetings

6.2 Motion to approve Vouchers in the amount of \$668,680.13.

6.3 Motion to approve the Special Event Application from the Mukwonago Chamber of Commerce for the Farmers Market at Field Park on Wednesdays between May 20, 2020 and October 14, 2020, with the condition the State and Federal guidelines are met regarding spacing, and attendees.

6.4 Motion to approve a License Agreement between Wisconsin Electric Power Company (We Energies) and the Village of Mukwonago for a Trail License.

6.5 Motion to approve a contract amendment for Zoning Code Rewrite with Civi Tek Consulting, Inc. to commence work immediately on conditional uses to meet State Code guidelines at a cost of \$2,100.

6.6 Motion to deny a sewer credit in the amount of \$254.99 for 1311 Riverton Drive for an exterior water leak.

6.7 Motion to approve Change Order #1 for River Park Estates paving, a cost reduction of \$15,843.30 on the contract price due to a calculation error.

6.8 Motion to approve **Task Order No. 2020-06** from Ruekert Mielke, Inc. for the Design and Bidding of CTH LO Sanitary Sewer Rehabilitation in the amount of \$20,820.

6.9 Motion to approve an amendment to the Agreement for the Development of Improvements for Box Self Storage, LLC.

6.10 Discussion and possible action on a request from Bielinski Development, Inc., to amend the Meadowland Townhomes Developers Agreement to extend the time frame to install infrastructure to December 1, 2022, and direct staff to amend agreement accordingly.

Decker/Johnson motion to approve consent agenda items 6.1 to 6.10. Trustee Walsh noted a minor correction to April 15, 2020 minutes, under section 5.2 to clarify language to defer contract awarding. It was clarified motion will include adding to defer contract awarding to the April 15, 2020 minutes.

Roll Call: "Yes" Trustee Adler, Brill, Decker, Johnson, Meiners, Walsh, and Winchowky.
Unanimously carried.

Other Items for Approval

Other items removed from Consent Agenda which were not unanimously approved from the Committee of the Whole.

Motion to approve Resolution 2020-18 a Resolution to provide for compensation to the Village Board members appointed to the Board of Review.

Decker/Johnson Motion to approve **Resolution 2020-18** a Resolution to provide for compensation to the Village Board members appointed to the Board of Review.

Roll Call: "Yes" Trustee Adler, Brill, Decker, Johnson, Meiners, and Walsh. "No" Winchowky.
Motion carried.

Motion to approve Ordinance 979 amending section 45-14 and 45-16 regarding the co-existence of the public site fee with the park impact fee.

Decker/Brill motion to approve **Ordinance 979** amending section 45-14 and 45-16 regarding the co-existence of the public site fee with the park impact fee and with attorney comments

Attorney Blum noted it was discussed previously we have an impact fee for park purposes only assessed when platted. There might be times when they should utilize both so he suggested language which will maintain public site fee. They both could qualify however only one would be utilized. Currently parkland site fee is \$942, and the fee could be established from time to time tied to the construction index. Trustee Johnson noted she still has concerns.

Roll Call: "Yes" Trustee Adler, Brill, Decker, Meiners, Walsh, and Winchowky. "No" Trustee Johnson.
Motion carried.

Motion to approve a Letter of Credit Reduction for Phantom Lakes Preserve.

Engineer Wegner noted this is standard partial credit reduction for work completed to date. Brill/Decker motion to approve a Letter of Credit Reduction #1 for Phantom Lakes Preserve to \$92,381.40.

Roll Call: "Yes" Trustee Adler, Brill, Decker, Johnson, Meiners, Walsh, and Winchowky. Unanimously carried.

Downtown Development Committee, Trustee Walsh

Informational update on the Downtown Development Committee activities

Trustee Walsh provided an update noting implementing a strategic plan with COVID has challenges, and they continue to stay on task, promote and show progress. He noted they have not spent their \$3,500 budget, and have a virtual meeting set for May 28, 2020. They will be reviewing the preliminary plan for Wayfind signage as well.

No action was required.

Finance Committee, Trustee Meiners

Discussion and possible action to authorize the 1/3 payment of the total developer grant amount in accordance with the performance of Developers Agreement with The Pointe Apartments LLC.

Meiners/Decker motion to approve authorizing a 1/3 payment of the total developer grant amount in accordance with the performance of Developers Agreement with The Pointe Apartments LLC. It was noted this payment of \$383,333.33 representing 1/3 payment from TIF was part of the Development Guarantee Agreement to be paid 45 days after the last foundation is in. It is part of the total \$1,150,000 disbursed to the developer pursuant to the agreement.

Roll Call: "Yes" Trustee Adler, Brill, Decker, Johnson, Meiners, Walsh, and Winchowky. Unanimously carried.

Motion to approve Vouchers in the amount of \$207,240.79.

Meiners/Johnson motion to approve Vouchers in the amount of \$207,240.79.

Roll Call: "Yes" Trustee Adler, Brill, Decker, Johnson, Meiners, Walsh, and Winchowky. Unanimously carried.

Discussion and possible action on small business stimulus plan

Administrator Weidl presented options for a small business stimulus plan asking for direction. Trustee Meiners noted he felt it was straightforward for those looking for assistance in utilities, rent, and marketing. Trustee Decker noted he is not in favor of this. Trustee Walsh asked who this survey went to, and noted he had discussed briefly with Citizens Bank on the administration of the various types of programs. Weidl noted hundreds through the Chamber. Trustee Johnson commented she agrees with Trustee Decker, but feels we should provide more information to the businesses on where they can get help, update the web site, and use the Chamber. Trustee Brill noted he is not in favor of using Village tax dollars used from collections, but rather the remaining grants. He suggested smaller grants handed out for marketing. Weidl suggested up to \$10,000 per project thinking \$50,000 of the CDBG remaining grant funds. President Winchowky noted he would like to see marketing or mailing to the 53149 zip code. Trustee Decker asked if it would be possible to share this project with the Chamber to send to everyone in the Village. Trustee Adler commented the grant makes sense if we are able to do this, now is the time to do it. Trustee Johnson asked if there are enough funds and doesn't like the Village being in the middle.

Decker/Johnson motion to authorize \$500 in advertising to start with the Chamber of Commerce taking the lead. Trustee Johnson requested information be updated on the web site and out to the public on where they can get assistance. April Rezka of the Chamber noted they will find out what the cost would be to mail to the 53149 zip code and bring this information back to the Committee of the Whole. Trustee Johnson additionally suggested a consultant at the Library to assist with filling out these forms if needed.

Roll Call: "Yes" Trustee Adler, Brill, Decker, Johnson, Meiners, Walsh, and Winchowky. Unanimously carried.

Health and Recreation Committee, Trustee Decker

Discussion and possible action to approve Ordinance 980 an Ordinance to update Impact Fees

Decker/Brill motion to approve Ordinance 980 an Ordinance to update Impact Fees. It was noted Ordinance 979 is regarding the platting fee and this is the overall impact fee ordinance updated. Roll Call: "Yes" Trustee Adler, Brill, Decker, Meiners, Walsh, and Winchowky. "No" Trustee Johnson. Motion carried.

Motion to Approve American Legion Post #375 Maxwell Street Days Flea Market Application and Temporary Class B Picnic License application at Field Park. Dates for 2020; June 13-14, July 18-19, August 15-16 and September 12 -13 subject to submitting a Coronavirus Response Plan and adhering to all State and Federal guidelines for this type of event.

Decker/Johnson motion to approve American Legion #375 Maxwell Street Days Flea Market Application and Temporary Class B Picnic License application at Field Park for June 13-14, July 18-19, August 15-16, and September 12-13 subject to submitting a Coronavirus Response Plan approved by the Chief, and adhering to all state and federal guidelines for this type of event. Roll Call: "Yes" Trustee Brill, Decker, Johnson, Meiners, Walsh, and Winchowky. "No" Trustee Adler. Motion carried.

Judicial Committee, Trustee Walsh

Discussion and possible action on Ordinance 981 an ordinance to repeal Section 6-36 License Quotas of the Municipal Code of the Village of Mukwonago to remove the locally imposed liquor license quotas.

Clerk Dykstra noted the Village has established local quotas that are over and above the quotas established by the State of Wisconsin. The Village quota ordinance requires a public hearing, notice to parcels pursuant to the rules of plan commission, added costs, time, and fees to charge. It is recommended this be repealed.

Attorney Blum noted it is unusual to see local quotas, however at one time the Village felt there was to be limitations.

Trustee Walsh noted he had personal family reasons for his concerns.

Chief Schmidt noted he really had no issue with any establishments or this change at all.

Decker/Meiners motion to approve Ordinance 981 an ordinance to repeal Section 6-36 License Quotas of the Municipal Code of the Village of Mukwonago to remove the locally imposed liquor license quotas. Roll Call: "Yes" Trustee Adler, Brill, Decker, Johnson, Meiners, and Winchowky. "No" Trustee Walsh. Motion carried.

Discussion and review of survey of communities and their actions regarding Alcohol License fees for 2020, as discussed at the Committee of the Whole.

No action was required. A review of the survey results was presented.

Protective Services, Trustee Adler

Monthly Police Report

Monthly Report was presented. No action was required.

Village President

Motion to approve a Presidential Proclamation honoring Building Safety Month for May.

Decker/Walsh motion to approve. Roll Call: "Yes" Trustee Adler, Brill, Decker, Johnson, Meiners, Walsh, and Winchowky. Unanimously carried.

Motion to approve a Presidential Proclamation honoring the 51st Annual Municipal Clerks Week.

Johnson/Walsh motion to approve. Roll Call: "Yes" Trustee Adler, Brill, Decker, Johnson, Meiners, Walsh, and Winchowky. Unanimously carried.

Motion to approve a Presidential Proclamation honoring retiring Municipal Judge Daniel Smart.

Johnson/Decker motion to approve. Roll Call: "Yes" Trustee Adler, Brill, Decker, Johnson, Meiners, Walsh, and Winchowky. Unanimously carried.

Accept resignation from Joe Abruzzo from the Village Plan Commission.

Walsh/Decker motion to accept resignation from Joe Abruzzo from the Village Plan Commission. Roll Call: "Yes" Trustee Adler, Brill, Decker, Johnson, Meiners, Walsh, and Winchowky. Unanimously carried.

Update on COVID -19 Pandemic guidelines for the Village of Mukwonago

Attorney Blum noted the Safer at Home order has been overturned by the Supreme Court. It can only be extended by action of the Legislature. The Village could establish its own restrictions if they wanted. At this time, we would be following CDC guidelines moving forward. Trustee Johnson wanted to clarify there will be no tickets or fines for anyone operating. Attorney Blum noted there is no order therefore nothing of record that would result in action for enforcement. It was clarified that anyone seeking a permit from the Village can still be required to produce a plan to follow CDC guidelines that are acceptable to us. No action was required.

Closed Session

Decker/Walsh motion to go into Closed Session pursuant to Wis. Stats § 19.85 (1) (g) (*Conferring with legal counsel who either orally or in writing will advise governmental body on strategy to be adopted with respect to current or likely litigation*) concerning Greenwald Family Ltd. Partnership v Village of Mukwonago, Walmart Real Estate Business Trust v Village of Mukwonago, and pursuant to Wis. Stats. § 19.85(1)(e) (*Deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session*) for negotiation with the DOT STH 83 Non-Participating Letter, Listing Contract and Offer to Purchase for Tax Key A477300004, Amendment to Offer to Purchase for 301 Main Street, and possible land purchase for 830 Veteran's Way at 8:20pm. Roll Call: "Yes" Trustee Adler, Brill, Decker, Johnson, Meiners, Walsh, and Winchowky. Unanimously carried.

Reconvene into Open Session

Decker/Walsh motion to reconvene into open session pursuant to Wis. Stats. §19.85(2) for possible discussion and/or action concerning any matter discussed in closed session at 9:36pm. Roll Call: "Yes" Trustee Adler, Brill, Decker, Johnson, Meiners, Walsh, and Winchowky. Unanimously carried.

Discussion and possible action on possible land purchase at 830 E. Veteran's Way.
No action was required.

Discussion and possible action on STH 83 DOT non-participation letter.

Decker/Johnson motion to approve signed a non-participation letter on STH83 to the DOT. Roll Call: "Yes" Trustee Adler, Brill, Decker, Johnson, Meiners, Walsh, and Winchowky. Unanimously carried.

Discussion and possible action on an Amendment to Offer to Purchase for 301 W. Main Street.

Meiners/Decker motion to approve an Amendment to Offer to Purchase for 301 W.

Main Street, subject to approval as to form with all contingencies as previously offered. It was noted this is an extension to August 1, 2020. Roll Call: "Yes" Trustee Adler, Brill, Decker, Johnson, Meiners, Walsh, and Winchowky. Unanimously carried.

Discussion and possible action on Listing Contract and Offer to Purchase for Tax Key A477300004.

No action was required.

Discussion and possible action on Walmart Business Real Estate Trust v Village of Mukwonago.

No action was required.

Adjournment

Meeting was adjourned at 9:39pm.

Respectfully Submitted

/s/ Diana Dykstra, CMC
Village Clerk-Treasurer