

**VILLAGE OF GERMANTOWN
VILLAGE BOARD MEETING MINUTES
July 6, 2015**

CALL TO ORDER: The meeting was called to order at 7:00 p.m. by President Wolter

ROLL CALL: President Wolter, Trustees Baum, Daniels, Hughes, Miller, Myers, Warren and Zabel. Trustee Kaminski was absent and excused. Also present: Administrator Schornack, Attorney Sajdak, Interim DPW Director Bischke, Bldg. & Hwy Superintendent Olszewski, Fire Chief Weiss, Deputy Fire Chief Maury and Clerk Goeckner

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was recited.

PRESIDENT'S REPORT: Participated in 4th of July event and enjoyed it. Appreciated the participation from Trustees and involvement by all.

ANNOUNCEMENTS OF FORTHCOMING EVENTS OF PUBLIC INTEREST/COMMITTEE REPORTS: Trustees provided information on upcoming meetings and events.

CITIZEN INPUT/PUBLIC APPEARANCE on items not subject to a public hearing:

Lynn Grgich – W168N11062 Ashbury Circle #5, Germantown – 4th of July Event Coordinator for the Kiwanis thanked all the departments who provide help and service at the parade for all of their work which many times goes unnoticed. President Wolter congratulated her on a successful event.

CONSENT AGENDA:

- A. Minutes – June 15, 2015 Regular and June 29, 2015 Special Village Board Meetings
- B. Accounts payable/payroll
 - 1. June 16, 2015 Payroll (hourly) \$ 222,783.68
 - 2. June 25, 2015 Accounts Payable \$ 312,044.90
 - 3. June 30, 2015 Payroll (salary) \$ 609,544.05
 - 4. June 2015 Accounts Payable \$ 35,019.83
- C. Operator Licenses: July 7, 2015 – June 30, 2016 [Recommended Approval]
Renewal Applicants: Gianna Aurelio, Jane Boudreau, Becky Buzdum, Carolyn English, Tyler Hart, Mark Janeshek, Christine Klippel, Jessica Lomibao, Chilistina Monroe, Nicholas Ronge, Kaitlynn Sommers, Mehul Soni, Kathleen Sudik, Emily Tarlo, Asif Vadsaria, Duane VanStraten, Courtney Vela
New Applicants: Anthony Erlandson, Sharon Hagenkord, Tammy Lugo, Jade McKenna, Chad Parham, Nicholas Rump, Teri Staude, Curtis Taylor, Amy Westra

The following items were forwarded from the General Government and Finance Committee with a unanimous recommendation:

- D. Recommended Approval of Resolution No. 22-15, Approving Amendments to the 2015 Budget – Germantown Community Library – County Non-lapsing Funds FY2014
- E. Recommended Approval to Purchase Virtual Server to Replace Existing APP Server & Engineering Server from SBA (Schultz-Bernstein & Associates), Not to Exceed \$13,650 Allocated From Acct #10-517-570-8100

Clerk requested Board to pull Item A as minutes have not been provided for review yet.

MOTION (Baum/Warren) to approve Consent Agenda Items B-E excepting Item A, roll call vote, carried.

UNFINISHED BUSINESS: None.

PUBLIC HEARINGS – 7:00 P.M. OR LATER:

- A. Midwest Assisted Living Partners LLC, Agent for the Equitable Bank, Property Owner of Parcel #GTNV 281-960 (N108W17478 Virginia Avenue) and Applicant for a Conditional Use Permit (CUP) for the Development and Operation of a 64-unit Community-Based Residential Facility (CBRF) Pursuant to Section 17.09(3) of the Village Zoning Code
Planner Retzlaff presented information regarding the request. CBRF to be constructed in two phases with residents 55 and older including Alzheimer's patients. 32 units with 36 potential residents for phase 1. Perimeter road included as phase 1 with parking for phase 1. Single family district with mixed use on 2020 Land Use Plan Map. CBRF allowed with a CUP per Wis. Stats. Number of facilities developed under the provision within our code to date. Criteria within statute 62.23(7)(i). Plan Commission recommendation to approve CUP with 5 conditions as stated in materials.

President Wolter opened the public hearing at 7:25 p.m.

Judy Kind - N109 W17334 Virginia Ave – spoke regarding the CUP and Rs-1 and expressed a concern of setting a precedent.

Bonnie Sanfelippo – Administrator for Ellen's Home spoke of concerns of number of beds in this area for CBRF's and staffing pattern seemingly low.

President Wolter closed the public hearing at 7:29 p.m.

- B. Germantown Diamond Club, Agent for Steven A. Dahlke, Property Owner of Parcel #GTNV 103-994 (W172N13050 Division Road) and Applicant for a Conditional Use Permit (CUP) for the Operation of an Indoor Recreation Facility (youth baseball & softball training) From an Existing Building on the Above Parcel, Pursuant to Section 17.33(3)(h) of the Village Zoning Code.

Planner Retzlaff presented information on the Germantown Diamond Club request for a CUP to operate an Indoor Recreation Facility for baseball training activities, located on Division road. Will require some improvements to existing building with proposed change of use according to state agency review. Existing restroom will be for Women's restroom and new portable toilet installed and vented for other restroom. The accessibility would be for club members only, boys baseball 14 and under, girls softball 18 and under with 10 to 12 players at a time with coaches. Individuals would have access on their own time. Indoor recreation establishment is allowed in M-1 district with CUP. Recommendation as part of CUP would be requirement for plan on how they will get access and where they will park vehicles. State approved building plans would be required and have been submitted and approved. A-3 use – limits occupancy to 34 persons at a time. No spectators allowed or events that would require spectators. Plan Commission recommendation to approve CUP to operate the indoor facility subject to 12 conditions.

President Wolter opened the public hearing at 7:40 p.m.

No one came forward to speak at the hearing.

President Wolter closed the public hearing at 7:41 p.m.

PUBLIC HEARINGS continued:

- C. Jeff Vilione Agent for Enviro-Safe Resource Recovery and JDV Real Estate Holdings LLC, Property Owner, of Parcel #GTNV 254-280 (W130N10500 Washington Drive and Applicant to Amend Conditional Use Permit (CUP) #3-11 to Include Non-Hazardous Solid Waste Processing to the List of Recycling Activities Allowed from the Facility Pursuant to Section 17.33(3)(a) and (b) of the Village Zoning Code

Planner Retzlaff presented information regarding the request by Enviro-Safe for CUP amendment to existing CUP #3-11. To include non-hazardous solid waste processing to the list of activities allowed from the facility in the Germantown Business Park. Permit would also allow more than 50-ton of solid waste to be processed from the facility. They have indicated with the approval of this permit and license issued from DNR they would have 12 ton processed from this site. Plan Commission recommendation to approve the amendment to include the solid waste subject to 1 condition as reported.

President Wolter opened the public hearing at 7:46 p.m.

No one came forward to speak at the hearing.

President Wolter closed the public hearing at 7:47 p.m.

NEW BUSINESS:

- A. Conditional Use Permit - Midwest Assisted Living Partners LLC, Agent for the Equitable Bank, Property Owner of Parcel #GTNV 281-960 (N108W17478 Virginia Avenue) and Applicant for the Development and Operation of a 64-unit Community-Based Residential Facility (CBRF) Pursuant to Section 17.09(3) of the Village Zoning Code

MOTION (Baum/Myers) to approve as presented, the Conditional Use Permit for Midwest Assisted Living Partners LLC. Discussion of percentage of underlying zoning and maximum lot coverage, state statutes that supersede local ordinance and prohibit municipalities from discriminating from those types of facilities or residents, other like facilities within Germantown, other projects that had been approved for this site and not built, traffic and reconstruction. Attorney Sajdak reviewed the law for all and stated the facility is allowed to apply for special zoning permission for use and this applies specifically to this situation. Special zoning permission definition includes conditional use permit. Ultimate determination is by this body. Discussion of other similar facilities which already exist in the Village and the density levels there, current code requirements and possible code changes to be considered. Attorney Sajdak said the state statute allows this body to allow for this. **MOTION (Zabel/Hughes) to amend the motion to eliminate 'and other client groups specified' from the CUP language in #1.**

Discussion of who should not be included in there, various mental and physical conditions, other diseases, the need to be specific or not. Difficulties in limiting who can go there. Applicant is applying for frail elderly, those suffering from Alzheimer's and dementia which is their classification and licensure. Further discussion on various types of residents to include etc. Discussion of the language of 'other client groups specified' within the CUP. Planner Retzlaff had included the language to tie them to the client group they are going to serve and allow them to serve others that fit under the broad category of their license. It wasn't to deny anyone to locate here. He is only serving those the state license allows him to serve. Further discussion on various groups to allow or not allow and verification they are only for frail, elderly, dementia and

NEW BUSINESS continued:

Alzheimer's. Attorney Sajdak stated on the application form for CBRF's in Wisconsin there is a box that you check for your primary client groups, age, dementia, Alzheimer's, correction clients and the applicant verified they checked the advanced age and the irreversible Alzheimer's, not the physically disabled. More discussion on the various groups, language, amendment suggestions and any need for hearing to be re-advertised due to a change. **Motion to amend, 1 in favor (Zabel), 7 opposed, motion fails.** **MOTION (Zabel/Baum) to amend to strike everything after the Alzheimer's in parentheses in that classification to the end of that sentence and replace with 'as allowed under the Advanced Age and Irreversible Dementia/Alzheimer's primary client groups under a CNA Class CBRF License to be issued', amendment carried.**

MOTION (Zabel/Myers) to amend that the developer be required to repave Virginia Lane from their property line to Division Road. Discussion of previous requirement in a PDD, with a duplex condominium project that did not get done. Attorney suggests adding it as part of CUP to make developer aware of it right away. Discussion of utilities required in area, developer's ability to replace the road, size of prior development of 2006 compared to this project in relation to road replacement, schedule for Village road work on Virginia and consideration of cost sharing program. **MOTION (Myers) to amend the amendment to come up with an agreement with the developer for a cost sharing. Motion fails for lack of a second.** **Vote on the prior amendment, 1 in favor (Zabel), 7 opposed, amendment fails.** **Motion as amended, 7 in favor, 1 opposed (Zabel), carried.**

- B. **Conditional Use Permit - Germantown Diamond Club, Agent for Steven A. Dahlke, Property Owner of Parcel #GTNV 103-994 (W172N13050 Division Road) and Applicant for the Operation of an Indoor Recreation Facility (youth baseball & softball training) From an Existing Building on the Above Parcel, Pursuant to Section 17.33(3)(h) of the Village Zoning Code.**
MOTION (Baum/Hughes) to approve as presented the CUP for Germantown Diamond Club, carried.
- C. **Amendment to Conditional Use Permit #3-11- Jeff Vilione Agent for Enviro-Safe Resource Recovery and JDV Real Estate Holdings LLC, Property Owner, of Parcel #GTNV 254-280 (W130N10500 Washington Drive and Applicant to Amend CUP #3-11 to Include Non-Hazardous Solid Waste Processing to the List of Recycling Activities Allowed from the Facility Pursuant to Section 17.33(3)(a) and (b) of the Village Zoning Code**
MOTION (Baum/Warren) to approve the amendment to CUP #3-11 for Enviro-Safe Resource Recovery, as presented, carried.
- D. **Recommendation by EMC Insurance Regarding Claim of 4/17/2015, International Concrete Products N104W13561 Donges Bay Rd, Germantown WI 53022**
MOTION (Baum/Myers) to disallow the claim of International Concrete Products of 4/17/2015, as recommended by EMC Insurance, carried.
- E. **Request for Approval of Junk Dealer/Auto Salvage Establishment License for July 1,**

NEW BUSINESS continued:

2015 to June 30, 2016 for WM Recycle America LLC, W132 N10487 Grant Drive, Germantown WI 53022 for Recycling Facility

MOTION (Baum/Miller) to approve as presented. Discussion of application. **Carried.**

F. Review of Sales Agreement for Medical Oxygen from Airgas

Fire Chief Weiss presented information on the agreement. **MOTION (Baum/Zabel) to approve the agreement subject to review by the Attorney and authorization, by roll call vote, carried.**

G. Wisconsin Gas – PSC Application; Germantown-Mequon High Pressure Gas Main Project

Interim DPW Director Bischke reported on the Wisconsin Gas project in relation to Village road work. Concerns with Donges Bay Road project and location of gas main possibly going across it. Letter from PSC requires response of any concerns by July 10th. Wis. Gas had proposed 2 alternatives to PSC and PSC had proposed a 3rd. Discussion of alternatives, letter from PSC to affected residents, project process in various locations. Recommendation from Director Bischke to direct staff to notify PSC of Village reconstruction project of Donges Bay Road between Pilgrim Road and Fond du Lac Ave. in 2016 and require Wisconsin Gas to complete their project by June 1, 2016 to eliminate interference with our project and eliminate patchwork on the new pavement. Also require them to use a cementitious slurry backfill when they trench under Village owned pavements, whether it be main roads or side streets, to include all of the above, so the trench doesn't settle underneath our pavements in the future. Recommendation by Planner Retzlaff to go with alternative route B which bypasses Donges Bay Rd. Discussion of options and various considerations. Looking for minimal interruptions. **MOTION (Warren/Baum) to include Germantown's preferred route plus the recommendations as stated.** Discussion of Engineer to determine the preferred route. Further discussion on routes and alternatives to be considered. **7 in favor, 1 opposed (Zabel), carried.** Interim DPW Director Bischke is to complete the letter and send it to board members right away.

H. Discussion of Planned Development District (PDD) and Possible Changes to Village of Germantown Municipal Code, Section 17.27, Zoning/PD

Trustee Zabel requested this item to be placed on the agenda. Discussion of Village Code, Section 17.27 for PDD's and question of density and measurement. Existing are per net unit acre but definition is not in the code book. Trustee Zabel asking if this should be put in the PDD. Discussion of trade-offs and variables in density. This is a density question not so much a PDD question. What is the density and how is density determined? It is a community choice. Discussion of buildable land and without definition of density it is each person's opinion. Discussion of need to give Plan Commission a directive and come up with a definition. Plan Commission considers it then it comes back to Village Board for approval. Planner Retzlaff stated it is a complicated issue. Need to consider what has been done in the past. PDD's and PUD's are developed to allow the developer to modify the municipal requirements to a looser interpretation for trade-offs to allow more flexibility is the intent as defined by

NEW BUSINESS continued:

statute. With our code there is a specific limitation you can only get what you have in terms of the zoning. **MOTION (Zabel/Baum) to forward to Plan Commission for discussion of density for planned unit development based on our codes and create a definition of net density, carried.**

I. **Amendment No. 4 to Declaration of Restrictions and Covenants for Germantown Business Park TIF#4**

Attorney Sajdak presented information regarding the amendment to the covenants for TIF #4 Business Park. If approved by Village Board, Village will sign off on the parcels it owns and circulate to all other buildings in the TIF. Discussion of changes and effect on properties. Representative of Skyline Development spoke regarding changes to their properties buildability. **MOTION (Baum/Myers) to approve as presented, carried.**

J. **Potential Land Sale Agreement For Lot 34 (CSM 6396) In the Germantown Business Park. The Village Board may enter into closed session as per Wis. Stat. §19.85(1)(e) for the purpose of deliberating or negotiating, when competitive or bargaining reasons require a closed session and then re-enter open session to take such action as it deems appropriate. – AT 10:07 p.m.**

Attorney Sajdak updated the Trustees on the negotiations for the potential land sale. **MOTION (Zabel/Baum) to accept the offer at \$74,900 for a total of \$152,964, carried.**

K. **MOTION (Zabel/Baum) to go into closed session at 10:10 p.m. as per Wis. Stat. §19.85(1)(e) for the Potential land acquisition of an easement on N104W15652 Donges Bay Road (Tax Key No. GTNV 274-117) as part of the Donges Bay Road reconstruction project for the purpose of deliberating or negotiating, when competitive or bargaining reasons require a closed session and then re-enter open session to take such action as it deems appropriate, roll call vote, carried.**

MOTION (Zabel/Baum) to go into open session at 10:35 p.m., carried.

MOTION (Baum/Miller) to direct staff to proceed as discussed in closed session, roll call vote, carried.

L. **MOTION (Baum/Zabel) to go into closed session at 10:37 p.m. per Wis. Stats. §19.85(1)(c) to review Applicants for the Director of Public Works position, for considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility and then re-enter open session to take such action as it deems appropriate, roll call vote, carried.**

There being no further business, the meeting adjourned at 10:57 p.m.

Barbara K. D. Goeckner MMC/WCPC
Village Clerk

Minutes approved on 8/3/2015 with corrections noted with overstrikes for omission and underscores for additions.