VILLAGE OF GERMANTOWN
VILLAGE BOARD MEETING MINUTES
August 17, 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, Kaminski, Miller, Myers, Warren and Zabel. Trustees Baum and Miller were absent and excused. Also present: Administrator Schornack, Interim DPW Director/Engineer Bischke, Police Chief Hoell, Fire Chief Weiss, and Clerk Goeckner

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was recited.

PRESIDENT'S REPORT: President Wolter presented a Proclamation to Deputy Fire Chief Michael Maury on his retirement after 38 years on the Germantown Fire Department. Others presented recognition items to Deputy Maury. President Wolter invited people to attend the 911 Memorial Service that will be held at Fire Station #2 on Sept. 11th at 10 a.m.

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: None

CONSENT AGENDA:

A. Minutes – August 3, 2015 Regular Village Board Meeting

B. Accounts payable/payroll

1.	July 2015	Accounts Payable	$ 31,740.27
2.	August 10,2015	Accounts Payable	$ 849,712.57
3.	August 12, 2015	Payroll (hourly)	$ 242,452.13
4.	August 15, 2015	Payroll (salary)	$ 77,279.23

C. Operator Licenses: August 18, 2015 – June 30, 2016 [Recommended Approval]
Krystal Bertrand, Kabir Ghuman, Stacy Nixon, Michelle Phillips, Navjoot Sandhar, and Sarah Sobye

The following items were forwarded from the Public Works Committee with a unanimous recommendation:

D. Purchase Plow for Truck Equipment #301 for an Amount Not To Exceed $6,831.00. Funds To Be Allocated From Acct. #10-553-570-8100 [Recommended Approval]

E. Contract with M&M Tree Care to Provide Emerald Ash Borer Tree Treatments to Various Village Trees at a Cost Not To Exceed $9,790. Funds To Be Allocated Form Acct. #10-553-530-5290 [Recommended Approval]

F. Request To Authorize Contract For Road Patch With Hilltop Asphalt At A Cost Of $9,000 To Patch A 135'x20' Section Of Spring Hill Lane. Funds to Be Allocated From Acct. #10-542-530-3505.

G. Upgrade The Fuel Card Reader System For DPW Fuel Island From Badger Oil At An Amount Not To Exceed $12,030. Funds Allocated From Acct. #10-542-570-8100. [Recommended Approval]

H. Purchase Five (5) Vaughan Wet Well Conditioning Pumps With Two Duplex Control Panels For Main Street And Old Farm Lift Stations From William/Reid, Ltd. For An Amount Not To Exceed $60,500. Funds Allocated From Acct. #60-180-184-3250. [Recommended Approval]

<u>CONSENT AGENDA continued:</u>

I. Direct Staff To Work With WE Energies And The Village Attorney To Come Up With Language To Protect The Village On The Easement Acquisitions Related To The High Pressure Gas Main Relay And To Value The Easements At $1.00 Each. [Recommended Approval]

J. Pay Invoice to Baumhardt Sand & Gravel Inc. For The Emergency Repair on Division Road Culvert In The Amount Of $33,702. [Recommended Approval]

The following items were forwarded from the Public Safety Committee with a unanimous recommendation:

K. Application For Dance License, St. Boniface Congregation, W204 N11940 Goldendale Rd., Germantown, WI, September 4, 5, & 6, 2015 From 3:00 P.M. To 12:00 A.M. [Recommended Approval]

L. Replacement For Police Clerk Vacancy [Recommended Approval]

M. Replacement For Police Detective Vacancy [Recommended Approval]

N. Updated and New Position Descriptions for the Fire Department After Review by Village Labor Attorney. [Recommended Approval]

Clerk Goeckner requested to pull Item A, August 3rd minutes for correction
Clerk Goeckner requested to pull Item K, St. Boniface Dance License.
Trustee Zabel requested to pull item N, position descriptions for Fire Department.
MOTION (Baum/Miller) to approve Consent A-N, minus A, K and N, roll call vote, 8 in favor, 1 absent, carried. (Trustee Myers stepped out of the room momentarily)

MOTION (Baum/Zabel) to approve August 3, 2015 minutes with correction to add President Wolter to those present and having called the meeting to order, carried.

MOTION (Baum/Miller) to approve Item K, St. Boniface Dance License contingent on new agent completing their information on all applications and a clean background check, carried.

<u>Item ‘N’ Updated and New Position Descriptions for the Fire Department After Review by Village Labor Attorney:</u>
Discussion regarding process for appointments, whether PFC approval or Fire Chief appointment first. Attorney Sajdak stated Fire Chief appoints subordinates per approval by the Village Board. **MOTION (Zabel/Baum) to approve the position descriptions as written and approved by counsel with the correction to the 3rd line on the paragraph that it was reviewed by Public Safety.** Discussion: Only going into effect if referendum passes. Should these wait for that completion? Contracts have different set of descriptions in effect now. Descriptions state ‘career’ positions. Requirements for positions are different and more stringent than current ones. Further discussion on VB/PFC roles in positions, qualifications. Verification this was reviewed by labor attorney. **MOTION (Zabel/Baum) to amend motion that these take effect on approval of referendum in November, amendment carried. Motion as amended carried.**

<u>UNFINISHED BUSINESS:</u> None.

<u>PUBLIC HEARINGS</u>:

A. <u>Todd Roskopf, Agent For RJTR LLC, Property Owner And Applicant For (1) A REZONING Application To Rezone The Following Described Property From The A-1:</u>

PUBLIC HEARINGS continued:

Agricultural District To The Rs-1: Single Family Residential District Pursuant To Section 17.14 Of The Village Zoning Code On The Property Located At N124W18109 W Lovers Lane, Tax Key No. GTNV 163-991 & 163-996;
Planner Retzlaff presented information regarding the request. The proposal is to divide a 71.2 acre parcel into 2 lots. Plan Commission recommendation is to approve.

President Wolter opened the Public Hearing at 7:35 p.m.
No one came forward to speak at the hearing
President Wolter closed the Public Hearing at 7:37 p.m.

NEW BUSINESS:

A. Todd Roskopf, Agent For RJTR LLC, Property Owner And Applicant: N124W18109 W Lovers Lane; **Ordinance Amendment** To Rezone Parcels GTNV163-991 & 163-996 From The A-1: Agricultural District To The Rs-1: Single-Family Residential District
MOTION (Kaminski/Baum) to approve as requested. Discussion of 75' impervious area marked. Particular area is deemed to be of special interest Army Core ~~of Interim DPW Director~~ Engineers and DNR (Section 404 of the Clean Water Act) with higher level of protection.

B. Gene & Carol Phillips, Property Owners; W188N10051 Maple Road; 2-Lot Certified Survey Map **(CSM)**
MOTION (Baum/Myers) to approve CSM as presented, carried.

C. Request Approval Of Change Of Agent – Cost Plus World Market, N96 W18970 County Line Rd, Germantown, Michelle Pawlukiewicz, 10806 84th St., Pleasant Prairie, WI 53158
MOTION (Zabel/Miller) to approve as requested, carried.

D. Request To Award Automated Refuse/Automated Recycling Contract To Waste Management
Interim DPW Director Bischke presented information on the request which included a bid tabulation. Waste Management is lowest bidder with lowest cost on the 5 year plan. Discussion: Concern on size of container for all automations, cost savings of tens of thousands, information meeting conducted for residents, fee to exchange to smaller cart once all carts delivered, extra container cost of $5/month, free bulk waste drop off at Menomonee Falls at 2.5 cents/pound for no minimal fee. Education and outreach information provided for residents. Current contract expires 9/30/2015. **MOTION (Baum/Kaminski) to approve contract with automated pick up.** Discussion continued: size and weight limits, management of extra fees, contractor responsible for carts if any issues since they are buying carts, billing questions, can cut up old cans for recycling if they won't fit in recycle bin. Further discussion on single family vs. multi-family homes. Anything over 5 families would not be included. Current contract says residential units – single family, two family and 3 family dwellings. All commercial and industrial are excluded from this contract. Since item was previously postponed, Attorney Sajdak clarified at this point to pick up where it left off at previous meeting. Motion made at that time to approve the contract with solid waste as presented, then a motion to amend, which was pending, then motion to postpone. Now at motion to

NEW BUSINESS continued:

amend to insert section 2 of the old contract into the new contract. Section 2 leaves the solid waste pick up the same as what it is now. Discussion of current contract vs. new contract, currently back to where we were in May for motions. Further discussion: Number of containers allowed, pick up of bulk items, automation vs. manual pick up, size of containers, contract from May same wording as past 5 years. **Motion before Board is motion to amend to include manual pickup.** Further discussion of other motions and those out of order. **1 in favor (Zabel), 8 opposed, motion to amend fails. MOTION (Kaminski/Baum) to amend to include all additional points that DPW Director Ratayczak presented today as itemized on page 65 on the website agenda.** This amendment is to the motion from May to approve the contract as presented with automated automated and this amendment is to add the items presented today. Trustee Myers verified with Waste Management representative that he concurs with what has been brought forward this evening, representative replied yes, they do. Trustee Zabel discussed an amendment 5 years ago to include language in 5.1 (of the contract) and the contract of May this year didn't include it. Amendment allowed Germantown to increase or decrease number. Back to the 5 units. This was added into the original contract and wants to be sure it is still included due to state law not allowing us to pick up anything more than 4 family units. Question to Attorney Sajdak, who stated he reviewed this and his understanding is the circumstance would be covered. Trustee Zabel not sure it would have to be removed. Attorney Sajdak reviewed statutory language which isn't specifically clear but maybe he could make an argument that the Village doesn't fit into that and League counsel agreed with his initial review. Reduction of a covered service requires removal from the levy. Discussion of other items including bulk pickup and possible voucher system. **Amendment to motion, 8 in favor, 1 opposed (Zabel), carried. MOTION (Zabel/Kaminski) to amend to include language developed in the agreement with Waste Management in 2010 and add to contract of Section 5.1 to read 'the contractor shall provide the services described above the set amount per unit for each unit served according to the number of units. The total monthly charge shall be adjusted each month for increases or decreases for residential units served. The Germantown DPW shall report on a monthly basis to the contractor any increases or decreases in numbers of occupied residential units existing within the Village. Such increases or decreases should be taken into account by the contractor and adjust the monthly invoice for the Village for the next month.'** Discussion of handling the amounts if added and later removed. Remove last sentence of reference to recycling center. Discussion of effect on levy – reduction or pass through? Attorney Sajdak stated his understanding is it is a pass through but may not be a dollar for dollar equalization. Discussion of audits of the numbers, previously done monthly by DPW Director Ludwig. Discussion of housing units, reduction of levy, numbers needed before October 1st. **Motion to amend, carried. MOTION (Hughes/Zabel) to waive the $5 monthly fee for the extra cart.** Discussion: Does the Village absorb the cost, what are residents doing with it, carts and ownership. **3 in favor, (Hughes, Wolter, Zabel), 6 opposed, motion fails.** President Wolter requested to see numbers at the September 21st meeting. **Roll call vote, 8 in favor, 1 opposed (Zabel), carried.**

E. Request Approval of Developer's Agreement for Prairie Glen Phase II Subdivision

NEW BUSINESS continued:

Interim DPW Director Bischke provided the agreement to the Trustees at their desks and presented information regarding agreement and any changes. Developer has concerns with sidewalk connecting to Mequon Road. Some could be delayed indefinitely. Other items: Street trees in phases, required plans, DPW would object to building permit issuance without all roadways being constructed, sewer and water costs, private utilities in phase 1, erosion control, internal road payment, impact fees. Further discussion of utilities and roads to be in before permits allowed. **MOTION (Zabel/Myers) to approve the developer's agreement with Village Attorney's review and approval.** Representative from Belinski Homes clarified her request for an early building permit and weather concerns for completion of utilities and roads. Discussion of need for roads for emergency response access to site, amendment needed under occupancy – Page 9 of agreement, reference to Section 2.02. **MOTION (Baum/Myers) to amend the motion to direct legal to revise Section 2.02 to allow for the contingency for weather related issues for early building permits.** Discussion of items to be completed, how many permits to be allowed. Attorney Sajdak stated intention in language will require them to come back and ask for number they need. **Motion to amend, 8 in favor, 1 opposed (Zabel).** Discussion. **Motion carried.**

F. **Resolution No. xx-15** Approving Amendments To The 2015 Budget For Line Item Transfer For Division Road Culvert

Motion (Zabel/Myers) to approve the resolution approving the amendments to the 2015 Budget for Line Item Transfer for Division Road Culvert, roll call vote, carried.

G. Request By Wisconsin Gas To Amend Language In Distribution Easement (Gas) Through Village-Owned Property Northeast Of Donges Bay Road And Fond Du Lac Avenue

Interim DPW Director Bischke stated WE Energies requested to withdraw this item. No action taken.

H. Request To Modify TID #6 Grading & Erosion Control Contract With Super Western To Accommodate Site Layout Changes

Interim DPW Director Bischke presented information on the request to modify this contract. Previous cost at $1.497 million. Cost now at $1.602 million with new site layout and approval of layout by MLG, Village and prospective tenant. Requesting modification of contract for additional cost. Discussion: Agreement states Village responsible for grading as part of TIF cost and was budgeted within TIF. Possibility to negotiate with MLG, agreement not designed to address idea someone would back out, need for development, possibility of numbers going up due to additives for soil, need to progress in TIF for development to come. **MOTION (Myers/Kaminski) to accept the TIF 6 agreement as stated.** Discussion: start time, cost responsibility of tenant to cross utilities, 2014 numbers - Super Western mobilized equipment but did not move any earth yet, agreement is on the new number for cost, project delayed after soil testing by Himalayan, weather will cause use of additives and costs could go up. Request to see proposal without conditions, discussion of prior document vs. this one, conditions implied by design previously, why spelled out now - took advantage of change order to add conditions. **MOTION (Warren/Kaminski) to amend; accept the**

NEW BUSINESS continued:

grand total with the first condition removed through 'budget': Pricing subject to change after further review of plans and scope verification. This is a preliminary budget. Discussion: Called notes - Warren sees them as conditions. Other bullets okay. **Carried. Roll call vote on motion as amended, 7 in favor, 2 opposed (Baum, Zabel), carried.**

I. Request To Modify TID #6 Sanitary, Water & Storm Utilities Contract With Advance Construction To Accommodate Site Layout Changes

Interim DPW Director Bischke presented information on the request. Reviewed geotechnical reports which indicate more bedrock than first encountered. Proposing to increase cost by 10%. Discussion: Sewer and water approved but not signed until Developers Agreement signed, new bidding, options for different paths for loop, concern of dead ending and putting users at risk, limiting types of tenants to draw, and need for utility completion before road construction. **MOTION (Hughes/Kaminski) to approve up to 10%, by roll call vote, 6 in favor, 3 opposed (Baum, Warren, Zabel) carried.**

J. Request To Let TID #6 Paving & Storm Sewer Contract Bid To Accommodate Site Layout Changes

Interim DPW Director Bischke presented information for this request. Discussion of timing to complete and options within contract, re-bidding at different time. **MOTION (Baum/Myers) to go out now for bid, 7 in favor, 2 opposed (Kaminski, Zabel), carried.**

K. Request To Approve **Resolution No. xx-15** To Combine Polling Locations For November 3, 2015 Special Election

Clerk Goeckner presented information on request to combine polling locations. Pros: Anticipating low turnout for referendum only election – 10% or less, cost savings between $7,400 and $11,400, time saving for set up and reporting work, overtime and equipment programming, one ballot style vs. four. Cons are: concern of confusion to voters in switching locations back and forth, possible larger turnout than one location can accommodate, larger turnout causing lines at only one location. Discussion: costs, confusion to voters, traffic congestion. **MOTION (Kaminski/Hughes) to maintain current locations as they are, 8 in favor, 1 opposed (Baum), carried.**

L. Request to Move or Cancel the November 2nd Village Board Meeting Due to Clerk's Office Election Duty Requirements for Special Referendum Election on November 3, 2015

Clerk Goeckner presented the request. **MOTION (Kaminski/Baum) to cancel November 2nd Village Board meeting due to election on November 3rd.** Discussion. **8 in favor, 1 opposed (Zabel), carried.**

M. Appeal of Impact Fee Determination and Imposition for First Choice Ingredients

Interim DPW Director Bischke presented information regarding request to appeal fee determination. History of water and sewer use. Increase to flows with each addition. Water use has doubled. Metering 100% of water going into sanitary sewer. Non processed water could be metered out if system designed by their mechanical engineers. Would report this to MMSD. Charge could be reduced for 30% going into

<u>NEW BUSINESS continued:</u>

product, from $100,000 to $80,000 or so. This has not been caught or considered in their budgets for expansion previously and they don't see justification based on expansion. Also have been paying 100% of sewer fee. They are not in agreement with the $92,000. Ordinance requires collection of fee prior to issuance of building permit. Discussion: MMSD filing would have caught this, sewer bill would have been less, current charge vs charge if all mistakes caught, time to put a transducer in pipe and measure waste water, do something partial now and correct it when number is determined to adjust future bills. Impact fee benefits community, helps Village with future plans and future development, no other appeals by other companies have been granted, time allowed for payment. Attorney Sajdak recommends appropriate way to deal with it is to allow Interim DPW Director Bischke to issue permit and give them the credit, but one year following completion of construction it will be determined if we will adjust based on actual use. This gives one year to submit their form, have it verified and then we get impact. Further discussion of various fees. **MOTION (Kaminski/Myers) to reduce amount owed from $92,679.44 by 50% and take that back to First Choice Ingredients. Because of the issue as identified they have identified that they believe 30% of their water use is going into their product. At the end of the year period that is provided for in the code, we will review it and even if they have done the MMSD report and we can say yes, you've used the 30%, that 30% is still going to be a higher number than the 50% so we will go back to them and say you owe us 20%. If we take only 50% of this number, we would condition the year review such that the review would be based on an increase over the 2014 flow rate.** Discussion of fees and collection timing. Interim DPW Director Bischke to collect reduced amount as required by code, before issuing building permit. Discussion of Section 15.07(2) of Municipal Code. Clerk Goeckner re-read motion, which included the language/discussion as provided by Attorney Sajdak. **Roll call vote, 7 in favor, 2 opposed (Baum, Zabel), carried.**

There being no further business, the meeting adjourned at 10:40 p.m.

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Barbara K. D. Goeckner MMC/WCPC
Village Clerk

<u>Minutes approved on 12/7/2015 with corrections noted with overstrikes for omission and underscores for additions.</u>