

PUBLIC WORKS & HIGHWAY COMMITTEE MEETING MINUTES

May 11, 2016
Village Hall Board Room

CALL: Chm. Kaminski called the meeting to order at 5:30 p.m.

ROLL CALL: Chm. Kaminski, Trustee Members Miller, Warren and Zabel. Also present were Director Ratayczak, Atty. Sajdak, Adm. Schornack, and Secretary Wick.

PREVIOUS MINUTES: MOTION made by Zabel, seconded by Warren to approve the minutes of April 5, 2016.

Motion carried unanimously.

PUBLIC COMMENT: None

MOTION made by Warren, seconded by Zabel to move to Items C & D under "NEW BUSINESS" of the Public Works Agenda.

Motion carried unanimously.

PETITION BY "THE GLEN" AT BLACKSTONE CREEK CONDOMINIUM ASSOCIATION REQUESTING TRASH AND REFUSE COLLECTION BY VILLAGE OF GERMANTOWN – DISCUSSION AND/OR ACTION: Dir. Ratayczak received a petition for trash collection from the owners of condominium units at the Glen of Blackstone Creek Condominiums. The petition requested that trash and bi-weekly recycling collection be provided by the Village of Germantown. Dir. Ratayczak provided the Committee with verbiage from the Developer's Agreement, a section of the WI Statutes and an email from the WDNR Recycling Program Coordinator. Dir. Ratayczak stated what made the Glen at Blackstone Creek exempt from the Village's contract with Waste Management was Section 5.05 of the Blackstone Creek Development Agreement which stated trash and recycling would be done and contracted privately by the residents.

Village Atty. Sajdak reported the law states as long as the governing body (Village Board) has the responsibility for how tax dollars are spent provided you are not violating some constitutional provisions where you're making distinctions based on suspect classes for example serving one religious following vs. another religious following. General distinctions i.e. Developers Agreement are perfectly ok. Atty. Sajdak cited case law in which the City of Brookfield was sued by a condo association related to a private road situation and the court stated it was an acceptable use of the tax payers' dollars. Even though some tax payers had their roads maintained and taken care of by the municipality, this association had an agreement in place that put road maintenance on the private developer and private homeowners and was perfectly acceptable. The Village itself had previously been sued by another condo association as related to garbage collection and those claims were dismissed as it was perfectly acceptable to make that distinction as well. Chm. Kaminski clarified if there is a Developer's Agreement in place that is what is followed. Atty. Sajdak agreed.

Ryan Schroeder, W179 N11770 Medinah Court, spoke on behalf of the Homeowners Association noting the petition presented was completed by the Condo Association. The Blackstone development was originally set up as all condominiums which had since changed to a mixed use of condos and single family homes. Mr. Schroeder had spoken to the Village President and a

few Trustees noting the single family homeowners were unaware of a Developer's Agreement between the developer and the Village. The Developer Agreement was created prior to the changes from all condominiums to both condos and single family dwellings. Mr. Schroeder asked the Committee to consider the single family homeowners that are in a development in which the Developer Agreement only addressed condominiums which was pre single family homes.

Kimberly Rogowski, W117 N17800 Augusta Court, noted she moved into the development over a year ago and was not made aware of the Developer's Agreement. As a resident paying those tax dollars that a friend down the street pays and includes trash and recycling collection by the Village she felt it was a reasonable request as a homeowner, paying the exact same allocation of tax dollars to the Village, receive the same service.

Atty. Sajdak noted the original Developer's Agreement in place pre-dated his hire as the Village Attorney and guessed as tax dollars are as tight as they are and any time you have new development, typically you look to try and minimize the impacts on those tax dollars.

Adm. Schornack, clarified these types of Developer Agreements are created in which the developer negotiates private road specifications, private utilities, and other services in order to develop in the community. There are other developments in the community which also have the private streets, utilities and refuse services. It did not make any difference if the development was condos, single family or a PUD.

Committee discussion agreed if changes were made for the Blackstone Creek development, it would set precedence as there were many other developments with private streets, utilities and amenities.

Trustee Miller stated he was invited to the Home Owners Association meeting to discuss the Developer Agreement. At that meeting President Wolter noted there was a change in the State Statute and would obtain an opinion from the Village Attorney to see if the Village was required to pick up single family trash and recycling. Atty. Sajdak stated the Developer's Agreement took precedence over State Statute.

Justin Dopierala, W177 N11438 Blackstone Circle, resides in a single family home in Blackstone and was also unaware of the Development Agreement. The developer agreement was probably created when tax dollars were tight, and at the time, the development was to be 100% condominiums only. When single family homes were introduced in the development there was an explosion of success of single family buyers. Home values bring in substantial tax revenue for the Village. The residents understand they are on private roads not built to specifications and not requesting other things that would normally be the responsibility of the Village. It was the single family homeowners tax dollars that are paying for garbage collection so in a way they are double paying as single family homeowners even though they brought in substantial tax revenue to the Village. Also noted was as part of the Developers Agreement all rights of managing common elements are given to the condo owners. The single family owners have no rights on managing and/or rejecting the condo association's desires yet must still pay for it. As the Committee believed there would be bigger issues with other private development agreements, Mr. Dopierala was unaware of any other developments that had a mixed use of condos and single family homes.

Trustee Zabel explained when the home builders came to the Village to modify the Plan Unit Development, the Village Board asked the home builder about the private roads and the garbage/recycling collection in which the builder stated they were going to keep the same documents and same restrictions and worked out their own agreements between the developer and builder. Trustee Zabel was surprised to hear the purchasing homeowners were not made aware of the Development Agreement on file. Trustee Zabel further explained everyone pays at the same tax rate. The difference is the value of the land. If you look at the value of the dwellings and the value of the land, you'll find your value on land is less as there are more dwelling units in the development vs. a normal subdivision. Even though you pay the same rate, the gross dollar amount you are paying is different.

Brad Nakum, W177 N11534 Fairway Court, resides in a single family home and questioned the Village Attorney as to when changes were made in the Blackstone Creek development, was there new terms negotiated? Atty. Sajdak stated generally that would be the case. Typically development agreements run with the land until it gets changed or removed. By State Statute the Village cannot make a distinction between single family and condominiums. As the Village Administrator stated this development was one the developer/builder were trying to get a little more density as part of the allowable zoning and as part of that the give and take was that you had private streets, private garbage collection, etc.

Trustee Zabel, questioned whether the Village could negotiate the current Blackstone Creek Trash/Recycling contract with the rates the Village pays to service single family homes only if the homeowners were paying a significantly higher rate. Atty. Sajdak stated the Village could contact the waste provider to see if they could negotiate a better rate. Chm. Kaminski suggested Dir. Ratayczak speak to the Village's provider and obtain a copy of the Blackstone Creek Condominium provider contract to possibly facilitate better rates. Dir. Ratayczak suggested a letter from the condo association agreeing to the Village trying to negotiate a different contract. As most rates are based on the number of picks in the development, it would be possible the condo's rates would be affected if the single family homes were removed from the current contract.

Atty. Sajdak clarified there was no difference between the condos and single family. There are different forms of ownership and what that entitles the owners to as it related to their bundle of rights and responsibilities. The Statute states as a community the Village cannot put additional requirements on condominiums just because they are condominiums. The Village cannot provide a lower level or different level of service solely because they are condominiums. A private agreement is done for all sorts of developers.

MOTION made by Zabel, seconded by Warren recommending the Village of Germantown adhere to the collection policies as structured in the Blackstone Creek Development Agreement on file.

Chm. Kaminski offered Village staff to look into getting the single family homeowners a better rate for their trash and recycling pickup. The homeowners were asked to supply the Village with a copy of their current solid waste and recycling contract.

Motion carried unanimously.

R.O.W. ORDINANCE – REGULATION OF RIGHTS OF WAY – DISCUSSION AND/OR ACTION:

Atty. Sajdak explained the regulation of rights of way was driven in part by a request to use the right of way in a manner that was not a traditional use as in sewer, water, gas, electric, telephone, etc. As a result the Village felt it was time to adopt a model Ordinance which effectively had existed a number of years but never adopted presumably because no one thought the Village would be burdened by other types of uses. The goal of the Ordinance is to allow the Village to have some ability to regulate and dictate where, when, and how particular uses are put into place. A poll of surrounding communities found a mix of various approaches and some do and some don't have an Ordinance in place. Village staff had recommended approval of a Right of Way Ordinance which would allow the Village the ability to regulate safety aspects of what is being done.

Chm. Kaminski felt the Ordinance could be modified as time went on and didn't want the Ordinance to prohibit someone who wanted to come into the community to improve communications.

MOTION made by Zabel, seconded by Warren to forward to the Village Board with a positive recommendation to approve the creation of Section 8.065 of the Germantown Municipal Code relating to the regulation of Rights-of-Way.

Motion carried unanimously.

Atty. Sajdak and Adm. Schornack vacated their chairs at 6:15 p.m.

UPDATE ON SHALLOW WELL INVESTIGATION – DISCUSSION AND/OR ACTION:

Greg Bolin, Foth Infrastructure & Environment, gave a brief explanation of potential well sites based off a site map provided in the Public Works Committee backup. Staff had looked at the latest layout of the proposed Willow Creek Business Park and potential shallow well sites within the bounds of the development. Of the four locations which were previously located based on geophysical work and field survey data, it was found one of the northern sites was within a proposed retention area. Of the two locations at the southern portion of the site it was found they were close in proximity to another retention pond. With locating any well site, Mr. Bolin stated Wisconsin Code requirements must be followed; 1.) Any well site be located at least 400 feet from any retention/detention pond; 2.) A minimum parcel or land size for a well site should be (100'x100'). With those constraints in mind, the layout of the northern sites was not eligible as they were too close to the retention pond. Of the southern sites, the one closest to the proposed retention pond was within 400 feet of the potential well site & therefore be eliminated. With the last site to the south, even though it was 400 feet from the retention pond, it would be difficult to create the 100'x100' minimum parcel requirements due to the floodplain boundaries of the development. For this reason Mr. Bolin did not see this fourth location as a viable site either. In closing, the four sites picked as potential shallow well locations would now be eliminated based on the latest layout of the business park.

Committee comments:

- Trustee Zabel - As the map presented did not show the fissures, maybe there was another area in which the 400 foot retention pond rule would apply. Also the site layout presented did not show the gas easement which he believed would be close to the

southern shallow well sites. Mr. Bolin stated the Code did not stipulate a minimum distance for the gas main.

- Dir. Ratayczak - also to be considered is the placement of buildings for development on the sites. The Village would not want to put something in that would limit the availability of the parcel.
- Trustee Warren - questioned the priority, the location of the well or the orientation of the sites and retention ponds? Dir. Ratayczak stated former Engr. Bischke had designed and configured the TIF parcel to best fit the needs of the contours of the land, wetlands and shoreland boundaries.
- Mr. Bolin - There were other potential well locations that had been presented at the April, 2016 meeting. Even though the sites were promising, there was concern of the impact on private wells.
- Mr. Bolin - Evaluation and judging of your well capacity: One assumption of the evaluation presented at the April meeting was looking at your aggregate supply produced by wells, take your largest well out of service, take your remaining capacity over a 24 hour period nonstop and that's the number you look at compared to what you need. Mr. Bolin stated since that time, the 24 hour evaluation was the least conservative, least safe way of doing the evaluation. Since that time, Mr. Bolin went back and evaluated the remaining capacity over a 20 hour period which was a little more conservative and safe. Looking at the results of the conservative approach, depending if the Village wants to include the high volume user or not, the Village is deficient by at least 250,000 gallons per day and 850,000 gallons per day if you consider the high volume user.
- Trustee Zabel - stated when you look at the 2013 Ruekert and Mielke report it stated the Village should start looking for a well when volumes reached 5 million gallons per day. It is the one day per year that you have high water volume. The current report notes the Village should be looking for a well when volumes reach 4 million gallons per day. Trustee Zabel agreed the Village needed to plan and look for a site but the urgency and timeframe was questionable. Once a site is determined, this information should be inserted into the Land Use Plan so potential landowners will be aware prior to development.
- Chm. Kaminski - supported the Village needing to look for a deep well site now for future use.
- Mr. Bolin - keep in mind if the Village was proceeding with a deeper well/aquifer he knew there would be a site.
- Dir. Ratayczak - the next step would be to continue with research by identifying one or two deep well sites. Budgeted funds were available to continue with research.
- Mr. Bolin - recommended taking the necessary steps to look at some sites for a well. Because the Village is going to a deeper aquifer, the primary criteria would be accessibility to sewer and water lines and roads. Mr. Bolin suggested the Village look at test land in between the test boring location heading south toward County Line Road. A Well Site Investigation Report is required by DNR Code before the DNR will sign off and approve the site.
- Further discussed was well capacity and what was needed.
- Mr. Bolin's Shallow Well Investigation was now complete. Further research on deep well sites would require an amendment to the current contract or Foth Infrastructure could submit a new proposal.

MOTION made by Kaminski, seconded by Warren directing staff to go ahead and look for potential deep well sites and come back to the Committee with a fee to do so.

Motion carried 3-0

Abstention – 1 (Zabel)

GROW AGREEMENT FOR TREES – DISCUSSION AND/OR ACTION: Supt. Olszewski explained as part of the Village's EAB initiative, staff had recommended entering into a Grow Agreement with Johnson's Nursery. At previous Public Works meetings the Committee requested additional information. Over the next two years the Village will be removing approximately 150 additional ash trees from parks, r.o.w., and building green spaces. Upon Committee approval, the Village would enter into a Grow Agreement for years 2017-2018 in which trees would be available in years 2021-2022. The next two years of planting will take place along the Pilgrim Road corridor. Advantages of the Grow Agreement included locking in a price for trees at the 2017/2018 rates and insuring stock availability at the time of replanting. Trees would only be warrantied if Johnson's Nursery would plant the trees. Using this year's tree contract, tree costs equated to approximately \$180.00 per tree and \$215.00 for labor. With the labor cost it also included the warranty and two waterings. Supt. Olszewski looked to the Committee to see if they were interested in the Grow Agreement and if so he would include funding in the 2017 budget. Committee discussion included;

- Johnson's Nursery is a stable business and the only nursery that provided this type of program because of their size; there was language in the agreement securing the Village's investment.
- The cost is approximately \$185 per tree, you pay \$35.00 now and the balance is due when you take delivery four years from now. Labor is additional.
- Every two years the treatment of the trees has been \$5.00 per inch. One half of the trees affected are treated and one half of the affected trees are removed. Wachtel Tree Service provides their services to determine which trees should be treated or removed. So far treatment has been successful.

CONSIDERATION OF A UTILITY CREDIT – W179 N11725 AUGUSTA COURT: An email request was made by Ms. Tatum Wiley who had found a large discrepancy in her 1st quarter 2016 utility billing. It was determined the high usage was due to an unknown broken outside faucet. Based on Dir. Ratayczak's calculations, it was found that an additional 46,670 gallons above Ms. Wiley's average was used. The Committee supported reducing the overage of the sewer portion of Ms. Wiley's utility bill to an operations and maintenance charge which equated to one half of the normal charges of \$6.91 per thousand gallons for the over average sewer use.

MOTION made by Zabel, seconded by Miller authorizing staff to credit the sanitary sewer portion of \$322.63 toward the first quarter 2016 sewer and water bill for the property at W179 N11725 Augusta Court.

Motion carried unanimously.

Tatum Wiley, W179 N11725 Augusta Court, had already paid her quarterly bill and asked if she could receive her credit in the form of a check. The Committee approved.

CONSIDERATION OF A UTILITY CREDIT – W147 N9921 RIMROCK ROAD: A phone request was made by resident Diana Beilfuss who had found a large discrepancy in her water utility billing and believed the water meter was faulty. Dir. Ratayczak explained the analysis completed by Village Utility Clerk Bauer and a credit of \$200.48 had been credited to the property owner. Discussion followed.

MOTION made by Zabel, seconded by Miller consenting to staffs analysis to credit the sanitary sewer portion of \$200.48 toward the fourth quarter 2016 utility bill for the property at W147 N9921 Rimrock Road. No additional credits will be allowed.

Motion carried unanimously.

BLANKET PURCHASE ORDER AUTHORIZATION – ADAPTOR INC.:

MOTION made by Zabel, seconded by Warren to forward to the Village Board with a positive recommendation to approve the allocation of an amount not to exceed \$15,100 in the form of a blanket purchase order to Adaptor, Inc. for the continued purchase of chimney seals to be utilized for the 2016 road projects and other areas on a time and need basis. Funds to be allocated from Acct. #60-830-530-8313.

Motion carried unanimously.

BLANKET PURCHASE ORDER AUTHORIZATION – HD SUPPLY:

MOTION made by Zabel seconded by Warren to forward to the Village Board with a positive recommendation to approve the allocation of an amount not to exceed \$9,800 in the form of a blanket purchase order to HD Supply Waterworks for the purchase of Ladtech HDPE manhole adjusting rings for the 2016 road projects and other areas on a time and need basis. Funds to be allocated from Acct. #60-830-530-8313.

Motion carried unanimously.

BLANKET PURCHASE ORDER AUTHORIZATION – FERGUSON WATERWORKS:

MOTION made by Zabel, seconded by Miller to forward to the Village Board with a positive recommendation to approve the allocation of an amount not to exceed \$32,800 in the form of a blanket purchase order to Ferguson Waterworks for the purchase of miscellaneous manhole repair materials for the 2016 road projects and other areas on a time and need basis. Funds to be allocated from Acct. #60-830-530-8313.

Motion carried unanimously.

AUTHORIZATION TO PURCHASE – STOP GATE VALVES: Supt. Zimmerman reported the original stop gates in the Main Street and Old Farm Lift Stations were delaminated and no longer serviceable. Requests for proposals for their replacements were sent to four local suppliers. Staff received two proposals ranging from \$4,227 to \$4,352.

MOTION made by Zabel, seconded by Warren authorizing the purchase of Stop Gate Valves for the Main Street and Old Farm Lift Stations from William Reid, LTD at a cost not to exceed \$4,227.00. Funds to be allocated from Acct. #60-830-530-8323.

Motion carried unanimously.

POLICE DEPARTMENT ANNEX RENOVATION – COMPLETION REPORT: Supt. Olszewski reported Village crews and area contractors have completed the Police Annex remodeling project on time and under budget. Additionally, Supt. Olszewski credited the workmanship of his employees.

MOTION made by Miller, seconded by Warren to accept the completed Police Department Annex renovation work.

Motion carried unanimously.

AUTHORIZATION TO CONTRACT – WDOT SALT BID 2016/2017: Supt. Olszewski reported he had entered into WisDOT Bid Process for 2016-2017. Staff had committed to the purchase of 2,700 ton of salt for the upcoming season. The cost per ton was not available at the time the Village was required to submit their quantities which was prior to the regularly scheduled Public Works Committee meeting. Trustee Zabel suggested lane miles and temperature range in which salt is applied be added to Supt. Olszewski's Salt Purchasing Summary.

MOTION made by Zabel, seconded by Warren to forward to the Village Board with a positive recommendation to approve the Village's commitment to approximately 2,700 ton of road salt for the 2016-2017 season as part of the WisDot Salt Bid process.

Motion carried unanimously.

AWARD OF CONTRACT – SEAL COAT PROJECTS: Supt. Olszewski had reported one bid received for the Village's 2016 Seal Coat projects. He further explained as quantities vary, staff estimated the quantity for bidding purposes by using the dimensions provided by the PASER manual. If the Committee chose to approve the types of application, Supt. Olszewski recommended approving the unit amount and not the lump sum. Once the projects were complete, the contractor will measure roads to obtain final quantities for billing purposes.

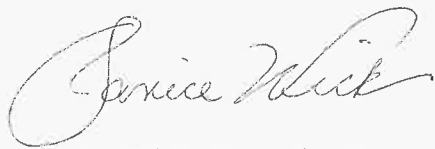
MOTION made by Warren, seconded by Miller to forward to the Village Board with a positive recommendation to award the 2016 Sealcoat Projects contract to Fahrner Asphalt Sealers for a cost not to exceed \$255,000 based on unit costs.

Motion carried unanimously.

ANNOUNCEMENTS: Dean Wolter, W169 N10224 Larkspur Lane announced next Thursday, June 9th is the Washington County Law Enforcement Memorial Service held at the Washington County Fair Grounds. Mr. Wolter highly recommended all attend to show support of our law enforcement. The service included all communities in Washington County. The Village of Germantown had the privilege of being the host community in 2015.

NEXT MEETING DATE: The next Public Works and Highway Committee meeting will be held Wednesday June 1, 2016 at 5:30 p.m.

ADJOURNMENT: There being no further business, the meeting was adjourned at 7:16 p.m.

A handwritten signature in cursive script, reading "Janice Wick". The signature is written in dark ink and is positioned above the printed name of the Recording Secretary.

Janice Wick, Recording Secretary