

**VILLAGE OF GERMANTOWN
VILLAGE BOARD MEETING MINUTES
July 18, 2016**

CALL TO ORDER: The meeting was called to order at 7:01 p.m. by Village Clerk Barbara Goeckner.

ROLL CALL: President Wolter was absent and excused. Trustees Baum, Daniels, Hughes, Kaminski, Miller, Myers, Warren and Zabel. Also present: Attorney Sajdak, DPW Director Ratayczak, CDD/Planner Retzlaff, Fire Chief Weiss, DPW Director Ratayczak and Clerk Goeckner

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was recited.

Clerk Goeckner asked for a motion to appoint the President Pro-Tem for the meeting. **MOTION (Warren/Hughes) for Trustee Baum to be President Pro-Tem, carried.**

PRESIDENT'S REPORT: None

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
Lynn Grgich – W168 N11062 Ashbury Circle #5, Germantown – thanked all those on behalf of the Kiwanis of Germantown for all the hard work they did for the 4th of July festivities.

CONSENT AGENDA:

A. Approval of Village Board Minutes: June 20, 2016

B. Accounts payable/payroll

1.	June 25, 2016	Accounts Payable	\$ 483,190.01
2.	June 28, 2016	Payroll (hourly)	\$ 237,928.65
3.	June 30, 2016	Payroll (salary)	\$ 84,554.65
4.	June 2016	Accounts Payable	\$ 26,064.99
5.	July 10, 2016	Accounts Payable	\$ 429,929.69
6.	July 12, 2016	Payroll (hourly)	\$ 249,329.49
7.	July 15, 2016	Payroll (salary)	\$ 85,622.69

C. Operator Licenses: July 19, 2016 to June 30, 2017: [Recommended Approval]

New Applicants: David Abuya, Carissa Blaha, Kevin Conley, Molly Ebert, Cassandra Feuerstahler, Allyah Ford, Kimberly Fraser, Cynthia Heyman, Michael Hogan, Justine Keller, Susan Lauterbach, Ruth Lunde, Joshua Murphy, Lisa Phetvisay, Susan Roxbury, Brenda Schultz, Kayla Staroseiec, Alexandria Steinke, Dane Storck, Marissa Vita

Renewal Applicants: Amin Al-hassan, Kevin Debroux, Megan Depies, Lisa Dhein, Carolyn English, Christine Feuerstahler, Sharon Hagenkord, Alan Marquardt, Luis Ortega, Jill Peters, Christopher Reason, Sharna Sinjakovic, Mehul Soni, Patricia Stengel, Sara Turner

CONSENT AGENDA continued:

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

- D. Authorize Payment of HD Supply Invoice in Amount of \$5,041.00 For Purchase of Various Materials for Unforeseen Water Main Repairs and 2016 Road Reconstruction Projects with Funds to Be Allocated from Acct. #50-743-530-6730. [Recommended Approval]
- E. Recommendation to Contract M&M Tree Service for EAB Ash Tree Treatments at an Approximate Total Cost of \$5,776.10 With Funds to Be Allocated from Account #10-553-530-5290. [Recommended Approval]

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

- F. Approve Purchase of 18 Security Cameras at a Cost not to Exceed \$15,548 School District Facility with Funds to Be Allocated from Recreation Facility Fee Fund [Recommended Approval]
- G. **Resolution No. xx-16**, Approving Amendments to the 2016 Budget, Line Item Transfer to Allocate Contingency Funds to Departments to Cover Wage Increase [Recommended Approval]
- H. Approve Amendment to Village of Germantown Code of **Ordinances, Section 12.17 Junk/Recycling Dealers** Clarifying Steps Taken for Initial License, Annual Renewals, Inspections Required and Other Language Clarifications [Recommended Renewals]

MOTION (Miller/Kaminski) to approve Consent Agenda Items A-H, roll call vote, carried.

UNFINISHED BUSINESS:

- A. In The Matter of the Complaint Against: Maple Road, LLC, Holder of "Class B" Alcohol Beverage Licenses for Buzdum's Pub & Grill, Radomir Buzdum, Agent, Premises at W188 N10515 Maple Road, Germantown, Wisconsin; Hearing Pursuant to Wis. Stat. § 125.12(2) And §§12.02(1) And (12) Of The Municipal Code of the Village of Germantown, Wisconsin
 - 1. Rules of Evidence, Burden of Proof, Impartial Decision-Maker and Other Procedural Matters.
 - 2. Hearing Pursuant to Wis. Stat. §125.12(2)(B)1. Or 2. And 3.

Village Attorney Sajdak stated the attorney representing Maple Road LLC, William Stuart has come to an agreement and will need to have that signed by President Wolter and the Village Clerk. A check will be presented. In conversation with Attorney Stuart, the new trustee for the property is on board with the arrangement as well. Discussion. Check to be presented is for the first payment of \$18,488, payable within 3 days of the execution of the agreement with payments for the remaining 50% to be monthly with the balance paid within 6 months. Formal action was taken at the last meeting when agreement terms were stated to the representing Attorney.

- B. Action on Buzdum's License (Approval or Non-Renewal) *(for Maple Road, LLC, Radomir Buzdum, Agent, 1027 N. 4th Street, Watertown, WI, 53098, d/b/a **Buzdum's Pub & Grill**, W188 N10515 Maple Road, Germantown, WI, 53022. (Includes an outdoor patio area and bleacher area until 9:00 p.m.).* The Village Board May Enter Closed Session During the Meeting Pursuant to Wis. Stat. § 19.85(1)(A) To Deliberate Upon Any Proposed and Submitted Stipulated Disposition and/or Upon a Failure to Appear or The Conclusion of a Hearing to Discuss Its Determination, and to Reenter Open Session

UNFINISHED BUSINESS continued:

at The Same Place Thereafter to Act On Such Matters as Discussed Therein as It Deems Appropriate

MOTION (Daniels/Warrant) to approve the license based on the agreement of license in place, carried.

PUBLIC HEARINGS – 7:00 P.M. OR LATER: None

NEW BUSINESS:

- A. Peter Ogorek, Perspective Design Inc., Agent for Compass Properties LLC, Property Owner of Lot 2 of CSM#5588, a 4.6-acre Parcel in the Germantown Marketplace II Shopping Center on Mequon Road; Applications to: (1) **Resolution** Amending the Adopted Conditions and Restrictions of the Germantown Marketplace II Planned Development District; and (2) Divide the Parcel with a 2-lot **Certified Survey Map (CSM)**
CDD/Planner Retzlaff presented information on the request – recommended approval of both by Plan Commission. **MOTION (Myers/Hughes) to approve both requests as presented and recommended.** Discussion: Trustee Zabel page 25 on web agenda. #09 written where it shouldn't be. Typographical item to be corrected internally. Page 26 – CDD Retzlaff this is to make it compliant with what is in the resolution - no non-conforming issues. Page 27 – erosion control and retention. Page 36 – Attorney Sajdak: Agreement between each individual property owner says they have no specific purpose. Parking area between buildings – access easement is agreement between owners. Any public event would have to have agreement from all parties. Further discussion of possible landscaping requirements, islands, etc. Trustee Baum would like to see this come forward at the next Plan Commission meeting. **7 in favor, 1 opposed (Zabel), carried.**
- B. Robert & Lori Snow, Property Owners of a 29.4-Acre Parcel Located at W148N12301 Pleasant View Drive; 3-Lot **Certified Survey Map (CSM)**
CDD Planner Retzlaff presented background information on request. Minor corrections to CSM that have been completed and easement has been received for final approval by attorney. PC recommendation to approve with 2 conditions. CSM corrections satisfied. Easement waiting for final approval. **MOTION (Hughes/Warren) to approve as recommended, contingent on final approval by Village Attorney, carried.**
- C. Development Agreement – Gatewood Place Subdivision
Director of Public Works Ratayczak presented the agreement. Has been recommended for approval by Public Works Committee. Change made was sidewalk in front of parcel. Frontage of Donges Bay Road is where sidewalk is being considered – 500 feet. Will extend sidewalk of intersection to east side of parcel. Committee wanted sidewalk to continue through this parcel with a motion for cost share of \$5,000 limited to the developer and that item from Public Works would add to this parcel and be added. **MOTION (Myers/Zabel) to approve as presented. MOTION (Zabel/Hughes) to amend to add words 'Donges Bay Road with amount not to exceed \$5,000', amendment carried. Motion as amended carried.**

NEW BUSINESS continued:

D. Development Agreement – Saxony Village:

DPW Director Ratayczak presented background on agreement. Prints to show sidewalk location on Hilbert Lane. Has been reviewed by both parties and was agreed to but minor changes to legal wording by the attorney. As part of development, Engineering Department worked with developer to modify original plan with sanitary sewer and water main. Reason for sewer, discussion with Gehl Foods and increasing production which means increase to flow in our sewer. Added 18" sewer line down to our 30" sanitary sewer. Gehl's has agreed to pay 50% of Village's cost to install sewer line of \$484,000. We would be responsible for half of that. Presented options. Plan being designed by Village staff and go out for bid in 1 month. Other item is extending water main approximately 80' to a line that would connect the loop and upsizing that to 12" is no cost to the Village. Third item came at last Public Works (PW) meeting with motion to include 240' of sidewalk on Hilbert Lane. Overview shows sidewalk. It is not contiguous to Saxony Village development. That sidewalk is written into the agreement and something we might want to hear from the developer on publicly. Agreement brought to PW in December 2015 and agreed upon. Now numbers are coming through. Have costs on dealing with contaminated soils. Attorney Sajdak – met with developer and counsel before this meeting regarding some language changes. Some done after PW meeting and addressed all of those concerns, which most changes are technical or typographical in nature. One that is substantive is issue of sidewalk. We deleted some provisions which related to default on the agreement as it relates to pulling of the occupancy permit and penalties. In this case they will not get occupancy until they are done. Other things would typically get bond for. We do have a letter of credit for work and already have all protections in place. Does have a proposed motion to cover that, subject to any further discussion that might take place. Discussion items: Section 1.09 and 1.02, cost of utilities should be borne by developer, where connection is made and number of units on water. Trustee Baum: Already discussed at several other meetings of committees and boards. Change it now? Trustee Kaminski – Tiring for those on Public Works who approved it in principal when water and sewer were laid out. Opportunity now that we have developer and tired of delaying developer and going backwards on this. Trustee Zabel: Comes down to what we have done for everyone else and why are we doing this one different? Discussion. **MOTION (Kaminski/Warren) to approve the proposed development agreement as presented subject to such technical and/or typographical changes necessary upon approval of the Village Attorney and including approval of an agreement with Gehl's Foods to pay at least 50% of the Village's costs relating to the 18" sewer main extension said approval being conditioned upon entering into said agreement with Gehl's.** Developer indicated they would not sign that until we had the Gehl's agreement in place. It will be taken out from within the agreement now because it will be done. Question of not including sidewalk at this time. Not part of direction by Public Works at this time. **MOTION (Zabel/Myers) to amend to eliminate last paragraph of 1.02 water main supply facilities which states 'the water main shall be extended west from the west property line'.** Discussion: Original agreement statement from 2004, 2004 was not this project, that agreement was never executed and the project died when that agreement was not signed. **7 opposed, 1 in favor (Zabel), motion to amend fails. MOTION (Zabel) to amend 12" should be extended east from Castle Drive to the west property line.**

NEW BUSINESS continued:

Motion to amend fails for lack of a second. Discussion: easements for access to their property, nothing that relates to that within the agreement, no condition previously. Requirement would be redundant as it is not a private street. Chapter 18 doesn't apply. Trustee Zabel: 5.05 refers to only garbage and we will include recycling in there as well. Discussion that we would not pick up recycling since it is commercial. 5.05 states developer will be required to contract for this. Discussion of sidewalk: what is cost, disconnected from development sight. Scott Bence on behalf of Heritage Place spoke. Not interested in sidewalk. It is not contiguous to property and has no benefit to development, 800-1,000 feet away. Discussion of how sidewalk got put into agreement. Trustee Zabel – concern for safety having to walk out into street, additional traffic makes it more sensible to add the sidewalk to make it safe. Bence stated agreement is for water and sewer and has already been approved through DNR regulations, not an opportunity to get more things added in. There was a different opportunity when all those items were an option when the Village Board discussed them. Additionally, has same comment on garbage, okay with 11.08 as the code reads. Not okay with manipulating Section 11.03 where recyclables are included. Not going to take recyclables out. Our other projects in the village that are 5 or more units have the owners pay for the garbage, but the village pays for the recyclables. Not willing to give up rights, not here to negotiate. Further discussion on trash and recycling and definition. DNR controls recycling – their definition is 4 units within a building unit or less. Discussion of regulations and ordinances. Possible conflict within ordinance language, interpretation, consideration to take it to Public Works for possible changes. If in developer agreement have to go by agreement. **MOTION (Kaminski/Myers) to amend and take out denial of pickup of recycling and allow recycling to be picked up as it is with other apartment complexes.** Further discussion on garbage and recycling. Attorney Sajdak pointed out statutes now may make us reduce our levy if we make a change to these services. Suggests language has been in the agreement from the beginning, so delete provision and rely on what code says. **MOTION (Kaminski/Myers) to amend her amendment to delete Section 5.05 altogether.** Discussion: Not putting anything in agreement just relying on what code says. Not asking developer to waive any rights he may have and we work on it. Attorney Kelly - That is acceptable to developer, keep in mind equal protection act that everyone should be applied the same to all equally. **7 in favor, 1 opposed (Zabel) to the amendment to the amendment, carried. 7 in favor of amendment, 1 opposed (Zabel), carried. MOTION (Kaminski/Warren) to amend the agreement and remove the sidewalk that was added at the last Public Works meeting.** The reason being this is the sidewalk that doesn't go anywhere and is far away from their property. Discussion of vote and information at Public Works committee. Members Warren and Miller did not realize location of sidewalk compared to building. Traffic is minimal. Discussion of sidewalks in past, PDD requirements. **7 in favor, 2 opposed (Zabel, Hughes), amendment carried.** Discussion of requirement to or not to go out for bid on construction for sewer and water. Attorney Sajdak – not required to be bid beyond what has already been done. **7 in favor, 1 opposed (Zabel), carried.**

NEW BUSINESS continued:

- E. Resignation of Trustee Daniels and Selection of Process to Address Vacancy
Attorney Sajdak stated Trustee Daniels will be resigning as of July 31st. Village Board can decide to appoint someone to fill the vacancy for the unexpired term or until a special election will be held. At that time, they would fill that position. Or you can choose not to appoint and just hold that election in April with the regular election.
MOTION (Hughes/Miller) to appoint someone to fill the vacancy until the end of the term for Trustee Daniels' seat. Applications due to the Clerk's office by 4:30 p.m. on August 11th, with interviews of potential applicants to be conducted on August 15th at 5:30 p.m. Discussion. 5 in favor, 3 opposed (Kaminski, Warren, Zabel), carried.
- F. Purchase of Unication Pager in Lieu of Portable Water Tank
MOTION (Hughes/Myers) to approve as requested, roll call vote, carried.
- G. An Ordinance Amending Chapter 5 of the Municipal Code of Germantown Relating to Fire Prevention and Protection Within the Village
Chief Weiss provided information on the requested ordinance amendment. **MOTION (Myers/Warren) to approve as presented, carried.**

ADJOURNMENT

There being no further business, the meeting adjourned at 9:02 p.m.

Barbara K. D. Goeckner MMC/WCPC
Village Clerk