

**VILLAGE OF GERMANTOWN
N112 W17001 MEQUON ROAD
GERMANTOWN, WI 53022**

MEETING: REGULAR MEETING OF THE VILLAGE BOARD

DATE AND TIME: MONDAY, OCTOBER 7, 2019 7:00 p.m.

**LOCATION: Germantown Village Hall Board Room
N112 W17001 Mequon Road**

- I. **CALL TO ORDER:** *This meeting has been given public notice in accordance with Section 19.83 and 19.84, Wis. Stats, in such form that will apprise the general public and news media of subject matter that is intended for consideration and action.*
- II. **ROLL CALL:**
- III. **PLEDGE OF ALLEGIANCE:**
- IV. **PRESIDENT'S REPORT:**
- V. **ANNOUNCEMENTS OF FORTHCOMING EVENTS OF PUBLIC INTEREST**
COMMITTEE AND DEPARTMENT REPORTS:
The following individuals will be given the opportunity to make announcements of future municipal activities: Village President, Village Board Members, Village Administrator, Village Attorney, Village Clerk, And Department Heads.
- VI. **CITIZEN INPUT/PUBLIC APPEARANCE on items not subject to a public hearing:** *Please be advised per §19.84(2), information will be received from the public. It is the policy of this municipality that there be a three (3) minute time period, per person, with time extension per the Chief Presiding Officer's discretion; be further advised that there may be limited discussion on the information received, however, no action will be taken under public comments. (15 minutes)*
- VII. **CONSENT AGENDA:**
- A. Approval of Minutes: September 16, 2019 Regular Village Board Meeting.
- B. Accounts payable/payroll
- | | | | | |
|----|--------------------|------------------|----|--------------|
| 1. | September 17, 2019 | Payroll (Hourly) | \$ | 265,313.66 |
| 2. | September 25, 2019 | Accounts Payable | \$ | 1,858,650.58 |
| 3. | September 30, 2019 | Payroll (Salary) | \$ | 109,204.24 |
| 4. | September 30, 2019 | Accounts Payable | \$ | 39,622.20 |
| 5. | October 1, 2019 | Payroll (Hourly) | \$ | 238,688.51 |
- The following items were forwarded from **Public Safety** with a unanimous recommendation.
- C. Operator's Licenses: Elaine Blumreiter, Becky Buzdum, Scott Evans, Elizabeth Scott.
[Recommendation Forthcoming]
- D. Change of Ownership and Agent: Kai Yong Inc, DBA China Kitchen, N112W16560 Mequon Road, Germantown, GongKai Ma, Class "B" Fermented Malt Beverage and Class C Wine for the period commencing October 7, 2019 and ending June 30, 2020

Premise license approvals are conditional upon completion of all documentation, compliance of all code violations/permits/ requirements and monies owed to the village paid prior to issuance of licenses in addition to any other conditions noted.

The following items were forwarded from **General Government and Finance** with a unanimous recommendation.

- E. Resolution 51-2019, Amendment to the Employee Policy & Procedure Manual in regards to Technology Use and Electronic Communications Policy.
- F. Resolution 52-2019, Amendment to the Employee Policy & Procedure Manual in regards to Social Media Policy.
- G. Health Plan Design Change to include genetic testing, treatment of autism spectrum, and acupuncture for pain management.

The following items were forwarded from **Public Works** with a unanimous recommendation.

- H. Baker Tilly TIF District Audit Services Engagement Letter.
- I. Hilbert Lane Sidewalk Extension in an amount not to exceed \$33,915.

VIII. OLD BUSINESS:

- A. None.

IX. PUBLIC HEARINGS:

- A. None.

X. NEW BUSINESS:

- A. Request to Fill Full-Time Deputy Clerk Position.
- B. Resolution 53-2019, Disallowing the Claim of the Germantown School District Board of Education. The Village Board may convene into closed session per Wis. Stats. §19.85(1)(g) for the purpose of conferring with Legal Counsel who is rendering advice concerning strategy to be adopted by the Village with respect to litigation in which it is involved or is likely to become involved and then may reconvene into open session to take such action as it deems appropriate; and,
- C. Administrator Performance Review. The Village Board may convene into closed session per Wis. Stats. §19.85 (1) (c) considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility, and may convene into open session to take such action as it deems appropriate.

XI. ADJOURNMENT.

The next regular meeting of the Village Board will be on Monday, October 21, 2019 at 7:00 p.m.

UPON REASONABLE NOTICE, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For Additional information or to request this service please contact the Village Clerk at (262)250-4740 at least 2 days prior to the meeting.

**VILLAGE OF GERMANTOWN
VILLAGE BOARD MEETING MINUTES
September 16, 2019**

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

ROLL CALL: Present: President Wolter, Trustees Baum, Kaminski, Miller, Myers, Warren, Wing, and Zabel. Trustee Hughes was absent excused. Also present: Administrator Kreklow, Clerk Braunschweig, Attorney Sajdak, Director Rath, Director Retzlaff, Assistant Planner Zandt, Captain Snow, Manager Tucker, Engineer Nitschke and Director Ratayczak.

PLEDGE OF ALLEGIANCE:

PRESIDENT'S REPORT:

President Wolter read the Proclamation: National Rail Safety Awareness Week, September 22nd – September 28th, 2019.

President Wolter reminded and encouraged citizens to fill out the Community Wide Survey for 2050 Comprehensive Plan. The survey is available on-line on the Village website or via paper. Postcards will also be mailed out as a reminder.

The gallery was full. President Wolter thanked everyone for coming.

ANNOUNCEMENTS OF FORTHCOMING EVENTS OF PUBLIC INTEREST/DEPARTMENT AND COMMITTEE REPORTS:

Trustees provided information on upcoming meeting dates and times.

Trustee Miller reminded citizens of the Annual Hunsrucker Oktoberfest to be held September 28, 2019 – September 29, 2019, at Dheinsville Park.

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

Chris Yatchak of Brownstone Circle came to the podium. He commented in favor of Germantown's business friendly community and the expansion of Gehl Foods.

Julie Reichert of Pilgrim Road came to the podium and questioned the Gehl Foods expansion. She questioned why Gehl's purchased four houses on Main Street prior to the rezoning approval and if a well study had been completed. President Wolter clarified that there has been a well study done and there are plans for another well in the Village in two – four years. Gehl's does have a well and may use more water for consistency. She questioned about further expansion.

Robert Plastine of Williams Drive came to the podium and commented with concern of the Gehl Foods expansion. His property backs to Crusader Court. He had concern of further expansion.

Alisha Mir Marwood of Park Avenue came to the podium. She has been actively involved with Gehl's Community Engagement meetings. At the Community Engagement meetings parking lot expansions for the community were discussed. She commented on sharing parking lots. At the Community Engagement meetings widening sidewalks on Church Street and Main Street were discussed as well as a first floor retail for Gehl Foods. Alisha continued that at the Community

Engagement meetings a Chamber of Commerce Office to be located in the Gehl Foods building was discussed. The noise by the nitrogen tanks was to be addressed by the improvements. The smells were to be addressed. The electrical box was addressed at the Community Engagement meetings. She commented on additional truck traffic for additional employees. The Community Engagement meetings addressed the weeds on Fond du Lac Avenue.

President Wolter clarified that the Plan Commission reviewed Zoning only at the last meeting. The Site Plan has not been reviewed or brought forward. That will be part of an upcoming meeting. Applause in Gallery.

Steve Green of Main Street came to the podium and commented that Gehls are a good neighbor and they clean the neighborhood sidewalks. Gehls are creating more jobs. Gehls assisted a neighbor with removal of a garage. Applause in Gallery.

Susan Shiring of Park Avenue came to the podium and commented against the expansion of Gehls. She commented that they have outgrown the neighborhood. She played noise from the nitrogen tanks. Applause in Gallery.

John Slawny of Timber Drive, Colgate came to the podium. He commented that Gehls's has added jobs and growth for the community. Applause in Gallery.

CONSENT AGENDA:

A. Approval of Minutes: August 19, 2019 Regular Village Board Meeting.

B. Accounts payable/payroll

1.	August 20, 2019	Payroll (Hourly)	\$	261,808.00
2.	August 25, 2019	Accounts Payable	\$	926,191.66
3.	August 31, 2019	Payroll (Salary)	\$	109,243.33
4.	August 31, 2019	Accounts Payable	\$	31,114.59
5.	September 4, 2019	Payroll (Hourly)	\$	265,313.66
6.	September 10, 2019	Accounts Payable	\$	774,348.37
7.	September 15, 2019	Payroll (Salary)	\$	109,923.79

The following items were forwarded from **Public Safety** with a unanimous recommendation.

C. Operator's Licenses: Matthew Davis, Ciera DeVries, Haley DeGrace, Nicole Fraser, Priscilla Mews. [Recommended]

D. Police Department – Mobile Firearms and Force Options Simulator MILO Purchase, an amount not to exceed \$15,090 funds from the Asset Forfeiture Account.

E. Change of Ownership and Agent; Brinker Restaurant Corporation, DBA - Chili's Grill & Bar #1730, N96W18640 County Line Road, Brian Boettcher Agent.

Premise license approvals are conditional upon completion of all documentation, compliance of all code violations/permits/ requirements and monies owed to the village paid prior to issuance of licenses in addition to any other conditions noted.

The following items were forwarded from **General Government and Finance** with a unanimous recommendation.

F. Acceptance Of 2018 Comprehensive Annual Financial Report (CAFR).

The following items were forwarded from **Public Works** with a unanimous recommendation.

G. **Resolution 53-2019** Village Board Support for the Department of Public Works Campus Storm Water Pollution Prevention Plan.

MOTION (Baum/Myers) to approve Consent Agenda Items A-G. Roll Call Vote Carried Unanimously.

PUBLIC HEARING:

Jim Marriott, Owner/Operator of Stonecast Products, and Agent for SPI Real Estate LLC, Property Owner - N112 W14343 Mequon Road. Application to Create an M-1: Limited industrial Planned Development District (PDD) and Rezone 10.6 acres from the M-1: Limited industrial District into the newly created M-1/PDD.

Director Retzlaff came to the podium to present the Rezoning Application. This is to Rezone and Create an M-1: Limited industrial Planned Development District (PDD) and Rezone 10.6 acres from the M-1: Limited industrial District into the newly created M-1/PDD. The Site Location Map and Site Plan were shown. Stonecast Products produces pre-cast concrete panels. The existing site was shown. The property line and set back were shown. The proposed building expansion corner encroaches into the setback area. The setback area and proposed building expansion corner were shown. Alternative solutions include a variance from the M-1 setback requirement. Concerns included reduced accessibility for safety vehicles and the encroachment of 15-20 feet into the railroad right of way. Option included a PDD and Stonecast to apply for a Variance with the Board of Zoning of Appeals and to discuss easement with the Railroad for future emergency access.

The Plan Commission held a Public Hearing on September 9th and recommended to conditions for Stonecast to apply for a Variance with the Board of Zoning of Appeals and to obtain an agreement with the Railroad for future emergency access.

President Wolter read the Public Hearing Notice and Opened the Public Hearing at 7:30 P.M.

No One Spoke.

President Wolter closed the Public Hearing at 7:31 P.M.

Mark Brooks, Agent for Renee Martin and Doctors LLC, Property Owner - W201 N10466 Appleton Avenue. Conditional Use Permit (CUP) for an off-site parking area.

Assistant Planner Zandt came to the podium to present the Conditional Use Permit Application. The Site Location Map was shown. The two parcels will remain separate. The zoning and land uses were reviewed. The Conditional Use Permit is to use an existing 15 – stall off site parking area located on a vacant 2.1 acre parcel adjacent to the restaurant bar, Das Barrel Room. The property is formerly known as Doctors Pub and the Public House. No overnight parking allowed. The Wisconsin DOT did acknowledge the access.

The Plan Commission held a Public Hearing on September 9th and recommended approval of the Conditional Use Permit and six conditions.

President Wolter read the Public Hearing Notice and Opened the Public Hearing at 7:41 P.M.

No One Spoke.

President Wolter closed the Public Hearing at 7:41 P.M.

Veridian Homes LLC, Agent for the Germantown School District, Property Owner – N104 W14942 Donges Bay Road, GTNV 263-988. Application to Rezone 14.7 Acres from A-2: Agricultural to Rs-5: Single-Family Residential Zoning District for a 24-Lot Residential Development. The Public Hearing had remained open from the August 19th, 2019 Village Board Meeting.

Director Retzlaff came to the podium to present the Rezoning Application. This is to Rezone and Create a Planned Development District (PDD) and Rezone 14.7 Acres from A-2: Agricultural to Rs-5: Single-Family Residential Zoning District for a 24-Lot Residential Development. The concept plan was shown. The 2020 land use map was shown. The lot size was noted with connecting trails and landscape buffers. The low density residential is consistent 2020 land use map. The wetland area map was shown. There are five wetlands, four will be filled and one will be preserved at the southwest corner of the site. The plan commission recommendation was to approve the proposed rezoning of approximately 14.7 acres from A-2 Agricultural to Rs-5 Single -Family district and the proposed 24 lot concept plan dated June 14, 2019 subject to 3 conditions. The conditions included a landscape buffer along the north of the property line on or adjacent to lots 1 to 7.

The Land Use Map was reviewed. The Wetland areas were reviewed.

President Wolter read the Public Hearing Notice and Opened the Public Hearing at 7:44 P.M.

Phil Hudson of Windsong Circle West came to the podium. He commented to oppose the development. He brought a map of the area. He commented on the smaller lot size. Applause in the Gallery.

Kristine Huber of Windsong Circle East came to the podium. She reviewed the zoning code and commented opposition to the rezoning. Applause in the Gallery.

Matt Cudney of Veridian Homes came to the podium. He commented that Veridian Homes have followed all of the Village rules and ordinances in this process. The Village followed ordinances in regards to the notices and mailings. Veridian held their own neighborhood meeting that was not a Village meeting, nor required by the Village ordinances. Matt spoke highly of the Village staff and their review of submittals and zoning ordinances. Staff has said this meets the comprehensive plan and land use plan with recommendation that the submittal fits the Comprehensive plan. Matt commented that the proposed development will generate tax base over years. He commented on the zoning that meets the surrounding areas. He requested that the vote be postponed until all Trustees are present.

Jan Miller of Windsong Circle West came to the podium. She spoke for communication and commented on the School Board not meeting with the Village for joint meetings. She spoke against the development and to not approve the development. Applause in the Gallery.

Thomas Barney of Old Farm Road came to the podium. He commented on the added tax revenues. He commented to support the proposed development.

Bob Soderberg of Humble Drive came to the podium. He is the School Board President. He commented that he is representing the Germantown School District which is comprised of the

Village of Germantown, the Village of Richfield, the Town of Germantown, The Town of Polk, The Village of Jackson and the Town of Jackson, and 4,000 students. He spoke highly of the school district and staff. He commented that the School District has a very high Moody's Bond Rating. Bob Soderberg clarified that there is not an open investigation in regards to the School Board and Veridian Homes. There never was an investigation. He spoke in regards to the additional tax revenue and additional district state aid. He supports the development.

Robert Banner of Crabtree Lane came to the podium and commented against the development. He offered to buy the 14 acres of property for \$160,000. Applause in the Gallery.

Lilibeth Yao of Windsong Circle came to the podium. She commented to vote no for the development. Applause in the Gallery.

Terry Tschetter of Wilson Drive came to the podium and commented to deny the proposal. Applause in the Gallery.

President Wolter closed the Public Hearing at 8:43 P.M.

OLD BUSINESS:

Ordinance 11-2019 to Rezone from the A-2: Agricultural Zoning District to the Rs-5: Single-Family Residential Zoning District to develop a 24-lot single family residential subdivision – Veridian Homes, Agent for the Germantown School District, N104 W14942 Donges Bay Road (approximate) 14.7 Acres, Tax Key GTNV 263-988.

Attorney Sajdak advised in regards to the protest petition. He referenced his memo that was distributed prior to the meeting. He commented on ACT 243. The Attorney for Veridian Home had contacted Attorney Sajdak indicating that he believed that ACT 243, 2017 repealed the protest petition requirements in Wisconsin. The zoning statute does provide flexibility for municipalities and if a municipality wants to have a protest petition zoning code, they can. The Village does have a valid protest petition in place for this item and seven votes are required to pass the zoning.

MOTION (Miller/Zabel) to postpone the vote until a full board is present. Trustee Miller commented that all should be present. Discussion ensued to continue with the vote tonight. Motion failed.

MOTION (Baum/Warren) to approve Ordinance 11-2019, Rezone from the A-2: Agricultural Zoning District to the Rs-5: Single-Family Residential Zoning District to develop a 24-lot single family residential subdivision – Veridian Homes, Agent for the Germantown School District, N104 W14942 Donges Bay Road (approximate) 14.7 Acres, Tax Key GTNV 263-988.

Baum commented he would like to make an amendment to the motion that the developers agreement brings forward construction standards to adjacent subdivisions and no vinyl siding is allowed. Village Attorney advised that because the code does not provide for these types of details, that we would not be able to require this at this point. Could be part of a site plan approval or subdivision approvals in the future. Baum withdrew his amendment motion.

Wing commented that there is not a PDD and it is a Rs-5, the concept plan could go away. The minimum is 15,000 square foot, they could go to all 15,000 square foot lots. It is possible for a different concept plan or plat be brought forward. It would be dependent on the Plan

Commission or Village Board. Wing commented that the concept plan and plat could be different especially with the storm sewer; this could reduce the lot sizes. The PDD would allow for more assurance. Discussion ensued of the lot sizes. The lot sizes proposed are comparable to Heritage Hills, would prefer lot sizes to be comparable with Windsong Circle.

Attorney Sajdak commented that the motion could be amended to make it conditional on submission of a preliminary plat to be roughly the same number of lots dependent on stormwater sewer and possible time limits. Discussion ensued if the Board can amend the the developer's proposal. Attorney Sajdak advised it is not in the Boards authority to make the lot sizes a certain square feet. You could make a motion to rezone the property just as any property, part of the master plan process; may have to follow proper notice requirements. This is a residential zoning could make amendment; however, he does not recommend an amendment. Zabel commented that he would look for an Rs-4 designation with particular set back. Discussion of setbacks ensued as sometimes this is a developer standard and subdivision plat approval. The code requires a 40 foot setback for Rs-4.

Warren commented to vote on the merits of the item. Baum commented residents are looking for more specific details on drainage easements and setbacks.

Attorney Sajdak advised on the process of development and rezoning normally does not have setbacks unless there is a PDD. Attorney Sajdak commented to vote on the proposal before you.

Zabel commented that the Land Use Plan states roughly two units per acre and this does not meet that; the Rs-4 zoning would. Wing commented that the proposal is not consistent with the area.

Motion failed, 6-2; Miller and Warren voted aye; and Wing, Kaminski, Wolter, Baum, Myer, and Zabel voted no.

Approximately half of the individuals in the gallery left the room after the vote.

NEW BUSINESS:

Germantown Historical Society, Temporary Class "B" Fermented Malt Beverage and Wine for Annual Hunsrucker Oktoberfest, September 28, 2019 – September 29, 2019, Dheinsville Historic Park, N128W18780 Holy Hill Road, Germantown

MOTION (Kaminski/Baum) to Approve Germantown Historical Society, Temporary Class "B" Fermented Malt Beverage and Wine for Annual Hunsrucker Oktoberfest, September 28, 2019 – September 29, 2019, Dheinsville Historic Park, N128W18780 Holy Hill Road, Germantown. Motion Carried Unanimously.

2 Lot Certified Survey Map (CSM) and Release of Access Restriction for Briohn Design Group, LLC, Agent for the Illing Company and the Central Land Company III LLC and GGWW LLC, Property Owner of 45-Acres W204 N12839 Goldendale Road.

MOTION (Myers/Baum) to Approve 2 Lot Certified Survey Map (CSM) and Release of Access Restriction for Briohn Design Group, LLC, Agent for the Illing Company and the Central

Land Company III LLC and GGWW LLC, Property Owner of 45-Acres W204 N12839 Goldendale Road. Motion Carried Unanimously.

Conditional Use Permit (CUP) for an Off-Site Parking Area for Mark Brooks, Agent for Renee Martin and Doctors LLC, Property Owner - W201 N10466 Appleton Avenue.

MOTION (Baum/Miler) to Approve Conditional Use Permit (CUP) for an Off-Site Parking Area for Mark Brooks, Agent for Renee Martin and Doctors LLC, Property Owner - W201 N10466 Appleton Avenue. Motion Carried Unanimously.

Certified Survey Map (CSM) to Combine Parcels for CQM, Inc., Agent for Waste MGT of WI Inc., Property Owner - N96 W13840, W13600 & W13640 County Line Road.

MOTION (Myers/Baum) to Approve Certified Survey Map (CSM) to Combine Parcels for CQM, Inc., Agent for Waste MGT of WI Inc., Property Owner - N96 W13840, W13600 & W13640 County Line Road. Motion Carried Unanimously.

Ordinance 13-2019, Rezoning Application to Create an M-1: Limited Industrial Planned Development District (M-1/PDD) and Rezone 10.6 acres from the M-1 District into the M-1/PDD; **Resolution 54-2019** Adopting Conditions & Restrictions for the M-1/PDD for Jim Marriott, Owner of Stonecast Products and SPI Real Estate LLC, Property Owner,– N112 W14343 Mequon Road

MOTION (Kaminski/Baum) to Approve Ordinance 13-2019, Rezoning Application to Create an M-1: Limited Industrial Planned Development District (M-1/PDD) and Rezone 10.6 acres from the M-1 District into the M-1/PDD; Resolution 54-2019 Adopting Conditions & Restrictions for the M-1/PDD for Jim Marriott, Owner of Stonecast Products and SPI Real Estate LLC, Property Owner,– N112 W14343 Mequon Road.

AMENDMENT MOTION (Zabel/Myers) to remove the requirement of the applicant to go to the of Board of Zoning of Appeals for a Variance and obtain a Positive letter from the DOT and Railroad to allow emergency vehicles on the right away. Amendment Motion Carried Unanimously. Motion as amended Carried Unanimously.

Ordinance 12-2019, Rezoning Application to Create a B-3; General Business & M-1: Limited Industrial Planned Development District (B3 & M-1/PDD) and Rezone 17.36 acres from the B-3: General Business & M-1: Limited Industrial District into the B-3/M-1/PDD Planned Development District (PDD); **Resolution 55-2019**, Adopting Conditions & Restricts for the B-3/M-1/PDD; and a **Certified Survey Map (CSM)** Application to combine parcels for Gehl Foods, LLC, Agent for AGNL Dairy LLC, Property Owner of N116 W15970, N116 W16060, N116 W16076 & N116 W16150 Main Street & W160 N11736 Crusader Court.

MOTION (Myers/Kaminski) to Approve Ordinance 12-2019, Rezoning Application to Create a B-3; General Business & M-1: Limited Industrial Planned Development District (B3 & M-1/PDD) and Rezone 17.36 acres from the B-3: General Business & M-1: Limited Industrial District into the B-3/M-1/PDD Planned Development District (PDD); Resolution 55-2019, Adopting Conditions & Restricts for the B-3/M-1/PDD; and a Certified Survey Map (CSM) Application to combine parcels for Gehl Foods, LLC, Agent for AGNL Dairy LLC, Property Owner of N116 W15970, N116 W16060, N116 W16076 & N116 W16150 Main Street & W160 N11736 Crusader Court.

Discussion ensued of the neighbor requests. Baum commented he would like to see documents with specifics. President Wolter reminded the Board that there is still a site plan to come forward that would include, landscaping, parking lot, sidewalks. Director Retzlaff directed the Board to the Resolution showing the restrictions and improvements and commitments.

Craig LeNue of Gehl Foods came to the podium. Craig commented that he and Gehl Foods are committed to work through the process and working collaboratively with the community and the Village. He commented on the community meetings and all perspectives. Handouts of the economic overview were distributed. A video of Gehl Foods process was shown.

Proposed building addition renderings were shown.

Administrator Kreklow commented on the economic handouts. He commented on the tax revenues and sewer utility fees. There is variation with the water usage. He clarified the request before the Board tonight is the current expansion and the risk that if the request is denied Gehl's may expand elsewhere out of state.

AMENDMENT MOTION (Zabel/Wing)

Amend Resolution 55-2019, Eliminate under number 5, Site Development and Building Requirements, (b) ii. Reduce Minimum parking lot set back from a residential district from 50 to 2 feet. An aerial was shown. Wing commented that the neighbor is opposed to the parking and increased traffic and noise. Baum commented on angle parking on Main Street. Discussion ensued of the needed parking. Baum commented a business owner had stated he would share parking with Gehl's. Amendment Motion Failed.

AMENDMENT MOTION (Zabel/Wing)

On Resolution 55-2019, 8. Improvements and Commitments, b. Enhanced pedestrian – friendly sidewalk along Main Street and Church Street to Fond du Lac Street. The amendment is to replace the @ sign with and. Director Retzlaff clarified that this is for the sidewalk on the East side of Church Street to Fond du Lac Avenue. Amendment Motion Failed.

Wing commented he used to live next to Gehl's. He has family and friends that are Gehl's employees and he used to work for Gehl's too. He commented on the Land Use Map, 2020 plan, and to work with residents. The truck traffic, noise of the nitrogen, chemicals. Wing went door to door and talked to neighbors.

AMENDMENT MOTION (Wolter/Baum)

Amend Resolution 55-2019, 8. Improvements and Commitments. Reduction in Noise with structure or barrier.

Adam of Gehl's gave information that the noise is coming from unloading nitrogen from tankers. There is a plan in place for the nitrogen generation plant which is much quieter. This will be completed by November or December of next year. Amendment motion carried.

Zabel questioned if the nitrogen could be delivered during the day only. Adam of Gehl's gave information that the current hours for unloading nitrogen are 7 a.m. to 9 p.m.

AMENDMENT MOTION (Zabel/Wing)

Amend Resolution 55-2019, 8. Improvements and Commitments, add an item j. Limit time frame from 7 a.m. to 6 p.m. for unloading nitrogen. This will shut the plant down. Motion failed.

AMENDMENT MOTION (Zabel/Baum)

Amend Resolution 55-2019, 8. Improvements and Commitments, add an item j. Limit time frame from 7 a.m. to 9 p.m. for unloading nitrogen. Wing commented that there has to be enforcement. Amendment Motion Carried.

Zabel questioned if the new building look can be carried out to the existing building. The proposal is not for the entire building. Director Retzlaff read the provision from Resolution 55-2019, Continued involvement and collaboration with the Village and Main Street “stakeholders”, including residents and business owners, regarding future enhancement and improvements to the Main Street area.

AMENDMENT MOTION (Wolter/Zabel)

Amend Resolution 55-2019, 8. Improvements and Commitments, remove the word possible on item h, and include after office hours are concluded. Amendment Motion Carried. Clarified to be office building parking.

Motion as amended carried. Wing and Zabel voted no.

Applause in Gallery. Most of the individuals in the gallery left the room after the vote.

Ordinance 08-2019, Rezoning Application to Create a B-2; Community Business Planned Development District (B-2/PDD), and Rezone 10.16 acres from the B-2: Community Business & B-3: General Business Districts into the B-2/PDD;

Resolution 56-2019, Adopting Conditions & Restrictions for the B-2/PDD; and a 2-Lot Certified Survey Map (CSM) for GTOWN Properties LLC, Agent and Property Owner for North Shore Bank – N112 W15800 Mequon Road.

MOTION (Myers/Baum) to Approve Ordinance 08-2019, Rezoning Application to Create a B-2; Community Business Planned Development District (B-2/PDD), and Rezone 10.16 acres from the B-2: Community Business & B-3: General Business Districts into the B-2/PDD;

Resolution 56-2019, Adopting Conditions & Restrictions for the B-2/PDD; and a 2-Lot Certified Survey Map (CSM) for GTOWN Properties LLC, Agent and Property Owner for North Shore Bank – N112 W15800 Mequon Road.

Motion Carried, Zabel Voted no.

2020 Budget Process Discussion-Set Committee of the Whole Dates.

MOTION (Baum/Zabel) to hold the budget committee of the Whole dates on September 24th at 6 p.m., October 1st following Public Works, October 8th, at 6 p.m. and on October 15th, if needed. Motion carried unanimously.

Police Department – Evidence Garage Upgrade, for Insulation & Heating for the Police Department Evidence Garage in an amount not to exceed \$27,891.

MOTION (Kaminski/Baum) to Approve Police Department – Evidence Garage Upgrade, for Insulation & Heating for the Police Department Evidence Garage in an amount not to exceed \$27,891. Captain Snow commented that the heat is needed for the evidence. Motion carried unanimously.

Proceed with Improvements to the Intersection of Freistadt Road and Maple Road, in an amount not to exceed \$108,327. Estimated Project Cost \$1,074,272; State Funding \$965,945.

MOTION (Kaminski/Warren) to Proceed with Improvements to the Intersection of Freistadt Road and Maple Road, in an amount not to exceed \$108,327. Estimated Project Cost \$1,074,272; State Funding \$965,945. Engineer Nitschke came to the podium. He reported that this is a 90/10 HISSUP Grant. We have to follow their stepped process. Six different possibilities were submitted. Construction will start in 2021. Grant lasts through 2022. Any money spent over the Federal amount is the Village money. Motion carried unanimously.

Purchase of Wetland Mitigation Credits for the Northeast Interceptor Sewer Project in an amount not to exceed \$17,982.

MOTION (Myers/Miller) to Purchase of Wetland Mitigation Credits for the Northeast Interceptor Sewer Project in an amount not to exceed \$17,982. Motion carried unanimously.

Administrator Performance Review. The Village Board may convene into closed session per Wis. Stats. §19.85 (1) (c) considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility, and may convene into open session to take such action as it deems appropriate.

MOTION (Kaminski/Baum) to postpone closed session to the next meeting. Motion Carried Unanimously.

ADJOURNMENT.

ADJOURNMENT: There being no further business, the meeting adjourned at 11:01 p.m.

The next regular meeting of the Village Board will be on Monday, October 7, 2019 at 7:00 p.m.

Respectfully Submitted,
Deanna B. Braunschweig, WCMC/CMC
Village Clerk

**VILLAGE OF GERMANTOWN
WASHINGTON COUNTY**

RESOLUTION NO. 51-2019

**EMPLOYEE POLICY AND PROCEDURE MANUAL – AMENDMENT TO
TECHNOLOGY USE AND ELECTRONIC COMMUNICATIONS POLICY**

WHEREAS, the Village of Germantown currently has an Employee Policy and Procedure Manual with a Technology Use Policy; and,

WHEREAS, the Village should have a more detailed policy document in regard to Technology Use and Electronic Communications; and,

WHEREAS, a new policy document has been created and reviewed by staff and labor attorney; and,

NOW, THEREFORE BE IT RESOLVED, that the Village Board of the Village of Germantown, does hereby adopt the Attached Technology Use and Electronic Communications Policy as an amendment to the current Technology Use Policy in the Employee Policy and Procedure Manual.

Introduced by: _____

Adopted: _____

Vote: Ayes: ____ Nays: ____

Dean M. Wolter, Village President

ATTEST:

Deanna Braunschweig, WCMC/CMC
Village Clerk

GENERAL GOVERNMENT & FINANCE COMMITTEE

GERMANTOWN, WI

MEETING DATE: September 16, 2019

AGENDA ITEM: New Business

ITEM TITLES: Revisions to Policy & Procedure Manual for Technology Use

SUBMITTED BY: Michelle Tucker, Support Services Manager

SUMMARY EXPLANATION: As technology expands, our policies related to staff use of technology needs to adapt. It is important that we clarify expectations for staff related to email, online activity, and social media posting. The Technology Use policy includes rules for open records, as well as expectations for employees as representatives of the Village. The policy covers email, online activity, online message boards, and electronic files. The attached policy document will take the place of our current Technology Use policy in our Policy and Procedure Manual.

Attached: Ordinance_____ Resolution__X__ Other_____

Recommendation:

Approve the Resolution to Amend the Policy Manual and send to Village Board.

Committee Action:

ELECTRONIC MEDIA USE AND ELECTRONIC COMMUNICATIONS

PURPOSE: To better serve our citizens and give our workforce the best tools to do their jobs, the Village of Germantown continues to adopt and make use of new means of communication and information exchange. This means that many of our employees have access to one or more forms of electronic media and services, including, but not limited to, computers, tablets (iPad), e-mail, telephones, cellular telephones, pagers, voice mail, fax machines, external electronic bulletin boards, wire services, on-line services, and the Internet (collectively “electronic media”).

The purpose of this policy is to express the Village of Germantown's philosophy and set forth general guidelines governing the use of electronic media and services. By adopting this policy, it is the Village of Germantown's intent to ensure the electronic communication systems are used to their maximum potential for business purposes and not used in a way that is disruptive, offensive to others, or contrary to the best interest of the Village of Germantown.

The Village of Germantown encourages the use of these electronic media and associated services because they can make communication more efficient and effective and because they are valuable sources of information. However, all employees and everyone connected with the Village of Germantown should remember that electronic media and services provided by the Village of Germantown are Village of Germantown property and their purpose is to facilitate and support Village of Germantown business. Inappropriate usage of the Village's electronic media can adversely affect the Village, interfere with the work of its employees, increase its costs, and even expose the Village to damage, liability, and security risks. No expectation of privacy in regard to use of the Village of Germantown's electronic media should be expected by the employee in any respect related to accessing, transmitting, sorting or communicating information via such media.

For purposes of this policy, “use” includes, but is not limited to, any storage, transmission, retrieval, creation, downloading, uploading, and deletion of communications, data, software, files, or other items involving or requiring the use or access of Village electronic media, whether from an on-site or off-site location, whether utilizing a device owned by the employee (i.e., personal laptop, thumb drive, etc.), or otherwise. An employee's use of the Village's electronic media constitutes acceptance of the Village's monitoring and disclosure of such use. Use of the Village's electronic media can be limited by the Village at any time for any reason. The Village may consent to the disclosure of information from use of electronic media or any other property, the Village may consent or authorize a law enforcement agency to search or review the Village's electronic media, and the Village may use such information for the Village's intentions and purposes.

No written policy can list every conceivable circumstance that relates to proper use. Village employees are professionals who are expected to exercise responsible professional

judgment. The employer has complete and sole discretion to determine whether any use or access is inappropriate, even if the use is not expressly prohibited or addressed in this policy or rules. The Village may ask employees to stop any use it believes is improper. In addition, the Village may block access to any content it believes is not appropriate. Employees who do not adhere to this policy may be disciplined, which can include restriction of the electronic media use, discipline up to and including termination, and pursuit of any criminal or civil liability.

The following procedures apply to all electronic media and services that are:

- Accessed on or from Village of Germantown premises;
- Accessed using Village of Germantown electronic media and services or via Village of Germantown-paid access methods; or
- Used in a manner that identifies the individual as acting for or on behalf of the Village of Germantown; or in any way identifies the Village of Germantown.

ORGANIZATIONS AFFECTED: This policy applies to all the Village's employees, appointed and elected officeholders, volunteers, and contracted and consulting resources. When the term employee is used within this policy, the rules and expectations of conduct also apply to these other users.

ACCESS and AUTHORITY: Each Department Head shall determine which employees in their department shall have access to the various media and services, based on business practices and necessity and which shall have authority to communicate on behalf of the Village of Germantown.

The provisions of this Policy shall apply to the use of Village of Germantown-owned/provided electronic media and/or services from home or other locations off Village of Germantown premises. Village of Germantown-owned electronic media (e.g. laptops, tablets) may be removed from Village of Germantown premises solely for Village of Germantown work related purposes pursuant to prior authorization from the Department Head.

PROHIBITED USES OF VILLAGE ELECTRONIC MEDIA: Employees are prohibited from engaging in the following activities while using electronic media that is owned or provided by the Village:

- Engaging in personal, non-Village related activities, including activities for gain or profit (e.g., consulting for pay or advertising or selling goods or services for personal gain), except as otherwise allowed under "Personal Use" below;
- Copying, disseminating, or printing copyrighted or other protected materials, which can include articles, images, games, and other software, in violation of the law;
- Accessing, sending, soliciting, displaying, printing, or otherwise disseminating material that is reasonably likely to harass, threaten, or embarrass others or that is obscene, defamatory, discriminatory, fraudulent, or otherwise inappropriate in

- a professional environment;
- Searching for, accessing, or transmitting content that is reasonably likely to be perceived as offensive or disparaging of others, including content that is sexually explicit, profane, pornographic, disrespectful, disparaging based on race, national origin, sex, sexual orientation, age, disability, religious, or political beliefs or any other legally protected basis;
- Engaging in illegal activities or using the electronic media for any illegal purposes, including initiating or receiving communications that would violate any laws or regulations;
- Engaging in activities that interfere with or disrupt the work of other employees or which are otherwise contrary to the Village's business interests;
- Except as specifically authorized, gaining access by using any access control mechanism (e.g., login name, password, etc.) not assigned to the user, or permitting anyone to have access by using another person's access control mechanism;
- Unless first authorized by the Village's Administrator, downloading, transferring to or from, or deleting software or data from electronic media. Employees must never install downloaded software to networked storage devices without the assistance and approval of appropriate personnel.
- Unless first authorized by the Village's Administrator, disabling, tampering with, or otherwise adjusting any anti-virus, anti-malware, or other similar software installed on the Village's electronic media.
- Engaging in any transaction or other conduct that, if done through other means other than through the use of electronic media, would not be authorized or lawful.

If an employee has a question about whether a particular use of the Village's electronic media is proper, then he or she should contact his or her Department Head before engaging in such use.

PERSONAL USE: Except as otherwise provided, electronic media and services are provided by the Village of Germantown for employees' business use during Village of Germantown time. Limited, occasional, or incidental use of electronic media (sending or receiving) for personal non-business purposes is permitted as set forth below:

- Personal use is limited to unpaid breaks, lunch or immediately before/after work;
- Personal use must not interfere with the productivity of the employee or his or her co-workers;
- Personal use does not involve any prohibited use set out in this policy;
- Personal use does not consume system resources or storage capacity on an ongoing basis;
- Personal use does not involve large file transfers or otherwise deplete system resources available for business purposes.

Village of Germantown telephones and cellular phones are to be used for Village of Germantown business. However, brief, limited, and incidental personal use is permitted during the workday. Employees should not have any expectation of privacy with respect to personal use of the Village of Germantown's electronic media or services, including use of Village telephones or cellular telephones.

ACCESS TO VILLAGE-OWNED/PROVIDED ELECTRONIC MEDIA: Employees utilizing Village-owned/-provided electronic media shall have no expectation of privacy in regard to use of such electronic media. An employee's use of the Village's electronic media constitutes acceptance of the Village's monitoring and disclosure of such use. Use of Village electronic media can be limited by the Village at any time for any reason. The Village may consent to the disclosure of information from use of electronic media or any other property, the Village may consent or authorize a law enforcement agency to search or review the Village's technology, and the Village may use such information for its intentions and purposes.

ELECTRONIC COMMUNICATIONS SYSTEM POLICY

PURPOSE: In addition to providing employees with electronic media, as defined above, the Village provides employees with access to various means of electronic communication so they may better perform their job-related duties (e.g., e-mail, instant messaging, Intranet, cell phones, pagers, etc.). The Village's electronic communications system includes all messages and data sent through or received through the Village's networks or technology either externally via the internet or internally and through the Village's technology (collectively the "electronic communications system").

The Village's electronic communications system is a valuable business asset. As such, appropriate usage by employees is critical.

Communications sent and received through the electronic communications system which relate to official governmental business, regardless of whether sent /or received during the business day, may constitute records under Wisconsin's Public Records Law and, therefore, constitute property of the Village. Additionally, other records, even personal in nature, may constitute records under Wisconsin's Public Records Law.

Employees shall have no expectation of privacy in their use of the Village's electronic communications system. The Village reserves the right to monitor and/or access its electronic communications system at any time and for any lawful reason. The use of such system constitutes an employee's consent to such monitoring and access, as well as compliance with this policy. Employees are prohibited from deleting any communication, document, or any other transmission of information deemed to constitute a public record under Wisconsin's Public Records Law. This prohibition applies to the deletion of public records contained on an employee's personal devices and accounts (e.g., laptops, cell phones, e-mail accounts, etc.). A safe rule of thumb for any employee is that the employee should presume any communication

may be treated as a record for Public Records Law compliance purposes.

No written policy can list every conceivable circumstance that relates to proper use. The Village's employees are professionals who are expected to exercise responsible professional judgment. The Village has complete and sole discretion to determine whether any use or access is inappropriate, even if the use is not expressly prohibited or addressed in this policy or rules. The Village may ask employees to stop any use it believes is improper. In addition, the Village may block access to any content it believes is not appropriate. Employees who do not adhere to this policy may be disciplined, which can include restriction of internet use, restriction of technology use, or discipline up to and including termination.

ORGANIZATIONS AFFECTED: This policy applies to all of the Village's employees, appointed and elected officeholders, volunteers, and contracted and consulting resources. When the term employee is used within this policy, the rules and expectations of conduct also apply to these other users.

MONITORING AND ACCESS TO EMPLOYEE E-MAIL: Employees should not have any expectation of privacy with respect to messages, files, or data sent, received, or stored on the Village of Germantown's electronic communications system. Electronic communications and files, like other types of correspondence and Village of Germantown documents, can be accessed and read by authorized employees or authorized individuals outside the Village of Germantown. Communications sent or received through the electronic communications system are subject to monitoring, access, auditing, interception, and disclosure by the Village at the Village's sole discretion and as permitted by law.

All communications sent or received through the electronic communications system may constitute a public record under Wisconsin's Public Records Law and, as a result, may be subject to disclosure under the law. Therefore, employees are prohibited from deleting any such communications so as to ensure compliance with the Village's retention requirements.

Electronic communications may reside on the electronic communications system in different recoverable forms (system backup, sent mail folders, spool queues, etc.). Employees should not assume that deleting a personal electronic communication removes all incidents of their existence. If there is a review of the information or an investigation, litigation, or other proceeding that requires or makes desirable the review or production of Employer records, it is likely that electronic communications will be requested and potentially disclosed.

Except as otherwise noted herein, the electronic communications system should not be used to communicate sensitive or confidential information. Employees should anticipate that an electronic communication might be disclosed to or read by individuals other than the intended recipient(s), since messages can be easily forwarded to other individuals and disclosure may be required or permitted by law.

The confidentiality of any electronic communication should not be assumed. Even when

a communication is erased, it is still possible to retrieve and read that message. Employees should understand that electronic communication is a written form of communication, just like a paper letter. Though electronic communication is relatively spontaneous compared with regular mail, employees should take care to use the same level of discretion and forethought before executing electronic communications.

PASSWORDS AND ENCRYPTION: Access to certain electronic media and electronic communications systems may require the use of a log-in identification and password. All such log-in identifications and passwords may be assigned to an employee or may be created by the employee using such electronic media and shall be immediately filed in writing with the appropriate Department Head.

Each time an employee changes a log-in identification or password from that which is on file with the Department Head, the employee shall immediately file the new log-in identification and password with the Department Head. Whenever requested, employees are required to cooperate with the Village for purposes of disclosing the log-in identification and password associated with electronic media or the electronic communication system. Log-in identifications and passwords constitute the property of the Village and, thus, failure to cooperate with the disclosure of such information may subject an employee to discipline, as well as pursuit of criminal or civil liability. Employees have no expectation of privacy in log-in identifications and passwords.

Unless otherwise authorized or consistent with this policy, employees are required to keep log-in identifications and passwords strictly confidential. Log-in identifications and passwords are never to be disclosed through non-confidential sources such as over the telephone, through electronic communications, or otherwise posted in public areas.

Unless otherwise authorized, employees are strictly prohibited from encrypting any data, software, files, or other information stored, received, sent, or otherwise transmitted on or through technology. Employees are likewise prohibited from installing any encryption software or programs on such technology. Employees with a business need to encrypt certain data, software, files, or other information are required to obtain written authorization from their Department Director before engaging in encryption. Any passwords and log-in information associated with an employee's encryption must be immediately filed with the appropriate Department Head, and any changes to such log-in information or passwords must be provided to the appropriate Department Head at the time of such change.

The practice of using passwords should not lead employees to expect privacy with respect to messages sent or received. The use of passwords for security does not guarantee confidentiality. Employees are responsible for creating a strong password and for changing passwords at regular intervals. Employees will be provided with guidelines for creating a strong password and will be expected to follow such rules at all times. Failure to create a secure password may open the Village up to online attacks which are costly and time-consuming. Employees will be provided with training on electronic safety, including password creation and

use.

PROHIBITED USES: Electronic communications should be courteous, concise, focused, and written or spoken in good business English. The same care should be used for drafting electronic communications as used for drafting any other professional written communication. All electronic communications are unavoidably attributable to the Village. When composing electronic communications, employees should keep in mind that personal comments may be perceived as comments made on behalf of the Village.

Employees are strictly prohibited from engaging in any of the following activities while engaging in the use of the Village's electronic communications system:

- Engaging in personal, non-Village related business or entertainment on Village of Germantown time;
- Engaging in any of the activities outlined in "Prohibited Uses" under the Electronic Media Section above.
- Using another individual's electronic communications system account or identity without explicit authorization;
- Attempting to test, circumvent, or defeat security or auditing systems, without prior authorization;
- Accessing, retrieving or reading any electronic communication system messages sent to other individuals, without prior authorization from the Department Head; or
- Permitting any unauthorized individual to access the Village of Germantown's electronic communications system.

PERSONAL USE: The Village of Germantown allows limited, occasional, or incidental personal use of its electronic communications system during lunch, unpaid breaks or immediately before or after work. However, personal use must not:

- Involve any prohibited use listed anywhere within this policy;
- Interfere with the productivity of the employee or his or her co-workers;
- Consume system resources or storage capacity on an ongoing basis; or involve large file transfers or otherwise deplete system resources available for business purposes.
- Incur charges or otherwise violate the terms and conditions of any contracts associated with the electronic communications system (e.g., sending pictures when a cell phone does not provide for a data package, etc.)

ONLINE SECURITY: Ransomware and phishing attacks are becoming more common and employees should be vigilant against such attacks. In addition to regular training about internet and email security, employees should follow general safety rules:

- Employees should not open attachments from mysterious sources and prior to opening

attachments from known senders, employees should carefully observe the content of the electronic communication and the spelling of the senders' electronic communication. When in doubt, employees should not open the attachment.

- Employees will never be asked via an electronic communication to wire money to anyone, nor will they be asked to purchase gift cards in bulk.
- Employees must follow the updating schedule for the software on their Village computers, phones, tablets and other electronic media, including system updates, software updates and virus updates.
- Employees should avoid using public wi-fi systems on Village devices as much as possible.

CONFIDENTIAL INFORMATION: All employees are expected and required to protect the Village of Germantown's confidential information. Employees shall not transmit or forward confidential information to outside individuals or companies without the permission of their supervisor and the Department Director.

The Village of Germantown also requires its employees to use electronic communications in a way that respects the confidential and proprietary information of others. Employees are prohibited from copying or distributing copyrighted material - for example, software, database files, documentation, or articles using the electronic communications system.

RECORD RETENTION POLICY

PURPOSE: If related to official governmental business, all communications sent, received, stored, or transmitted on or through the electronic communications systems, whether through the use of electronic media owned or provided by the Village or personal devices/accounts of a similar ilk, constitute public records under Wisconsin's Public Records Law. Likewise, if related to governmental business, all data, documents, or other information created, stored, or transmitted through or on electronic media owned or provided by the Village constitute public records under Wisconsin's Public Records Law. The retention and disclosure procedure, rules, and requirements surrounding such records are the same as those which apply to other records of the Village.

ORGANIZATIONS AFFECTED: This policy applies to all of the Village's employees, appointed and elected officeholders, and volunteers. When the term employee is used within this policy, the rules and expectations of conduct also apply to these other users.

PROCEDURES: Per Wisconsin's Public Records Law, whether a particular communication, document, file, etc. constitutes a public record is determined by its content, not its format. Thus, any communication, document, file, etc. that relates to official government business constitutes a record under Wisconsin's Public Records Law. Communications, documents, files, etc. that relate to purely personal matters may nonetheless constitute a record, either in whole or in part, depending on the totality of circumstances. As such, employees are prohibited from deleting

communications, documents, files, etc. from Village-owned/-provided electronic media or the electronic communications system without first obtaining authorization from the Village's Clerk, Chief of Police, or their designees. Likewise, because communications, documents, files, or other types of information that relate to official governmental business constitute records under the Public Records Law, the Village reserves the right to monitor, access, audit, and disclose such communications, documents, files or other types of information to the extent permitted by law. Employees shall have no expectation of privacy with respect to such communications, documents, files, or other types of information, even if purely personal in nature, when using or accessing the Village's electronic media or electronic communications system.

Employees have an on-going obligation to cooperate in the production, inspection, and disclosure of all records in their possession, regardless of where such records are located, stored, or otherwise maintained, including when a public record is stored on an employee's personal electronic device or account. For this reason, employees are strongly discouraged from storing or maintaining records on personal electronic devices or within personal electronic communication systems. Failure to avoid the storage or maintenance of public records on one's personal electronic device or electronic communications system may require the employee to permit inspection of such device or communication system by the Village so that the Village may fulfill its legal obligations under Wisconsin's Public Records Law.

The determination as to whether a particular document, communication, or other piece of information constitutes a public record shall be at the sole discretion of the Village's Legal Custodian(s) (i.e., the Village Clerk, Chief of Police, or their designees). Likewise, the determination as to whether disclosure of a public record, either in whole or in part, is required under Wisconsin's Public Records Law shall be at the sole discretion of the Village's Legal Custodian(s).

c. If an employee has a question as to whether a particular document, communication, or other piece of information constitutes a record, or as to their obligations under this or the Village's records retention policy, then the employee should contact their Department Head before taking any action with respect to such potential record.

COMPONENTS OF AN ELECTRONIC COMMUNICATIONS RECORD: An electronic communications record is defined to include the message, the identities of the sender and all recipients, the date, and any non- archived attachments to the message. Any return receipt indicating the message was received by the sender is also considered to be part of the record. Other portions of the message, such as the metadata associated with it, may also constitute a portion of the record.

SAVING AND ARCHIVING ELECTRONIC COMMUNICATION RECORDS: Electronic communication records to be retained shall be archived to an archival media, network drive or printed out and saved in the appropriate file. Any officer, department head, division head, or employee of the Village of Germantown may request assistance from the Legal Custodian of records (the Village of Germantown Clerk or the Clerk's designee, except that the Chief of Police is Legal Custodian of Police Department records) in determining whether an electronic

communication is a public record.

RESPONSIBILITIES FOR E-MAIL RECORDS MANAGEMENT:

Legal Custodian: Electronic communication records of a Village of Germantown authority having custody of records shall be maintained by the Village Clerk or, if a record related to the Police Department, the Chief of Police.

Information Technology Consultant: If electronic communications are maintained in an on-line data base, it is the responsibility of the I.T. Consultant to provide technical support for the Village Clerk or Chief of Police as needed. When equipment is updated, the I.T. Consultant shall ensure that the ability to reproduce e-mail in a readable form is maintained. The Information Technology Consultant shall assure that e-mail programs are properly set up to archive electronic communications as required by the Village Clerk or Chief of Police.

PUBLIC ACCESS TO ELECTRONIC COMMUNICATION RECORDS: If a Department receives a public records request for release of an electronic communication, the Legal Custodian of the record shall determine if it is appropriate for public release, in whole or in part, pursuant to law, consulting the Village Administrator and or Village of Germantown Attorney, if necessary. As with other records, access to or electronic copies of disclosable records shall be provided within a reasonable time.

POLICY VIOLATIONS

Employees who do not adhere to any portion of this policy may be disciplined, which can include restriction of use with regard to electronic media or the electronic communications system, or discipline up to and including termination or removal from office. Severe violations of this policy may also subject an employee to civil liability and criminal prosecution.

**VILLAGE OF GERMANTOWN
WASHINGTON COUNTY**

RESOLUTION NO. 52-2019

**EMPLOYEE POLICY AND PROCEDURE MANUAL –
ADDITION OF THE SOCIAL MEDIA POLICY**

WHEREAS, the Village of Germantown currently has an Employee Policy and Procedure Manual with a Social Networking Site Paragraph; and,

WHEREAS, the Village should have a detailed policy document in regard to Social Media; and,

WHEREAS, a new policy document has been created and reviewed by staff and labor attorney; and,

NOW, THEREFORE BE IT RESOLVED, that the Village Board of the Village of Germantown, does hereby adopt the Social Media Policy as a replacement to the current Social Networking Sites Paragraph of the Employee Policy and Procedure Manual.

Introduced by: _____

Adopted: _____

Vote: Ayes: ____ Nays: ____

Dean M. Wolter, Village President

ATTEST:

Deanna Braunschweig, WCMC/CMC
Village Clerk

GENERAL GOVERNMENT & FINANCE COMMITTEE

GERMANTOWN, WI

MEETING DATE: September 16, 2019

AGENDA ITEM: New Business

ITEM TITLES: Revisions to Policy & Procedure Manual for Social Networking Sites

SUBMITTED BY: Michelle Tucker, Support Services Manager

SUMMARY EXPLANATION: Because staff has begun to expand utilization of social media and other electronic communication methods, it is important that we establish expectations for staff and for the public. The attached policy documents will take the place of our Social Networking Sites policy in our Policy and Procedure Manual. This revision establishes the rules for the Village's use of social media including who is allowed to post on behalf of the Village. Additionally, the new Social Media policy includes language that will be used as our external policy on all of our social media platforms. This policy explains to the public that their comments and posts on our social media accounts are subject to open records rules, as well as to rules for decorum. Any content posted that is inappropriate, offensive, or derogatory is subject to deletion. Posts that are deleted are still preserved for the sake of open records, but they would not be visible to the public. This external policy is critical as we go forward in order to protect the Village.

Attached: Ordinance_____ Resolution__X__ Other_____

Recommendation:

Approve the Resolution to Amend the Policy Manual and send to Village Board.

Committee Action:

SOCIAL NETWORKING POLICY

Purpose

The Village of Germantown (the “Village”) has an overriding interest and expectation in deciding what is “announced” or “spoken” on behalf of the Village through the use of social media. This policy establishes guidelines for the establishment and use of social media by the Village for conveying information about the Village and its events and activities. This policy also establishes guidance for employees acting in a personal capacity when using social media.

The Village’s intent is to create a “government speech forum” or a “limited forum” devoted exclusively to the Village’s postings to the public. Nothing in this policy shall be applied to prohibit or infringe upon any communication, speech or expression that is protected or privileged under law. This includes speech and expression protected under state or federal constitutions as well as labor laws or other applicable laws.

The Village’s Website

The Village’s website (<http://www.village.germantown.wi.us>) is the Village's primary and predominant internet presence. All of the Village’s website content and social media sites that are posted by departments and offices will be subject to approval by the _____ or designee. Social media use should complement rather than replace the Village’s primary website. Only employees authorized by the _____ are authorized to post content on the Village’s website.

Social Media Provider Terms of Service

Social media is defined as the various activities that integrate technology, social interaction, and content creation. Through social media, individuals or groups may create, organize, edit, comment on, combine, and share content. Social media providers offer web pages that provide a means for various forms of discussion and information-sharing, and include features such as social networks, blogs, video sharing, podcasts, wikis, message boards, and news media comment sharing/blogging. Social media providers are hosted by websites that authorize multiple users to establish, post content on, and operate their own individual social media profile. Technologies associated with social media often include picture and video sharing, wall postings, e-mail, instant messaging, and music sharing. Examples of websites that host social media profiles include, but are not limited to, Facebook (social networking); YouTube (social networking and video sharing); and Twitter (social networking and microblogging).

Each social media provider maintains a terms of use agreement for users. All posts and comments on any Village social media profile are bound by these terms and conditions. The Village reserves the right to report any user violation under the terms and conditions. This policy does not modify the terms and conditions established by the social media provider. Nor does the Village assume any responsibility or liability for decisions made by the social media provider involving the conduct or absence of conduct by the social media provider or by the user.

The terms and conditions of the social media provider represent a binding contract. No employee may execute such terms of service or enter into an agreement on behalf of the Village without authorization from the Administrator.

Social Media Posting

As a public entity, the Village must abide by certain standards to serve all constituents in a civil and unbiased manner. Only employees authorized by the Administrator are authorized to post content on an authorized Village social media profile on behalf of the Village. The Administrator or their designated representative will maintain a list of social media profiles, including login and password information, approved for use by departments and employees for communicating the Village's business. Any social media profiles used by the Village, including any login information and passwords, are the property of the Village and not the property of an employee or other party. Any social media profile used by the Village must be capable of editing, removing, and archiving content from social media websites. The authorized employee will inform the Administrator or their representative of any administrative changes to existing social media profiles.

For each social media profile approved for use by the Village, the following documentation will be developed and adopted:

- A list of authorized employees who may manage the social media profile
- Operational and use guidelines
- Standards and processes for managing accounts on social media sites
- Branding standards
- Design standards
- Standards for the administration of social media sites

Authorized employees representing the Village on social media must conduct themselves at all times as professional and dignified representatives of the Village and in accordance with all policies, directives, and professional expectations.

Employees posting content on behalf of the Village must follow these guiding principles:

- Communications must be consistent with the goals, branding, mission, vision, and values of the Village.
- Communications must be factual and accurate and not reflect opinions or biases.
- Communicate meaningful, respectful entries that are on topic while also recognizing that postings are widely accessible and not easily retractable.
- Communications must be written in plain business English with proper grammar and vocabulary, and should avoid acronyms and jargon.
- Communications must comply with policy, directives, professional expectations, and respect for privacy, confidentiality, and applicable legal guidelines for external communication.
- Ensure that legal right exists to publish all materials, including photos and articles, and comply with all trademark, copyright, fair use, disclosure of processes and methodologies, confidentiality, and financial disclosure laws.

- If identifying yourself, then maintain transparency by using your real name and job title, and by being clear about your role regarding the subject. Write and post only about your area of expertise. Remember that your postings are your responsibility.
- Communications must never be for political purposes or in support of or opposition to political campaigns or ballot measures.
- Communications must never be for purposes of private business activity or commerce, or for personal motivation or sharing of personal opinion or commentary.
- Communications must not promote, foster, or perpetuate discrimination, harassment, or retaliation on the basis of race, creed, color, age, religion, gender, marital status, national origin, disability, or sexual orientation, or other protected status.
- Communications must not compromise the safety or security of the public, public systems, or public services.

Authorized employees posting on behalf of the Village may not post content to the Village's social media profiles or engage in social networking activities related to publishing the Village's business during personal time. All social media activity must be made as part of the Employees regular work activity.

The nature of social networking promotes a great deal of interactivity, whereby users or organizations "like" or "follow" each other online. Official Village social media sites may "like" or "follow" the social media sites of local, state, and federal government organizations, generally recognized community and/or not-for-profit organizations, and organizations that provide public safety, promote tourism, industry, and economic welfare within the community, and businesses located within the corporate limits of Germantown. Official Village social media should not be used to "like" or "follow" any specific viewpoints, ballot measures, or controversial issues.

The employee's name and title should be made available in the responsive comment.

Reporting/Removal of Social Media Activity

A post, like, or comment by a member of the public on any Village social media profile is the opinion of the commentator or poster only. Publication of a user's post, a like, or a comment does not imply endorsement of, or agreement by, the Village or reflect the opinions or policies of the Village. The Village assumes no liability for any comment, like, or post made by another person.

If a forum allowing for two-way or multi-way communication is created, then an authorized employee may, with the approval of the Administrator, regulate comments or posts made by other persons on the Village's social media profile as provided herein. The Village requires that authorized employee to immediately notify the Administrator or their representative if there is any posted material that may violate this policy, violates the terms of use of the social media provider, is illegal, or that potentially infringes the copyrights or other rights of any persons. The Administrator or their representative will investigate and address the potential violation. If the comment or post violates the terms of use established by the social media provider, then the authorized employee may notify the social media provider and report the post or comment. If a comment or post demonstrates or incites unlawful behavior, then the authorized employee may notify law enforcement authorities. If

the comment or post contains any of the following content, the comment may be subject to removal or restriction by the Village:

- Obscene content;
- Content that is threatening or incites violence;
- Solicitation of commerce, including but not limited to, advertising of any non-Village- related event, or business or product for sale;
- Conduct in violation of any federal, state or local law;
- Content that promotes, fosters or perpetuates unlawful activity;
- Content that infringes the intellectual property rights of others;
- Content that is malicious or harmful software or malware;
- Content that promotes, fosters, or perpetuates discrimination on the basis of race, creed, color, age, religion, gender, marital status, status with regard to public assistance, national origin, physical or mental disability, gender identity, sexual orientation, lawful source of income or arrest/conviction record
- Comments in support or opposition to political campaigns, ballot measures, referendums, or any organized political activity or political links.

The Village should not deny access to the Village's social media profile for any individual who violates the Village's social media policy. The social media provider may, relying their terms and conditions and their discretion, block a user or remove content in violation of the terms and conditions, and nothing herein restrains the social media provider from such actions.

Record Retention

The Village must retain all social media content published by the Village for the purposes of public records retention as may be required by applicable law. Records required to be maintained pursuant to a relevant records retention schedule for the required retention period in a format that preserves the integrity of the record and is accessible. Any content removed by the Village based on these guidelines must be retained in accordance with the applicable retention schedule including the time, date and identity of the poster, when available.

Open Meetings Law Compliance

All conduct by officials serving on a governmental body must comply with Wisconsin's Open Meetings Law. Officials should refrain from discussing business or action of the governmental body with one another while using social media. Authorized employees publishing on the Village's social media profile should not engage officials serving on a governmental body when engaging in the Village's social media activity.

Employee Personal Conduct

Like other members of the community, employees may use social media profiles not belonging to the Village for the employee's personal social media purposes. Employees must recognize that most uses

of personal social media are still part of the public domain regardless of privacy settings and are easily replicated and published.

An employee's personal social media profile or use must remain personal in nature and not be used to share the Village's official government positions or views. In addition, employees should never use their Village e-mail account, login, or passwords in conjunction with a personal social media profile. Regardless of whether an employee identifies on a personal social media account that the employee works for the Village, employment with the Village is public record and members of the public may associate the employee with the Village. As such, employees must exercise care when posting and commenting on social media as personal views can be tied back to employment with Village.

Employees posting personal content on social media must follow these guiding principles:

- When commenting or posting on matters pertaining to the Village, the employee must make clear to other persons that the employee is speaking as a private citizen and not as an employee of the Village.
- Pause and think before posting with the understanding that postings are widely accessible, not easily retractable, easily shared and replicated.
- Personal activity must comport with the Village's policies, directives and expectations.
- Personal activity is the personal responsibility of the employee, including the consequences that flow from such activity.

Nothing in this policy is meant to prevent an employee from exercising his or her right to make a complaint of unlawful discrimination or other workplace misconduct through the proper processes, to engage in lawful protected concerted activity, or to express a personal opinion on a matter of public concern which may be balanced against the interests of the Village.

Compliance with Policy

The Village reserves the right to monitor and analyze social media use to ensure compliance with policy, directives and expectations, to evaluate use, and to recommend and implement changes to use of social media, among other legitimate government interests. Failure to comply with this policy by any employee may result in disciplinary action up to and including termination of employment. Failure to comply with this policy by any officeholder may result in pursuit of any lawful action against any official in violation of policy.

Village of Germantown Social Media Policy (*for posting on social media sites*)

We welcome you and your comments to the Village of Germantown's Social Media pages. The purpose of this site is to present matters of public interest to Village of Germantown residents, businesses, visitors and other interested parties. You may submit your comments, but please note this is a moderated online discussion site. A comment posted by the member of the public on any Village of Germantown social media site is the opinion of the commenter only and publication of a public comment does not imply endorsement, nor reflect the opinions or policies of, the Village of Germantown.

Because communication via social media constitutes a limited public forum, the Village reserves the right to manage, restrict or remove any content, public comments, or other postings that is deemed in violation of this policy or any applicable law. Inappropriate comments are subject to deletion by the administrator of this account. If you do not comply with the terms of use outlined below, your message may be removed.

This forum is NOT monitored at all times but is primarily monitored during business hours. Do NOT use this forum to report emergency situations or time-sensitive issues.

All content of this page including comments is subject to public records law. When posting, please remember that if your post violates any of the below rules, it will be deleted:

- Content that is graphic, obscene or explicit.
- Content that is abusive, threatening, hateful or intended to defame anyone or any organization.
- Content that suggests or encourages illegal activity.
- Content that promotes, fosters, or perpetuates discrimination on the basis of race, creed, color, age, religion, gender, marital status, status with regard to public assistance, national origin, physical or mental disability, gender identity, sexual orientations, lawful source of income or arrest/ conviction record.
- Content posted by persons whose profile picture or avatar, username or email address contains any of the aforementioned prohibited content.
- Solicitations or advertisements, including but not limited to, promotion or endorsement of any private, financial, commercial or non-governmental agency.
- Content attempting to defame or defraud any person or private financial, commercial or non-governmental agency.
- Comments in support or opposition to political campaigns, ballot measures, referendums, or any organized political activity or political links.

**BUSINESS of the
GENERAL GOVERNMENT & FINANCE COMMITTEE
VILLAGE BOARD**

MEETING DATE:

September 16, 2019

PLACEMENT

October 7, 2019

ITEM TITLE:

New Business

SUBMITTED BY:

Health Plan Design Changes

SUMMARY EXPLANATION:

Kim Rath, Finance Director

At times the IRS or industry standards make changes that may affect the design on health plans. There are also requests made by employees to expand coverage for certain procedures. If any changes would be approved, they would take effect January 1st, 2020. Below is a summary of the changes that could be made.

IRS Expands Preventive Care for High Deductible Health Plans (HDHP)

Adds care for a range of chronic conditions to the list of preventive care benefits by a HDHP without a deductible

Notice and explanation attached – recommendation by staff and our broker is to take a wait and see approach and not implement in January. The before deductible coverages are not part of traditional (non HDHP) plans.

Genetic Testing

There is a development in the genetic testing services which would be done to determine if an individual needs chemotherapy when diagnosed with cancer. The genetic test would show whether chemotherapy would be effective.

Germantown can add this benefit based on medical necessity. Recommendation is to add the language. Although the tests can be expensive, it could save money wherein chemotherapy sessions can be more costly and not effective, plus the needless wear and tear on the patient

Treatment of Autism Spectrum

Out plan for treatment of Autism Spectrum disorder has a \$50,000 per year limitation. Industry standards are moving away from dollar limitations and moving to the number of visit limitations instead. The ABA (Applied Behavior Therapy) average allowable amount is \$337.43 per visit and the average allowable amount for autism is \$276.24.

Recommendation is to update the plan to 100 visits for ABA therapy (which would be about \$33,800 when multiplied by the average) and 50 visits for autism (which would be about \$13,900 when multiplied) The allowable visit limitation closely matches our \$50,000 limitation

Acupuncture for Pain Management

Many physicians have been finding acupuncture is a useful tool, especially for back and neck pain, osteoarthritis / knee pain and headaches, including migraines. Some states looking to cut opioid prescriptions have been studying acupuncture as supplemental treatment

Recommendation is to add coverage with a limitation of 12 visits per year for medically necessity.

Weight-loss (bariatric) surgery

Surgeries for weight loss and lowering of other medical problems associated with obesity

The majority of standard insurance plans do not have bariatric surgery benefits included. Sometimes considered an elective surgery, rather than medically necessary.

Medically necessary = Health care services or supplies needed to diagnose or treat an illness, condition, disease or its symptoms and that meet accepted standards of medicine.

Insurance plans are required to cover obesity screening and counseling with no cost sharing which is in our plan. Estimated/average cost of surgery \$15,000 - \$20,000. Additional costs due to complications plus no guarantee a lifestyle choice after surgery would be adhered too. Psychological evaluation of patients before surgery are also required in some plans that do offer the service, to better understand motivations, readiness, behavioral changes and emotional factors that would impact coping and adjustment through surgery and after

ATTACHMENT: ORDINANCE____ RESOLUTION ____ OTHER _

RECOMMENDATION:

ACTION BY Committee

IRS Expands Preventive Care for High Deductible Health Plans (HDHPs)

The IRS posted Notice 2019-45 which adds care for a range of chronic conditions to the list of preventive care benefits permitted by a high deductible health plan (HDHP) without a deductible. **Groups are now able to offer coverage for the specific services and items listed that meet the criteria in the notice before the deductible but they are not required to cover them without cost sharing, though they may choose not to do so.**

The chart below lists the medical care services received and items purchased, including prescription drugs that can now be classified as preventive when prescribed for the purpose of preventing the exacerbation of the chronic condition or the development of a secondary condition to someone diagnosed with that chronic condition.

Preventive Care for Specified Conditions	For Individuals Diagnosed with
Angiotensin Converting Enzyme (ACE) inhibitors	Congestive heart failure, diabetes, and/or coronary artery disease
Anti-resorptive therapy	Osteoporosis and/or osteopenia
Beta-blockers	Congestive heart failure and/or coronary artery disease
Blood pressure monitor	Hypertension
Inhaled corticosteroids	Asthma
Insulin and other glucose lowering agents	Diabetes
Retinopathy screening	Diabetes
Peak flow meter	Asthma
Glucometer	Diabetes
Hemoglobin A1c testing	Diabetes
International Normalized Ratio (INR) testing	Liver disease and/or bleeding disorders
Low-density Lipoprotein (LDL) testing	Heart disease
Selective Serotonin Reuptake Inhibitors (SSRIs)	Depression
Statins	Heart disease and/or diabetes

If you are interested in adding this coverage or have any questions regarding this change, please work with your Auxiant account manager and your Pharmacy Benefit Manager to amend your plan for these changes.

August 2019

Auxiant[®]
Your Integrated Benefits Partner

**VILLAGE OF GERMANTOWN
GENERAL GOVERNMENT & FINANCE COMMITTEE
MEETING MINUTES
September 16, 2019**

CALL TO ORDER: The meeting was called to order at 6:00 p.m. by Chairperson Zabel.

ROLL CALL: Present: Chairperson Zabel, Trustee Members: Baum, Kaminski, and Miller. Also present: Clerk Braunschweig, Finance Director Rath, Administrator Kreklow, Attorney Sajdak, Manager Tucker, and Deputy Clerk Hubrich.

APPROVAL OF MINUTES: August 19, 2019 – **MOTION (Baum/Kaminski) to approve the August 19, 2019 minutes. Motion carried unanimously.**

PUBLIC COMMENT: No public comment.

NEW BUSINESS:

- A. Resolution 51-2019, Amendment to the Employee Policy & Procedure Manual in regards to Technology Use and Electronic Communications Policy.

Manager Tucker wrote the policy and sent the policy to the labor attorney for review. The new policy clarifies and updates to a new policy and clarifies retention.

MOTION (Baum/Miller) to Recommend Resolution 51-2019, Amendment to the Employee Policy & Procedure Manual in regards to Technology Use and Electronic Communications Policy. Motion Carried Unanimously.

- B. Resolution 52-2019, Amendment to the Employee Policy & Procedure Manual in regards to Social Media Policy.

Manager Tucker wrote the policy and sent the policy to the labor attorney for review. This policy sets rules for the public as well.

MOTION (Baum/Miller) to Recommend Resolution 52-2019, Amendment to the Employee Policy & Procedure Manual in regards to Social Media Policy. Motion Carried Unanimously.

- C. Health Assessment Results Review.

Manager Tucker reported on the item. There was very good participation this year. They do counseling and barometric testing. The information can guide the wellness program. Backpain and diabetes are areas for the wellness program. She pointed out there was an 81% participation. The BMI did increase. The Trustees expressed interest in future participation.

- D. Request to Create Position Levels for the Deputy Clerk / Management Analyst –Position.

Clerk Braunschweig reported on the item. The proposal is to expand the Deputy Clerk Management Analyst position into levels to allow for recognition of completed training, successful completion of assigned projects, election cycles, and a successful performance review. The employee would move to the next level after completed training, successful completion of assigned projects, election cycles, and a successful performance review. If the employee is new to the Clerk's Field the steps will be followed as outlined. If the new employee has some previous training and experience, they may step into the training placement after a six-month review or one-year review.

MOTION (Kaminski/Miller) to Approve the Request to Create Position Levels for the Deputy Clerk / Management Analyst –Position. Motion Carried Unanimously.

E. Request to Fill Full-Time Deputy Clerk Position.

Clerk Braunschweig reported that the 2019 Budget includes One Deputy Clerk and \$12,000 for a part-time Deputy Clerk. The part-time position has not been filled. The request is to fill this position in December of 2019 as a Full-Time Position. The 2020 proposed budget does include this additional position.

2020 is a Presidential Election Year. There is a need for a third person for elections as well as day to day operations. Election Security and detail will be at an increased level. The expectation is a very high turnout. I have included statistical election data based on the past five years showing the increase in voter participation. Germantown is known for strong election participation. Historically, the Clerk's Office has had three full-time people, plus part-time office assistance. The full-time amount with benefits is \$54,000.

MOTION (Baum/Miller) to Recommend Request to Create and Fill Full-Time Deputy Clerk Position starting in December, with the understanding that it will be in the 2020 Budget. Motion carried. Zabel voted no.

F. Health Plan Design Change.

Director Rath reported on possible changes to the health plan design. She commented on the IRS expansion of preventive care for high deductible health plan, Genetic Testing, and the Treatment of Autism Spectrum, Acupuncture for Pain Management. She reported that the broker is suggesting a wait and see approach for the High Deductible HealthPlan Preventive Care Items.

The Genetic Testing, Treatment of Autism Spectrum, and Acupuncture for Pain Management are suggested items. The Weight Loos Bariatric Surgery is not suggested at this time.

MOTION (Baum/Miller) to continue with the recommendations of Genetic Testing, Treatment of Autism Spectrum, and Acupuncture for Pain Management. Motion Carried Unanimously.

OLD BUSINESS:

A. None.

REPORTS:

A. **Monthly Year to Date Financials:**

1. Revenue and Expense Report All Funds: Finance Director Rath reviewed the reports. There are no concerns. Tracking well.
2. Health and Dental Plans: Director Rath reviewed the reports.

B. **Impact Fees Financial Reports:** The report was reviewed.

C. **Accounts Payable:** August 25, 2019 and September 10, 2019 payables were reviewed.

D. **Code Violation Reports:** The reports were reviewed. Nothing New. Zabel pointed out the golf course metal building needs to be followed up on and the building should come down. Building Inspection Department.

1. Planning Department.

E. **C.I.P. PROJECTS:** The reports were reviewed.

F. **Letter of Credit Summaries:**

1. Building Inspection Department – Reviewed.
2. Public Works Department– Reviewed.

3. Planning Department – Reviewed.

G. **Summary of all Village Contracts:** Reviewed.

H. **SCHEDULE NEXT MEETING:** The next meeting will be on October 15, 2019 at 6:00 pm.

ADJOURNMENT: Chairman Zabel adjourned the meeting at 6:45 p.m.

Respectfully Submitted,

Deanna Braunschweig

Deanna Braunschweig
Village Clerk

DRAFT

**BUSINESS of the
Public Works Committee &
Village Board of the VILLAGE OF GERMANTOWN**

MEETING DATE: Oct 1, 2019 PW
Oct 7, 2019 VB

PLACEMENT New Business

ITEM TITLE: Baker Tilly TIF District Audit Services

Dissolution TID 4
30% Audit TID 6 & 7

SUBMITTED BY: Kim Rath, Finance Director

SUMMARY EXPLANATION:

Approval for this item has been placed on the Public Works agenda due to expediency. The proposed TID audits need to be completed by year end and time constraints would make waiting until the General Government and Finance Committee meeting problematic. Thank you for your understanding.

Included in your packet is a copy of an engagement letter from Baker Tilly for audits of Tax Incremental Finance Districts #4, #6, #7. TIF # 4 is a 30%, final audit (100%) and closeout(dissolution) audit. TIF's 6 & 7 are for 30% completion audits. There will probably be a 30% audit later in the year 2020 for TIF #8.

It seems that the TIF #4 30% audit was never filed with the Department of Revenue. Baker Tilly was engaged to complete the 30% audit for the TIF 4 for period ending 12/31/98. They issued draft statements and noted a response from the attorney was required in order to finalize the audit, which was required to be finalized prior to 12/31/00. They did find in their files an attorney letter response, dated in 2001. It seems that changes in village and auditing staff during this time may have caused a breakdown in following through on completion and filing of the audit.

Cost: TID #4 \$9,000 - \$12,000
TID #6 \$5,000 - \$7,500
TID #7 \$5,000 - \$7,500

Funding for the audit will come from the TIF's themselves.

ATTACHMENT: ORDINANCE____ RESOLUTION ____ OTHER _

RECOMMENDATION: Approval

ACTION BY Committee

September 19, 2019

Ms. Kim Rath
Finance Director
Village of Germantown
PO Box 337
N112 W17001 Mequon Road
Germantown, WI

Baker Tilly Virchow Krause, LLP
Ten Terrace Ct
PO Box 7398
Madison, WI 53707-7398

T: +1 (608) 249 6622
F: +1 (608) 249 8532

bakertilly.com

Dear Ms. Rath:

Thank you for using Baker Tilly Virchow Krause, LLP ("Baker Tilly" or "we" or "our") as your auditors.

The purpose of this letter (the "Engagement Letter") is to confirm our understanding of the terms and objectives of our engagement and the nature of the services we will provide as independent accountants of the Village of Germantown ("you" or "your").

Service and Related Report

We will audit the Balance Sheet, the Historical Summary of Project Costs, Project Revenues and Net Costs to be Recovered Through Tax Increments and Historical Summary of Sources, Uses, and Status of Funds and the related notes to the financial statements as follows for the Village of Germantown Tax Incremental Districts ("TID"):

<u>TID No.</u>	<u>Year Ended and from the Date of Creation</u>	<u>Audit Type</u>
4	August 31, 2019	30%, 100%, and Dissolution
6	December 31, 2018	30%
7	December 31, 2019	30%

If, for any reasons caused by or relating to the affairs or management of the Village of Germantown, we are unable to complete the audit or are unable to or have not formed an opinion, or if we determine in our professional judgment the circumstances necessitate, we may withdraw and decline to issue a report as a result of this engagement.

The following supplementary information accompanying the financial statements will also be subjected to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America, and our auditor's report will provide an opinion on it in relation to the financial statements as a whole.

- > Detailed Schedule of Sources, Uses and Status of Funds
- > Detailed Schedule of Capital Expenditures

Our Responsibilities and Limitations

The objective of a financial statement audit is the expression of an opinion on the financial statements. We will be responsible for performing that audit in accordance with auditing standards generally accepted in the United States of America ("GAAS"). These standards require that we plan and perform our audit to obtain reasonable, rather than absolute assurance about whether the financial statements are free of material misstatement, whether caused by error or fraud. The audit will include examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. Our audit does not relieve management and the audit committee or equivalent group charged with governance of their responsibilities.

The audit will include obtaining an understanding of the Village of Germantown and its environment, including internal controls, sufficient to assess the risks of material misstatement of the financial statements and to determine the nature, timing and extent of further audit procedures. An audit is not designed to provide assurance on internal controls or to identify deficiencies in internal control. However, during the audit, we will communicate to management and the audit committee or equivalent group charged with governance internal control matters that are required to be communicated under professional standards.

We will design our audit to obtain reasonable, but not absolute, assurance of detecting misstatements due to errors or fraud that would have a material effect on the financial statements as well as other illegal acts having a direct and material effect on financial statement amounts. An audit is not designed to detect error or fraud that is immaterial to the financial statements. Our audit will not include a detailed audit of transactions, such as would be necessary to disclose errors or fraud that did not cause a material misstatement of the financial statements. It is important to recognize that there are inherent limitations in the auditing process. Audits are based on the concept of selective testing of the data underlying the financial statements, which involves judgment regarding the areas to be tested and the nature, timing, extent and results of the tests to be performed. Our audit is not a guarantee of the accuracy of the financial statements and, therefore, is subject to the limitation that material errors or fraud or other illegal acts having a direct and material financial statement impact, if they exist, may not be detected. Because of the characteristics of fraud, particularly those involving concealment through collusion, falsified documentation and management's ability to override controls, an audit designed and executed in accordance with GAAS may not detect a material fraud. Further, while effective internal control reduces the likelihood that errors, fraud or other illegal acts will occur and remain undetected, it does not eliminate that possibility. For these reasons, we cannot ensure that errors, fraud or other illegal acts, if present, will be detected. However, we will communicate to you, as appropriate, any such matters that we identify during our audit.

We are also responsible for determining that the audit committee or equivalent group charged with governance is informed about certain other matters related to the conduct of the audit, including (i) our responsibility under GAAS, (ii) an overview of the planned scope and timing of the audit, and (iii) significant findings from the audit, which include (a) our views about the qualitative aspects of your significant accounting practices, accounting estimates, and financial statement disclosures; (b) difficulties encountered in performing the audit; (c) uncorrected misstatements and material corrected misstatements that were brought to the attention of management as a result of auditing procedures; and (d) other significant and relevant findings or issues (e.g., any disagreements with management about matters that could be significant to your financial statements or our report thereon, consultations with other independent accountants, issues discussed prior to our retention as independent auditors, fraud and illegal acts, and all significant deficiencies and material weaknesses identified during the audit). Lastly, we are responsible for ensuring that the audit committee or equivalent group charged with governance receives copies of certain written communications between us and management including written communications on accounting, auditing, internal controls or operational matters and representations that we are requesting from management.

Our audit will be conducted in accordance with the standards referred to above. As part of obtaining reasonable assurance about whether the TID financial statements are free of material misstatement, we will perform tests of compliance with tax increment financing district laws, regulations and the project plan. However, it should be noted that our objective was not to provide an opinion on overall compliance with the provisions included in Wisconsin State Statutes Section 66.1105.

The audit will not be planned or conducted in contemplation of reliance of any specific third party or with respect to any specific transaction. Therefore, items of possible interest to a third party will not be specifically addressed and matters may exist that would be addressed differently by a third party, possibly in connection with a specific transaction.

Management's Responsibilities

The Village of Germantown's management is responsible for the financial statements referred to above. In this regard, management is responsible for establishing policies and procedures that pertain to the maintenance of adequate accounting records and effective internal controls over financial reporting, the selection and application of accounting principles, the authorization of receipts and disbursements, the safeguarding of assets, the proper recording of transactions in the accounting records, and for reporting financial information in conformity with accounting principles generally accepted in the United States of America ("GAAP").

Management is also responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us in the management representation letter (i) about all known or suspected fraud affecting the Village of Germantown involving: (a) management, (b) employees who have significant roles in internal control over financial reporting, and (c) others where the fraud or illegal acts could have a material effect on the financial statements; and (ii) of its knowledge of any allegations of fraud or suspected fraud affecting the Village of Germantown received in communications from employees, former employees, analysts, grantors, regulators, or others.

Management is responsible for (i) adjusting the financial statements to correct material misstatements and for affirming to us in a management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period under audit are immaterial, both individually and in the aggregate, to the financial statements taken as a whole, and (ii) notifying us of all material weaknesses, including other significant deficiencies, in the design or operation of your internal control over financial reporting that are reasonably likely to adversely affect your ability to record, process, summarize and report external financial data reliably in accordance with GAAP. Management is also responsible for identifying and ensuring that the Village of Germantown complies with the laws and regulations applicable to its activities.

As part of management's responsibility for the financial statements and the effectiveness of its system of internal control over financial reporting, management is responsible for making available to us, on a timely basis, all of your original accounting records and related information and for the completeness and accuracy of that information and your personnel to whom we may direct inquiries. As required by GAAS, we will make specific inquiries of management and others about the representations embodied in the financial statements and the effectiveness of internal control over financial reporting. GAAS also requires that we obtain written representations covering audited financial statements from certain members of management. The results of our audit tests, the responses to our inquiries, and the written representations, comprise the evidential matter we intend to rely upon in forming our opinion on the financial statements.

Ms. Kim Rath
Village of Germantown

September 19, 2019
Page 4

Baker Tilly is not a municipal advisor as defined in Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act or under Section 15B of the Securities Exchange Act of 1934 (the "Act"). Baker Tilly is not recommending an action to the Village of Germantown; is not acting as an advisor to you and does not owe a fiduciary duty pursuant to Section 15B of the Act to you with respect to the information and material contained in the deliverables issued under this engagement. You should discuss any information and material contained in the deliverables with any and all internal and external advisors and experts that you deem appropriate before acting on this information or material.

Nonattest Services

Prior to or as part of our audit engagement, it may be necessary for us to perform certain nonattest services. For purposes of this letter, nonattest services include services that *Government Auditing Standards* refers to as nonaudit services.

Nonattest services that we may provide in relation to these audits are as follows:

- > Adjusting journal entries
- > Financial statement preparation

None of these nonattest services constitute an audit under generally accepted auditing standards including *Government Auditing Standards*.

We will not perform any management functions or make management decisions on your behalf with respect to any nonattest services we provide.

In connection with our performance of any nonattest services, you agree that you will:

- > Continue to make all management decisions and perform all management functions, including approving all journal entries and general ledger classifications when they are submitted to you.
- > Designate an employee with suitable skill, knowledge, and/or experience, preferably within senior management, to oversee the services we perform.
- > Evaluate the adequacy and results of the nonattest services we perform.
- > Accept responsibility for the results of our nonattest services.
- > Establish and maintain internal controls, including monitoring ongoing activities related to the nonattest function.

On a periodic basis, as needed, we will meet with you to discuss your accounting records and the management implications of your financial statements. We will notify you, in writing, of any matters that we believe you should be aware of and will meet with you upon request.

Other Documents

If you intend to reproduce or publish the financial statements in an annual report or other information (excluding official statements), and make reference to our firm name in connection therewith, you agree to publish the financial statements in their entirety. In addition, you agree to provide us, for our approval and consent, proofs before printing and final materials before distribution.

If you intend to reproduce or publish the financial statements in an official statement, unless we establish a separate agreement to be involved in the issuance, any official statements issued by the Village of Germantown must contain a statement that Baker Tilly is not associated with the official statement, which shall read "Baker Tilly Virchow Krause, LLP, our independent auditor, has not been engaged to perform and has not performed, since the date of its report included herein, any procedures on the financial statements addressed in that report. Baker Tilly Virchow Krause, LLP, has also not performed any procedures relating to this official statement."

With regard to the electronic dissemination of audited financial statements, including financial statements published electronically on your Internet website, you understand that electronic sites are a means to distribute information and, therefore, we are not required to read the information contained in these sites or to consider the consistency of other information in the electronic site with the original document.

The documentation for this engagement, including the workpapers, is the property of Baker Tilly and constitutes confidential information. We may have a responsibility to retain the documentation for a period of time sufficient to satisfy any applicable legal or regulatory requirements for records retention. If we are required by law, regulation, or professional standards to make certain documentation available to regulators, the Village of Germantown hereby authorizes us to do so.

Timing and Fees

Completion of our work is subject to, among other things, (i) appropriate cooperation from the Village of Germantown's personnel, including timely preparation of necessary schedules, (ii) timely responses to our inquiries, and (iii) timely communication of all significant accounting and financial reporting matters. When and if for any reason the Village of Germantown is unable to provide such schedules, information, and assistance, Baker Tilly and you will mutually revise the fee to reflect additional services, if any, required of us to complete the audit. Delays in the issuance of our audit report beyond the date that was originally contemplated may require us to perform additional auditing procedures which will likely result in additional fees.

Revisions to the scope of our work will be communicated to you and may be set forth in the form of an "Amendment to Existing Engagement Letter." In addition, if we discover compliance issues that require us to perform additional procedures and/or provide assistance with these matters, fees at our standard hourly rates apply.

We estimate our fees to be within the following ranges for each TID:

<u>TID No. 4</u>	<u>TID No. 6</u>	<u>TID No. 7</u>
\$ 9,000 - 12,000	\$ 5,000 - 7,500	\$ 5,000 - 7,500

Invoices for these fees will be rendered each month as work progresses and are payable on presentation. A charge of 1.5 percent per month shall be imposed on accounts not paid within thirty (30) days of receipt of our statement for services provided. In accordance with our firm policies, work may be suspended if your account becomes thirty (30) days or more overdue and will not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notice of termination, even if we have not completed our report. You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket expenditures through the date of termination.

Resolution of Disagreements

In the unlikely event that differences concerning services or fees should arise that are not resolved by mutual agreement, both parties agree to attempt in good faith to settle the dispute by mediation administered by the American Arbitration Association ("AAA") under its mediation rules for professional accounting and related services disputes before resorting to litigation or any other dispute-resolution procedure. Each party shall bear their own expenses from mediation.

If mediation does not settle the dispute or claim, then the parties agree that the dispute or claim shall be settled by binding arbitration. The arbitration proceeding shall take place in the city in which the Baker Tilly office providing the relevant services is located, unless the parties mutually agree to a different location. The proceeding shall be governed by the provisions of the Federal Arbitration Act ("FAA") and will proceed in accordance with the then current Arbitration Rules for Professional Accounting and Related Disputes of the AAA, except that no pre hearing discovery shall be permitted unless specifically authorized by the arbitrator. The arbitrator will be selected from AAA, Judicial Arbitration & Mediation Services ("JAMS"), the Center for Public Resources or any other internationally or nationally recognized organization mutually agreed upon by the parties. Potential arbitrator names will be exchanged within fifteen (15) days of the parties' agreement to settle the dispute or claim by binding arbitration, and arbitration will thereafter proceed expeditiously. The arbitration will be conducted before a single arbitrator, experienced in accounting and auditing matters. The arbitrator shall have no authority to award non monetary or equitable relief and will not have the right to award punitive damages. The award of the arbitration shall be in writing and shall be accompanied by a well reasoned opinion. The award issued by the arbitrator may be confirmed in a judgment by any federal or state court of competent jurisdiction. Each party shall be responsible for their own costs associated with the arbitration, except that the costs of the arbitrator shall be equally divided by the parties. The arbitration proceeding and all information disclosed during the arbitration shall be maintained as confidential, except as may be required for disclosure to professional or regulatory bodies or in a related confidential arbitration. In no event shall a demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim would be barred under the applicable statute of limitations.

Our services shall be evaluated solely on our substantial conformance with the terms expressly set forth herein, including all applicable professional standards. Any claim of nonconformance must be clearly and convincingly shown.

Limitation on Damages and Indemnification

The liability (including attorney's fees and all other costs) of Baker Tilly and its present or former partners, principals, agents or employees related to any claim for damages relating to the services performed under this Engagement Letter shall not exceed the fees paid to Baker Tilly for the portion of the work to which the claim relates, except to the extent finally determined to have resulted from the willful misconduct or fraudulent behavior of Baker Tilly relating to such services. This limitation of liability is intended to apply to the full extent allowed by law, regardless of the grounds or nature of any claim asserted, including the negligence of either party. Additionally, in no event shall either party be liable for any lost profits, lost business opportunity, lost data, consequential, special, incidental, exemplary or punitive damages, delays or interruptions arising out of or related to this Engagement Letter even if the other party has been advised of the possibility of such damages.

As Baker Tilly is performing the services solely for your benefit, you will indemnify Baker Tilly, its subsidiaries and their present or former partners, principals, employees, officers and agents against all costs, fees, expenses, damages and liabilities (including attorney's fees and all defense costs) associated with any third-party claim, relating to or arising as a result of the services, or this Engagement Letter.

Ms. Kim Rath
Village of Germantown

September 19, 2019
Page 7

Because of the importance of the information that you provide to Baker Tilly with respect to Baker Tilly's ability to perform the services, you hereby release Baker Tilly and its present and former partners, principals, agents and employees from any liability, damages, fees, expenses and costs, including attorney's fees, relating to the services, that arise from or relate to any information, including representations by management, provided by you, its personnel or agents, that is not complete, accurate or current.

Each party recognizes and agrees that the warranty disclaimers and liability and remedy limitations in this Engagement Letter are material bargained for bases of this Engagement Letter and that they have been taken into account and reflected in determining the consideration to be given by each party under this Engagement Letter and in the decision by each party to enter into this Engagement Letter.

The terms of this section shall apply regardless of the nature of any claim asserted (including, but not limited to, contract, tort or any form of negligence, whether of you, Baker Tilly or others), but these terms shall not apply to the extent finally determined to be contrary to the applicable law or regulation. These terms shall also continue to apply after any termination of this Engagement Letter.

You accept and acknowledge that any legal proceedings arising from or in conjunction with the services provided under this Engagement Letter must be commenced within twelve (12) months after the performance of the services for which the action is brought, without consideration as to the time of discovery of any claim.

Other Matters

Neither this Engagement Letter, any claim, nor any rights or licenses granted hereunder may be assigned, delegated, or subcontracted by either party without the written consent of the other party. Either party may assign and transfer this Engagement Letter to any successor that acquires all or substantially all of the business or assets of such party by way of merger, consolidation, other business reorganization, or the sale of interest or assets, provided that the party notifies the other party in writing of such assignment and the successor agrees in writing to be bound by the terms and conditions of this Engagement Letter.

Baker Tilly Virchow Krause, LLP, trading as Baker Tilly, is an independent member of Baker Tilly International. Baker Tilly International Limited is an English company. Baker Tilly International provides no professional services to clients. Each member firm is a separate and independent legal entity and each describes itself as such. Baker Tilly Virchow Krause, LLP is not Baker Tilly International's agent and does not have the authority to bind Baker Tilly International or act on Baker Tilly International's behalf. None of Baker Tilly International, Baker Tilly Virchow Krause, LLP, nor any of the other member firms of Baker Tilly International has any liability for each other's acts or omissions. The name Baker Tilly and its associated logo is used under license from Baker Tilly International Limited.

This Engagement Letter constitutes the entire agreement between the Village of Germantown and Baker Tilly regarding the services described in this Engagement Letter and supersedes and incorporates all prior or contemporaneous representations, understandings or agreements, and may not be modified or amended except by an agreement in writing signed between the parties hereto.

The provisions of this Engagement Letter, which expressly or by implication are intended to survive its termination or expiration, will survive and continue to bind both parties. If any provision of this Engagement Letter is declared or found to be illegal, unenforceable or void, then both parties shall be relieved of all obligations arising under such provision, but if the remainder of this Engagement Letter shall not be affected by such declaration or finding and is capable of substantial performance, then each provision not so affected shall be enforced to the extent permitted by law or applicable professional standards.

Ms. Kim Rath
Village of Germantown

September 19, 2019
Page 8

If because of a change in the Village of Germantown's status or due to any other reason, any provision in this Engagement Letter would be prohibited by, or would impair our independence under laws, regulations or published interpretations by governmental bodies, commissions or other regulatory agencies, such provision shall, to that extent, be of no further force and effect and this agreement shall consist of the remaining portions.

This agreement shall be governed by and construed in accordance with the laws of the state of Wisconsin, without giving effect to the provisions relating to conflict of laws.

We appreciate the opportunity to be of service to you.

If there are any questions regarding this Engagement Letter, please contact Amanda Blomberg, the firm director on this engagement who is responsible for the overall supervision and review of the engagement and determining that the engagement has been completed in accordance with professional standards. Amanda Blomberg is available at 608 240 2386, or at Amanda.Blomberg@bakertilly.com.

Sincerely,

BAKER TILLY VIRCHOW KRAUSE, LLP

Baker Tilly Virchow Krause, LLP

Enclosure

The services and terms as set forth in this Engagement Letter are agreed to by:

Official's Name

Official's Signature

Title

Date

**BUSINESS OF THE PUBLIC WORKS AND HIGHWAY COMMITTEE
AND VILLAGE BOARD
GERMANTOWN, WI**

MEETING DATE: October 1st, 2019 & October 7th, 2019

AGENDA ITEM: New Business

ITEM TITLE: Approval of Hilbert Lane Sidewalk Extension

SUBMITTED BY: Ryan Ehlerding, Project Engineer

SUMMARY EXPLANATION:

A request was made to the Engineering Department to have the sidewalk extended along the west side of Hilbert Lane to Sylvan Circle. The sidewalk would allow safe passage for children to access the bus stop at the intersection of Hilbert Lane and Sylvan Circle. The sidewalk extension would also allow handicapped residents to have easier access from Hilbert Lane to the sidewalk along the south side of Sylvan Circle. All ramps at the intersection will conform with ADA standards. A cross walk will be striped across Sylvan Circle and proper pedestrian crossing signage will be installed to alert motorists of the crosswalk. Residents affected by this project have been contacted with an informational letter. The project is expected to be substantially completed by the end of 2019.

ATTACHMENT: ORDINANCE____ RESOLUTION____ OTHER X

- Payne & Dolan Quotation
- Resident Informational Letter

RECOMMENDATION:

Staff recommends that the Public Works and Highway Committee and Village Board approve the Hilbert Lane Sidewalk Extension at a cost of \$33,915.00. The Hilbert Lane Sidewalk Extension will be a change order for the 2019 Road Program.

COMMITTEE ACTION:

Proper parliamentary procedure to deny a request is to have a motion made in the affirmative and by voting NAY would deny the request if a majority vote.

Payne & Dolan, Inc.
N173W21120 Northwest Passage
Way
Jackson, WI 53037



Parker Sovey
Direct: 262-524-1879
Cell: 262-366-5587
Fax: 262-677-5530
psovey@payneanddolan.com

Quotation

QUOTATION TO:

Ryan Ehlerding
Village of Germantown

Date: September 20, 2019

Letting Date: **Proposal:**

Project Name: Hilbert Lane Sidewalk

Project Location: Germantown, WI

HILBERT LANE				
Description	Bid Quantity	Unit	Bid Price	Bid Total
CLEARING	1	LS	\$ 3,995.00	\$ 3,995.00
EXCAVATION	70	CY	\$ 45.00	\$ 3,150.00
5" STONE BASE - 1 1/4" DENSE GRADED	80	TN	\$ 30.00	\$ 2,400.00
SIDEWALK	1280	SF	\$ 14.00	\$ 17,920.00
HANDICAP RAMP SOUTH SIDE OF SYLVAN	1	LS	\$ 2,950.00	\$ 2,950.00
RESTORATION	100	SY	\$ 20.00	\$ 2,000.00
CURB CUTS	2	EA	\$ 750.00	\$ 1,500.00
HILBERT LANE				\$ 33,915.00
Staking by others.				
Street signs relocated by others.				
Utility conflicts resolved by others.				

Job Specific Notes:

- Unless stated otherwise, base proposal of quotation is contingent upon all items being contracted.
- It is understood and agreed that 1% of the total compensation due to Payne & Dolan will be retained to compensate the Owner/Contractor's expense for payment of any bond, dues, or assessment required by the Prime Contract.
- Quotation does not include winter conditions related to crew or plant costs required for constructing work outside of conventional operating dates of May 1 to October 15.
- Quotation does not include any inlet protection or erosion control.
- Pricing based on plans provided by the Village.

*If you have any questions on this Quotation, please call me at the contact information listed above.
Thank you!*

IF THIS QUOTATION IS NOT ACCEPTED AND RETURNED WITHIN 30 DAYS FROM THE DATE OF THIS QUOTATION OR IF THE WORK IS NOT COMPLETED BY November 15, 2019, PAYNE & DOLAN, INC. RESERVES THE RIGHT TO WITHDRAW THE QUOTATION OR MODIFY THE TERMS OF THE QUOTATION/CONTRACT.

STANDARD TERMS AND CONDITIONS

Changed Conditions: Any changed condition of the job specifications involving extra costs will be performed only upon submission of a written change order, and Owner/Contractor will be required to pay to Payne & Dolan, Inc. an extra charge over and above the original contract price for performance of the requested change order.

Subgrade/Aggregate Base: The Owner/Contractor is responsible to furnish Payne & Dolan, Inc. a suitable subgrade/aggregate base having the ability to support the maximum axle loads transmitted from the heaviest construction and/or vehicle traffic anticipated as not to cause any deformation to the subgrade/aggregate base. All subgrade must be rough graded by Owner/Contractor to within $\pm 0.1'$ of the proposed plan subgrade elevations.

Cold Weather Paving: Per section 450.3.2.1.1 and 450.3.2.1.2 in the Wisconsin DOT Standard Specifications, if Payne & Dolan, Inc. is directed to place any asphaltic mixtures outside of WDOT specified date range, Payne & Dolan, Inc., will not be responsible for damage or defects attributed to temperature or other weather conditions. Replacement or repairs will be done on a time and material basis.

Liquidated Damages: It is understood and agreed that the Owner/Contractor will not assess liquidated damages against Payne & Dolan, Inc. prior to meeting with and providing Payne & Dolan, Inc. with documentation demonstrating that Payne & Dolan, Inc. failed to complete their portion of work within the time agreed upon in the contract or within such extra time as may have been allowed by extensions. Any arbitrary assessment will be subject to a 1.5% per month service charge.

Insurance/Indemnification: This Quotation is contingent upon the express agreement that indemnification, defense, additional insured status and waivers of subrogation, if required by the Owner/Contractor, shall be provided by Payne & Dolan, Inc., but only to the extent of Payne & Dolan, Inc.'s negligent acts or omissions in the performance of its work. Owner/Contractor to carry any necessary property insurance on the Work. Payne & Dolan, Inc.'s workers are fully covered by Workers' Compensation Insurance. Payne & Dolan, Inc. will meet insurance limits of liability by using a combination of primary insurance policies and umbrella/excess policies.

Incorporation: If any other agreement is entered into between the parties, the terms of this agreement shall be incorporated into any such agreement and shall supersede any conflicting terms contained therein.



ENGINEERING DEPARTMENT

N112 W17001 Mequon Rd. P.O. Box 337

Germantown, Wisconsin 53022-0337

Phone: (262) 250-4723

FAX: (262) 253-8255

LETTER TO PROPERTY OWNER

June 7th, 2019

Dear Property Owner:

SUBJECT: Hilbert Lane Sidewalk Extension

The Village of Germantown wants to inform you that the sidewalk along the west side of Hilbert Lane will be extended to Sylvan Circle. This work will be taking place this summer, 2019. You will always have access to the driveway off Hilbert Lane but access to the sidewalk leading up to your building will be restricted during the project. The project should take 2 weeks from when they begin. If you have any questions about the project, please contact me at (262) 250-4723.

Ryan Ehlerding – Project Engineer

Deanna Braunschweig

From: Janice Wick
Sent: Wednesday, October 2, 2019 10:18 AM
To: Deanna Braunschweig
Subject: Public Works Agenda Items for Village Board - Oct. 7, 2019

CONSENT AGENDA:**HILBERT LANE SIDEWALK EXTENSION:**

MOTION made by Zabel, seconded by Hughes to forward to the Village Board with a positive recommendation to approve the Hilbert Lane sidewalk extension for an amount of \$33,915 with funding allocated from the 2018 Sidewalk CIP Budget and the 2019 Road Program in the form of a change order.

Motion carried unanimously.

BAKER TILLY TIF DISTRICT AUDIT SERVICES:

MOTION made by Zabel, seconded by Warren to forward to the Village Board with a positive recommendation to approve the cost for Baker Tilly to complete the audit for TID #4 (\$12,000), TID #6 (\$7,500) & TID #7 (\$7,500). Funds to be allocated from the TIF's listed.

Motion carried unanimously.

Regards,

Janice
DPW/Engr.
Village of Germantown
262-250-4721

Meeting Date: September 16, 2019 General Government and Finance New Business
 Placement: October 7, 2019 Village Board New Business
 Item Title: Request to Fill Full-Time Deputy Clerk Position Deanna Braunschweig, Village
 Submitted by: Clerk
 Summary Explanation:

The 2019 Budget includes One Deputy Clerk and \$12,000 for a part-time Deputy Clerk. The part-time position has not been filled. I would like to fill this position in December of 2019 as a Full-Time Position. The 2020 proposed budget does include this additional position, at \$54,223.

2020 is a Presidential Election Year. There is a need for a third person for elections as well as day to day operations. Election Security and detail will be at an increased level. The expectation is a very high turnout. I have included statistical election data based on the past five years showing the increase in voter participation. Germantown is known for strong election participation. Historically, the Clerk's Office has had three full-time people, plus part-time office assistance.

Year	Voter Turnout	Percentage (Comparison to Registered Voters)	Registered Voters	Absentee Votes Counted
2019				
2019 Spring Election	5,242	39%	13,503	863
2018				
2018 General	11,356	87%	13,023	3,199
2018 Partisan Primary	4,522	36%	12,558	572
2018 Spring Primary	2,892	23%	12,373	312
2018 Spring Election	4,252	34%	12,685	612
2017				
2017 Spring Primary	1,301	9%	14,197	208
2017 Spring Election	1,945	14%	14,181	259
2016				
2016 Spring Primary	2,440	18%	13,327	300
2016 Spring Election and Presidential Preference	8,827	63%	14,102	1,443
2016 Partisan Primary	1,965	14%	13,584	338
2016 Presidential & General Election	12,389	82%	15,200	4,617
2015				
2015 Spring Election	2,874	21%	13,462	356

Year	Voter Turnout	Percentage (Comparison to Registered Voters)	Registered Voters	Absentee Votes Counted
2014 Spring Election	1,097	8%	13,096	193
2014 Partisan Primary	1,728	13%	13,141	222
2014 General	10,479	78%	13,373	2,773

Statistically, licensing continues as status quo; however, we are already at 200 operator's licenses for this license year and the licensing year ends at the end of June.

Total Operator's Licenses:

2016/2017: 283	Provisional: 91
2017/2018: 247	Provisional: 74
2018/2019: 260	Provisional: 64
2019/2020 (So far): 200	Provisional: 17

There is a special emphasis on providing excellent and accurate customer service in all areas.

VILLAGE OF GERMANTOWN

RESOLUTION NO. 53-2019

A RESOLUTION DISALLOWING THE CLAIM OF THE
GERMANTOWN SCHOOL DISTRICT BOARD OF EDUCATION

WHEREAS, the Germantown School District Board of Education submitted a claim to the Village on August 1, 2019 in which the District alleged certain entitlements to declaratory relief and also just compensation under the Constitution; and

WHEREAS, the Village Attorney has reviewed the facts and circumstances relating to the claim and recommended that the Village Board disallow the claim; and

WHEREAS, Wis. Stat. § 893.80 provides for the process by which the Village Board shall consider and handle claims made against the Board, the Village and its officers, agents and employees;

NOW THEREFORE, BE IT RESOLVED by the Village Board of the Village of Germantown that the claim of the Germantown School District served on August 1, 2019 described above is hereby disallowed.

BE IT FURTHER RESOLVED that the Village Clerk's office is directed, pursuant Wis. Stat. § 893.80(1g), to provide the Germantown School District with written notice of disallowance.

Introduced by: _____

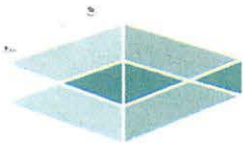
Adopted: October 7, 2019

Vote: Ayes: _____ Nays: _____

Dean M. Wolter, Village President

ATTEST:

Deanna Braunschweig, WCMC/CMC
Village Clerk



STRANG, PATTESON
RENNING, LEWIS & LACY

www.strangpatteson.com

GREEN BAY OFFICE:

205 Doty Street
Suite 201
Green Bay, WI 54301
Toll Free: 844-833-0830

MADISON OFFICE:

660 W. Washington Ave.
Suite 303
Madison, WI 53703
Toll Free: 844-626-0901

OSHKOSH OFFICE:

43 W. 6th Ave.
Oshkosh, WI 54902
Toll Free: 833-654-1180

VIA PROCESS SERVER

July 30, 2019

Deanna Braunschweig, Village Clerk
Village of Germantown
N112 W17001 Mequon Road
P.O. Box 337
Germantown, WI 53022

RE: Notice of Claim

Dear Ms. Braunschweig:

Pursuant to Wis. Stat. § 893.80, we respectfully submit this Notice of Claim to the Village of Germantown ("Village") on behalf of the Germantown School District Board of Education ("District").

In December of 2018, the Village Plan Commission recommended, and the Village Board approved, an amendment to the 2020 Land Use Plan to change the District's property (GTNV_263988) from the "Park/Recreation Area" classification to "Low Density Residential." The Village enacted Ordinance No. 22-2018, which remains in full force and effect.

The Village Board also passed a motion to approve Ordinance No. 23-2018 to amend the official Zoning Map of the Village of Germantown Zoning Code from the A-2: Agricultural Zoning District to the Rs-6: Single-Family Residential Zoning District for the District's property. However, after some Village residents objected, the Village Board reconsidered its previous action as to the zoning of the property and passed a motion in January of 2019, to "send the item back to Plan Commission for Consistency of the Neighborhoods and not as dense as Rs-6."

Notably, the Village Planner/Zoning Administrator recommended approval of the rezoning request. He confirmed that the gross density for the proposed development is consistent with the Low Density Residential Land Use Plan classification. He also explained that the proposed lot sizes were comparable with surrounding developments. He further stated that the size of the homes would be comparable with surrounding developments, and the overall value of the lots and improvements would be in the range of \$400,000.00 to \$500,000.00, which is comparable to assessed value for existing properties in the surrounding neighborhoods, as well as estimates of fair market value.

One of the Village Trustees solicited information on whether the developer had already purchased the property from the District, or whether the purchase contract was contingent. After learning that the purchase contract was contingent, the Village Trustee made clear that the District's property should become a park, and the District should donate it to the Village. Another Trustee confirmed that the Village can control the District's property through its Land Use Plan, including modifying it as park land. This is true despite the Village's knowledge of the District's long-term intent to develop the property. In response to concerns raised by the Village's Attorney, one of the Village Trustees reiterated that it would be best for the District to donate the property to the Village to become a park. The Village was also well aware that given the smaller size of the District's property relative to other residential developments, it would be cost prohibitive to increase lot sizes while covering infrastructure costs, especially when the proposed density already met the Low Density Residential classification requirements.

The developer, as agent of the District, later submitted a Rezoning & PDD Application to the Village requesting that the Village rezone the District's property from A-2: Agricultural Zoning District to Rs-5: Single-Family Residential Zoning District with a Planned Development District (PDD). Again, Village Staff confirmed that the gross density was consistent with the Low Density Residential classification in the Village's 2020 Land Use Plan. The existing residential development surrounding the District's property is also designated as Low Density Residential in the Village's 2020 Land Use Plan. Indeed, Village Staff opined that the proposed development is "generally consistent with the 2020 Land Use Plan map and surrounding residential areas." The Village Planner/Zoning Administrator once again recommended approval (with additional landscaping requirements).

On April 8, 2019, the Village Plan Commission held a Public Hearing. After the Public Hearing, the Plan Commission passed the following motion: "Motion Baum second Shadid to Postpone until a plan to match the (sic) one of the adjacent districts is brought forward." The Village Plan Commission did not provide the Village Board with a recommendation and report as to whether the petition should be granted as requested, modified or denied, contrary to Village Code § 17.51.

On April 15, 2019, the Village Board held a Public Hearing, but did not take any action. Again, there was discussion by the Village Trustees that in order for a park to be considered, the District or its agent would need to withdraw the rezoning application or the Village Board would need to deny it. The Village Board closed the Public Hearing, but failed to vote on the passage of the proposed amendment, contrary to Village Code § 17.51.

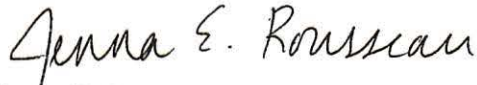
The Village Board's actions in blocking the rezoning and refusing to rezone the property are arbitrary and unreasonable. The rezoning request is consistent with the Village's 2020 Land Use Plan classification (Low Density Residential) and is also consistent with the surrounding residential development. In fact, the current zoning of A2: Agricultural Zoning District appears to be inconsistent with the Village's 2020 Land Use Plan. The Village has also subjected the District (and its property) to different treatment for improper and/or unlawful reasons, with the goal of the District's property becoming park land. The effect of the Village's actions has been to substantially impact the District's purchase contract and budget (with an anticipated loss of \$540,000.00 as of July 24, 2019), as well as to strip the District's property of any beneficial use.

Based on the foregoing, the District intends to seek declaratory relief and just compensation under Article I, § 13 of the Wisconsin Constitution. The District's address is as follows: Germantown School District, N104 W13840 Donges Bay Road, Germantown, WI 53022.

Should you have any questions or wish to discuss this matter further, I can be reached at 844.833.0828 or jrousseau@strangpatteson.com.

Respectfully Submitted,

STRANG, PATTESON, RENNING, LEWIS & LACY, S.C.



Jenna E. Rousseau

cc: Mr. Jeff Holmes, Superintendent (via e-mail)
Germantown School District Board of Education (via e-mail)
Mr. Steve Kreklow, Village Administrator (via U.S. Mail)
Germantown Village Board (via U.S. Mail)

RECEIVED

AUG - 1 2019

VILLAGE OF GERMANTOWN
CLERK'S OFFICE

THIS DOCUMENT WAS LEGALLY SERVED ON

8 / 1 / 19 AT 9:25 PM

BY:

Sara Conrad

CREAMCITY
PROCESS
CREAMCITYPROCESS.COM

Failure to make this endorsement does not invalidate service per Wisconsin §801.10(2)

RECEIVED

CLERK OF COURT
JUDICIAL BRANCH
JAN 14 2019