

SPECIAL

PUBLIC WORKS & HIGHWAY COMMITTEE MEETING MINUTES

February 24, 2014
Village Hall Board Room

CALL: Chm. Ewert called the meeting to order at 4:30 p.m.

ROLL CALL: Chm. Ewert, Trustee Members Zabel, Vanderheiden, and Kaminski. Also present were Dir. Ludwig, Engr. Bischke, Village Atty. Sajdak, Supt. Zimmerman, and Secretary Wick.

DEVELOPER AGREEMENT – CONTINENTAL 246: Dir. Ludwig addressed the Committee stating staff was working with Continental 246 on the proposed development along County Line Road. Three key items in the Re-development Agreement to be discussed were traffic signal maintenance, odor as related to the sanitary lift station, and the Storm Water Declaration.

Waste Water Superintendent Zimmerman explained the Lift Station was fed by numerous restaurants and businesses. The waste emanates hydrogen sulfite gas. These gases are not hazardous but are detected easily by the human nose. Smells were normally detected on hot summer days with a SW wind.

Steve Wagner, Sr. V.P., Continental Properties, acknowledged the lift station and traffic signal issues and was willing to work with officials to come up with solutions regarding the proposed site. Discussion noting the following:

- Timing is an issue. Restaurant required to open November, 2014;
- Germantown site competing with 14 other locations;
- Developer agrees to pay electricity for proposed intersection traffic signal;
- In reviewing past maintenance records of the traffic signals located at Fleet Farm, Developer agrees to pay \$5,000 up front for future repair and maintenance;
- Developer prepared to acknowledge the Lift Station stating there was a lift station at the proposed location and acknowledge the lift station existed prior to any development;

Committee discussion:

- There is a pending repair to the Fleet Farm Traffic Signal Cabinet estimated to cost \$5,700 for the one item. This escalates the cost to \$11,000 for total repair costs to that intersection traffic signal;
- Trustee Zabel - wanted to review the Fleet Farm agreement document to check the wording on the maintenance;
- Trustee Kaminski – Fleet Farm traffic signal only services Fleet Farm. The proposed traffic signal will help the flow of traffic and benefit many businesses; It was generous the developer would pay the electricity for the signals. The \$5,000 offer for traffic signal maintenance was fine.
- Chm. Ewert understood the Fleet Farm signals to be much more entailed than the proposed traffic signal; Engr. Bischke stated once traffic signal plans were received he would then be able to make that determination;
- Trustee Vanderheiden suggested a 10 year line of credit for signal maintenance and if after 10 years funds were not used, it would be returned to the developer. The Village would then take over all responsibility;

As for the Lift Station odor, Trustee Vanderheiden stated there should be some type of solution to help with the odor control.

- Lift Station No. 6 and Old Farm Lift Station differ in size but function similarly. On the Lift Station property, once you have the dilution factor pumping gas in the air away from the site is when you can detect the odor.
- Odor control for the Old Farm Lift Station in 2007 was approx. \$41,000.
- Supt. Zimmerman stated Lift Station No. 6 did not have the footprint that would allow the use of ozone as it would take a larger amount of space to put in that kind of treatment; The ideal solution for Lift No. 6 would be a chemical addition to the waste stream. This injection would oxidize the offensive chemicals. Costs were unknown as this would be an ongoing treatment.
- Mr. Wagner believed the elevation of the driveway and retaining wall would block the Lift Station and deter the potential odors;
- Atty. Sadjak noted from a legal perspective, there should be a provision in the re-development agreement that identified the potential odors from the Lift Station otherwise the tenants would look to the Village for a solution.
- The Committee needed to determine whether the same precedence that had been set with the Fleet Farm signals would also be set for the proposed traffic signals. There was no legal aspect to that determination.

Attorney Joshua Gunn, on behalf of Continental 246, was willing to acknowledge the lift station existed but needed to do it in a way that wouldn't destroy a deal for potential development. As a group, it needed to be determined how serious the odor issues were. Atty. Gunn stated when they work with their tenants, they have a permitted encumbrances list attached to the lease. This list is of all matters recorded on title of which the Odor Declaration would be one of the documents.

Atty. Sadjak questioned what the developer would do if a tenant wanted to opt out of their lease because they didn't have the outside space they leased due to odor issues. Atty. Gunn stated the tenant would not have the right to get out of the lease based on the outdoor space. It hadn't been determined whether the odor was going to be an issue. He didn't believe there was enough evidence of the odor at the lift station.

Trustee Vanderheiden questioned Atty. Gunn as to whether the developer questioned surrounding businesses who may have had issues with odor from the lift station. Atty. Sadjak noted the surrounding businesses uses were internal uses and not subject to patrons sitting outside to enjoy the evening.

Supt. Zimmerman stated the concentrations at the lift station were low. By the time odor traveled to area businesses, the odors have been diluted. It is the immediate area that is affected. Supt. Zimmerman provided the Committee with the maintenance process of the lift station.

Discussion continued as to whether the word "odor" should appear in the declaration document or whether the developer acknowledges the lift station near the site. Suggested was the use of the word "admissions" within the document.

Trustee Kaminski questioned the cost of mitigation and whether mitigation was an option. Supt. Zimmerman stated mitigation would be less costly than the investment made at the Old Farm Lift Station, however, the winter season was not conducive to doing odor studies. The Carbon Scrubber would be an option but maintenance would be ongoing. Costs only could be determined with research.

Steve Wagner, Sr. V.P., Continental Properties, stated the site proposal had a raised driveway and the proposed retaining wall would be an additional 3 to 4 feet higher creating a impermeable wall.

MOTION made by Kaminski, seconded by Vanderheiden to forward to the Village Board with a positive recommendation to approve Section 9.12 – Traffic Signal, of the Continental 246 Fund LLC Re-Development Agreement.

Trustee Zabel questioned whether the \$5,000 fee would cover the first five years or ten years. If funding was intended to cover ten years, additional funding would be necessary.

Motion carried 3 -1 (Zabel)

MOTION made by Zabel, seconded by Kaminski to forward to the Village Board with a positive recommendation to accept the Declaration of Covenants and Restrictions Exhibit E (3) – Lift Station, of the proposed Re-Development Agreement between the Village of Germantown and Continental 246 Fund LLC with the inclusion of the following language: *Changes to the lift station for any reason whatsoever which are necessitated by a request of the Declarant, shall be at the sole cost of the declarant.*

Discussion followed.

Motion carried unanimously.

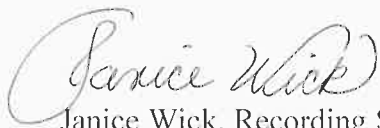
Trustee Zabel questioned whether easement documents needed to be approved by Village Board.

Atty. Sajdak replied the easement documents did not need Village Board approval. The Village Engineer and Village Attorney would review the easement documents prior to recording.

MOTION made by Zabel, seconded by Kaminski to forward to the Village Board with a positive recommendation to accept the Re-Development Agreement for Continental 246 Fund, LLC with the amendments made tonight.

Motion carried unanimously.

ADJOURNMENT: There being no further business, the meeting was adjourned at 6:00 p.m



Janice Wick, Recording Secretary