

**VILLAGE OF PLEASANT PRAIRIE
PLEASANT PRAIRIE VILLAGE BOARD
PLEASANT PRAIRIE WATER UTILITY
PLEASANT PRAIRIE SEWER UTILITY
9915 - 39th Avenue
Pleasant Prairie, WI
July 21, 2014
6:00 p.m.**

A regular meeting of the Pleasant Prairie Village Board was held on Monday, July 21, 2014. Meeting called to order at 6:00 p.m. Present were Village Board members John Steinbrink, Kris Keckler; Steve Kumorkiewicz and Mike Serpe. Clyde Allen arrived at 7:40 p.m. Also present were Michael Pollocoff, Village Administrator; Tom Shircel, Assistant Administrator; Jean Werbie-Harris, Community Development Director; Kathy Goessl, Finance Director; Dave Smetana, Police Chief; Doug McElmury; Fire & Rescue Chief; Mike Spence, Village Engineer; John Steinbrink Jr., Public Works Director; Carol Willke, HR and Recreation Director; Dan Honore', IT Director; and Jane M. Romanowski, Village Clerk. Six citizens attended the meeting.

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**
- 3. ROLL CALL**
- 4. MINUTES OF MEETINGS - JULY 7, 2014**

Steve Kumorkiewicz:

Move to approve as written.

Kris Keckler:

Second.

John Steinbrink:

Motion by Steve, second by Kris. Any discussion?

**KUMORKIEWICZ MOVED TO APPROVE THE MINUTES OF THE JULY 7, 2014
VILLAGE BOARD MEETING AS PRESENTED IN THEIR WRITTEN FORM; SECONDED BY
KECKLER; MOTION CARRIED 4-0.**

- 5. TABLED PUBLIC HEARING**
 - A. Consider authorizing public sanitary sewer extension improvements in the right-of way of Springbrook Road/CTH ML approximately 250 feet to the east of STH 31and Final Resolution #14-19 authorizing construction of public improvements and levying special assessments for said project.**

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Michael Serpe:

Move to remove this from the table.

Kris Keckler:

Second.

John Steinbrink:

We're still in the public hearing or did we close that?

Mike Pollocoff:

We closed the public hearing. If you want to reopen it you have to remove it from the table to do that.

John Steinbrink:

Motion to remove from the table by Mike, second by Steve.

SERPE MOVED TO REMOVE FROM THE TABLE AND REOPEN THE PUBLIC HEARING; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 4-0.

Mike Pollocoff:

Mr. President, at our last meeting on July 7th we conducted a public hearing concerning the extension of sanitary sewer on Springbrook Road. And this would be a very short project that would provide sanitary service to two parcels. We had discussed the anticipated or proposed special assessment at that meeting. And the one thing we were missing was a request to find out how much it would cost to provide sanitary sewer service to the Rabin property which has the frontage on a sanitary sewer main on Green Bay Road.

The Village had installed that earlier some years ago, and at that time we made the conscious decision that given the poor soils and the depth of the main that constructing a lateral on that property was financial infeasible and it's not where you want a lateral. You're subject to a lot of bad soils, high ground water table. It would be better off to have the Rabin property serviced by the sewer and water master plan which is sanitary sewer going up Springbrook. So at that time we didn't do it, so at that time of the meeting I indicated that we calculated out what that cost was. We knew what it was back at that time, and we decided it wasn't a smart investment of the rate payers' funds at that time.

So the one alternative is to -- the first alternative was to provide sanitary sewer service to both parcels as they're currently platted. It utilizes the assessable front foot cost to determine the assessment. If the Hammerbeck parcel is subsequently divided into two parcels the Hammerbeck assessment would be reduced.

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The second alternative that's what we have there. The second alternative was to just require that Rabin would have to connect to the sanitary sewer on Springbrook, and the sewer would not be extended on Springbrook. They would be connecting on Green Bay Road. Under that alternative they would be actually assessed a little bit different. It's \$72 versus \$102. You can tell what the impact is of age on these assessments. So their front foot assessment would be \$15,225, the sanitary sewer lateral would be \$11,000 and that's not a very long lateral. It comes from the main to the Rabin's' property line. The connection is \$1,600. If you look at the arrow that's where the proposed lateral would be. That was the shortest point between the sewer main and Rabin's' property line.

They would have to construct a lateral -- there's a large berm in front of their property. And under this alternative we were thinking they could sneak it behind the berm between the berm and the driveway to connect with their property. We didn't indicate what a cost on that would be, but it would be substantial probably for the distance and then to replace either the landscaping or their driveway. So their total assessment under that scenario would be \$27,825.

So this doesn't address what the master plan for the sewer system calls for, and that sewer main would still have to come down Springbrook or come up Springbrook from Highway 31. So at such time as that did we would have collected \$15,000 from the Rabins, and depending on what the price of the sewer is at the time we did do that the rate payers would make up the difference if we hadn't accrued enough interest in that fund to do that. So although it does relieve the Hammerbecks from connecting at this time, it takes the whole burden and puts it on the Rabins, and we still have to put the sewer main by Rabin's' place at some point in the future.

The third alternative is to provide sewer service to both parcels and assess each parcel equally based on the total cost of the project. And this assessment would be premised on the Hammerbecks dividing their parcel. So the logic on this one if the Hammerbecks were to divide their parcel both parcels virtually end up almost being the same in area. So I mean the real question is if one is a little bit bigger than the other one how much more sewer service do they obtain by having a few more feet, and they really don't get any more sewer service than the other one.

Under this alternative the Rabin's' cost would go up and the Hammerbecks would go down if it was divided. So under this alternative the per parcel assessments are \$17,974, the laterals just like the other Springbrook assessment would be \$3,000 apiece, connection charges are constant at \$1,600. So then the benefits that they would receive for the public sewer would be \$22,574 for both of them.

If this alternative was selected by the Board the Hammerbeck property hasn't been divided so I'd recommend that it be assessed in a manner for the total cost which would be the \$40,000, but the resolution be held in abeyance for the final determination to allow them two or three months in order to make a split. And then we would only be required to assess what was actually constructed which would be the parcel with the sanitary sewer in front of their property.

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And it's troubling to everybody but its reality is that the Hammerbecks' mound system as he testified in the hearing was in failure at this point. And he's got an estimate for somebody for \$10,000 to repair it. So from a public health standpoint we know that exists. We know at this point Rabins' holding tank doesn't perform to meet their family's requirements for being able to reasonably manage that. The alternative to load the entire cost on Rabins if that sewer main was never going to go on Springbrook I'd say, well, maybe that's an alternative, but the fact that we know it's going to go on Springbrook. Back when Rabin put his home in we directed him to put it on Springbrook because from our sewer master plan that showed that sewer main would come from Green Bay Road all the way up to 55th. When it was going to happen was up in the air.

So there are problems that exist. And although in the short term one might be mitigated in the longer term, and I really don't know what the longer term is, the sewer main is going to go down Springbrook Road. So any money that's spent on existing private systems will be lost. That's not to say that this isn't a large assessment, but the methods or the means that I've identified in order to make this as easy as possible since it is a large assessment would be to put those on a 20 year assessment if somebody was inclined to do it. And then I'd recommend that the Village Board withhold a final determination until next year so they wouldn't be making payments this fall, they'd be making payments -- or they'd be indicating to us in October if they were going to be making payment in full without interest or if they wanted it to be on their property tax bill.

I think for the Village to indicate that we're not going to do the project ignores the problem at hand that we know exists and is out there. And it's one of those things if one of those properties to the west of them were to develop as the housing market comes back we could see the sanitary sewer main extending from Green Bay Road up Springbrook to service those properties, and we'd be right back where we are now because the State code requires when sanitary sewer crosses your property you have one year to connect. And then we would be dealing not with a public assessment where we're able to modify it, but we would be dealing with a developer's right of recovery in order to obtain funds back for their expenditure on a sewer main whenever that happened. At that point we're putting everybody's fate in the hands of a real estate developer, and I don't think that's for existing customers they're not able to take advantage of some of the things that the Village is able to do.

So that's where we come with this. I think if we're not going to ignore the problem my recommendation is that we levy an assessment based on an even allocation of expenses that would be anticipating a future land division by Hammerbecks for three months. And if that doesn't happen then the entire assessment on the assessable front footage would be levied. And in as much as there's failing septic for both of those areas right now my recommendation is that the Village get the design done in an expeditious manner and get the sewer main in to correct the problems that we have.

Steve Kumorkiewicz:

I've got a question for Mike. Mike, actually they're going to be charged for a 4 inch sewer over there, aren't they, although there is an [inaudible] main coming down?

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Mike Pollocoff:

No, it's going to be a 10 inch main, and we're charging them for the cost of an 8 inch main which is all that's needed by a residence in order to get sanitary sewer service. The laterals will be 4 inches. These laterals are a little more expensive because we have quite a run on them. We charge the laterals equally 50/50. Because if the main is on your side of the street that's the luck of the draw. If you're on the wrong side of the street the cost is the same so everybody splits that equally. And the other thing, and we've done this in all our sewer projects, the Village staff would make ourselves available to facilitate having the private connections be done as efficiently as possible in order to shave the cost.

I know we've seen some estimates of \$4,000 for a lateral connection and a mound abandonment. They seem to be high to me, but I guess we would work with the property owners in both cases to come up with an effective and efficient way to get those services done. We've done this in other areas, and sometimes we've just gotten it set up so one contractor who everybody agrees on who is the best bid does it. There's one mobilization fee so each party isn't paying a separate mobilization to get somebody out there to do the work.

Michael Serpe:

These things are never easy. It's not fair that the Rabins have to have paid all this money on their holding tank and will continue to do that unless we make the change. It's not fair that the Hammerbecks would have to pay \$10,000 or \$11,000 to get their mound system running again, and that could only be temporary, maybe 5 years, 10 years, maybe 20. And then sewer is still going to come down Springbrook Road and they're going to be responsible for that assessment eventually.

I think in order to be fair, Mike, I have to agree with you on the 50/50 assessment if the Hammerbecks split their property. They don't have to, but then they would be responsible for the \$40,000 and some. The 20 year payment is to me I think the rate is something like four percent?

Mike Pollocoff:

Four to five.

Michael Serpe:

Four to five. It's better than it was years ago, it was 9 percent. So there's a benefit there. I think right now is the best time to do this and not later. It's not going to get any cheaper, and the sewer line is going to go down Springbrook Road whether it be today or just a couple years from now or whenever, whenever development happens and it's going to happen. So I would move --

Jane Romanowski:

We have a signup sheet.

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Michael Serpe:

I'm sorry. I'll hold my comments.

Kris Keckler:

Two weeks ago when we had the public hearing on it there was a portion that was maybe a little bit, 10 percent over cost at this time and there might be some realized savings both in the cost estimates of the materials and also potentially for the installation of maybe upwards of 18 percent. Is that still--

Mike Pollocoff:

It's still in here. We're assuming that Village crews are still going to do it. And there is a 10 percent contingency that we always build into the project. You're digging underground and you really never know what's going to happen. So we work to avoid that contingency, but the 18 percent reduction or estimate on what it's going to cost us to construct that versus a private firm, if it was over \$100,000 we couldn't do it. We're not permitted to pay prevailing wage to our employees, but we have to pay prevailing wage when we put it out to bid. I mean that's where you get the savings. It's not that our people or equipment are any worse, it's just the nature of the regulations.

Kris Keckler:

So these newer figures with the 18 percent expected savings?

Mike Pollocoff:

Right.

Kris Keckler:

Okay, I just wanted to double check.

Mike Pollocoff:

And I still think we have some room in there. But I don't want to come in with a rock bottom number and then it's higher because then we have to have the hearing again and nobody is happy at that point. And we think once we get the design done and finish we think there's some opportunity to save more money depending on what we think the depth of the sewer might be. But we still need to finish that survey work and get that pickup done.

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Steve Kumorkiewicz:

What we're talking about here, Mike, is a parcel assessment actually because the [inaudible] is going to be the same; sewer connection charge is going to be the same. So actually the parcel assessment [inaudible] could decrease.

Mike Pollocoff:

Right. To do this what I'm trying to find a way to do legally is to find a way for the Hammerbecks to be able to face the same cost that the people who have a lot across the street from them who have virtually the same usable area on that lot. And we've done this over the years. I can think of sanitary sewer assessments on 116th Street, on 104th Street where we were assessing farmers for 2,000 or 3,000 feet of frontage, and we worked it out so they were able to divide some parcels, get some of that assessment paid off with that and then reduce the exposure they have on everything else. It's one of the methods the statutes provide us in order to take a look at the assessment and have that happen.

But on the other hand if someone's parcel to the extent that someone wants to live on a larger parcel it doesn't require Hammerbecks to sell their property but what it does is it reduces their exposure and liability to special assessments. Right now it's a three cornered parcel and we've said we're not going to run a main on 31 going to the west. So we pretended that doesn't exist. But they do have a long frontage around their corner. And every corner lot we've ever assessed that's been a difficult assessment because the rational nexus between a sewer assessment or a water assessment is how many feet of pipe are you lying. I mean it kind of relates to the cost of the benefit.

So when we're able to have that relationship be more from an equity standpoint where parcels are equal then I think that ends up being what we try to achieve and what the statute is wanting us to achieve and that's an equitable assessment where people receive equal benefits from the improvement.

John Steinbrink:

Comments?

Jane Romanowski:

Justin Hammerbeck.

Justin Hammerbeck:

Mr. President, Trustees, members of the Board, Justin Hammerbeck, 6724 Springbrook Road. Thanks for allowing me to come up and have a few words here. Is there any way that Mr. Spence or whoever is running the map that we could go back to the map and show that for a second? I don't know which way you all will decide to go tonight, but I do want to make a couple of notes if I may. Number one, I know Mr. Pollocoff mentioned we have a failed mound system. We

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don't have a failed mound system. It needs repair. And it's been waiting for repair that could have been done in a week since about late March, early April for which I contracted to spend about \$10,000 which would give me a mound system that would last 25 to 30 years as the last one did.

Even if we go back and we split these assessments to where our assessment is \$22,000 if you remember the figures that I gave as an exhibit last week I'm still out. If I compare the value of my property and subdivide it I'm still out about another \$9,000 to \$10,000 of additional cost with connection fees, and I don't even remember what all the additional costs were but you have them from last week. So it's not really just a \$22,000 expenditure for our family. It's about \$31,000 and some. And then we realized we'd have to fix our driveway on top of that as well.

I'm afraid that subdividing this property right here along my driveway is going to make this property difficult to sell in the future. It turns what looks like a pretty big lot into two actually pretty dog gone small lots. So that's also going to be a cost that I and my wife and sons are going to incur if we subdivide our property in order to avoid the larger \$45,000 or so expenditure all in including the assessment and extras that go with this project in order to essentially surrender a good mound system here.

And as far as the future development goes and where this line is going down the road I agree with the Village Administrator. Eventually because of the way that it's been set up this line is someday going to run down this road up to about here across this field and up on these lots. But if you look this lot here right now is zoned agricultural. There are no plans right now to put this on the tax rolls as residential, put homes and subdivide that as far as I know. And so until that's at least zoned as residential we know that there's not going to be any sewer line going here. And these lines up here, the lots further up past here have more frontage than I do. So to put a line up there at that point is going to require one heck of a fight with those homeowners. I just wanted to note that.

So as far as us needing to instead of spending \$10,000 to be able to wash our clothes and flush our toilets and do the things we want to do and fix this mound system we're being asked to cut this property in half which we bought nine years ago, and then spend anywhere from \$30,000, \$31,000, \$32,000 give or take if we can keep the costs down. So I wanted to note that for the record.

And further I just think that if I wanted something there could have been a mound system here built sometime back 20 years ago but this land was sold. And it's not available to do that any longer. But, again, that isn't a decision that I made. That's a decision that my neighbors made. If I wanted something I would pay for it myself. I do understand that eventually we're going to put this line up. My personal belief is that isn't going to be for many years because there are no plans to make this residential as far as I know. And perhaps my neighbors can shed light on that. But these lots up here are certainly not going to want that line. And that line only goes from here to about here where that divide is that Mr. Pollocoff talked of last week.

So whatever you decide to do I hope you'll consider out interests. But I fully understand and believe in the authority of the Board to do what need to be done. And I don't think my wife

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signed up so I can't let her comment, but thank you for your time and your consideration. I appreciate it.

Anne Rabin:

Good evening, Board members, Village Administrator. My name is Anne Rabin, 6717 Springbrook Road. Our family has lived in Pleasant Prairie for 70 years. We love living in Pleasant Prairie and we're committed to the community. We can envision our home being a family home for our children and grandchildren. We're here for the long haul. When we built our home 21 years ago we were informed by the Village that the sewer hookup would be coming, that it was a potential hookup, and that we should be hooking up along Springbrook Road. We planned our home around that advice.

I'd like to give you a little insight into our family and how the last 21 years have been. As I'm sure you know having a holding tank severely limits our ability to use our water. We're limited to short showers, few baths, big laundry loads, and it's been this way for 20 years. We have an ongoing obsession with water use, and I think it would rival the staunchest environmentalist. People who come to our home and visit leave forever changed.

We shower at the RecPlex after working out to save water. When our daughter visits a friend she knows if she has the opportunity to take a shower there she should avail herself of it. Our son adores his bath and receives many therapeutic input from his bath. This is something we're not able to give him as a family, and it's frustrating as parents to have done this for 21 years. When we cook and we wash we dump the water outside. This past winter in particular you can imagine how it felt to suit up with hat, coats and boots in order to step out just to empty a pot of water.

As you consider our request for the sewer hookup to extend to our home along Springbrook Road we ask you to please keep these points in mind. As Village Administrator Michael Pollocoff said extending the sewer is in the Village master plan. Having a hookup along Green Bay Road is not that master plan. The decision shouldn't be based on the two households' shared financial expenditures or challenges but it is. We don't want to continue to pay Pat's Sanitary to pump our holding tank so that we can afford to live a typical life with a family of four and two dogs. And the Hammerbecks don't want to pay the assessment. But the Village has been very flexible, and you've offered several options to mitigate this expenditure and to ease the payments of the assessment.

Additionally, the Village has also gone further to reduce our neighbor's financial impact by suggesting they divide their property into two parcels which ultimately reduces their financial impact. And then just to quickly recap the Village's suggestions to reduce the cost to all of us there's the potential 18 percent savings if the Village public works department does the work. There's that 10 percent contingency cushion in the estimate which may not be needed. The Village has been very flexible and prepared to reduce the assessment payback period from 10 years to 20 years. Additionally you've been very flexible in reducing the interest rate from 8 or 9 percent to possibly 4 or 5 percent. And the Village has offered to push back the starting date in order to push back the assessment to another year all to make it more palatable for us to be able to adhere to the master plan.

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And as mentioned previously there still is the option for our neighbors to divide the property into two parcels. The Village has been very accommodating. We have been waiting patiently for the right time to hook up, and we imagined it would be when the sewer came down Green Bay Road. But there were issues, there were engineering issues, and it didn't make sense to permit a lateral hookup on Green Bay Road. If it didn't make sense then to allow a lateral hookup on Green Bay Road it doesn't make sense now to allow a lateral hookup on Green Bay Road simply to spare our neighbors the assessment expense.

I can't say this more strongly. Additionally the Village's master plan indicates that the sewer hookup should be on Springbrook Road. When we built our house we put our holding tank, we put our plumbing pipes there based on the master plan and the information that we were given. To disregard this initial plan would not be in the best interests of long range development, nor would be in our short-term financial interest.

In closing we'd like to thank the Village Board for going above and beyond to ensure that they've reviewed and explored our concerns and the concerns of our neighbors. With the scope of work that's going on in the Village we recognize that this is a small issue in comparison, and we're very, very appreciative of the time, attention and resources that you continue to put towards resolving this. We are asking the Village Board to grant the municipal sewer request which extends service just 250 feet along Springbrook Road and to allow up to hook up according to the Village master plan. In our mind the sooner this can be done the better. We've waited 21 years. Thank you for your consideration.

Jane Romanowski:

There are no other signups tonight, Mr. President.

John Steinbrink:

Anyone else wishing to speak? I think the Board has heard both sides and we understand the issue here. We've listened to the Administrator. So with that do we need to close the public hearing?

Mike Pollocoff:

We opened it up so [inaudible].

John Steinbrink:

Right.

Michael Serpe:

Like I say these are never easy decisions and they'll never stop either. I would move that we put the sewer extension on Springbrook Road with the assessments as presented by staff with the

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Hammerbecks at \$40,000 and some or whatever it is which will be held in abeyance for three months to give them the opportunity if they so decide to split that property which will bring that assessment down to equal parts between the Rabins and the Hammerbecks at \$22,000, whatever that fee may come out to.

Steve Kumorkiewicz:

You know, I have to second that.

Michael Serpe:

Which is Resolution 14-19.

John Steinbrink:

Motion by Mike, second by Steve. Any further discussion?

Steve Kumorkiewicz:

Yes, what I'd like to express is if that happened 10 years from now or 5 years from now the costs are going to be [inaudible] than where it is today. Because the way these issues are going it's going way up.

Michael Serpe:

In addition, John, I just want to remind with the pay period being extended to 20 years.

Steve Kumorkiewicz:

Twenty, yes.

John Steinbrink:

And we're going to look at trying to combine the contractors in there so that -- that's going to be up to the homeowners.

Mike Pollocoff:

Right. Our engineering staff will meet with the homeowners if they want to put together a plan to coordinate the utility installation. We'll meet with Hammerbecks or their surveyors in order to give the guidance they need to make that lot split as fast and efficient as possible so that there's not a lot of time involved in that. And I think on the Hammerbeck property there's an opportunity to have that private lateral cost to be substantially reduced. The estimate seemed fairly high to me, but we'll look at that and we'll evaluate that. And I think both parties could save if they can agree on the same contractor who will quote the job. But that's their choice. We'll just make ourselves available to coordinate that.

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John Steinbrink:

The timing for this project?

Mike Pollocoff:

We'll do it as soon as possible. We still have to complete design. Probably between design and getting our State reviews probably the soonest is six weeks, the longest two months.

John Steinbrink:

Any further discussion? I know it sounds like there's an easy fix with the rebuilding of the mound, but around here we never want to say never because we've been here when people have done that, put in mounds, put in holding tanks, and lo and behold there's somebody that causes sewer to be extended and then that's a worse feeling than levying the assessment is when you know somebody has already spent money that they're not going to recover.

Kris Keckler:

I have a couple things I'd like to add. First, I remember the family that both spoke tonight and two weeks ago. I want to say thank you for presenting a nice rational, organized set of statements and the evidence that you've given and the reasons for your opinions. It could have gone a whole different way, so I really appreciate the civility in which you presented them.

And second being the newest member here I don't have the history that everybody else has in dealing with things like this. And so knowing it's only been a matter of time before an unfortunate or an uncomfortable decision would have to be made that impacts the family directly, and I've kind of reflected because your family is very similar to mine. I'm a little bit younger than my peers up here, two small children, and if I was all of a sudden at the receiving end of an assessment of this amount wanting to do everything that I could to either prevent it or avoid it at all cost.

But I've also had to approach it from the standpoint of being a member of this Board and having to make decisions that affect the residents, and this one obviously affects two families directly and impacts you greatly. And knowing that in everybody's estimation it's only a matter of time before that line goes through and the additional costs that would be incurred is really for what my decision comes down to. So I can sympathize greatly and still trying to grasp how this will impact everybody in the long haul. But knowing that in the best interest of trying to avoid such a larger cost on what might ultimately be realized where it's 5 or 10 or 12 or 20 years from now it's going to be the basis of my decision. But, again, I want to thank you guys for the comments that you've made and the way that you've presented them.

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John Steinbrink:

We have a motion, we have a second. Any further discussion? And I know the Village is going to do everything in their power to keep the cost down I think. Mike has done a great job in exploring how that can be done and weighing those options out. One thing we know is we don't want to work in bad soils. There's no win for everybody in that and especially the rate payers in the Village. So with that, we have a motion and a second.

SERPE MOVED TO ADOPT RESOLUTION #14-19 – FINAL RESOLUTION AUTHORIZING CONSTRUCTION OF PUBLIC IMPROVEMENTS AND LEVYING SPECIAL ASSESSMENTS AGAINST BENEFITED PROPERTY WITH THE CONSTRUCTION OF 250 LINEAR FEET OF SANITARY SEWER ON SPRINGBROOK ROAD EAST OF STH 31; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 4-0.

John Steinbrink:

Once again thank you for coming here this evening and expressing your views. We appreciate the manner you did it and the information you provided us. It's still not an easy decision for us and not an easy one for you, but thank you very much.

6. CITIZEN COMMENTS

Jane Romanowski:

There were no signups tonight, Mr. President.

John Steinbrink:

Anyone wishing to speak? Hearing none I'll close citizens' comments.

7. ADMINISTRATOR'S REPORT – None.

8. NEW BUSINESS

A. Consider Resolution #14-21 authorizing the issuance and sale of \$20,940,000 General Obligation Promissory Notes, Series 2014B.

Kathy Goessl:

Mr. President and the Village Board, the resolution in your packet has changed since the sale has been increased to \$20,970,000, and it's actually our first series of the year so it's changed also to 2014A. So the \$20,970,000 resolution is two fold in terms of the purpose. The first purpose was to borrow for upcoming TID projects, and the portion of this bond offering to do with the actual TID projects is \$11,698,000. Those projects, the larger projects in this plan that we're borrowing for, is 39th Avenue reconstruction, a little over \$3 million. Also giving KABA a million dollars to make loans to Village businesses that decide to relocate here. Another \$3.7 million for the

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Riverview Phase 1 development. Another \$1 million for Sheridan Road Distribution main, and almost a million dollars for the park and ride lot by RecPlex. So that's the first purpose of this borrowing is to fund these projects.

The second purpose of this borrowing is to refinance or refund some notes. The first note that we're refunding is 2010B. It's actually a borrowing that we did that actually had a federal subsidy. And due to reductions and payout from the federal government on the subsidy we were able to call this note and pay it off early, and actually the interest rate here was higher than what we got here in the long term. The amount of that refunding is \$6,735,000. And we're also looking at refunding a 2008B bond that was issued the issue of 9-1-2014 for a little over \$3,930,000. These two were restructured to fit into the new TID plan with all the amendments that were done in the last year. And based on what we know right now we shouldn't have to refund or refinance any other debt. We will be borrowing additional debt to finish our plan, but the way that we have structured things we shouldn't have to actually refund any other debt.

From our initial estimate we actually came in at a better price by about \$100,000. The actual net interest cost for this borrowing is 2.44 percent. We were rated by Standard and Poors and they maintained our rating of a AA with a stable outlook for the Village. We've had a AA with Standard and Poors since 2008. We have not actually had Moody's rate our bonds since 2010, and at that point they were a AA, too. So this is actually a bond that will go out to 2023, but the 2023 principle is callable in 2022. So basically we're out to the end of our TID #2 plan at that point. I think that's all I have. If you have any questions. Gene Schulz from Piper Jaffray which is our financial advisor is also here to answer any questions for you on this bond offering.

John Steinbrink:

Any questions for Gene?

Michael Serpe:

Move approval of Resolution 14-21.

Kris Keckler:

Second.

Kathy Goessl:

We need a roll call vote.

John Steinbrink:

Motion by Mike, second for Kris for adoption of Resolution 14-21. And that's going to stay the same even though you've changed your numbers there.

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Kathy Goessl:

What?

John Steinbrink:

You've changed your number.

Kathy Goessl:

Yeah, to \$20,970,000, and that's the resolution that had been passed out to you this afternoon because the same actually happened this morning.

John Steinbrink:

So we have the right number there, okay.

Kathy Goessl:

Yeah, so \$20,970,000.

Mike Pollocoff:

I might add Gene Schulz and Kathy worked on -- because we've had banks coming to us saying they'd like us to consider a private placement financing with them rather than going to market. And so we priced it, and Gene came up with a method for us to price what the sale would be and be able to evaluate that against what the market was. And we did pretty well. I forget what the spread was.

Gene Schulz:

I believe at the time it was about 15 basis points which would have amounted to about \$150,000. We had sent out the private placement notification to 18 different banks including your operating bank which is JP Morgan. And it was determined based on our underwriting estimate of regular underwriting that it wasn't in your best interest. So then we went forward including that refunding with this particular issue which includes the new money for TID #2 projects plus an additional refunding, the \$3,930,000. Did a lot of work on this issue.

John Steinbrink:

Thank you, Gene. We have a motion and a second. If there's no further discussion roll call vote has been requested.

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SERPE MOVED TO ADOPT RESOLUTION #14-21 AUTHORIZING THE ISSUANCE AND SALE OF \$20,970,000 GENERAL OBLIGATION PROMISSORY NOTES, SERIES 2014A; SECONDED BY KECKLER; ROLL CALL VOTE – STEINBRINK – AYE; KECKLER – AYE; KUMORKIEWICZ – AYE; SERPE – AYE; MOTION CARRIED 4-0 WITH ONE ABSENT.

B. Consider award of contracts for the construction of Fire Station No. 1.

Mike Pollocoff:

Mr. President, as you know we're virtually ready to go to construction on the first station. In fact we're having our groundbreaking ceremony tomorrow. We put the project out to bid on June 12th of this year. And it was published on June 19th of this year. Riley Construction, our construction manager, administered the bidding process. We published in the paper, and in fact Riley themselves made calls to subcontractors requesting they bid on the project all the way up to Monday, July 7th. We opened bids on July 9, 2014, and that was a sealed bid opening that the Village conducted per statutes. The bids came in higher than what our estimate was. They came in at \$6,627,589. Our construction estimate was \$5,735,866. So it's 15 percent over.

Although a total of 29 bids were received it was far under the number than we thought we'd look at. And in your packet Riley has provided us an analysis of what the problem was. We've seen this in some of our other bids especially in the site work in that the bidding climate is really active. There's a lot of construction going on, especially Kenosha County. And subcontractors were not able to submit proposals by the deadline. The nature of a bidding process with sealed bids makes the times go farther than if someone is bidding on a private project but that's always been the case. We have no choice but to do that. And we do pre-qualify contractors prior to their bidding so we know that somebody is financially strong enough to carry on the project once they've done it. We've loosened that up so that contractors could submit their bid but they would have to be pre-qualified before the award was made.

If the contractors are busy if they're going to take on the risk of not being able to complete other projects on time they're going to want us to pay for the risk of adding on additional people as soon as they can find them to go through. And we had some construction material projects in the area are resources are readily available, so the labor and material prices budgeted in March have increased significantly. We just had an estimate on the Village Hall portion which is a smaller portion of the project, but this is our first really vetting out of what that project is going to cost.

So with that we've asked Riley to provide recommendations on how to proceed. And as long as he's sitting here, and I want to make sure he's earning his fee, I'd ask Dave Riley to come up and describe the recommendations that they prepared in this report for us to act on tonight.

Dave Riley:

My name is Dave Riley, 3446 16th Place in Kenosha. Thank you, Mike. Yeah, we looked at the strategy of the project in order to keep it rolling because after last winter my mind's already in December thinking about the cold weather coming. There are some contracts that we received bids on that were within our budgets, and we received decent coverage on them. So what we're

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recommending to the Village is that they accept some of those contracts so that the work can keep going. Examples would be excavation of the footings, putting the footing and foundations in, cutting the steel loose. The steel actually came in within like \$5,000 of our original budget so I don't think we have a problem there.

On the flip side we're picking the items that do have problems and recommending that we reject those bids, and then Riley goes back to work and see if we can [inaudible] the project to bring it closer to the budget that was established. We kind of had a perfect storm here. The time of bidding which is summer, it's the hottest time for contractors. Secondly you have this market that has just absolutely exploded. It's kind of a catch 22 for the Village because you have businesses moving into this community which helps, but it's hurting on the pricing on this project.

And then the third thing is the sealed bid as Mike talked about. When contractors are that busy they don't want to go to the effort of sealing the bid, hand delivering it and having them opened publically. They're more inclined to put it on a pdf onto the computer and send it off. So those three things and to just give you a stat, two days before the bid was due we had 95 people that said they were submitting a bid. When the bids actually came in we had 33. So that's a huge percentage that decided two days before the bid was due they decided not to submit the bids.

But, again, we had areas where some of the contracts came in within our budgets and we're recommending we proceed with those, and we reject the other areas and come back with another bid package to rebid those areas. That will enable us to stay on schedule with the project with the ultimate goal of getting the building enclosed by winter. Again, the amount of dollars that have to be expended if the building is open during the winter is pretty dramatic especially if we have a winter like we did last year.

Mike Pollocoff:

I might add we went through a value engineering process last Friday, and in round numbers I think we were able to reduce it by about a quarter million dollars. We're looking at removing the rehabbing of the current fire apparatus floor. We'll put that out to bid this winter when we should have a better bidding market. Plus it's going to give us time to further refine and value engineer that project out, too. I mean it's basically turning a garage area into a meeting space and putting an elevator in so the building becomes compliant with current codes. So we'd be looking in the first instance approval to award contracts based on Riley's recommendation. And then the second item would be the rejection, which would need to come through the adoption of a resolution to reject those bids and rebid again.

Michael Serpe:

Dave, if we reject some of these bids now what's the guarantee that we'll get them cheaper later on?

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Dave Riley:

Well, there's never that guarantee, but the bidding environment on the old fire station will be much better in January than it will be today. So I think there's a pretty good chance that those bids will come in better than they did. Guys that are bidding on that now are thinking that that work's going now. If they see that it's going to go next spring like March-April they're going to be looking to fill up their backlog and that time.

Michael Serpe:

I hope you're right. I don't see this area slowing down with construction any time soon.

Dave Riley:

The other thing is one of the things that happened on the old fire station is that it was kind of an evolving scope of work because you're trying to solve some problems that have been there. You're turning it into a conference center, and all of a sudden an IT room has got to move and you've got the elevator and you've got ratings of walls and stuff like that. It will give us a little more time to maybe dig in a little further and eliminate some scope that's probably not needed to bring that budget down. And, again, you can't move into that space until the fire station is done, so we've got a little bit more time on that area.

Michael Serpe:

Just a thought in my mind here, once the fire station is completed we can hold off on that project downstairs for -- how long can we hold off? We can hold off for as long as we want really.

Mike Pollocoff:

Yeah, we can. I think one of the reasons for turning that into a meeting space, I mean it's really not a conference center as much as -- right now this is our only meeting room. We used to have a meeting room at Prange and that got filled up by the police department. The court is meeting more frequently than they did before, and we don't have a place to put the judge or the prosecuting attorney, so we're looking at some space going in here. So this is the Village's last meeting space.

So typically we've always made this room available to neighborhood associations, nonprofit groups, Boy Scouts, the whole nine yards. And we're not able to do that. So what we're telling them is you've got to go rent some space somewhere else rather than meet at the Village Hall. The goal of that space doesn't make sense to make offices out of. Although we could stand more office space what we really don't have is meeting space. If we bring somebody in, clients or people that are looking to relocate in the Corporate Park they can bring a dozen people with them and we don't have a place to put them other than get a bunch of people in here. As we've grown we need more space for the public to conduct business about Village affairs here and for the Village staff to conduct its business with a growing community.

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So we can put it out to bid, and if we don't get numbers that we feel we can afford or want to do then we just withhold it. Right now we're looking at issuing a bond for that work to take place. If the bond market holds up the way we're hoping it will we could do that. And we could probably structure it so we could return that money if we decide for whatever reason not to do it. But I agree with Dave, a lot of times it would seem like it would make sense if you've got a bunch of work and you bid it altogether and you get the best unit price. But if one of the things doesn't happen for a while then everybody is covering their bases on what it's going to take for them to do that at another point in time. But if we didn't do that work, Village Hall would still continue to operate the way it does, we would still do what we have to do, and we would just lose that opportunity to complete that space.

So I would recommend for 8B that Riley's recommendation for the award of contract to -- let me go through them here. We accept the bids for general condition staffing, excavation, cast-in-place concrete, precast concrete, masonry materials, structural steel and miscellaneous metals, the general trades, aluminum storefront windows and glazing, fire protection, plumbing and mechanical.

John Steinbrink:

That gets us closed in, gets heat.

Mike Pollocoff:

I don't think it gets you heat but it gets you closed in.

Dave Riley:

It takes care of the long lead items out there. Obviously we'll need an [inaudible] contractor, but they don't have as long of lead items as some of these other ones.

John Steinbrink:

So the heat came in high?

Dave Riley:

The electrical came in very high, and we only had two bidders. One was out of Plymouth, Wisconsin and one was local, Pieper Electric. Pieper Electric is actually on the Amazon job. And I called them and said and asked them did they see anything. They were a little surprised that I even called them because they said we didn't really want this job. We just submitted it because your name was on it and we wanted to make sure you got a bid. But we're so busy at other places. So you get something like that and reject it. We need to get some other people interested, and we have to look at value engineering a little bit with the scope of work. Ultimately these contracts will help us keep this thing rolling and get it enclosed so that we're not having those costs creep up on us.

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Michael Serpe:

So we're looking for a total of \$2,269,460?

Mike Pollocoff:

\$2,339,710 and the performance bond is \$19,333. So the contracts being awarded will be \$2,339,710 with the understanding the performance bond will be \$19,333.

Michael Serpe:

I make that motion, Mr. Chairman.

Steve Kumorkiewicz:

Second.

John Steinbrink:

Motion by Mike, second by Steve. Further discussion? Any further questions? You're going to come up for the next one. Further discussion?

SERPE MOVED TO AWARD CONTRACTS 1.00, 1.02, 1.03, 1.04, 1.05, 1.06, 1.07, 1.11, 1.18, 1.19 AND 1.20 FOR THE CONSTRUCTION OF FIRE STATION NO. 1, INCLUDING THE PERFORMANCE BOND IN THE TOTAL AMOUNT OF \$2,359,043; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 4-0.

C. Consider Resolution #14-23 rejecting certain bids for the construction of Fire Station No. 1 and the bids received for the Village Hall Renovation Project.

Michael Serpe:

Any more explanation on Item C?

Mike Pollocoff:

No. We've listed the ones that are going to be rebid. By resolution we need to state the reason that we're doing it is they've exceeded the budget for the nature of work and there were not enough bids. Statutes provide us a reason to be able to do this. And so it's my recommendation that we be authorized to reject the bids and rebid this work again.

Steve Kumorkiewicz:

Make a motion to adopt Resolution 14-23.

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Michael Serpe:

Second.

John Steinbrink:

Motion by Steve, second by Mike. Discussion? I notice you have overhead doors on there?

Dave Riley:

That's funny you bring that one up. That was a big category. We didn't get any bids in sealed but they faxed it to us. And that one actually was in great favor. It was almost \$50,000 less than our budget, but they didn't submit it as a sealed bid. And we said, well, why didn't you follow the instructions? And they said we don't have time to do that. So that's kind of what we're contending with right now is people are just so busy that they don't want to take the extra effort to do some of the things that are required for public bidding. So we just have to -- what we're going to do next round is we're going to send them the envelope with the postage on it. All they've got to put it in there, seal it and send it. We're going to try to make it a lot easier for them to see if we can't solve that problem.

Mike Pollocoff:

And if that's a problem, we'll find out where they are and we'll have somebody go lick it for them.

Kris Keckler:

Mr. Riley, if you wouldn't mind is there an advantage point and industry awareness by delaying this and putting it back out to bid is it the hope I guess to give an idea of what might be more favorable, that we're just going to get a larger amount of bids or people will rebid with a more favorable amount or estimation based on the timeliness of it. And I had that question posed before you brought up even the notion that somebody failed to submit it in a sealed fashion because they were too busy or didn't have the time. And I just wonder about the quality or the seriousness that some of them may place in this level of a project.

Dave Riley:

Yeah, I would say that we're going to get a lot -- our goal is to get a lot more bids in each category. I usually am comfortable with three or four. At least you've got some comparison between bidders and you know they were actively bidding it. So that's our goal. Now, some of these scopes are going to change. Like electrical we're going to reduce what was in that scope of work to lower that budget so that pricing is going to come in very differently than what it came in this time. So there's kind of two things that we're going to try to do is secure more bids and to also value engineer and change the scope down so we're more in line with the budget established for the project.

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Kris Keckler:

Alright. Thank you for that and thank you for your efforts, too, to help this project come along and obviously develop a quality fire station.

John Steinbrink:

Any further discussion.

KUMORKIEWICZ MOVED TO ADOPT RESOLUTION #14-23 REJECTING CERTAIN BIDS (CONTRACTS 1.05, 1.09, 1.10, 1.12, 1.13, 1.14, 1.15, 1.16, 1.17 AND 1.21) FOR THE CONSTRUCTION OF FIRE STATION NO. 1 AND THE BIDS RECEIVED FOR THE VILLAGE HALL RENOVATION PROJECT; SECONDED BY SERPE; MOTION CARRIED 4-0.

John Steinbrink:

Let the record show the vote was four in favor with one absent.

D. Consider Professional Services Agreement with Gestra Engineering for materials testing for Fire Station #1.

Mike Pollocoff:

Mr. President, we received a bid from Gestra Engineering of Kenosha to do the initial soils testing and the geotechnical report for this project. The scope of work is necessary to take place to make sure this thing is constructed on stable soils and we know what we have to do if we have to make corrections. Gestra's proposal for the work is based on days and work that needs to be done. We've set the benchmarks that we wanted to achieve in getting the work done. Gestra's done other work for us in the Village before. Their proposed fee is \$11,834. I'd recommend the Village President be authorized to execute a contract and agreement with Gestra.

Steve Kumorkiewicz:

So moved.

Kris Keckler:

Second.

John Steinbrink:

Motion by Steve, second by Kris. Any discussion?

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KUMORKIEWICZ MOVED TO APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH GESTRA ENGINEERING IN THE AMOUNT OF \$11,834 FOR MATERIALS TESTING FOR FIRE STATION #1; SECONDED BY KECKLER; MOTION CARRIED 4-0.

John Steinbrink:

Vote is four and one absent.

E. Consider Professional Engineering Services Agreement with Clark Dietz for the final design of additional parking off of Terwall Terrace in Prairie Springs Park.

Mike Pollocoff:

Mr. President, part of the original project with the park and ride was to expand our number of spaces since we have them, but we didn't accomplish everything we did. So what we're looking at doing is having Clark Dietz come in and work with us on the design to take a look at the land that's in the ballfield park. You can see right there that shows what that lot would look like. On the west side of that is future station 3. So when station 3 happens we already have a layout for what that station is going to be and that will land right in that one spot. To the east is the existing ball fields and playgrounds. This parking lot would fit in that area.

The second thing that we were going to have included in the park and ride was the opportunity to retail uses to be in there. This is as unusual as it gets. DOT brought that project to us originally and said, well, if you had some retail in here you could use the retail that will pay for your expenses for the park and ride. So we submitted the plans, we were working the whole process to get that done, and it was all said and done and they said we don't want retail in the park and ride because it might impinge on the wetlands. So we had some anticipation that we were going to derive some revenues off of the retail but then they wouldn't let us put it in.

So what we did is we took a look at what it would take to provide retail on the lots that are described there. And Tom Shircel has had some discussions with vendors who are interested in doing that with us. So that would take care of this. Plus with this we would finish curbing those lots. Right now if you think about it it's grass and pavement. So we would curb those around. So my recommendation is we authorize Clark Dietz to contract to get that work done for us and come up with a design so we can put it out to bid. And I think we're running late in the year so I don't want to take the same problem we're having with the fire station and have it come into here. So we may get the design done and do this work next year or depending on how it goes we might do gravel or what have you.

Michael Serpe:

What type of commercial are you looking at, Mike?

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Mike Pollocoff:

We've had retail establishments that have long pieces of bread that they fill with things without naming one in particular. The Community Development Authority had a market study done for their properties on the Interstate, and at the same time we asked them to take a look at the park and ride to see what those uses could be. And they felt there was an immediate demand for restaurants, a sports bar, that given the traffic number there and the nature of the traffic that there would be no problem for selling in either one of those uses. That market study is probably two years old right now. The only thing that's different is the retail lots would not be in the park and ride they'd be next to it. And actually they would be more visible than they would have been in the park and ride.

Michael Serpe:

I make a motion to award the Clark Dietz final design for additional parking off Terwall Terrace.

Steve Kumorkiewicz:

Second.

John Steinbrink:

Motion by Mike, second by Steve. Any further discussion?

Steve Kumorkiewicz:

One quick question, Mike. Where is the Fire Station 3 going to go, right at the entrance?

Mike Pollocoff:

It's going to be right along Terwall Terrace where it comes out at 165. So the corner of Terwall and 165.

Steve Kumorkiewicz:

Okay, thank you.

John Steinbrink:

Any further comment or question?

SERPE MOVED TO APPROVE A PROFESSIONAL ENGINEERING SERVICES AGREEMENT WITH CLARK DIETZ IN THE AMOUNT OF \$28,500 FOR THE FINAL DESIGN OF ADDITIONAL PARKING OFF OF TERWALL TERRACE IN PRAIRIE SPRINGS PARK; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 4-0.

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F. Consider Approval of a Contract with Kenosha Grounds Care to complete the final landscaping in Creekside Crossing Addition 1.

Mike Pollocoff:

Mr. Spence, would you describe this one for the Board?

Mike Spence:

Sure. Mr. President and members of the Board, this is a development item that needs to be completed for the Creekside Crossing project. It's Addition 1. And the east part of the development has been completed to the point where final landscaping can be installed. The final landscaping includes 52 trees and cul-de-sac plantings. This is the area of Creekside Crossing that's involved here. This is Creekside Circle. There are single family homes here and then duplex condos here. So the landscaping hasn't been installed.

So we took bids -- this is the landscaping plan. We took bids from two contractors to furnish and install the trees, and we received two bids. One from Breezy Hill Nursery and the other one from Kenosha Grounds Care. As you can see the Kenosha Grounds Care was the low bid at \$18,706. They've done a lot of work for the Village, and their bid was acceptable. So I recommend that the bid for Kenosha Grounds Care for this landscaping be accepted. I'd be glad to answer any questions.

Kris Keckler:

Move to accept the administration recommendation.

Steve Kumorkiewicz:

Second.

John Steinbrink:

Motion by Kris, second by Steve. Any further discussion?

KECKLER MOVED TO APPROVE A CONTRACT WITH KENOSHA GROUNDS CARE IN THE AMOUNT OF \$18,706 TO COMPLETE THE FINAL LANDSCAPING IN CREEKSIDE CROSSING ADDITION 1; SECONDED BY KUMORKIEWICZ; MOTION

G. Consider Professional Engineering Services Agreement with Nielsen Madsen & Barber for binder paving in the Village Green Heights Subdivision Phases 4-D, 4-E and 4-F.

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Mike Spence:

Mr. President and members of the Board, this is a continuation of the ongoing paving for the Village Green Heights Subdivision. It's Phases 4-D, E and F. It includes portions of 47th Avenue, 48th Avenue and Main Street. These are the sections that would be paved. We have 48th Avenue, 47th Avenue and Main Street which is here. Each year the developer has been doing a little bit more. Two years ago they did this and Main Street, this portion of Main Street. Last year they did this portion and Main Street. So this will basically complete the binder paving for the project. And it also will include the installation of sidewalks along Main Street which is part of the major development plan.

Nielsen Madsen & Barber submitted a scope to us that was also reviewed by the developer to do construction services, field staking, observation and various construction administration activities. Their proposal was for \$35,798.80. We would pay Nielsen Madsen & Barber, and we would be getting reimbursed from Land & Lakes for these services. Nielsen Madsen & Barber had done the contract inspection for the last couple of projects in Village Green Heights. So I recommend that that contract be executed by the Board. I'd be glad to answer any questions.

Michael Serpe:

That's [inaudible]

Mike Pollocoff:

Correct.

Michael Serpe:

[Inaudible]

Mike Spence:

I didn't hear the question.

Mike Pollocoff:

The paving, did you give an estimate on what Land & Lakes is doing on the paving?

Mike Spence:

They do have a contract. I don't have that information in front of me.

Michael Serpe:

That's all paid for by --

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Mike Pollocoff:

They pay for it.

Mike Spence:

Land & Lakes pays the contractor directly.

Michael Serpe:

So moved.

Steve Kumorkiewicz:

Second.

John Steinbrink:

Motion by Mike, second by Steve. Any further discussion? Those in favor?

SERPE MOVED TO APPROVE A PROFESSIONAL ENGINEERING SERVICES AGREEMENT WITH NIELSEN MADSEN & BARBER IN THE AMOUNT OF \$35,798.80 FOR BINDER PAVING IN THE VILLAGE GREEN HEIGHTS SUBDIVISION PHASES 4-D, 4-E AND 4-F; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 4-0.

H. Consider Resolution #14-22 for a Floodplain Boundary Adjustment on the Wisconsin Electric Power Company property located at 8000 95th Street for the proposed ladder track project.

Jean Werbie-Harris:

Mr. President and members of the Board, on June 9, 2014, the Plan Commission conditionally approved a conditional use permit including the site and operational plans for We Energies to install a new ladder track on the west side of the Pleasant Prairie Power Plant. The track is being installed to offer a location to perform repairs on railcars for the We Energies property. And this will reduce the number of railcars that would otherwise need to be removed and then returned from the site after being repaired elsewhere.

During the public hearing at the Plan Commission it was determined as part of the conditional use permit that a 100-year floodplain boundary adjustment would be needed because of a small area of floodplain that was needing to be filled as a result of this project. So as a result the petitioners are requesting approval to place fill within the current floodplain limits along the west side of the project adjacent to the Jerome Creek. Specifically the petitioner is requesting approval of a floodplain boundary adjustment then to remove 133 cubic feet of floodplain and to create 160 cubic feet of floodplain to compensate for that floodplain being filled next to the ladder track. The Plan Commission held a public hearing related to this matter last week Monday and

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approved subject to the comments and conditions. And the staff is recommending that the Village Board also approve the floodplain boundary adjustment as presented.

Kris Keckler:

Move to accept the adjustment.

Michael Serpe:

Second.

John Steinbrink:

Motion by Kris, second by Mike. Further discussion? Jean, are they going to do any rehabbing to the Jerome Creek there to clean it up a little bit so it flows?

Jean Werbie-Harris:

No, nothing is proposed.

John Steinbrink:

Can we ask them?

Jean Werbie-Harris:

We certainly can.

John Steinbrink:

Okay.

Jean Werbie-Harris:

Is it the situation of an animal dam building situation?

John Steinbrink:

It's all sorts of situations. With the new development farther to the north we've got increased water coming through, and it needs to continue its path. They seem to be holding one of the bottlenecks there traveling under the railroad, back through the railroad. I guess there are going to be multiple parties working on that.

Jean Werbie-Harris:

I'll discuss it with them.

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John Steinbrink:

Okay. No further discussion?

KECKLER MOVED TO ADOPT RESOLUTION #14-22 FOR A FLOODPLAIN BOUNDARY ADJUSTMENT ON THE WISCONSIN ELECTRIC POWER COMPANY PROPERTY LOCATED AT 8000 95TH STREET FOR THE PROPOSED LADDER TRACK PROJECT; SECONDED BY SERPE; MOTION CARRIED 4-0.

John Steinbrink:

Motion carries four, one absent.

- I. Consider a Development Agreement between Riverview Group, LLC and the Village of Pleasant Prairie pertaining to the development of the Riverview Corporate Park generally located south of 110th Street, east of 116th Street and north of 122nd Street.**

Mike Pollocoff:

Mr. President, the Riverview Corporate Park is a development that, as you indicated, is basically to the east of Prime Outlets, south of 110th Street, and it goes all the way down to ML. And it's divided in two phases where there's a creek or waterway that divides it in two phases. The first phase improvements are \$3.7 million. What we've come to an agreement with Riverview is it makes sense for the improvements to start on the first phase since they end right at the end of 108th Avenue. And that provides two buildings that you can see in Phase 1 that could be developed.

And then the second phase we'd come back and amend this agreement and do something later. But for us to start at the bottom at 122nd and work our way north all the utilities are coming from the north and we need to get the development going that way.

So in this agreement it's identified as part of Tax Increment District #2 we've bonded tonight for \$2.7 million for the sewer, the water and the grading. And we've also in this agreement secured the Village to make sure that for whatever reason that work was interrupted or what have you then the letter of credit is posted so that the Village is made whole if we need to complete this or if it doesn't happen the letter of credit would be issued basically when the developer begins the project or authorizes it to start with it.

So my understanding from the Village Engineer is the design is virtually done. We just need to clean up some things on it and get the permits and approvals so whenever they're ready to go it will be another area of businesses that can be developed. And if you think back this is one of the areas that the Village slated for the new M-5 District for manufacturing jobs. In fact, Mr. Good and his staff were instrumental in helping us write that ordinance. At first they indicated it would

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be troubling, and so we said then why don't you help us write it so it's not. So they did, and we still came up with a good M-5 ordinance to provide jobs in that area.

So these will not be warehouses. They could be offices and manufacturing, and they could have a warehouse to the extent it's only for their use as far as their production. So I'm looking forward to see what they do on this. And I'd recommend that the Village Board authorize the Village President and Clerk to execute the agreement with Riverview, LLC.

Steve Kumorkiewicz:

Make a motion to approve the development agreement.

Kris Keckler:

Second.

John Steinbrink:

Motion by Steve, second by Kris. Any further discussion?

KUMORKIEWICZ MOVED TO APPROVE A DEVELOPMENT AGREEMENT BETWEEN RIVERVIEW GROUP, LLC AND THE VILLAGE OF PLEASANT PRAIRIE PERTAINING TO THE DEVELOPMENT OF THE RIVERVIEW CORPORATE PARK GENERALLY LOCATED SOUTH OF 110TH STREET, EAST OF 116TH STREET AND NORTH OF 122ND STREET; SECONDED BY KECKLER; MOTION CARRIED 4-0.

J. Consider Resolution #14-20 authorizing the disposal of two surplus vehicles.

John Steinbrink, Jr.:

Mr. President and members of the Board, again I come to you with authorization to dispose of two vehicles in the public works fleet. As you know by the time I come to you with these vehicles they're normally worn out pretty well. They've definitely seen their useful life. One is a 1986 which really doesn't seem that long ago until you do the math and it is 18 years. And the other one is a 1993, much nicer vehicle. We had power windows and locks in this one so it's kind of a luxury one for the public works. We hate to see it go, but it definitely has exceeded its useful life. They're starting to acquire a lot of repairs, and I would ask for authorization to dispose at this time.

Steve Kumorkiewicz:

Are you planning on getting any money on this?

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John Steinbrink, Jr.:

Yeah, historically we auction these off with J.J. Kane Auction, it's in South Beloit, and we get just over \$1,000 per vehicle. I'm not sure who's buying them but I hope that they are at the auction on a regular basis purchasing our vehicles.

Michael Serpe:

The only thing that scares me is after we sell them they go back on the road and that could be a problem.

John Steinbrink, Jr.:

We take the stickers off and they own the title and so we have no liability.

Mike Pollocoff:

The names of the innocent are protected.

Michael Serpe:

I'd move approval of Resolution 14-20.

Steve Kumorkiewicz:

Second.

John Steinbrink:

Motion by Mike, second by Steve. Any further discussion?

SERPE MOVED TO ADOPT RESOLUTION #14-20 AUTHORIZING THE DISPOSAL OF TWO SURPLUS VEHICLES; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 4-0.

K. Consider reappointments to the Community Development Authority.

Mike Pollocoff:

Mr. President, this appointment for positions comes up at a different time for everybody than everywhere else. There's two terms that are up right now, and those are the one year terms for what is a statute required Board members. The Board members are yourself as Chairman of the Authority and Mike Serpe. It's a requirement we have two Trustees, someone from labor, someone from business, someone from construction, someone from finance, somebody at large. So I'd recommend that the appointments as identified be approved and authorized tonight.

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Kris Keckler:

Move to accept the recommendations of the appointees.

Steve Kumorkiewicz:

Second.

John Steinbrink:

Motion by Kris, second by Steve. Any discussion? Other than I can say it's a good group of people, it's a well balanced group of people, and we have a lot of community input into what we do. And they have a lot of foresight into what needs to be done in the community and often lends their expertise to our decision making. With that I'll call for a vote.

KECKLER MOVED TO APPROVE THE RECOMMENDED REAPPOINTMENTS TO THE COMMUNITY DEVELOPMENT AUTHORITY AS FOLLOWS: JOHN STEINBRINK AND MIKE SERPE TO ONE YEAR TERMS; LARRY NELSON TO A THREE-YEAR TERM AND GARY HUTCHINS TO A FOUR-YEAR TERM BEGINNING AUGUST 5, 2014; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 4-0.

- L. Consider the request of VIDHYA Corp. VIII, Inc. to implement a payment plan for delinquent invoices so the liquor and cigarette licenses for the premises known as BP AM/PM located at 10477 120th Avenue can be issued.**

Mike Pollocoff:

Mr. President, we've got a staff report here and I'll just kind of go through it. On May 2, 2014, R & D IV, submitted applications to renew both the Class A Fermented Malt Beverage License and the Cigarette and Tobacco Products License for the BP AM/PM gas station located at 10477 120th Avenue. On June 2, 2014, the Village Board approved the renewal application for the Class A Fermented Malt beverage license to Syed Hussain, Agent for R & D IV, Inc. As with all licensed establishments, the approval was subject to payment of license fees, publication fees and any delinquencies of property taxes, personal property taxes, inspection fees, utilities and invoices prior to the issuance of any license. The Clerk has the authority to issue a license for cigarette and tobacco products license in accordance with Village ordinances without the Village Board approval.

On June 6, 2014, there is a letter attached here that was sent to R & D IV indicating the Board's approval of the liquor license which letter included a listing of the license fees and delinquencies due before any licenses were to be issued. On June 9, 2014, Syed Hussain visited the Village Hall and requested from the finance department an accounting of the delinquent invoices and that information was provided to him.

On June 30th the property owner paid the delinquent property taxes in the amount of \$27,279.35. At that time, Vesna Savic, Deputy Village Clerk, told the BP representative that until the

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delinquencies were paid in full, they could not sell tobacco or alcohol products. The Police Department visited the property on July 1st and found that tobacco and alcohol were still available. Syed Hussain was instructed to remove these products or citations would be issued. On July 2, 2014, a police officer once again visited the property and found the tobacco products were removed from the shelves and the coolers with the alcohol were locked. The Police Department has visited the property numerous times since July 2nd to make sure these products are not being sold.

On July 16, 2014 at 2:00, a representative from Attorney Mike McTernan's office arrived at the Village Hall to pick up the licenses. He had numerous checks - one dated July 16, 2014 in the amount of \$10,000 and weekly post-dated checks to pay off the delinquencies. Unbeknownst to myself or the Clerk the Village Engineer discussed and approved a payment plan with the Village's attorney and Attorney McTernan was told he could submit the checks and the licenses would be issued.

In my discussions with Jane Romanowski, Jane went to the front lobby to inform the representative from McTernan's office that the tobacco and liquor licenses would not be issued until all fees are paid. The representative then called Attorney McTernan on a cell phone and proceeded to hand the phone to Ms. Romanowski. She informed Mr. McTernan that the Village Administrator nor her were aware of any deals which were reached regarding a payment plan for the delinquencies or the issuance of any licenses. Jane informed Mr. McTernan that the check dated July 16, 2014 in the amount of \$10,000 could be receipted through the finance department as a payment on the account but that we would not accept any post-dated checks.

Mr. McTernan then said no payment would be made and he was upset with the Village not being willing to abide by the agreement structured by Mr. Spence and the Village's attorney. Jane had indicated to Mr. McTernan that she had no authority to issue any licenses contrary to Board approval or what clearly would be in violation of Village ordinances. Mr. McTernan submitted the attached request for the Board to consider a payment arrangement whereby the licenses could be issued and payment of any delinquencies could be made at a later date.

Section 194-6 (B) of the Municipal Code states: "No license shall be granted for operation on any premises upon which property taxes, personal property taxes, assessments, special assessments, utility payments or invoices are delinquent or other financial claims of the Village are unpaid." The same exact language exists in Chapter 214-2(E) of the Municipal Code of the Licenses and Permits regulations which applies to the issuance of the Cigarette and Tobacco Products and Retail License.

The license and publication fees are \$370.00; as of July 3, 2014, the delinquent invoices for legal fees, engineering, community development, sanitary sewer, weights and measures and consulting fees totaled \$66,832.72 as shown in this attachment. Other than the June 30th payment of the delinquent property taxes in the amount of \$27,279.35, no payments have been made on this property's account since October 30, 2013.

I'd like to remind the Board that they have not deviated in approving liquor licenses in any manner other than abiding by the ordinances and laws established by the Board, and that is how

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the Village Clerk has been applying them. So BP through their attorney has provided a letter indicating that they'd be asking us to support their request for payment plans pursuant to Schedule A attached. They've indicated all payments but for delinquent invoices, sewer, engineering, legal fees, community development have been paid, and they request the approval of a payment plan.

So I don't and neither does the Village Clerk have the authority to go back on what the Village Board voted on when the licenses were granted. And from the staff's standpoint we don't have the authority to circumvent that ordinance. So my only advice to Mr. McTernan and his client was they would have to request the Board to consider doing that, and the staff is not able to do that, and that agreement shouldn't have -- there was no agreement. It was a handshake agreement, but there was no written agreement to make a payment plan. So with that I'm sure Mr. McTernan has some comments or thoughts that he'd like to express as well.

Michael McTernan:

If I may. Michael McTernan, 6633 Green Bay Road, Kenosha, Wisconsin. I'm here on behalf of the property owner R & D IV, Inc. in connection with the request to have the Village Board approve a payment plan that had been negotiated between the Village Attorney and myself and my client and Mr. Spence that we thought was a resolution to address the Kafkaesque and the nightmarish situation we're dealing with when my client gets a \$66,000 bill. I'd like to come back before the Board and address the just absolute surreal nature when someone delivers to my client a \$46,000 engineering bill a month ago.

*(Clyde Allen in attendance at meeting)

It's something that we need to bring before this Board because when my client sat down and entered into a settlement agreement with the Village they expected to pay Mike Spence's time that it takes him to oversee the work that we're doing at the BP site. They expect to pay Jean Werbie's time that it takes to address things that address on the property. But they are as astounded as I am to have a \$46,543.83 bill delivered from Drake Consulting that I have never seen the bills for and that I have no idea how a bill of that magnitude is generated and then presented to the Village under the auspice that an understanding that my client will pay the reasonable fees and costs incurred by the Village to oversee my client's site.

And, again, this is a site if we continue to step back it's a property that my client's have never contaminated. They bought a site that was contaminated by a prior property owner. It's a nightmare. They're addressing it, they're dealing with it. They have spent over a million dollars since they've purchased this site to address this nightmare, and it just doesn't end.

I don't blame Ms. Romanowski, I don't blame Mr. Pollocoff, and I'm here thankfully to Mr. Pollocoff and Ms. Romanowski saying let's go before the Village Board and see if we can address how to deal with a \$66,000 invoice that's delivered to my client. Now, there were portions of it that had been delivered prior and my client had not paid it and he should of because those were part of the settlement agreement we had with the Village. My client was to pay for Mr. Spence's time that was invoiced monthly, pay for Ms. Werbie's time that was invoiced

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monthly. Even Mr. Geraghty when he was involved it was invoiced monthly and he should have paid those.

But what astounds me and what really just jumps at you, and I don't know another single property owner in the Village of Pleasant Prairie that has a mom and pop shop that could get presented a \$46,543.83 engineering bill to babysit a project for a year and say I need you to write a check. Because that's what 70 plus percent of this bill is one guy who all he did from what I understand, because I haven't seen any of the details, is he oversaw what we did. He oversaw my engineers. He looked over the shoulder of my environmental consultant. Looked over the shoulder of my engineering and environmental attorneys. Looked over the shoulder of the consultants that we had on site. Looked over the shoulder of the contractors we had on site that my client paid.

And I'm baffled and I'm just to a point my client is sitting here saying I guess shame on me that I agreed to a settlement agreement that included reasonable fees, and had these fees been presented to me from an engineer \$4,000 a month for ten straight months I would have screamed and stopped and then came to the Board and said I need relief. This is insane. We didn't know about it until the bills were presented. Bills came moments after -- and my client collected them all and brought them to me after we were before the Board the last time and said, oh my gosh, I got this letter on June 6th that came and after we were here before you to approve my settlement agreement, even Plan Commission, to allow us to continue on for another year and have the continued monitoring of our site, the continuing cleaning of contaminated water that is on the site not from contamination by client placed on the property.

So I'm coming to the Village because the client is in desperate need of meeting his liquor license and tobacco license. I know Mr. Pollocoff mentioned that the police were there on June 2nd. On June 30th when they closed business they locked down all the coolers, they knew they didn't have license because they didn't get one. They locked down the cigarettes that are behind the counter and have never sold a pack of cigarettes or a bottle of alcohol since June 30th. I know the police came in and asked them to have it all removed which my client did on June 2nd, but they never sold any. So I understand what the license requires and the license allowed but they've never violated their license. Because when it expired on June 30th they stopped selling.

But I'm now before you asking for a way because my client doesn't have \$66,462.70 with interest climbing now to \$67,000 to just simply write a check, especially after they have spent the better part of two years spending over a million dollars trying to address this site. As a result I look for you to give us some relief. If you can understand the predicament he's in he needs the business to be able to survive. He needs the licenses to be able to survive. And more importantly I need to come back before this Village Board and have a modification of our settlement agreement because it was never envisioned that the client would have to pay these enormous costs especially tied to the engineers to in essence double billed. They're getting bills from their own engineer and now they're getting bills from the Village engineer. We could have hired a full-time employee for the Village of Pleasant Prairie to sit there at the site eight hours a day, 40 hours a week at \$46,000.

I look for you for help. I look for you to give some relief for him. You've seen everything he's done on site. This is a long-term project. Ten years plus I'm thinking. And the DNR is requiring

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us every month to report to them what's going on. We report to the Village of everything that goes on there. The Village knows we disclose everything. But we need to come back before this Board and stop the double billing of engineering, the double billing of testing. I don't mind and my client doesn't that Mike Spence and Jean Werbie and the rest of the Village have time and materials that they charge the client to see what's going on. They understand that. And they understand that they're willing to write a check over time to pay what they've incurred to date. But I need this to end. I cannot have double bills. I cannot continue to come back another year from now and have another \$67,000 in invoices and saying you don't get your liquor license again because you've got to write another check.

So I look for you for help, I look for you for the payment plan that we have presented which my client is more than willing to abide by. He just doesn't have the cash to write a check to clear this off. And however you want to fashion it we're there. The goal was to pay \$5,000 a week. He was asked to pay \$10,000 up front to try and pay some portions of the bills faster and \$5,000 every week. And the client said I'll post date checks and just deliver them to you so you can deposit them on every Tuesday of every week and deposit them. It's the way their system works and the way their cash flow works. They get paid on Mondays and the funds will be there on Tuesdays and they could float that way. They're using the Village as a bank, I understand it. But more overarching all this I need to get back before the Village Board with some greater relief than just this. Thank you.

John Steinbrink:

Mike?

Mike Pollocoff:

I guess I understand where Attorney McTernan is coming from, but the reason we used a consulting engineer is we have three civil engineers on the staff, but we didn't have staff expertise to deal with the petroleum issues that we were dealing with. And we were pretty open about the fact that we needed to bring on expert help to do the work that we were not able to do. So they were providing consulting services to the Village in helping us evaluate the problem that was out at BP Amoco.

You've got to think back as we first notified BP Amoco of the problem we went months without even getting an answer from them as to what was taking place. Subsequently as citations were building and we were having an ongoing problem they come to the table, and if you think back to the Plan Commission meetings and the Board hearing they had indicated that in the settlement agreement they agreed to pay our fees. I don't have anybody on staff that deals with the consultant in these issues. We just don't have that. And we were up front about that at the beginning. I don't think the Village taxpayers should, one, expect that our existing civil engineers are experts in leaking petroleum products or site work or sampling or whatever. Until we came to a point where we were confident that BP Amoco would do the work, would do the sampling, would live up to everything, we needed to be able to evaluate where we stood with that and what they were doing and what they weren't doing and be able to evaluate their engineer's proposals for recommendations to fix this.

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I don't think is double engineering. I think the amount of time that our engineers spent it was significant, but it was really to coordinate the work that was happening as far as being able to evaluate what was happening. We needed to bring in an outside consultant to do that. Now, if the outside consultant if there's an issue with this he billed us all at once instead of billing it over time. But that doesn't negate the fact that work was done along the way. I don't think its double dipping. It's what it took for us to be able to deal with this thing.

Ideally a local government shouldn't have to deal with this. They should have had to deal directly with the DNR for their violations. For whatever reason they couldn't. We had obligations in order for our clean water ordinance to make sure that contamination of that Des Plaines Water Shed didn't occur, and we had a difficult time getting them to the table to make that happen. So if McTernan and his staff think its high and they're not happy with the number I can appreciate that. But to say that the settlement agreement should be amended because we were somehow feeding somebody extra money or contract money to get this thing done there's nobody on staff that can do that. We said right at the very beginning that we had to contract out that expertise and we did.

In my level of concern in making an adjustment in this is just as I said before, we have an ongoing history of payments not being made from these people. And to accept a stack of post dated checks and use them as, one, an agreement or a tacit agreement that they're now entitled to their liquor license and all their obligations are done I don't think, I know it doesn't satisfy our fiduciary requirements for our receivables. And secondly I just think the Board and myself as staff didn't have and still don't have the legal authority to supersede the ordinance that says you have to pay everything in full. We're not doing this be punitive, but on the other hand the bills that have accrued are the bills that have accrued. That's all I have to add.

John Steinbrink:

Mike?

Michael Serpe:

Mike, this started out contentious with the Village and BP. You got involved, brought some civility to it. But still things were taking place that we were not corresponding back and forth mostly on the part of your client. And your own admission they didn't come forward with something. And here on April 25th, April 25th the bill was submitted to your client for \$46,000 from Drake Engineering. That was April. It was sent --

Michael McTernan:

And I didn't receive it and my client was brought to his attention on June 11th. I don't know where the disconnect was. And I'm not even looking to amend the existing contract as it relates to this issue. I'm not asking for that. I apologize if you think I want to amend to go back in time. I want to resolve this, address this and address it now. But going forward I need to stop having -- because we do have the DNR involved. The DNR is all over this project.

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Michael Serpe:

We all admitted that.

Michael McTernan:

So I'm looking to stop Drake from continuing to send me a \$46,000 bill next year. And, secondly, the point of the invoice we didn't get the invoice -- I don't know where it went. It didn't come to my office until I received it in June after I had the Board meeting. I know it's dated April 25th. The minute I got it I called the Village and said can I have the details. I've never seen this, and all I got is the same thing you did, a rundown of invoices. Had we been billed monthly it was something I would have addressed monthly.

Michael Serpe:

But again, Mike, this always come back to lack of communication on the part of your clients with their own attorney. And then you're coming trying to rectify the situation with us. Yeah, this is a very unique situation, extremely unique. We've never experienced something like this at least to this magnitude. And now in essence you're asking us to violate the ordinance.

Michael McTernan:

I'm asking you for an exception because of an issue that's so unique that someone has presented \$66,000 of bills. I'm not asking for anything more than 12 weeks. That's all I'm asking. If this had been presented months ago and I knew that Drake was going to be presenting a \$46,000 bill it was something I would have addressed months ago. But that's the kicker that pushes it over the top. I mean the balance of it we would have had paid by now. We would have had the whole amount, the other \$20,000, paid by now. And that's why I reached out to Mr. Geraghty and said can we come up with a plan and an agreement. He said, yeah, we can do this, this is something we can work out, unbeknownst to him that the Village ordinance prohibits such an agreement.

Michael Serpe:

Did they give you a reason why they didn't present this bill to you in April when they got it?

Michael McTernan:

They said they didn't see it when they got it. I don't know, maybe they got it in May, maybe they got it in June, but it goes to Chicago. It didn't come to the local office in Kenosha. And when I had originally asked any of these invoices that come through to provide copies to me right away so I could address it because I would have worked out a payment plan then and said let's start chewing this away before the June 30th bill come up because I know it's an issue with the liquor license. I know that any outstanding invoices, that's why they paid the tax bill and those obligations that were out there by June 30th.

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Michael Serpe:

I'm going to take you at your word that they didn't see the bill but I'm not going to believe that, I'm not going to believe that.

Michael McTernan:

I understand.

Michael Serpe:

And the reason I say that is because there's been too much of this for the last two years of we didn't get this, we can't do this, they don't respond until the pressure was put on them through you.

Michael McTernan:

The problem is you're going to close the doors down, they're just going to shut down. They're going to go out of business and that's the problem we have. They're going to go out of business.

Michael Serpe:

I don't know what we can do.

John Steinbrink:

Jane, has this ever been done any other way? We always had payment.

Jane Romanowski:

Payment has always been made before a license has been issued out of my office.

Kris Keckler:

I have a question on historical precedence for something like this and thank you for answering it. Looking at the payment plan, though, was there any investigation as to going to a financial institution that actually is in the business of loaning money for short term?

Michael McTernan:

They have. They've borrowed over a million dollars to deal with this issue in the last two and a half years. They've been wiped out.

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Kris Keckler:

Okay, but the assurance that a financial institution couldn't back this short-term loan is something that the district would be expected to pick up the risk for?

Michael McTernan:

They've exhausted their avenues of lending at their institution. They're doing the rest with cash flow.

Michael Serpe:

Mike, if a payment plan was put into effect how much time are you asking for?

Michael McTernan:

Twelve weeks. Twelve weeks.

Michael Serpe:

Twelve weeks?

Michael McTernan:

\$5,000 a week, \$10,000 tomorrow and \$5,000 a week every day thereafter until paid in full.

John Steinbrink:

With the engineering still continuing, correct?

Mike Pollocoff:

Drake's work I think by and large is done. I mean we still have engineering we have to do, but the work that was done is we had a series of negotiations and discussions to come up with how this thing was going to come to a conclusion. Because you've got to remember this thing ran for a long time trying to find a way that what work was going to happen, when it was put in, did it work, evaluating whether or not it worked, sampling. Yeah, we did have Drake looking over their shoulder because we had been provided for quite a while misleading information, information that was incomplete. We needed something to be able to evaluate whether or not what we were providing was accurate and correct or not as well as assist Attorney Geraghty in his negotiations on the settlement agreement.

Mike Spence:

I just wanted to comment on a couple things. As far as the Drake bill maybe they should have billed on a monthly basis. However, I did talk to them and they said a lot of clients prefer to be

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billed at once. But the other thing is when this whole thing was set up with an environmental contamination project compliance monitoring is always part of it. You don't just have the owner hire someone and do the samples. You always have a checks and balance. And that's part of what Drake did. Secondly, the fact that they did do the compliance monitoring and it was consistent with the results that were obtained from the BP's consultant that allowed them to drop some of the frequency of the sampling requirements. So it actually ended up reducing the cost.

And then thirdly the amount of the bill should not be a surprise in that they are paying to have the same sampling done, and they should know what it costs. And we're not sampling anywhere near as much as what they are but it is compliance monitoring. So I think the fact that this compliance was done actually helped them move quicker along the process to cut back on sampling and reduce costs.

Michael Serpe:

Can I make one other mention? As I understand it there has been no payments made from BP since October of 2013. And what's the guarantee, Mike, in 12 weeks that they're going to pay. It's been almost nine months, ten months.

Michael McTernan:

The license on having any outstanding paid in full by the end of the month. There's initial invoices are present contingent the license to it. And if not revoke it. I have no problem with them. You want to keep them on a short leash, keep them on a short leash. The extraordinary issue as everyone said nothing the Village has ever seen in their life in the Village of having a contamination of this magnitude that did happen by my client.

Michael Serpe:

I understand.

Michael McTernan:

It's a disaster. I get it. And they're doing everything in their power to keep the business operational. But you can imagine a convenience gas station, a driver of people that come into the store to pick up a six pack of beer or a pack of smokes. That's a big chunk of their business. They don't come in, they're not doing anything but spend money on gas which has very tight little margins. They need people in the building. So that's why it's so important to them to be open and to be able to sell. I'm trying to be creative to figure out how you can keep the protection and interest that is important to the Village, and at the same time have a client and a customer and someone in your Village stay in business. So I look for you for help. I'm open to suggestions. The ideas I had were the \$10,000 down and \$5,000 every week. If there's some other creative idea I'm all ears. It's not just I take that or nothing. I'm looking for some help.

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Kris Keckler:

I don't know if \$5,000 in what relation it is as far as a profit margin with cigarettes and alcohol being sold there.

Michael McTernan:

It isn't related, that's just cash flow, what they can afford.

Kris Keckler:

So you have reviewed their applicable cash flow in this environment?

Michael McTernan:

The accountants have told me that's what they can afford.

Kris Keckler:

Okay, somebody has reviewed it and has some faith that this is doable?

Michael McTernan:

Yes.

John Steinbrink:

Jane, if an agreement was to be reached and a license granted and a payment's check bounced what's the option? Do we have to go through revocation?

Jane Romanowski:

You would have to go through revocation. Once you grant it that's the only way to take it away.

John Steinbrink:

And there's cost to that.

Jane Romanowski:

And they currently do not have licenses so you don't have to revoke anything right now, yes. Yes, there's a hearing, give notice, attorneys, yeah.

John Steinbrink:

Is there a time line to that as far as revoking?

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Jane Romanowski:

That would be up to the Board. If they aren't making a payment and it doesn't come we'd have to schedule a hearing, give them a ten day notice, subpoenas, whatever we'd have to do and start the whole process.

Michael Serpe:

I have a question on revocation, John. If they don't pay then we go through the revocation process. What if the attorney and BP agrees that they will just surrender the license, in writing if they surrender the license instead of us having to go through revocation?

Michael McTernan:

Why not?

Michael Serpe:

I'm asking is that possible?

Mike Pollocoff:

I don't know. I guess we'd have to get our attorney to look at it. I mean that was one of my problems with this was there was really no agreement as to what was going to take place other than a stack of post dated checks. If the Board was inclined to figure out some kind of way to extend the payment plan I wouldn't want to do that until there was an agreement crafted that would, one, protect the Village with somebody who has a history of not paying us. I mean this isn't recently. And then secondly keep us from being in the cross hairs with every other establishment that we require that they come in and make payments. I mean a lot of these guys are making payments every day sometimes trying to get their bills paid off before the liquor license is due because they know they've got to do it. They would all like the same treatment. So we have some equal protection issue that we've got to make sure we're treating everybody the same or if somebody is having a hard time you guys will get another request and you'll have a precedent.

John Steinbrink:

Clyde?

Clyde Allen:

Thank you, Mr. President. Understanding the position you're in, Mr. McTernan, from the very beginning requests were ignored until you got involved. They were spiraling out of control. Looking at it from right now's perspective how would it look if we even considered that request? We're not doing our due diligence. It's not fiscally responsible. We're setting a precedence.

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And how in the world can we look the public in the eye, the taxpayers in the eye and say we're going to let them borrow the money in essence when a bank won't lend it? That's not fiscally responsible.

Steve Kumorkiewicz:

Clyde put it very well, because one word I hate all the time is set precedent because once you go that way you're going to have more people coming with the same request and we have no basis to deny it. So I think that we have to stick to the ordinance otherwise what are we doing here? I've got a problem because we've got the issue of in compliance from this company for so long, ignoring correspondence for the Village. So now we are to this point that we should, we shouldn't be at this point in the first place but we're here. But for me this is a problem. Break the ordinance, we can't.

John Steinbrink:

One question. The \$46,000 engineering cost from Drake that was sent directly to the client, not to the Village?

Mike Spence:

That was sent to us and then we put it in our system and then it was subsequently billed to BP.

John Steinbrink:

So what's our mailing date on that?

Mike Spence:

I don't know when finance --

Jane Romanowski:

I have an invoice dated April 25th, and all the invoices that have gone out since I think last October all went to the same address.

John Steinbrink:

The address is in Chicago and not local?

Jane Romanowski:

Yes.

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Michael Serpe:

Mike, you remind me of a parent that's constantly making excuses for a troubled kid. That's what it sounds like. I mean the lack of cooperation here is just unbelievable. But at the same time it's a very unique situation that I realize is a huge expense on the part of BP, huge expense. I'd like to think that if we came into an agreement that in 12 weeks you don't make the payment you voluntarily surrender the license. I don't know if that's possible. I don't know if they would agree to that or not, and I don't even know if that would be satisfactory to the Board. But as far as precedent setting I don't agree with that necessarily because of the unique situation that we had with BP. I don't recall in the 25 years I've been on this Board anything coming close to that. Again, I'd like to cooperate again. I don't know if we can or not. We'd be violating our own ordinance. But, again, they refused or neglected to bring forward all these things since last October and we're at the 11th hour now and we're trying to make a decision that's going to be satisfactory, and I don't know if that's going to be able to be possible.

John Steinbrink:

Jane, was the \$10,000 check received and receipted?

Jane Romanowski:

While Mr. McTernan and I were talking he said he wouldn't pay anything until he talked to the Board so the check went back --

John Steinbrink:

So there's been no payment whatsoever?

Jane Romanowski:

No. I told him he could have made that because it was dated July 16th and it was \$10,000 and that's the day they were here, but I wouldn't take any post dated checks, and all the checks went back with his associate.

John Steinbrink:

Which is you're not authorized to do any [inaudible]?

Jane Romanowski:

I wouldn't have taken then anyways, they would have went to the finance department. Just way back, we'll go way back, you'll remember the year before I will, special assessment down on Sheridan Road \$30,000 or \$40,000 and that was part of a condition for a license approval. And the license was not renewed. And that was a delinquent special assessment which is exactly what our ordinance says. So that was one of the bigger ones. Every year we have bills outstanding, Target, Radigans. He was in here very week paying the last two months coming in every week

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and paying his bills. And he had quite a few bills and he knows it. He knows the drill. So I'm just saying all the applicants work very hard to pay their bills before the license is issued out of our office per your approval and per the ordinance.

John Steinbrink:

So if this doesn't get paid does Drake eat it or what happens?

Mike Pollocoff:

The Village eats it.

John Steinbrink:

The Village eats it?

Mike Pollocoff:

The contract we have is with Drake. Drake doesn't have a contract with BP. We hired Drake to be our expert.

Michael McTernan:

The client is not going to not pay the bills. They're going to pay the bills. They're not not going to pay the bills.

Mike Pollocoff:

Really if any of these that don't get paid that's we.

Steve Kumorkiewicz:

We've got to pay for?

Mike Pollocoff:

We've already paid Drake because we have a contract to pay them for services.

John Steinbrink:

We pay our bills.

Steve Kumorkiewicz:

We pay our bills, that's it.

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John Steinbrink:

Okay.

Kris Keckler:

You mentioned earlier that if this wasn't approved they would close up shop?

Michael McTernan:

What I'm saying is they're teetering on not being able to conduct business. And it's going to reach that point if we continue to keep their doors closed and not be able to sell the goods that they need to sell to stay in business. Eventually it's going to shut them down. It may not be today, it may not be tomorrow, it may not be next month but it's coming. And that's the path we're on. I mean I don't know any small business that can pump a million dollars of infrastructure on a problem that they didn't create and then have an open ended agreement that allows them to continue to send \$66,000 worth of bills to them, three times their property tax bills, and say you've got to continue to pay those in order to have the license this year. That's what's going to cause them to close their doors. It's that this doesn't seem to be ever ending.

Kris Keckler:

So if they've been unable to sell alcohol or cigarettes for the better part of three weeks in this time frame is there any projected financial forecast that what would get to \$67,000 faster?

Michael McTernan:

I haven't looked at it. I have no idea.

Steve Kumorkiewicz:

Mike, what [inaudible] expectations?

Michael McTernan:

What's that?

Steve Kumorkiewicz:

The \$66,000 what do they expect to get?

Michael McTernan:

What do they expect to get?

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Steve Kumorkiewicz:

What are they expect because they got [inaudible] for \$66,000, right? Okay, what do they expect before [inaudible] got to pay?

Michael McTernan:

How much were they expected to get from the Village? I have no idea. I have no idea. I never asked them. I don't know. I get it. I see it as a two fold issue. It's a cash flow issue now, and I understand and appreciate Mr. Spence saying that Drake's heavy lifting in overseeing all the work that's been done for the most part is over. The problem is I don't know what he's going to bill next year. The \$46,000 bill from Drake Consulting I have no idea. And what's going to happen next year? We're going to double test everything for another year and get another \$46,000 bill, so back into April concerned about another \$46,000 for the charges. It's a problem that last year when we entered the settlement agreement I think my clients wrote -- if I'm not mistaken, Mike, I think it was about \$30,000 or \$40,000 worth of invoices they paid last year maybe in October. Maybe Ms. Romanowski has the numbers.

Jane Romanowski:

They paid that so it didn't go to tax roll.

Michael McTernan:

I much, I remember it was --

Jane Romanowski:

I don't know, I don't have that amount.

Michael McTernan:

Maybe it was \$40,000 and some. It was environmental costs, it was engineers, it was the Village staff, it was the attorneys that were actively involved. We got through a lot of that heavy lifting. We built an entire water treatment system on the site. And now we're dealing with -- I get Mr. Pollocoff's comments. This was a lot of work to do to negotiate the resolution, the plans and the development in order to get us where we're here today. But the bigger issue is when is this going to end? Ten years of \$46,000 a year, \$66,000 a year? Ten years \$660,000 is that what my client expects to pay over the next ten years? They are going to go out of business, I can assure you of that. So that is the biggest issue that needs to be addressed is I need to have this stopped.

The DNR is actively engaged on this site. We are testing this thing and double testing this thing. We're having engineers show up and Drake's engineers show up on site. The Village staff shows up on site. And my client gets billed for it. Is it ever going to end? It's shocking, and that's the problem I'm faced with is my clients are sitting there dying. And they will die eventually. You can look at the path on their financials and eventually they will close their doors, and you'll deal

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with an empty gas station and a contaminated site and someone else can figure it out. My clients aren't going to be able to continue this much longer.

So I get the predicament I put the Village in because it's tough to deal with this assessment issue. The bigger, longer term issue is I need your help with this agreement to end this. That's not for today, Mike, I apologize. But it's something that I need to get off my client's chest through me is because it's going to kill him.

Mike Pollocoff:

There are two separate issues here. And I can understand where Mr. McTernan is coming. He wants some certainty as to what his future costs are going to be. If the effort that everybody struggled through was to get that gas station in compliance and it could be verified that they're in compliance that's one issue. I don't know that it's reasonable just given the amount of work that we've been doing to extrapolate to say that every year there's going to be a \$66,000 charge. I mean we have to look back to when these charges started when there was more work being done on the project that's completed.

I will say that probably there's at least \$15,000 if not that that is representative of bills that never do get paid until we come to the liquor license. So if the Board wants to take care of what Mr. McTernan's saying is how the stipulated agreement or the enforcement agreement is going to work that's fine, we can have that discussion. And I think it's probably a good time because I think that by and large a lot of the issues have been resolved, and it's just really a matter whether or not BP is going to hold their hand up and manage the system, manage the treatment system, do the sampling that has to get done. And then ideally we're out of doing a lot of compliance maintenance.

The second one is that there was problems with that site. The Village didn't create them. Maybe VIDHYA didn't create them, but they bought a site that was contaminated, and that's not the public's problem. And it's too bad they have it but it's something that has to be dealt with. The bills that we incurred in order to get that done are here before us. So I would say from the staff's perspective and with some legal assistance we can come with what we think is going to go forward as far as bills going forward and address that I think in a manner that's going to be a lot different than it was after going through two years of trying to get that place in compliance.

But we did spend that money, and I think to assume that we're going to spend that same amount of money, the \$46,000, I would hope that's not the case because that means for every dollar Drake is spending that means we're spending money dealing with Drake and dealing with the compliance. If we can't get this thing done then maybe it should close down. That's the truth of it. I don't want to say that, but if we can't get it so they comply and everybody is comfortable with the compliance maybe this thing shouldn't proceed.

But I think the work we've done and that we've had contractors assist us in doing has happened. I don't have any qualms about taking a look at the agreement going forward, but I don't think we should take a look at the bill here and then extrapolate this bill going forward because that was

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never -- this isn't a profit center for us. We don't make any money on dealing with these issues, and we never will make money on dealing with these issues.

John Steinbrink:

Clyde?

Clyde Allen:

Thank you, Mr. President. Through you two, either Mike or Kathy Goessl, what's the status and what's the amount of the original citations and interest?

Mike Pollocoff:

I don't know. That goes to court. To be honest with you once we've written the citations it's up to a municipal judge and to the prosecuting attorney and Mr. McTernan and whoever else is working on that case to work with that. I know it hasn't gone to court yet. And whatever the judge does is what the judge does. And whatever the prosecuting attorney recommends if there's a plea deal that's going to be -- I mean we wrote the tickets because they were violating the ordinance. There were ongoing violations that just kept going on and on with no assistance. And then when they started corrected we stopped and they started ignoring it again and we started it up again. So the judge is going to look at that and figure out what he's got to do. That doesn't enter into our equation.

Clyde Allen:

Correct, it was just a point of information just that I wanted to know. But it's still monies that the taxpayers have lost so far?

Mike Pollocoff:

Well, the taxpayers haven't lost the money. What's happened is is that those were fines because we couldn't get compliance. We couldn't get the attention of the -- so the victim in this case from our standpoint was the environment that we have to protect by statute for clean water. The Village wasn't victimized. It was the environment that was being polluted because of what they were doing. So that's the cost or that's the expense. And if people don't pay attention when they violate the statutes and you can't bring them to compliance citations is the way to get them to recognize that responsibility.

Clyde Allen:

Thank you.

John Steinbrink:

So the \$66,000, \$67,000 that's taxpayer money?

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Mike Pollocoff:

Yeah.

John Steinbrink:

That's money expended, paid fulfilling our obligation. Mike?

Michael Serpe:

That's the problem I'm having with this thing. If we don't do something -- this is a unique situation, there's no question about it. If we don't do something with this and we don't at least give them the opportunity in 12 weeks to make whole this bill of \$66,000 then the taxpayer is on the hook for it. They're going to reimburse us if we give him the time. If he doesn't and goes out of business, if we say no now we may never get paid. If we work with them for 12 weeks and enter into an agreement that if it's not paid they voluntarily surrender their license I think we've got a little bit of hammer on them, too. Again, I'm not worried about a precedent setting here because this is a very unique situation, very unique. And unique in many ways because of the reluctance on the part of the owners of this place failing to deal with this in a proper way.

Steve Kumorkiewicz:

[Inaudible]

John Steinbrink:

Is the interest still accruing on this until it's totally paid?

Mike Pollocoff:

It is from our standpoint.

Michael McTernan:

We understand that it is, yes. We understand that.

[Inaudible]

Mike Pollocoff:

I think we'd have to have our attorney draft an agreement. Because I have a question whether or not we can do that but I'm not an attorney. So we'd have to have an attorney tell us whether or not we can draft an agreement that would revoke somebody's license if they agreed to it. I think these fees end up being a special charge on the property so if they walk someone is going to pick it up later on. How soon we get it I don't know how long that would be. But if the Board is

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inclined to say they want to make an adjustment we need to do it through an agreement and have outside counsel help us with drafting an agreement.

Michael Serpe:

How much time do we have to do that?

Mike Pollocoff:

We're not under the gun. I still recommend that we not grant their request for a payment plan if you're going to do an agreement. So we need time to put an agreement together so our attorney can visit with Mr. McTernan. Mr. McTernan can represent what his client is going to be able to do or can do. And then our attorney can protect the Village's interest.

Steve Kumorkiewicz:

The next Board meeting is going to be August 4th so we wait until then to make a final decision after you consult with our lawyer?

Mike Pollocoff:

Well, my recommendation is if you want to come up with some kind of agreement then we'll do that. But I think everything stays status quo until that's done because we have no --

Kris Keckler:

Do we have an indication that absent of agreement to a payment plan if we go this route of at least investigating the possibility of a voluntary revocation that we would receive both the \$10,000 payment and the subsequent \$5,000?

Michael McTernan:

Yes, I can give them to you right now. She gave me the \$10,000 she gave me last week to pay, and I'd give you the \$5,000 for tomorrow.

Steve Kumorkiewicz:

There's a legal issue here.

Michael McTernan:

\$5,000 tomorrow so Ms. Romanowski doesn't have to a post dated check. I'd bring it tomorrow morning. I have it in my possession and already filled out.

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Steve Kumorkiewicz:

I'm for waiting and make a final decision on August 4th.

Michael McTernan:

In the meantime in good faith my client has told me to make the payments, so I will make the payments, and hopefully by August 4th hopefully we can reach an agreement. I appreciate that. Thank you.

Clyde Allen:

Excuse me, Mike. My question is isn't the payment plan illegal at this point in time? Is that correct?

Mike Pollocoff:

No, they can make a payment. They can make as many payments as they want. It's just that we can't issue a license.

Michael McTernan:

I understand that.

Mike Pollocoff:

And I think from our accounting practice we don't accept post dated checks. We don't do that. I someone wants to -- they can pay as often as they want to reach the point, but to take a stack of post dated checks and call everything clean we can't do that.

Michael Serpe:

If we ask for legal advice do we go through Tim?

Mike Pollocoff:

[Inaudible] yeah. Tim is pretty well versed on the issues with BP.

Michael Serpe:

So we want to know if we're on good ground to do that, is that correct?

Mike Pollocoff:

If the Board wants to do this I'll bring that concept to him and see whether or not we can make that work and what our risk is. So we could come back at our next Board meeting. I could tell

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you ahead of time and all the parties ahead of time what his recommendation is or what our proposed agreement would look like for you to consider.

Steve Kumorkiewicz:

I think that's the only solution we've got.

John Steinbrink:

You've got two choices here.

Michael McTernan:

Can I seek to adjourn it to August 4th so we can examine this option? I'll have to get myself on the Board again? Can I move to modify my request to adjourn it to August 4th so Mr. Geraghty and I can work on seeing if we can come with a solution that would satisfy the information I'm hearing from the Village Board tonight and just adjourn this issue?

John Steinbrink:

Table it.

Michael McTernan:

Table it.

Steve Kumorkiewicz:

I make a motion to table this to August 4th.

Michael Serpe:

What did you say?

John Steinbrink:

He made a motion to table.

Michael Serpe:

To table it?

Steve Kumorkiewicz:

Table to August 4th.

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Michael Serpe:

I'll second that.

John Steinbrink:

Motion by Steve, second by Mike for tabling until August 4th. Any discussion?

Steve Kumorkiewicz:

To me that's the only solution we've got.

KUMORKIEWICZ MOVED TO TABLE THE REQUEST OF VIDHYA CORP. VIII, INC. TO IMPLEMENT A PAYMENT PLAN FOR DELINQUENT INVOICES SO THE LIQUOR AND CIGARETTE LICENSES FOR THE PREMISES KNOWN AS BP AM/PM LOCATED AT 10477 120TH AVENUE CAN BE ISSUED; SECONDED BY SERPE; MOTION CARRIED 5-0.

Michael McTernan:

Thank you.

9. VILLAGE BOARD COMMENTS

John Steinbrink:

Clyde?

Clyde Allen:

Thank you. On Saturday, July 12th we had kind of a disaster in our area, and we were in the middle of the destruction so we saw it firsthand. So I went out that night in the neighborhoods, so the damage. I want to thank the Pleasant Prairie Police and Firemedics for all they did, all their help, how they acted responsibly that night to help us out. On Monday morning the Village was absolutely cleaned up. I couldn't image a better cleanup job. So, again, thank you to the Pleasant Prairie public works. It was an outstanding job getting it back to looking decent. Thank you.

Michael Serpe:

One other comment to the police department for putting an end to the neighborhood burglars. You put a lot of minds at ease with those arrests. Nice piece of work, Chief.

10. ADJOURNMENT

SERPE MOVED TO ADJOURN THE MEETING; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 5-0 AND MEETING ADJOURNED AT 8:20 P.M.