

## MINUTES OF THE REGULAR VILLAGE BOARD MEETING Wednesday, September 18, 2019

### Call to Order

The Village President Winchowky called the meeting to order at 6:30p.m. located in the Board Room of the Mukwonago Municipal Building, 440 River Crest Ct.

### Roll Call

Board Members present: Eric Brill  
Jim Decker  
Darlene Johnson  
Jay Vermeulen  
Roger Walsh  
Jason Wamser  
Fred Winchowky, Village President

Also present: John Weidl, Village Administrator  
Ron Bittner, Public Works Director  
Mark Blum, Village Attorney  
Dave Brown, Utilities Director  
Diana Dykstra, Clerk-Treasurer  
Diana Doherty, Finance Director  
Ben Kohout, Village Planner  
Bob Harley, Building Inspector  
Dan Streit, Police Lt.  
Jerad Wegner, Village Engineer

### Pledge of Allegiance

### Closed Session

President Winchowky announced there will be closed sessions pursuant to Wis. Stat. **§19.85(1)(e)** (*Deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session*) for discussion on the potential sale of land at the intersection of Boxhorn Dr. and Hill Ct. in the business park, negotiation of the Refuse and Recycling Contract, Amendment to Memorandum of Understanding with the Department of Transportation regarding the access to the Sommer/Pitts property, and pursuant to **Wis. Stats § 19.85 (1) (g)** (*Conferring with legal counsel who either orally or in writing will advise governmental body on strategy to be adopted with respect to current or likely litigation*) concerning the status of the Greenwald Family Limited Partnership vs. Village of Mukwonago litigation.

### Comments from the Public

Sue Graczyk, 915 Kims Ln, commented she is opposed to the condo project asking to consider traffic problems and environmental impact.  
Mike Slavison, 302 Lake St., expressed his concern for the amount of fill to be brought in and wonders if the retention pond is sized appropriately.  
Jean Weedman, W343 59768 Red Brae Dr., is concerned with the impact on the river as they are part of the watershed.  
Mark Wisinski, 433 Wahl Ave., has concerns with his ability to hunt, the loads of fill, and the wetlands.  
Debb Jaeck, W300 S10317 Lakeside Dr., expressed concerns with the run off from the condos, riparian areas, and the lawn service which will use insecticides.  
Carey Wisotzke, 539 Valhalla Dr., noted this is in her backyard and is opposed. She enjoys the deer and the cranes.

Tom Ridulfo, 605 Valhalla Dr., commented he has been there for three years and feels this will destroy the beautiful lands and is against it.

Nick Movrich, W310S9749 Hwy I, noted he is the principal owner of the property to the east of this development and would like to protect his land. He noted 10-12 acres are water, another 5 acres are in water, and only about 5 acres could be built on. He is opposed to this. There is turtle crossing, recognized environmental corridor and would like to see an environmental survey completed.

Laura Ellis, W309S10004 Hwy I, noted this property was in her family and she was told they could not build on it. It was sold and now it is buildable. She feels the village has taken her family property.

John Movrich, S99W30991 Cty Rd LO, noted he owns property to the west and is speaking for seven landowners around this property. He felt the notification was violated by Plan Commission, he received a copy of the notification and he wasn't on the list which violates section 100-901 regarding publications. Nadine Movrich, S99W30991 Cty Rd. LO, she was told the condo project was a senior living and now it is a 10-20 multi-family unit project. She feels it is unsafe.

Patrick Rickless, 230 Shore Drive, commented he is opposed to the project.

Faith Honkamp, W303S10255 Lakeview Dr., commented she is opposed to the project.

Fred Honkamp, W303S10255 Lakeview Dr., commented he is opposed to the development.

Alicia Rooker, 527 Brockway Dr., expressed concerns with the public hearing and the public being opposed to this development. She asked the officials to visit this property. She is opposed.

Dawn Marie Staccia, W360S9980 Markhan Rd., Eagle, was present to represent the Friends of Vernon Marsh. She asked officials to move slow on Phantom Lakes Preserve project and offered suggested requirements if the development occurs.

Arturo Napolis, 221 Shore Dr., expressed his opposition for the development project.

Lori Atkins, 221 Shore Dr., expressed her opposition to the development and would like to teach her children about the environment.

Bob Movrich, W310S9803 Hwy. I, commented he is opposed to this project.

Jake, 415 Lake St. commented his main concerns were with pesticide runs off and the natural buffer.

David Boebel, 815 Park View Lane, concerned with the process and master plan. He is opposed.

Carol Movrich, 310 Shore Dr., opposed to more condos.

Larry Ellis, corner of Hwy LO & I, is opposed to the condos.

Caroline Jagman, opposed.

Tim Granowski, commented he is opposed to the development.

Hearing no further comments public comments were closed at 7:14pm.

### **Consent Agenda**

Wamser/Johnson motion to remove from the consent agenda and table the recommendation to the Village Board to approve Fairwinds LLC Letter of Credit #01-128-487-78 reduction to \$313,874.00 for completion of work in Fairwinds Phase 5 as recommended by the Village Engineer to the next Board meeting. Unanimously carried.

Decker/Johnson motion to approve the following consent agenda items with the exception of Fairwinds LLC Letter of Credit reduction. Unanimously carried.

A. Minutes of the August 21, 2019 regular Village Board meeting and September 4, 2019 Special Village Board meeting.

**B. Committee/Commission Business**

**Finance Committee, Trustee Vermeulen**

- 1) Vouchers payable AP payment batches in the amount of \$289,606.50
- 2) Recommend to the Village Board approval on the Request for Exemption from the Waukesha County Library Levy 2019 Tax for 2020 Purposes.
- 3) Recommend to the Village Board to approve the Payment of Chapman Farms Boulevard Final Pay Request in the amount of \$28,833.66

- 4) Recommend to the Village Board to approve Fairwinds LLC, Letter of Credit #01-128-487-77 elimination for completion of work in Fairwinds Phase I-IV, as recommended by the Village Engineer.

**Health and Recreation Committee, Trustee Decker**

- 1) Approval of a Special Event Permit Application for the Mukwonago Chamber of Commerce for Mukwonago Fall Fest on September 21, 2019, which includes a Temporary Class "B" Retailer's License to sell fermented malt beverages.

**Public Works Committee, Trustee Wamser**

- 1) Approval and award of the 2019 Street Rehabilitation Contract to Parking Lot Maintenance Inc. in the amount of \$156,585
- 2) Approval of a Purchase Requisition to Mendoza Concrete to remove and replace 2,154 sq ft. of concrete sidewalk in the amount of \$23,694.
- 3) Approval of DPW's request for a December 1, 2019 hiring of a crewperson to replace a retiring staff member.

**New Business**

**Finance Committee, Trustee Vermeulen**

**Vouchers Payable AP batches in the amount of \$856,832.87**

Vermeulen/Johnson motion to approve Vouchers Payable AP batches in the amount of \$856,832.87. Unanimously carried.

**Set date for Joint Fire Department Budget Meeting with Town of Mukwonago.**

It was noted the date is tentatively set for September 24, 2019 at 6:00pm, however the Town will need to confirm.

**Set date for potential budget workshop for the Village.**

The date for Budget Workshop in the Village will be October 3, 2019 at 5:30pm.

**Resolution 2019-42 An Existing Employer Update Resolution for the Wisconsin Public Employer's Group Health Insurance Program.**

Vermeulen/Decker motion to approve **Resolution 2019-42** An Existing Employer Update Resolution for the Wisconsin Public Employer's Group Health Insurance Program. Unanimously carried.

**Planning Commission**

**Ordinance 966 to Approve a Zoning District Boundary Change (rezoning) from A-1 Agricultural District with existing Floodplain Overlay, to R-5 Low Density Multi-Family Residential District with existing Floodplain Overlay for Vacant property on the South Side of County Highway LO, approx. 700 feet East of County Highway I, on behalf of Greg Petruski of Infinity Development, LLC. "Phantom Lakes Preserve" Tax Keys: MUKV 1979992 AND MUKV 1979991.**

Decker/Brill motion to approve.

It was clarified this is solely for the rezoning of the property. Planner Kohout referred to his staff report with conditions established by the Planning Commission. Administrator Weidl confirmed the future land use in the 2016 Comprehensive Plan Amendment is in conformance with this request. He noted the Board is obligated to approve the zoning if it complies with the comprehensive plan.

Trustee Walsh thanked the Plan Commission for allowing the public to speak at their meeting and felt public comment should be allowed at each plan commission meeting.

Planner Kohout confirmed most of the concerns that he has heard have all been addressed in the conditions in the resolution with the site plan.

**Roll Call:** “Yes” Brill, Decker, Vermeulen, Wamser, Winchowky. “No” Trustees Johnson, and Walsh. Motion carried.

**Resolution 2019-043 to Approve a Site Plan and Architectural Review as a Conditional Use for Planned Unit Overlay District Proposal (PUD) for Vacant property on the South Side of County Highway LO, approx. 700 feet East of County Highway I, on behalf of Greg Petrauski of Infinity Development, LLC. “Phantom Lakes Preserve” Tax Keys: MUKV 1979992 AND MUKV 1979991. Proposal is for ten (10) side by side condominiums (duplexes) for 20 total units sharing a private cul de sac drive.**

Decker/Brill motion to approve

Planner Kohout reviewed his report on this project. He explained he spoke to the DNR regarding the fill and the US Army Corp of Engineers provided their approval. Further, they are observing the setback, and the density is in compliance with the code. There will be a private cul de sac drive paid for and maintained by the developer and condo declarations regarding stormwater management and detention where costs are born by the association. Staff recommended approval with nine conditions.

Attorney Blum noted that during public comment there were concerns for pesticides and protective species, which are both not in the jurisdiction to control of this body, however, they could ask for conditions for those respective items.

Decker/Brill agree to modify their original motion to include two additional restrictions; The Developer shall follow any requirements of DNR or other governmental bodies with jurisdiction regarding the identification, and protection of habitat, or protected species; and The owners of the property shall follow all requirements of the EPA or DNR concerning the application of any fertilizers or pesticides on the property.

Planner Kohout read the following conditions placed on approval:

1. Site Plan and Architectural Review approval for the ten duplex development commonly referred to as “Phantom Lake Preserve” shall be subject to all plans and information submitted for the application by Infinity Development, LLC., dated August 2, 2019, with all plans and information on file in the office of the Zoning Administrator. The plans may be further modified to conform to other conditions of approval; the site and construction drawings may be modified with the approval of the Village Engineer and other Village staff, the building and floor plans may be modified with the approval of the Zoning Administrator and Supervisor of Inspections to conform to Building and Fire Safety Codes and all plans may be further modified to conform to Village design standards. However, the basic layout and design of the site shall remain unchanged.
2. PUD, Site Plan and Architectural approval are valid for a period of one (1) year from date of Village Board approval. A new application and subsequent required filings as required by ordinance shall be submitted for consideration if no building permit is applied for during said time frame.
3. Prior to the start of any site construction or issuance of a building permit, whichever occurs first, the following shall occur:
  - a. All final site development plans shall be consistent with the plans noted on Conditions No. 1 or as modified.

- b. Approval by the Village Board of a Developer's Agreement and a Storm Water Maintenance Agreement.
  - c. Village Board acceptance of any necessary utility easements prepared by the applicant.
  - d. Final Written approval from the Waukesha County Highway Department for county highway access.
  - e. Village Staff to review and approve design of a pedestrian trail extending the width of the property frontage within right of way, to eventually connect to the East, or on the private property, with an easement granted to the Village of perpetual trail easement.
  - f. Approval of site construction and building plans by the Fire Chief, which may include, but are not limited to, Knox Box and notification requirements, internal fire suppression, external fire department connection location, hydrant locations.
  - g. Approval of building plans by the Building Inspector after receipt of approval of building plans by the State of Wisconsin.
  - h. The Village Engineer, the Utilities Director and the Public Works Director shall approve all site engineering and utility plans and documents, including a complete Erosion Control Plan.
  - i. Approval by the Police Chief of placement and type of traffic control signs and any pavement striping.
  - j. Approval of a final landscaping plan and exterior lighting cut sheets plan by the Zoning Administrator.
  - k. The holding of a pre-construction meeting between the applicant, applicant's engineer and contractors and applicable Village staff.
  - l. All require review fees and charges due to the Village of Mukwonago shall be paid.
4. Prior to temporary occupancy issuance, and if needed, prior to final occupancy permit for any of the ten buildings, the following shall occur:
    - a. Completion of all site grading and storm water management facilities in accordance with submitted plans.
    - b. Completion of the building in accordance with approved plans and all applicable codes.
    - c. Completion of paving of driveways leading from the private drive from the intersection with CTH LO to adjacent to the building.
    - d. Connection of the building to sanitary sewer and a public water supply.
  5. Prior to final occupancy permit, which shall be issued no later than 120 days after any temporary occupancy permit for any of the ten buildings, the following shall occur:
    - a. Completion of all items required in Condition No. 3.
    - b. Completion of final paving of the private drive and striping to be completed as indicated on the site plan.
    - c. Installation of all site landscaping as shown on approved plans.
  6. The private drive shall always be properly maintained to allow clear accessibility for emergency vehicles.
  7. The entire site shall always be properly maintained, kept clear of debris. All landscaping shall always be property maintained; dead or diseased planting shall be replaced within the next appropriate planting season.
  8. The applicant shall install no parking signs along one side of the private drive, unless requested by the Fire Chief and/or Police Chief.

9. Any sign for the development shall comply with requirements of Chapter 64 of Village Municipal Code (Sign Code).
10. The developer shall follow any requirements of DNR or other governmental bodies with jurisdiction regarding the identification, and protection of habitat, of protected species.
11. The owners of the property shall follow all requirements of the EPA or DNR concerning the application of any fertilizers or pesticides on the property.

### **Roll Call**

“Yes” Brill, Decker, Wamser, Winchowky. “No” Johnson, Vermeulen, Walsh.  
Motion carried 4-3.

### **Public Works Committee, Trustee Wamser**

#### **Well 3 pump improvements and repairs approval and contract award to Water Well Solutions Service Group, Inc for the sum of \$238,810.00.**

Wamser/Decker motion to approve Well 3 pump improvements and repairs approval and contract award to Water Well Solutions Service Group, Inc for the sum of \$238,810.00. Unanimously carried.

#### **Letter of Credit No. 0159597277 reduction for C&H Wolf Run LLC (Verizon Development) to \$2,500.**

Wamser/Decker motion to approve Letter of Credit No. 0159597277 reduction for C&H Wolf Run LLC (Verizon Development) to \$2,500. Unanimously carried.

#### **Purchase Requisition for Field and Indianhead Park play structures with Lee Recreation LLC in the amount of \$185,435.**

Wamser/Decker motion to approve the Purchase Requisition for Field and Indianhead Park play structures with Lee Recreation LLC in the amount of \$185,435. Unanimously carried.

#### **Purchase Requisition for Miniwaukan and Minor Park play structures with Boland Recreation in the amount of \$128,070.**

Wamser/Decker motion to approve the Purchase Requisition for Miniwaukan and Minor Park play structures with Boland Recreation in the amount of \$128,070. Unanimously carried.

### **Protective Services, Eric Brill**

#### **Fire Department Operational Study recommendation**

Fire Department Operational Study recommendation was requested to be placed on the next agenda, it was not ready for the Committee.

### **Police Report**

August Police Report was placed on file.

### **Village Administrator**

#### **Accept letter from Mukwonago Policeman’s Association to participate in negotiations, and appointment of the Primary and Alternate to the Negotiation Committee, pursuant to the Negotiation Policy for the Village of Mukwonago.**

Administrator Weidl noted it is Village Policy to pick a primary and alternate for the negotiation committee.

Decker/Vermuelen motion to appoint Darlene Johnson and Eric Brill to the negotiating committee. Unanimously carried.

## **Village President**

President Winchowky announced Trick or Treat Hours will be October 27, 2019 from 4pm to 6pm.

President Winchowky noted the street name dedication for Hill Court will be October 16, 2019 at 5:30pm in honor of Dick Hill.

## **Closed Session**

Wamser/Vermeulen motion to convene into closed sessions pursuant to Wis. Stat. **§19.85(1)(e)** (*Deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session*) for discussion on the potential sale of land at the intersection of Boxhorn Dr. and Hill Ct. in the business park, negotiation of the Refuse and Recycling Contract, Amendment to Memorandum of Understanding with the Department of Transportation regarding the access to the Sommer/Pitts property, and pursuant to **Wis. Stats § 19.85 (1) (g)** (*Conferring with legal counsel who either orally or in writing will advise governmental body on strategy to be adopted with respect to current or likely litigation*) concerning the status of the Greenwald Family Limited Partnership vs. Village of Mukwonago litigation at 8:03pm.

Roll Call: "Yes" Trustees Brill, Decker, Johnson, Vermeulen, Walsh, Wamser, Winchowky.

Decker/Johnson motion to reconvene into open session pursuant to Wis. Stats. **§19.85(2)** at 8:40pm. Roll Call: "Yes" Trustees Brill, Decker, Johnson, Vermeulen, Walsh, Wamser, Winchowky.

## **Approval of quit claim deed to convey land acquired for DeBack Drive to the Greenwald Family Limited Partnership.**

Decker/Johnson motion to approve quit claim deed to convey land acquired for DeBack Drive to the Greenwald Family Limited Partnership. Unanimously carried.

## **Approval of Amendment to Memorandum of Understanding with the Department of Transportation regarding the access to the Sommer/Pitts property.**

Decker/Wamser motion to approve Amendment to Memorandum of Understanding with the Department of Transportation regarding the access to the Sommer/Pitts property. Roll call "Yes" Trustees Brill, Decker, Johnson, Vermeulen, Wamser, and Winchowky. "No" Trustee Walsh. Motion carried.

## **Adjournment**

Meeting adjourned at 8:42pm.

Respectfully Submitted,

Diana A. Dykstra, CMC  
Clerk-Treasurer