

**VILLAGE BOARD OF CLEVELAND, WISCONSIN
MONTHLY MEETING**

**TUESDAY, DECEMBER 19, 2017
7:00 PM – 9:00 PM**

MINUTES

- I. CALL TO ORDER/PLEDGE OF ALLEGIANCE/ROLL CALL/AGENDA APPROVAL.** Village President Kathy Stolzmann called the meeting to order and led the Pledge of Allegiance at 7:00 pm on Tuesday, December 19, 2017, at the Cleveland Village Hall, 1150 W. Washington Avenue, Cleveland, Wisconsin.

Board Present: Kathy Stolzmann, Village President
John Ader
Robert Fink
Jacob Holzward
Nicholas Jaeger
Joel Roehrig
Andy Williams

Board Absent: None

Staff Present: Stacy Grunwald, Director of Village Services
Julie Rusch, Deputy Clerk-Treasurer

Motion Jaeger/Fink to approve the agenda as posted; carried without negative vote.

- II. CITIZEN INPUT AND COMMUNICATIONS; POSSIBLE REFERRALS.** No input was offered. Director Grunwald reported a letter was received from Manitowoc County Executive Bob Ziegelbauer in response to the Board's resolution in support of a county sales tax; and a thank-you note to Trustee Ader and the Board was received from Mr. and Mrs. Harold Stein for the new holiday decorations. Trustee Jaeger stated the Town Board of Schleswig strongly supported the sales tax, according to a published news account.

- III. NOVEMBER 21, 2017, REGULAR MEETING MINUTES.** Motion Roehrig/Williams to approve the minutes of the November 21, 2017, regular meeting; carried without negative vote.

IV. SANITARY SEWER UTILITY

- A. RATE SETTING.** The Board discussed the sewer utility's ability to absorb various rate reduction options and the impact to the utility's general cash position, the utility's long-range planning needs, the use of savings and debt to finance projects, and the timing of future rate adjustments. The majority believed the utility should keep the combined water/sewer rates stable at this time to reduce the need for a large increase later, particularly since the impact of phosphorus discharge compliance may require a significant debt issue within the next ten years. Motion Jaeger/Williams to approve sanitary sewer rates as recommended by the Finance and Budget Committee; carried with two negative votes (Fink, Roehrig). [Refer to Ordinance 2017-R-04]
- B. BUDGET ADJUSTMENTS, IF NEEDED.** No adjustments were needed.

V. FINANCIALS

- A. MONTHLY VOUCHER LIST.** Motion Jaeger/Holzward to approve the November 2017 voucher list; carried without negative vote.
- B. BARBARA AND RANDY EWERT SEWER UTILITY CREDIT REQUEST.** The Public Works Committee recommended approval. Motion Roehrig/Fink to approve the sanitary sewer utility credit request filed by Barbara and Randy Ewert on the basis that the customer attempted to have the work completed within the timeframe for the seasonal consumption credit, the event triggering the request is a one-time occurrence, and the water used to establish the seeding did not enter the sanitary sewer system for treatment. Motion carried without negative vote.
- C. FEE SCHEDULE: NSF AND INSUFFICIENT FUNDS CHARGES.** The Finance Committee recommended the fee schedule be amended to incorporate the \$25 Water Utility returned payment fee authorized by the Public Service Commission, and retain the current \$35 General Fund and

Sewer Utility fees. Motion Ader/Williams to amend the fee schedule to add a \$25 Water Utility fee for payments not honored by a financial institution, as authorized by the Public Service Commission of Wisconsin; carried without negative vote. [Resolution No. 2017-R-07]

- D. **HIKA PARK PEDESTRIAN BRIDGE CHANGE ORDER #2 AND PAY REQUESTS.** The Finance Committee recommended approval. Motion Jaeger/Ader to approve Change Order #2 for the Hika Park Pedestrian Bridge Project and authorize payment to Anderson Bridges LLC and McMullen & Pitz Construction Company as recommended by the Village Engineer; carried without negative vote.

VI. CONTRACTS AND AGREEMENTS

- A. **JOINT POWERS AGREEMENT: MANITOWOC COUNTY JOINT DISPATCH CENTER.** The Human Resources and Public Safety Committee recommended approval. Motion Holzwart/Jaeger to approve the Joint Powers Agreement Between Manitowoc County Joint Dispatch Center and Village of Cleveland for the period March 1, 2018, through February 28, 2019; carried without negative vote.
- B. **HIKA PARK BOAT LAUNCH PROPOSAL: MSA PROFESSIONAL SERVICES.** The Public Works Committee and Finance and Budget Committee recommended approval. Motion Jaeger/Williams to approve the December 1, 2017 proposal submitted by MSA Professional Services for funding applications, data acquisition and synthesis, and concept development to replace the Hika Park boat launch facility; carried without negative vote.
- C. **SUPPORT PLAN AGREEMENT: INTRAC TECHNOLOGY.** *Referred to Finance and Budget Committee.*

VII. SITE PLAN AMENDMENT: HILLTOP DEVELOPMENT LLC

- A. **APPLICATION SUMMARY AND PLAN COMMISSION RECOMMENDATION.** President Stolzmann reviewed the Plan Commission findings and recommendation. These findings are as follows.

The existing wet detention basin was modified by the applicant into a reflecting pond without Village approval, and now the applicant wishes to retain the pond solely for aesthetic reasons, according to the application. Yet the pond contains rotting vegetation and garbage, and the outlet is plugged with sediment and cattails. It has not been maintained in a manner that supports its continued existence as an aesthetic benefit to the property.

As approved in 2011, a portion of the land the applicant proposes for the second basin was intended for construction of residential improvements, not further stormwater treatment. Absent new construction, the proposal unnecessarily limits land for future development; and the applicant was not present to discuss the market analysis referenced in his application.

The applicant proposes to accomplish with two basins what should have been, and possibly still could be, accomplished with one. The applicant must demonstrate it is unreasonable or unnecessarily burdensome to alter the existing pond within its current footprint so it can perform as originally designed and approved.

While the second basin is intended to provide stormwater treatment not currently experienced on the property, the applicant has not demonstrated why allowing construction of a second basin in close proximity to the 100-year flood elevation and in a wooded and/or marshy area is a preferable alternative to address the issue.

The existing wet detention basin had been designed to remove 90% of total suspended solids from the developed site. Staff estimates the current removal rate is perhaps 15% instead, meaning this property, and possibly downstream properties, have been exposed to years of negative impacts from the run-off. Even if the applicant would be directed to perform ordinary and routine maintenance on the existing basin as part of this approval, the basin would still not be functional since the applicant is proposing no changes to it.

Lastly, the applicant previously reported to staff and the Village Board that the existing pond had to receive multiple 'shock treatments' with chemicals of an unstated quantity and type due to significant vegetative growth. Given the poor drainage from the pond, these chemicals were trapped in the pond until a large storm event could send them to the creek. The perimeter of this pond is

unprotected and easily accessible by residents and visitors, including children and their pets. This is a potentially toxic and hazardous condition. No information was submitted on how this would be avoided in the future and the applicant was not present to explain.

- B. DISCUSSION/ACTION.** Motion Jaeger/Ader to adopt the findings of the Plan Commission and deny the November 15, 2017, Site Plan Application submitted by Expedite Development LLC to construct a second wet detention basin on property owned by Hilltop Development LLC, based on the findings that 1) the proposal is not consistent with the purposes for the zoning ordinance and 2) it allows to continue or creates nuisances as outlined in Sec. 10-1-136, Code of Ordinances. The applicant's claim the existing basin must be retained in its current condition for aesthetic reasons is not supported in the record; developable land is unnecessarily restricted by construction of a second basin; the applicant has not demonstrated it would be unreasonable or unnecessarily burdensome to reconstruct the existing basin; it is inefficient to construct two basins to do work which can be performed by one; the second and possibly unneeded basin would be located close to the creek, in a marshy and/or wooded area; function of the existing pond will not be changed, even with improved maintenance; and the accessibility of the pond combined with the applicant's current chemically-based maintenance efforts place tenants, visitors, pets and wildlife at risk on the property and threatens the health of the creek and downstream properties.

VIII. REPORTS ON COMMITTEE PREVIOUS REFERRALS: BUILDING INSPECTION SERVICES.

Director Grunwald indicated the current Building Inspector is willing to assist until a replacement inspector or inspection service is located.

IX. STAFF AND COMMITTEE REPORTS.

- A. POLICE DEPARTMENT.** Report on file.
B. ADMINISTRATION. Director Grunwald reported on outstanding and in-process Requests for Proposals, updates on ordinance drafting projects, a briefing on outstanding compliance issues, filing for local election seats, the health insurance carrier transition, and the start of tax collection.
C. PLAN COMMISSION, 12/06/17. All items on the agenda.
D. HUMAN RESOURCES AND PUBLIC SAFETY COMMITTEE, 12/11/17. All items on the agenda.
E. PUBLIC WORKS AND UTILITIES COMMITTEE, 12/12/17. All items on the agenda.
F. FINANCE AND BUDGET COMMITTEE, 12/14/17. Chair Jaeger reported the Committee was suspending further discussion on the wheel tax while the City of Manitowoc proposal for a 0.5% sales tax is pending before the County Board.

X. ANNOUNCEMENTS AND EVENT REPORTS.

- A. MON DEC 25 VILLAGE HALL CLOSED; STAFF HOLIDAY**
B. MON JAN 1 VILLAGE HALL CLOSED; STAFF HOLIDAY
C. TUE JAN 9 HUMAN RESOURCES AND PUBLIC SAFETY COMMITTEE, 7:00PM
D. THU JAN 11 FINANCE AND BUDGET COMMITTEE, 7:00PM
E. TUE JAN 16 VILLAGE BOARD, 7:00PM
F. WED JAN 17 MANITOWOC COUNTY VILLAGE ASSN, ST. NAZIANZ, 6:30PM.
The Board should watch their email for the invitation since the RSVP deadline will precede the next regular meeting.
G. TUE JAN 23 PUBLIC WORKS AND UTILITIES COMMITTEE, 7:00PM. The meeting was moved to Thursday, January 25, 2018, 7pm.
H. ACTIVE SHOOTER TRAINING UPDATE. Trustee Holzwart took the DVD.
I. ANY OTHER ANNOUNCEMENTS/EVENTS. Trustee Jaeger announced he will be moving from the Village mid-February 2018 and resigning his seat at that time. The January Village Board meeting agenda will include discussion on filling the vacancy.

XI. CLOSED SESSION

- A. CONVENE IN CLOSED SESSION.** Motion Stolzmann/Jaeger to convene in closed session pursuant to Sec. 19.85 (1) (e), Wis. Stats., to conduct other public business where competitive reasons require a closed session to consider (1) submittals from Expedite Development LLC, Hilltop Development LLC, and Kevin Kleinert of Expedite Services as they relate to enforcement of development agreements; and (2) enforcement of development agreements with Expedite Development LLC and Kevin Kleinert as they relate to the Hilary Heights Development

bioretention system; and (3) Sec. 19.85 (1) (c), Wis. Stats., to consider the compensation and performance evaluation data of public employees over which the Village Board has jurisdiction or exercises responsibility, and Sec. 19.85 (1) (f), Wis. Stats., to consider the financial, medical, social and personal histories of specific persons and preliminary consideration of specific personnel problems which, if discussed in public, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such histories or data, or involved in such problems. Roll call—all ayes. Motion carried. Director Grunwald remained for the duration of the closed session.

[The public and Deputy Clerk-Treasurer Rusch left the meeting—8:37 pm.]

The Board discussed competitive options to address the enforcement of development agreements with Expedite Development LLC and Hilltop Development LLC, and received an update from Director Grunwald on impacts to work product and timeliness being experienced due to some external issues affecting individual employees.

- B. RECONVENE IN OPEN SESSION PURSUANT TO SEC. 19.85 (2), WIS. STATS.** Motion Stolzmann/Williams to reconvene in open session pursuant to Sec. 19.85 (2), Wis. Stats. Roll call—all ayes. Motion carried.
- C. POSSIBLE ACTION ON MATTERS A. (1) AND A. (2) DISCUSSED IN CLOSED SESSION.** Motion Jaeger/Fink directing staff to notify Kevin Kleinert and Hilltop Development LLC that the Village Board is exercising its rights under Sec. 11.02 of the July 12, 2011 Development Agreement with Hilltop Development LLC and will replace the existing basin with a wet detention basin constructed in accordance with approved specifications and current State of Wisconsin standards. An agreement to maintain the basin will be required. The Village will assess its costs as a special charge against the real estate in accordance with the Development Agreement and provisions of Sec. 66.0627, Wis. Stats. Motion carried without negative vote.

Staff was directed to return a proposal from the Village Engineer to correct the deficiencies with the wet detention basin at Hilltop Development LLC and related work.

Staff was directed to contact Mr. Kleinert for an acknowledgement that he received the Board's notice regarding the bioretention system at the Hilary Heights development.

- XII. ADJOURNMENT.** Motion Williams/Fink to adjourn; carried without negative vote. The meeting adjourned at 9:00 pm.

Respectfully submitted,

/S/Stacy Grunwald

Stacy Grunwald
Director of Village Services

Approved on 01/16/2017