

Village of Elm Grove Board of Trustee Meeting Minutes - Special Meeting

Board of Trustee Call to Order:

The meeting was called to order at 9:33 AM

Roll Call:

PRESIDENT PALMER

TRUSTEE CORNELL – appeared via Zoom

TRUSTEE STUCKERT – appeared via Zoom

TRUSTEE KOLESKI – appeared via Zoom

TRUSTEE SCHINDLER

TRUSTEE MICHALSKI

TRUSTEE SAYAS

DAVID DEANGELIS, VILLAGE MANAGER

HECTOR DE LA MORA, VILLAGE ATTORNEY

ZONING ADMINISTRATOR - vacant

SANDEE POLICELLO, VILLAGE CLERK/DEPUTY TREASURER

- 1.) Public comment – please note comments read into record are included in the minutes. Comments emailed to Village Board members, but not read aloud, are not included.

Joe Kujawa – 1685 Lindhurst Drive – Mr. Kujawa said it was curious that after multiple requests for proposal we are deciding for a third request for proposals. It seems like a bad pattern to look for an audit to say what we want it to say. Justice Roberts said just because you don't like the outcome of a decision does not mean that it was decided wrongly, illegal or it's invalid.

Patty Kujawa – 1685 Lindhurst Drive – Ms. Kujawa asked if Trustees Koleski or Stuckert attended training offered by the Wisconsin League of Municipalities. The last meeting was embarrassing. Motions were changed when the votes were not going to be received. Mandel has offered to meet with the trustees – she met with them [Wangard] regarding the Reinders project, which was helpful. She understands that Stuckert refused to meet with Mandel, which she thinks is a mistake. Without the training and without meeting with Mandel – it's a bad record of you not willing to learn or to do your job. There were three closed session meetings to discuss water. She has to believe that moving water from the Village to the developer had to be discussed. Due to the court placing an injunction on the Village, the Village did what it needed to do to keep the project moving forward; which from what she sees is not an unusual way to fund a project. The motion today will not undo the contracts that have been signed with Mandel. This will cause delay again. This is not professional, without having had all of the discussions. At the February Plan Commission meeting the project passed 3 – 2. At the March Finance meeting it passed 4 – 1. The system worked the way it was supposed to. She writes for a very large audit group and she asked if you can do a partial audit; you can, but to pick and choose and set a number to it, she doesn't believe it would be a valid audit.

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Mike Hamilton, 13130 Watertown Plank Rd. – Mr. Hamilton lives at The Watermark and has for 14 years and is a Village resident for 45 years. He was president of The Watermark condo association for 10 years. He has intimate knowledge of how Mandel operates – you will not find a better contractor and builder. We have to maintain the old buildings on the SSND property; Mandel is probably one of the few that can make that work; so trying to not have this happen is confusing to those at The Watermark. What is the end game – to find an infraction in the process? If something is found, which he doubts, if we stop the project, their loss will be large and affect the Village. Would there be a court case using millions in Village money? He has gone through 5 water heaters in 14 years due to the water; we need Lake Michigan water – most people see that as an improvement for the whole Village. I would implore you to get this behind us.

**Hearing no one else present who wished to speak – the public comment period was closed.**

- 2.) Review and possible action regarding Addendum #3 to Agreement between the City of Brookfield and the Village of Elm Grove for the Purchase of Water.

David DeAngelis, Village Manager, introduced this item. It has gone through the Public Works Committee and has been approved by Brookfield. Emerald Woods is anxious to get this process started so they can have reliable water service.

**MOTION BY TRUSTEE SCHINDLER, SECOND BY TRUSTEE MICHALSKI, TO APPROVE ADDENDUM #3 TO AGREEMENT BETWEEN THE CITY OF BROOKFIELD AND THE VILLAGE OF ELM GROVE FOR THE PURCHASE OF WATER.**

**ALL WERE IN FAVOR, MOTION CARRIED.**

- 3.) Review and possible action on the Request for Proposal for Legal Services for the Purpose of Review concerning the creation of Tax Increment District #3 (TID #3) process and the approval of Tax Increment Financing (TIF) for TID #3 process.

Trustee Stuckert said in the draft RFP contains the language that she submitted to Mr. DeAngelis, with one exception, she said the Village is budgeting \$25,000 and the RFP says there is a cap of \$25,000. Mr. DeAngelis said that language would allow for spending less than \$25,000 by putting a cap on it. Trustee Stuckert wants it to read budgeting up to \$25,000.

Trustee Stuckert said in reviewing Ordinance 30-2A., B(1) and B(2), it looks like we don't have to do this RFP and could move to approve Attorney Blackburn this morning. They are experienced in land use, zoning, taxation and development. It seems to her that we have a qualified person for the review.

President Palmer asked Trustee Stuckert for clarification. Trustee Stuckert said based on her understanding of the ordinances, we can move on the draft that is here today, we don't have to send out another RFP. President Palmer said he believes, if you are going to change the terms of the RFP, you owe the other firms that were solicited, the opportunity to participate under the new RFP.

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Attorney de la Mora said Palmer was correct in characterizing what he said. He added that procedurally the board rejected the previous responses. His understanding is that you would proceed to create a new RFP which is the subject of the agenda today.

Mr. DeAngelis addressed Ch. 30 of the Code. He said this section addresses public works and projects over \$25,000 that fall under Wis. Stats. Sec. 54(3)(h) and 61.55,, this exempts professional contracts to do a formal bid process for public works as identified in the statutes. The carve out is for professional services, which allows what the Board is doing now to get proposals. There are no publication or public notice requirements. You don't have to take the lowest bidder.

Trustee Stuckert said she was told by three different attorneys that it does apply. She was advised that she could directly make a motion.

President Palmer said if she wants to move to act she can. We don't know who you talked to and their qualifications – this sounds like a recipe to incorrect procedure and get people to sue you.

Trustee Stuckert asked Attorney de la Mora if she can do this. Attorney de la Mora said if the Board moves to award a contract to a firm, as long as it is not more than \$25,000, the Board can issue that contract. You have a procedural problem in that the notice for this meeting does not contemplate the award of a contract. That, in his opinion, would be a violation of the open meeting law; which can be cured by noticing another meeting with the different subject matter.

**MOTION BY TRUSTEE STUCKERT TO SEND OUT THE RFP AS STATED WITH THE CORRECTION TO THE AMOUNT AS ORIGINALLY SUBMITTED WITH THE RETURN DATE IN 2 – 3 WEEKS TIME.**

President Palmer asked for clarification.

**TRUSTEE STUCKERT MOVED TO SEND OUT RFP THAT REVIEWS THE CREATION OF TID #3 AND THE ASSOCIATED TIF ALONG WITH THE PROCESS BY WHICH THE PUBLIC WORKS PORTION WAS ADJUSTED DAYS BEFORE THE REFERENDUM VOTE. FOCUS ON FINANCIAL REVIEW OF TIF/TID AND APPROVAL PROCESSES. THE SCOPE OF WORK ASSOCIATED WITH THE RFP RELATED TO THE CREATION OF TID #3 DEVELOPMENT AGREEMENT AND THE FORMATION OF TID #3 INCLUDES, AND THERE SHOULD BE 5 ITEMS UNDERNEATH THERE, THE LAST ONE OF WHICH STATES ANY OTHER ITEMS DEEMED APPROPRIATE AS THEY RELATE TO THE BULLETS 1 – 4 ABOVE. THE SCOPE OF THE WORK INCLUDES REVIEW OF PUBLIC RECORDS OF THE REVIEW AND APPROVAL OF THE TID AND RELATED DEVELOPMENT AGREEMENT. THIS INCLUDES RECORDED VIDEOS OF THE MEETINGS FROM SEPTEMBER 1<sup>ST</sup> TO THE FINAL APPROVAL OF THE TID BY THE JOINT REVIEW COMMITTEE AND ASSOCIATED WRITTEN MINUTES. ANTICIPATE FINAL REVIEW OF THE REPORT WILL BE COMPLETED WITHIN 60 DAYS WITH NO INTERIM REPORT. THE VILLAGE OF ELM GROVE TO BUDGET \$25,000 FOR THE ABOVE.**

President Palmer questioned the September 1<sup>st</sup> date in the motion.

Trustee Stuckert confirmed she wants the date in the motion to be February 1<sup>st</sup>.

**MOTION SECONDED BY TRUSTEE KOLESKI.**

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There was discussion regarding the motion.

Trustee Stuckert called the question.

Trustee Sayas said she would like a delay to look at the numbers.

**ROLL CALL VOTE – AYE: STUCKERT, KOLESKI, SCHINDLER**

**NAY: MICHALSKI, PALMER, SAYAS, CORNELL**

**MOTION FAILED**

4.) Adjournment

**MOTION BY TRUSTEE MICHALSKI, SECOND BY TRUSTEE SCHINDLER, TO ADJOURN THE MEETING.**

**ALL WERE IN FAVOR. MEETING ADJOURNED AT 10:28 AM.**

Minutes submitted by: Sandee Policello

Minutes Approved on: October 24, 2022