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Sent: Wednesday, August 31, 2022 10:48 AM

To: Village President Neil Palmer; David De Angelis

Subject: SSND Development Feedback

Dear Elm Grove Village Trustees:

First of all, thank you for your service to the Village of Elm Grove! I have intently followed the SSND property development discussions since the project was initially introduced. I also support this development moving forward as I believe it is in the best interest for the whole of Elm Grove, including its residents and businesses. I wish to offer a few comments on the most recent Board discussions surrounding this project for your consideration.

During the EGV Board meeting on August 22nd, the SSND TID independent counsel RFP topic including two responses to the RFP was discussed. As you know, one of the responders declined to bid on the RFP based on a conflict of interest. The other responder was attorney Joe Cincotta. Mr. Cincotta currently represents a group of residents in the Village of Bayside who are opposing a TID approved by the Village of Bayside Joint Review Board in December 2021. Additionally, Mr. Cincotta is representing Underwood Neighbors United against Wauwatosa Board of Appeals regarding the Drew Tower project. I question whether this attorney will represent an independent unbiased review of the EGV Board TID actions given his public record on similar proceedings. If this bid is selected, it will likely be a self-fulfilling prophecy as to what the review outcome will be. Despite good advice and appeals from several residents at the meeting, four Trustees voted to proceed with the RFP for the legal review of the SSND TID. One of them even requested that attorney Joe Cincotta remain as a bidder.

Mandel's attorney was in attendance and spoke at the meeting. He indicated that he submitted another letter (in addition to the letter submitted at the July Board meeting) to the Trustees concerning this matter. The attorney pleaded with the Trustees to avoid this review, as the Village had made a legal commitment to the Mandel development project. Reneging on the commitment could carry significant financial liability for the Village. I am dismayed at the total lack of common sense and fiduciary responsibility being displayed by the four Trustees who voted to continue with the RFP and seek out additional bidders. Mandel and

the SSND organization are not just going to pack up and leave tens of millions of dollars on the table. All property taxpayers in EGV will be harmed by not only the loss of tax revenue from the development, but also the legal and potential claim costs against the Village. I'm not OK with that and I doubt if other EGV residents are either.

In addition, it seems that the new Trustees are putting themselves in legal jeopardy by pursuing this legal action against the Village they represent. I'm not a lawyer, but typically I believe the Village would provide liability protection for its officers. However, if an officer(s) deliberately fails to carry out their duty by directing the Village to get itself sued, I don't believe that protection carries forward. I also found it interesting that one of the new Trustees stated in the July Board meeting that she had a conversation with an outside attorney that she was engaging on this topic. Apparently, that attorney advised her that the RFP purpose was not broad enough as drafted. It seems odd that one of our Trustees is engaging outside counsel against the Village. We can't have Trustees acting to litigate their own Village that they were elected to represent. They are supposed to represent the whole of the Village entity, not just the wishes of special interest constituents. Hopefully, these Trustees have been appropriately advised on their fiduciary responsibilities and potential outcomes if they fail those duties.

During the July Board meeting, one of the new Trustees spoke about the need to address public comments. He seemed very sincere about that need. During that same meeting, one concerned resident spoke about several issues he had with the direction the EGV Board was taking with respect to the RFP for legal review of the TID #3. I thought it would be a perfect opportunity for the new Trustees to respond to his comments at the meeting. Unfortunately, these Trustees spent much of their time wordsmithing the purpose of the RFP. Subsequent to the meeting, this resident submitted his concerns in writing to the Village president. I have yet to see his comments addressed in a public forum by the Trustees.

Since the initial planning for the SSND development, there have been several residents who have had negative comments about the development and have stated that no one on the Board listened to them; however, that's not true. Just because the result did not meet their view of an ideal development, does not equate to the Board not listening. Listening is a two-way street. The Board and the developer made significant changes to the original proposal based on what

they heard from the community, yet of few these vocal residents mention that positive act of listening. Time and again, more studies were completed and communicated to this group of residents, yet few of them were willing to hear or accept the results.

I understand that change can be difficult to accept; however, without change, at best we will stagnate, but more likely we will weaken as a community. Change carries with it risks, but as long as those risks are appropriately managed, the rewards can be great. Now is the time for the Board and community to focus on the future of the SSND development and plan for its implementation and completion. Bottom line is the development is approved, we have to accept that not everyone will be happy with it, and it's time to move forward with more positive energy to implement the approved development agreement with Mandel. I plead with the Trustees to do just that!

Sincerely,

John McNamara