

**COMMON COUNCIL - CITY OF MUSKEGO
MINUTES OF MEETING HELD APRIL 8, 2008**

Approved 4/22/2008

Mayor Johnson called the meeting to order at 7:30 p.m. Present were Ald. Fiedler, Schaefer, Melcher, Werner, Borgman, Pavelko, and Snead, City Administrator Sheiffer, Clerk-Treasurer Moyer, Plan Director Muenkel, various City staff, and City Attorney Molter. Those present recited the Pledge of Allegiance. The Clerk stated that the meeting was noticed in accordance with the open meeting law on 4/4/2008 and as amended on 4/7/2008.

PUBLIC COMMENT

The following registered to speak regarding Park Arthur:

Sandy Kurka, W181 S6587 Muskego Drive
Dan Wendorf, W178 S6673 Paige Court
Renate Asti, S66 W18080 Hardtke

PUBLIC HEARINGS

To consider levying special assessments upon properties within the Hillside Drive Drainage Improvement Area.

Mr. Ken Ward of Ruckert-Mielke was present. What is being considered is the Hillside Drive Road Reconstruction and Drainage project. The west side of Hillside Drive is anywhere from five to ten feet higher than the east side of the road. Because of this, drainage issues are present for the homes on the east side, especially during heavy rain. The proposed solution to the problem is a slotted drain. This has been found to be successful in the majority of rain events. If the project moves forward, it would be bid out in May, the bid awarded in June, and construction beginning in July. A portion of the project was bid out last fall; the low bid at that time was approximately \$61,000. Residents in the area discussed adding another 125 feet of pipe to the project with the Public Works Committee. The estimated project cost is now approximately \$129,900. The City's contribution would be \$40,000 leaving an estimated project cost of \$89,900. The cost of \$89,900 would be divided by the number of affected parcels, which is 16 resulting in an assessment of \$5,621 per lot. Mr. Ward noted that one residence within the project area is situated on two parcels. The property owner could combine the two parcels by certified survey map. The number of units would then be reduced to 15 with the per lot assessment being \$5,996.

The assessment could be paid off by November 1 of this year, or added to the tax roll to be paid off over a period of years, which would have to be determined by the Common Council. The City does not have a specific policy for this type of project. Mr. Ward noted that the City has allowed a five to ten year payment plan in the past for other projects and typically allocated an 8% interest rate if an assessment is paid using an installment plan.

Mr. Ward stated that City personnel would do some of the ditch work and install a new culvert on the southern end of the project.

The following individuals spoke regarding this issue:

Greg Nisenbaum (Nisenbaum Homes & Realty)

- Maintenance of culverts may take care of the problem.
- City could look at making the culverts deeper.
- Slotted drain may not always handle all the capacity.

David Drow, W192 S7224 Hillside Drive

- DPW removed culvert on his property and will not replace it. He does not understand why. (Distributed photos.)
- Problems have existed for some time and are the result of poor engineering, which is not the fault of the property owners.
- Opposes the assessment.

Art Johnson, S72 W19236 Lochcrest Blvd.

- Does not have a problem because he is on the west side.
- Road has been covered three or four times since he has been there (44 years).

Sharon Johnson, S72 W19236 Lochcrest Blvd.

- Does not have access to Hillside.
- Gave an easement to the City to maintain the ditches. The City has not done so.
- Assessment is not fair; road is public, not private.

Ron Pasholk, W192 S7253 Hillside Drive

- Presented examples of similar work where the City covered the cost.
- Opposes the assessment, not the problem being corrected.
- The problem was created because the road was never milled down each time it was resurfaced.

Kristine Walker, W192 S7216 Hillside Drive

- 2006 Public Works Committee appropriated \$40,000 (plus \$15,000 in contingency) to solve the problem. Committee members then changed and the residents received opposition from the new committee. She believes the 2006 committee would have appropriated the additional funding necessary to solve the problem.
- Strongly opposes the assessment. Her property has issues that need to be addressed because of damage caused by the existing water drainage. The drainage issues are the result of years of resurfacing and poor storm water management.

Carol Kluchesky, W192 S7290 Hillside Drive

- Had major work done on her house because of water damage.
- The proposed project will finish halfway down her driveway. All the water will continue to run off onto her property.
- Opposes assessment; City should correct the problem.

Adam Verburgt, W192 S7215 Hillside Drive

- Against the special assessment.
- Concerned about drainage problems to the north.

David Drow

- Concerned about future resurfacing
- Project does not cover all of Hillside Drive as stated by Mr. Verburgt. All of Hillside Drive is a concern.

Jeff Petak, W192 S7225 Hillside Drive

- Lives on west side of street so problems are minimal.
- Is familiar with the problems on the east side of Hillside because of being in the real estate business. Opposes the special assessment because the road is public.
- Something should be done for the properties on the east side.

Kylie Braam, W192 S7201 Hillside Drive

- Lives on west side of the street. Ditch has not been maintained.
- Opposed to the special assessment.

Dean Kluchesky, W192 S7290 Hillside Drive

- Strongly opposes the assessment.
- Road never was milled down during the 29 years he has been there.
- City is not maintaining the ditches.
- This is a City problem; the road should have been done correctly and it wasn't.

Tom Current, W191 S7173 Luehring Drive

- Not in assessment area.
- Can attest to the fact that water comes across his property from Hillside to Luehring.

Kim Petak, W192 S7225 Hillside Drive

- Located on west side.
- Road maintenance should not be the responsibility of the individual homeowner; City should take care of the problem. Money was allocated for the project.

Ron Kohler, W192 S7196 Hillside Drive

- Spent a lot of effort and money to correct the water problems on his property.
- Against the assessment.

Richard Logan, W192 S7195 Hillside Drive

- Opposed to the assessment. City laid pipe in his culvert, which is now clogged and should be cleaned out.

Ginni Kohler, W192 S7196 Hillside Drive

- Lives on the east side of Hillside Drive. Has experienced severe water problems since occupying her house in 2001.
- In 2007, she was told by the City that this was her problem.
- Has spent several thousands of dollars to correct the problem on her property.
- Still has problems during very heavy rainfalls.
- Problems exist because the asphalt has been resurfaced so many times and the ditches have not been maintained. Road is pitched to the east.
- Tax dollars should be used for engineering costs.

- She questioned how road projects are prioritized and could grant money not be used.
- Assessing the properties is not acceptable.
- Submitted petition from the Hillside Drive property owners stating that road needs to be re-engineered and resurfaced, and the ditches and culverts need to flow freely in order to address the problems that exist. The property owners strongly oppose any special assessment for the repairs because state statutes state that the City is responsible for storm water management and street maintenance.
- Can a grate or french drain be used?

David Drow expressed concerns about the slotted drain:

- Ice buildup
- Who will be responsible for maintenance, repairs and cleaning? Will the residents be assessed again?

Mr. Ward stated that maintenance of the drain would be the City's responsibility. If ice becomes an issue, the City could address it. Mr. Ward stated that he believes this has been a long-term problem. A number of factors have added to the problem: development in the area, more paved areas, road overlays. He believes the road was last resurfaced in 1998 and milling of pavement was not a large industry at that time. The conditions have changed over time, which has added to the situation.

It was determined that the issue should go back to the Public Works Committee. The Mayor declared the hearing closed at 8:50 p.m.

The Mayor called the next public hearing to order to consider the petition of Brian Riordan to rezone property located east of Moorland Road within Tax Key Number 2169.999.001 from BP-3 - Business Park District to B-3 - General Business District for the purpose of allowing future commercial uses.

Plan Director Muenkel stated the rezoning petition is for an area on the east side of Moorland Road, just south of College Avenue. The area is located within TIF District #10. The rezoning would allow more merchandising and retail uses. He stated that the approved TID project plan stipulated that commercial uses would drive the development of the east side of Moorland Road. The B-3 district allows parcels a minimum of 20,000 sq. ft. in size vs. the BP-3 district that allows parcels a minimum of 80,000 sq. ft. in size. The Plan Commission did review this and expressed a concern regarding the minimum lot size. Mr. Muenkel stated that the developer is present and intends to build a larger type retail center. Plan Commission did recommend approval of the rezoning to the Council. The Mayor expressed concern that if the offer to purchase falls through; development of a strip mall would be a possibility once the property is rezoned. Atty. Molter stated that a new zoning category could be created.

Bill Carity was present as the proposed developer. The development of larger businesses on the east side of Moorland Road is proposed to be compatible with the GE facility, which will be located on the west side. Atty. Molter stated that he would not be involved in representing the City regarding this development while Mr. Carity is involved because he is related to him.

Dean Strom, W173 S8011 Scenic Drive, asked what the City envisioned for the area. Mr. Muenkel stated the uses by right allowed in the B-3 district include general merchandising and wholesale establishments, hotels, transportation terminals and the uses allowed within the B-1 and B-2 districts (general retail and offices). He noted that the BP-3 district allows hotels, public offices and light manufacturing, but does not allow general merchandising.

Scott Pochowski, W153 S6609 Lawndale Place, stated his property is located to the east. He expressed concern about how future development of the area could adversely affect his subdivision. He prefers that any future access not be directed toward his neighborhood.

Mr. Carity noted that the zoning being requested (B-3) has a 60% floor area ratio vs. 80% as allowed by the current zoning; more open space would be preserved.

Earl Duewel, W151 S6587 Glenbrook Drive, stated he lives in the same subdivision referred to by Mr. Pochowski. He would like to see the land remain as it is. The GE development will heavily increase traffic.

Paula Johnson, S72 W14867 Rosewood Drive, stated she owns the southeast corner of College and Moorland. Her concern is what businesses will locate on the site.

The Mayor declared the hearing closed.

The Mayor called the next public hearing to order to consider a revision to Chapter 17, Zoning Ordinance, Section 5.02, and a revision to Chapter 18, Land Division Ordinance, Sections 18.31 (3)(b), 18.32(3)(b), 18.33 (3)(b), 18.43 (2) and 18.80 (2), of the Municipal Code relating to the establishment of a Wetland Protection Offset.

Plan Director Muenkel stated the City has worked closely with the Wisconsin DNR regarding wetland protection. The DNR must concur with any wetland delineation before the City can approve a land division that has a wetland within its boundaries. The DNR also identifies the susceptibility of the wetland, which ranges from low to medium to high. The City has enforced the following setbacks for the past few years:

High susceptible wetlands - 75 ft. offset required.

Medium susceptible wetlands - 50 ft. offset required.

Low susceptible wetlands - 10 ft. offset required.

Mr. Muenkel stated that the proposed ordinance would officially place the setbacks in the City's Municipal Code. The DNR supports the proposed ordinance.

No one requested to be heard. The Mayor declared the hearing closed. The Council took a brief recess.

NEW BUSINESS

Reso. #064-2008 - Approval of Employee Performance Evaluation and Merit Pay/Incentive Program. **Werner moved for adoption. Fiedler seconded.** The following comments were made: Pavelko-cannot support, elimination of positions was discussed at budget time, the City cannot afford at this time; Schaefer-believes employees should be able to move through range, wants to ensure that the City's salary

ranges are comparable with other communities; Werner-this is just a plan to allow employees to move through the salary ranges whatever they may be, Fiedler-this plan makes government run more like private enterprise and rewards good employees; Werner-also allows identification of employees that may need coaching; Snead-likes the plan because it is goal oriented; Schaefer-also likes that the plan provides an evaluation tool. **Motion carried 6 in favor and Pavelko voting no.**

Reso. #065-2008 - Approval of Master Plan for Park Arthur. **Borgman moved for adoption. Fiedler seconded.** Borgman stated proposals and suggestions were made at the Plan Commission public hearing that would have been beneficial, but were not even considered. He advised that the Council take the opportunity to look at the plan before approving it. Werner stated a few constituents contacted him and do support the project. The project will not be done all at once; progress will be evaluated. Fiedler agreed that the incremental development of the park would protect the neighborhood and surrounding area. The need for the park exists and this is good for the City. Pavelko stated he would abstain because of his involvement with the MAA. Schaefer stated that in working with the Teen Advisory Board she has learned that the teens want more athletic fields. She requested that if the grant money is not received, the project be re-evaluated. She encourages the Park & Rec. Dept. to work toward sponsorship as well as an "Adopt a Park" program; this could help with maintenance. She supports the park. Snead stated that the Park & Rec. Dept. does have a five-year plan that addresses park maintenance. Discussions are taking place to have the stakeholders take ownership of the parks and help with their maintenance. She supports the park and encourages that the process move forward especially in light of the availability of grant funding. **Motion carried 5 in favor, Borgman voting no and Pavelko abstaining.**

CONSENT AGENDA

Borgman moved to approve the Consent Agenda subject to removal of Reso. #060-2008 as requested by Schaefer. Snead seconded. Motion carried 7-0.

The following items were approved:

Common Council Minutes of 3/27/2008

Reso. #059-2008 - Acceptance of Quote Submitted by Municipal Well and Pump for Wells #2 and #7 Maintenance.

Reso. #061-2008 - Acceptance of Quote for Utilities Cube Van.

Reso. #062-2008 - Denial of Certified Survey Map - Lawlis.

Reso. #063-2008 - Approval of Squad Car Purchase - Police Department.

Reso. #069-2008 - Approval of the City of Muskego Grant Reimbursable Program Submittal for the Burying of Utilities and Streetscaping/Beautification of the Future Reconstruction of Janesville Road.

NEW BUSINESS

Reso. #060-2008 - Approval of Preliminary Plat - Edgewater Heights Subdivision. **Fiedler moved for adoption. Werner seconded.** Schaefer stated that she is concerned about the intersection of Woods and Racine Avenue. Review by the County Engineers of that intersection will take place during the construction process. Melcher

stated he does not support the development because of existing traffic congestion and its proximity to the high school. **Motion carried 6 in favor and Melcher voting no.**

Reso. #067-2008 - Approval of Request by Tess Corners Volunteer Fire Department to Purchase a Quint/Aerial Truck. **Werner moved for adoption. Fiedler seconded.** Pavelko stated it was his understanding that no vehicles would be purchased for either department until the unification was completed. Mayor Johnson said he put it on the agenda because the cost will increase \$20,000 within the next few months. He believes the City needs a new pumper. The Quint is a pumper and a much safer vehicle for the departments to use. The City should not have to purchase another pumper for the next three years. **Schaefer agreed with Pavelko and moved to defer until there is some resolution with the departments. Pavelko seconded. Motion defeated with Fiedler, Werner, Borgman and Snead voting no and Schaefer, Melcher and Pavelko voting yes.** Werner stated this is a versatile piece of equipment. He supports the purchase now; it is in the best interest of the City. Tess Corners has been requesting this piece of equipment for several years. Fiedler agreed for the reasons stated. This piece of equipment is needed; he supports the purchase now especially since the cost will increase. This ensures the safety of our citizens and volunteers. Schaefer believes there are an adequate amount of pumpers between the two departments; some of the equipment could be moved around. Snead supports the purchase because of the maneuverability of the truck and the aerial ladder. She also believes the purchase is appropriate because it provides better safety for the City's volunteers. Snead noted that MVFC also believes this piece of equipment is needed. **Motion carried 4-3 with Fiedler, Werner, Borgman and Snead voting yes and Schaefer, Melcher and Pavelko voting no.**

REVIEW OF COMMITTEE REPORTS

Minutes of the 2/26/2008 and 3/11/2008 Finance Committee, 2/26/2008 Committee of the Whole, 3/4/2008 Plan Commission, 2/18/2008 Public Works Committee, 2/18/2008 Public Utilities Committee, 2/11/2008 Parks and Recreation Board, 2/18/2008 Community Development Authority, 3/4/2008 2020 Comprehensive Planning Committee, 2/27/2008 Library Board, and 1/17/2008 and 2/28/2008 Teen Advisory Board were reviewed.

Reso. #066-2008 - Award of Bid - Moorland Road TIF Area Elevated Tank. **Borgman moved for adoption. Schaefer seconded. Motion carried 7-0.**

Reso. #070-2008 - Resolution as to Recommendation of the Fire/Rescue Committee to the Common Council. **Werner moved for adoption. Fiedler seconded. Werner moved to defer to the 4/22/2008 Council. Fiedler seconded; motion carried. Schaefer abstained.**

Ord. #1273 - An Ordinance to Amend the Zoning Map of the City of Muskego (Riordan/Moorland Road - BP-3 to B-3). First Reading.

Ord. #1274 - An Ordinance to Amend Chapter 17, Section 5.02, and Chapter 18, Sections 18.31(3)(b), 18.32(3)(b), 18.33(3)(b), 18.43(2) and 18.80(2), of the Municipal Code of the City of Muskego (Wetland Protection Offset). First Reading.

LICENSES

Melcher moved for approval of a regular Operator's License for Laura Jacobson, Adam Jankowski, Robert Lazo, Gary Schmutzer, Thomas Schroeder and Richard Winkler. Borgman seconded. Motion carried 7-0.

VOUCHER APPROVAL

Melcher moved for approval of payment of General Vouchers in the amount of \$695,583.50. Borgman seconded. It was noted that the amount did not include the \$1,395 voucher for legal expenses for MVFC. Werner stated that if money is in the approved budget, the voucher should be approved. Melcher stated that it is his understanding that the line item the voucher would be paid from is over. **Motion carried 7-0. Schaefer moved for approval of payment of Utility Vouchers in the amount of \$40,500.14. Borgman seconded. Motion carried 7-0. Melcher moved for approval of payment of Tax Checks in the amount of \$410,945.69. Werner seconded. Motion carried 7-0. Melcher moved for approval of wire transfers in the amount of \$127,730.07. Borgman seconded. Motion carried 7-0.**

CITY OFFICIALS' REPORTS

Pavelko stated that the Senior Taxi Service is now in operation.

CLOSED SESSION

Borgman moved to convene into closed session pursuant to Wis. Stats. §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, more specifically labor negotiations with Public Works and Utilities Departments for 2008. Action may be taken in closed session. The Common Council will then reconvene into open session to continue with agenda items. Melcher seconded. Motion carried 7-0. The Clerk-Treasurer and City Attorney were dismissed at 10:15 p.m.

OPEN SESSION

Borgman moved to convene into open session. Melcher seconded; motion carried.

Reso. #068-2008 - Authorize Execution of the Labor Agreement Between the Public Works and Utilities Departments and the City of Muskego for January 1, 2008 - December 31, 2008. Borgman moved for adoption. Melcher seconded. Motion carried 6 in favor and Schaefer abstaining.

ADJOURNMENT

Snead moved to adjourn at 10:20 p.m. Fiedler seconded; motion carried.