



Village of River Hills
7650 N Pheasant Ln
River Hills, WI 53217

Village Hall: 352-8213
Public Works: 352-0080
Police: 247-2302

BOARD OF TRUSTEES SPECIAL MEETING MINUTES

Wednesday, November 13, 2019 @ 5:00 pm

1. **Roll Call:** was answered at 5:00 p.m. by President Steve Anderson, Peter Kingwill, Kurt Glaisner, Peggy Russo (via phone), Chris Noyes (via phone), David Fritz (via phone) and Bill Walker (via phone). Also present: Village Manager Tammy LaBorde and Village Attorney William Dineen.

2. **PUBLIC COMMENTS ON NON-AGENDA MATTERS**

None

3. **DISCUSSION AND POSSIBLE ACTION Regarding request of Linda Wright, 1777 W Bradley Rd, to reduce the waiting period to commence activity related to the Fill Permit issued on November 7, 2019 as outlined in Section 15.02(1) of the Village Code from three weeks to 7 days.**

Village Attorney Dineen stated that this meeting is to consider the written request from Linda Wright and her attorney. The request was provided to the Board members in advance of the meeting along with a copy of the village engineer's recommendation. There was some concern about whether or not the special meeting can happen from the neighbor's attorney Joe Cincotta. According to the ordinance adopted in 2015, this meeting is allowable.

Timothy Andringa, attorney for Linda Wright presented a statement outlining the history from 2015 to the present related to his client's request. The fill permit was applied for and approved by the village engineer on November 7, 2019. On the issue of the surrounding neighbors being notified in a timely manner, he said that they were aware that work was able to be started since May 2019. This is why Linda Wright feels she should not have to wait the three (3) weeks before starting work and has requested to start the project within seven (7) days of issuance.

Frederick Vogel of 1805 W Bradley Rd, has a list of questions which he would like answered. At this time he only has 2 main questions – Who is the contractor that is doing the work and was the DNR permit given to said contractor. He is objecting to the decrease in the waiting time of the fill/excavation permit due to not knowing what is going with information that he is entitled to as a concerned citizen.

Trustee Bill Walker stated that he would like to go on the record in case he is unable to hear on the telephone or is no longer in attendance; he would like to vote yes to approving the waiting period of the permit to be only seven (7) days.

Trustee Peter Kingwill questioned Mr. Vogel in that he said that he was entitled to have a right to know who the contractor is but anytime anyone else has taken out any type of permit it was not required that

the neighbor was informed of who the contractor would be. This request is outside of the scope of what is normally required with this type of permit.

Mr. Vogel responded that normally this information would be found when a public records request is done and in this instance it does not. This is an issue that has been going on for some time and there has not been a resolution that has been acceptable which has led to a lawsuit.

Joe Cincotta, attorney for Frederick and Anne Vogel, stated that this property had work done in the fall of 2015 where vegetation was removed. The village engineer then did an inspection of the property and reported there was significant denuding of the river bank and a violation of village ordinance 2.40.

Village Attorney Dineen reminded the Board that the Vogel's are currently suing the village related to the interpretation of village ordinance 2.40. He stated that ordinance 2.40 is related to this topic however it is not part of the current issue before the Board.

Mr. Cincotta stated that the Vogel's have a right to pursue their concerns about an adverse impact to their property. He feels there should be a permit issued under ordinance 2.40 and ordinance 15.02 along with a DNR permit. There was a public hearing in January about the DNR permit which has been challenged and currently feels the DNR permit is not valid. The Vogel's are landowners affected by the filling/excavating permit and deserve to be provided full notice and therefore also have the right to appeal such notice. This has led to a filing before the Board of Appeals to appeal the fill/excavation permit and that is why the acceleration of such permit should not be granted since there is a stay to this permit. All work should not be started until all legal issues are resolved.

Trustee Christopher Noyes asked if the current DNR permit is still in effect and valid? Mr. Cincotta responded no; Mr. Andringa responded yes; and Attorney Dineen stated that there was a permit issued but currently he has not been informed that the DNR permit has been revoked or overturned by the court.

Trustee Christopher Noyes asked if the village engineer reviewed and approved the filling/excavating permit? Attorney Dineen responded yes.

Trustee Christopher Noyes asked if the sole purpose of this meeting is to shorten the timeframe of the notice for neighbors pertaining to this permit? Attorney Dineen responded yes.

Mr. Vogel stated the issue he is having is that the permit was issued on November 7th and it does not say who is doing the work, the type of work, nor a timeline of the work.

Trustee Peggy Russo asked if Mustafa knew who is doing the work? Attorney Dineen responded yes, that he has spoken with the engineer who was hired by Linda Wright. Mr. Andringa stated that the contractor hired to do the work is Chills Landscaping Contractors.

Mr. Andringa stated in response to the question about whether the DNR permit exists, the answer is yes and Ms. Wright is doing the work pursuant to the permit issued. The neighbors do not have a right of notice in the village ordinance and don't have the right to object to the permit because they don't get notice of the application only notice after the permit was given to inform them of the work. Attorney Dineen stated that the ordinance does require notice to the adjoining property owners.

Mr. Vogel stated that this process has been ignored and ignored the property owners' interests and feels he has the right to know this information he has been deprived of.

Village President Steven Anderson asked Mr. Vogel if you had the information and objected to the contractor would you have a right to change the contractor? Mr. Vogel stated he would have the right to a conversation and the contractor and homeowner are going to make up their mind about the process and he cannot intervene. But he can intervene with the Board's approval about the waiting time of this permit.

Mr. Cincotta stated Ordinance 15.115 states the Vogel's have the right to appeal because they are owners of lands affected. Attorney Dineen noted that the section that required the notice and the ability to appeal are two different things

Mr. Larry Boyer, 9365 N. Pheasant Lane, would disagree about Linda Wright being proactive since 2015. The permit from the DNR has restorative items in it and would these items be included in Ordinance chapter 15? Anyone would like to know about the landscaping contractor to see their qualifications. How will the property be accessed? The approval after five (5) years of not having anything happen is causing us to rush into this.

Motion by Fritz and seconded by Kingwill to approve the request of the property owner, based on the recommendation by the village engineer. Discussion: Trustee Kurt Glaisner asked when does the request for information from the neighbors stop and how far will it go to include actual equipment names? This continual appeal when the village engineer has done all he needs to do and has done his job correctly. Mr. Vogel stated it would be helpful to have a single comprehensive plan on the project. He does not feel the village engineer has done his job correctly. Attorney Dineen stated that the subject of whether or not the village engineer has done his job correctly is not part of this meeting and is subject to an appeal. Trustee Chris Noyes stated that the Board is relying on the village engineer to approve the fill permit and they rely on his expert opinion.

Motion carried on a roll call vote – six ayes (Russo, Noyes, Fritz, Glaisner, Kingwill, and Anderson) and one absent (Walker – no longer present via telephone).

4. ADJOURNMENT

Motion by Kingwill and seconded by Glaisner to adjourn at 5:55 p.m.; motion carried unanimously.

Submitted by Stephanie Waala, Deputy Clerk, on November 21, 2019.