



Meeting: Village Board
Meeting Date: 03/14/11
Agenda Item: 5f

Mission Statement

Delivering quality services in a courteous, cost-effective and efficient manner.

VILLAGE BOARD MEETING STAFF REPORT

REPORT TO: Burt R. McIntyre, President
Village Board of Trustees

REVIEWED BY:

REPORT FROM: Attorney Dennis M. Duffy

AGENDA ITEM: 5f – Approve Amended Final Resolution No. 2011-6 Regarding Payment of Special Assessments for Benefitted Property on Fredrick Court and Private Drive for Public Improvements (Dais Property VH-235)

BACKGROUND INFORMATION

Charles and Jennifer Dais filed an appeal in Brown County Circuit Court of the deferred special assessment against their property on Frederic (later changed to Fredrick) Court. The assessment, which was levied as part of the Toonen multi-family development project, was for water services. The special assessment that was deferred without interest is \$5,034. The legal issues raised by the appeal are whether there is a benefit to the property and alleged representations to the property owners by village officials regarding payment for improvements by the multi-family developer.

PRIOR ACTION/REVIEW

The Dais Circuit Court Appeal was discussed in closed session with the Village Board, and a settlement proposal made by Attorney Gary Wickert on behalf of his clients was approved by the Board. The Daises are in agreement with the Amended Final Resolution which simply changes the events that would trigger the payment of the deferred special assessment without interest to a CSM division of their property and a request for water services off of Fredrick Court. There is minimal fiscal impact because the payment of the deferred special assessment was tied to future land divisions.

FISCAL IMPACT:

1. Is There A Fiscal Impact? Yes
2. Is it Currently Budgeted? Yes
3. If Budgeted, Which Line? Capital

RECOMMENDED ACTION

The Village Attorney and Staff recommend the Village Board approve the Amended Resolution for special assessment for Fredrick Court, which reflects the settlement of the Circuit Court Appeal with the Daises that was previously discussed and approved by the Village Board.

If the Village Board would agree with this action the following motion could be used, "*Motion to approve Amended Final Resolution Regarding Payment of Special Assessments for Benefitted Property on Fredrick Court for the Dais property.*"

POLICY ALTERNATIVE(S)

The Village Board is approving its prior action from closed session to settle litigation.

ATTACHED INFORMATION

- I. Final Resolution No. 2010-28 Authorizing Levying of Special Assessments Against Benefitted Property for Sanitary Sewer & Laterals, and Watermain & Services Construction on *Frederic Court & Private Drive
- II. Engineer's Report
- III. Amended Final Resolution No. 2011-6 Regarding Payment of Special Assessments for Benefitted Property on *Fredrick Court & Private Drive for Public Improvements, in the Village of Howard, Brown County, Wisconsin (Dais Property VH-235)

* The documents related to this issue prior to Sept. 27, 2010, refer to the property on Frederic Court. The Village Board on Sept. 27 passed Resolution 2010-37, changing the street name to Fredrick Court. The new documents and Amended Final Resolution 2011-6 should reflect that change.

FINAL RESOLUTION AUTHORIZING
LEVYING OF SPECIAL ASSESSMENTS AGAINST BENEFITED PROPERTY
FOR SANITARY SEWER & LATERALS, AND WATERMAIN & SERVICES
CONSTRUCTION ON FREDERIC COURT & PRIVATE DRIVE

WHEREAS, the Village Board for the Village of Howard, Brown County, Wisconsin, held a public Hearing at 6:35 p.m. on the 12th day of July, 2010, for the purpose of hearing all interested persons concerning the Preliminary Resolution and the report of the Village Engineer on the proposed improvement, construction, and installation of sanitary sewer & laterals, and watermain & services construction. The areas to be assessed shall be:

1. The Village of Howard hereby declares its intention to exercise its power under Section 66.0701 of the Wisconsin Statutes to levy special assessments upon Frederic Court and a Private Road as follows:

A. The easterly and westerly sides of Frederic Court, beginning Shawano Avenue, continuing southerly along Frederic Court, ending approximately 300 feet southerly of Shawano Avenue for watermain and services construction including:

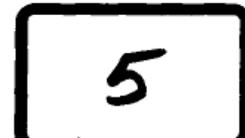
Parcel VH - 235
Parcel VH - 508
Parcel VH - 230-1

B. The northerly and southerly sides of a Private Road, said Private Road beginning along Frederic Court approximately 1300 feet southerly of Shawano Avenue, continuing westerly along said Private Road, ending 1100 feet westerly of Frederic Court for sanitary sewer and laterals construction including:

Parcel VH - 508

NOW, THEREFORE, BE IT RESOLVED, by the Village Board of the Village of Howard, Brown County, Wisconsin, as follows:

- (1) That the report of the Village Engineer and/or consulting engineers pertaining to the construction of the above described public improvements for installation of sanitary sewer and laterals, watermain and services, storm sewer and laterals, storm water management facilities, driveways, sidewalk, curb and gutter, and roadway reconstruction, including plans and specifications therefore, is adopted and approved.



- (2) The Village engineer is authorized to carry out construction and installation in accordance with the Engineer's Report.
- (3) That payment for the improvements shall be made by assessing the costs thereof against the above described benefited properties as indicated in the Engineer's Report.
- (4) That the Village Board, based in its view of the property and its review of such report determines that the above-described properties are benefited by such public improvements and that the benefits and amounts assessed against each parcel on the basis shown in the report, representing an exercise of the police power, are determined to be on a reasonable basis and are hereby confirmed and approved.

(5) Financing and Payments:

(A) Type A payment plan –

- i. Special assessments levied against properties as set forth in Schedule C of the Engineer's Report denoted as "Assessment Type A" shall be paid in cash or in ten (10) annual installments to the Treasurer, such installments bearing interest, at the rate of 5 ¼% annually or 1% over the Village borrowing rate at the time of the assessment which ever is greater, on the unpaid balance, until such time that any of the following events occur:
 1. The land is developed (building or use permit, sewer or water use, etc.), or
 2. The property is divided by a certified survey map or plat, or
 3. The property is sold or transferred, except for transfer between father, mother, son, daughter, brother or sister.
- ii. At the time events "1", "2" or "3" occur, the balance of principal, late fees, penalties and accrued interest shall be immediately due and payable in full.

(B) Type B payment plan –

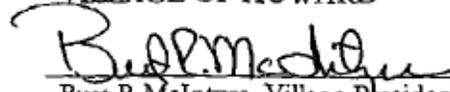
- i. Special assessments levied against properties as set forth in Schedule C of the Engineer's Report denoted as "Assessment Type B" allow deferred payment without accrued interest until such time that any of the following events occur:
 1. The land is developed (building or use permit, sewer or water use, etc.), or
 2. The property is divided by a certified survey map or plat, or
 3. The property is sold or transferred, except for transfer between father, mother, son, daughter, brother or sister.
- ii. At the time events "1", "2" or "3" occur, the balance of principal, late fees, and penalties, without accrued interest, shall be immediately due and payable in full.

(C) Type F Payment plan -

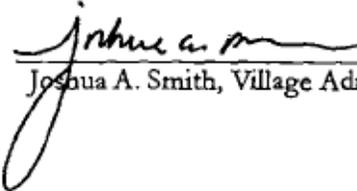
- i. Special assessments hereby levied against properties as set forth in Schedule C of the Engineer's Report denoted as "Payment plan Type F" shall be paid from the funds deposited or by claim against letter of credit filed with the Village. Where owners of affected property have not deposited or filed the same, such assessments shall be paid in cash within thirty (30) days after adoption and publication of the Final Resolution relating to the public improvements, and thereafter said assessments shall bear interest on the unpaid balance at the rate of 18% annually.
- (6) Installment Notice: Notice is hereby given that a contract has been or is about to be let for the above described the improvement and that the amount of the special assessment for the improvement has been determined as to each parcel of real estate affected and a statement of the assessment is on file with the Village Clerk; it is proposed that some of the assessments as described above may be paid in installments, as provided for by section 66.0715 of the Wisconsin Statutes, with interest as described above; that all assessments eligible for installments will be collected in installments as provided above except assessments on property where the owner files with the Village Clerk within 30 days from date of this notice a written notice that the owner elects to pay the special assessment on the owner's property, describing the property, to the Village Treasurer on or before the following November 1, unless the election is revoked. If, after making the election, the property owner fails to make the payment to the Village Treasurer, the entire assessment shall be placed on the following tax roll.
- (7) The total amount assessed against benefited properties shall not exceed the total cost of the improvements.
- (8) That the Village Clerk of the Village of Howard is directed to publish this resolution as a Class I Notice and is further directed to mail a copy of this resolution and a statement of the Final Assessment against the benefited property to every property owner whose name appears on the assessment roll whose post office address is known or can, with reasonable diligence be ascertained.
- (9) If any section, sentence, or clause of this Resolution or any Special Assessment set forth or referenced herein shall be declared invalid for any reasons whatsoever, such decision shall not affect the remaining sections or assessments approved herein, which shall remain in full force and effect.
- (10) This Resolution shall remain in full force and effect from and after its passage and publication according to law.

Adopted by the Village Board of the Village of Howard, Wisconsin this 12th day July, of 2010.

VILLAGE OF HOWARD


Burt R McIntyre, Village President

ATTEST:


Joshua A. Smith, Village Administrator/Clerk

Published: 07 | 16 | 10

Engineer changes - address addit.
Mail. w. address. V#-275
- No Village Board Changes -
Final Assessment, BSE
7/13/10



REPORT TO VILLAGE OF HOWARD
WISCONSIN, ON FREDERIC COURT AND A PRIVATE ROAD
FOR SANITARY SEWER AND LATERALS, WATERMAIN AND SERVICES
CONSTRUCTION

June 29, 2010

In accordance with the Preliminary Resolution 2010 - 25 of the Village of Howard approved on June 28, 2010, we hereby submit our report on the proposed improvements and special assessments for sanitary sewers and laterals, watermain and services construction improvements to be made in the streets listed in Schedule "B" of this report. The properties within the assessment district as listed in Schedule "C" of this report benefit from the installation of improvements by municipal sanitary service, water service, fire protection, and health and welfare.

This report consists of the following schedules attached hereto:

Schedule A - Final plans and specifications

Schedule B - Estimate of entire Cost of Proposed Improvements

Schedule C - Schedule of proposed Special Assessments as to each parcel of property within the Assessment District for the benefits conferred upon such properties by the improvements. The Schedule of proposed special assessments has further been made from a view of each parcel.

Respectfully,

Robert J. Bartelt, P.E.
Deputy Administrator


Geoffrey S. Farr, P.E.
Director of Engineering

4

SCHEDULE "B"
VILLAGE OF HOWARD
ENGINEERING REPORT
FREDERIC COURT AND PRIVATE ROAD
SANITARY SEWER, WATERMAIN
CONSTRUCTION

I. Project Costs

Sanitary Sewer

100% Property Owner Cost

Quantity	Unit	Description	Unit \$	Total
				\$0.00
1110	L.F.	8" Diameter SDR 35 PVC Sanitary Sewer	\$25.00	\$27,750.00
69	V.F.	4" Diameter Manhole, Type 1	\$200.00	\$13,800.00
5	EA.	Type "A" Manhole Casting	\$300.00	\$1,500.00
100	C.Y.	Pipe Foundation Material, Soil Class A-7 (as	\$10.00	\$1,000.00
100	C.Y.	Select Backfill Material Soil Class D-3 (as or	\$9.00	\$900.00
1	EA.	Dewatering Bag/Box	\$100.00	\$100.00
80	Ton	Stone Tracking Pad (as-ordered)	\$5.00	\$400.00
100	L.F.	Silt Fence (as-ordered)	\$1.50	\$150.00
3	EA.	Inlet Protection Type Catch-All	\$92.00	\$276.00
2	EA.	Tracking Pad Maintenance (as-ordered)	\$75.00	\$150.00
2	HR	Erosion Control Maintenance Personnel (as-ordred)	\$60.00	\$120.00
2	HR	Erosion Control Maintenance Equipment (as-ordred)	\$50.00	\$100.00
1	EA.	8" x 4" PVC Service Branch	\$50.00	\$50.00
1	EA.	8" x 6" PVC Service Branch	\$80.00	\$80.00
35	L.F.	4" Diameter Schedule 40 PVC Sewer Service	\$18.00	\$630.00
35	L.F.	6" Diameter Schedule 40 PVC Sewer Service	\$20.00	\$700.00
				\$0.00
				\$0.00
		Sub-Total		\$47,706.00
		Contingencies 10%		\$4,770.60
		Design Engineering 7%		\$3,339.42
		Resident Engineering, Surveying & Testing 14.75%		\$7,036.64
		Est. Sanitary Sewer Cost		\$62,852.66

Watermain

100% Property Owner Cost

Quantity	Unit	Description	Unit \$	Total
				\$0.00
294	L.F.	10" Diameter DR 18 PVC Watermain	\$36.00	\$10,584.00
3.5	L.F.	6" Diameter DR 18 PVC Hydrant Lead	\$23.00	\$80.50
1	EA.	Hydrant Relocations	\$550.00	\$550.00
1	EA.	10" Gate Valves and Boxes	\$1,900.00	\$1,900.00
50	C.Y.	Pipe Foundation Material, Soil Class A-7 (as	\$10.00	\$500.00
1	L.S.	Mobilization for Asphalt Work	\$510.00	\$510.00
10	Ton	HMA Pavement, E-0.3, 9.5mm, 3"	\$135.00	\$1,350.00
50	C.Y.	Select Backfill Material, Soil Class D-3 (as c	\$9.00	\$450.00
0.5	Ton	Additional Fittings (as ordered)	\$2,500.00	\$1,250.00
51	C.Y.	Borrow Topsoil, Soil Class F-1 (as-ordered) by the truck yard	\$3.00	\$153.00
1	L.S.	Curb Repair (as-ordered)	\$650.00	\$650.00
				\$0.00
				\$0.00
		Sub-Total		\$17,977.50
		Contingencies 10%		\$1,797.75
		Design Engineering 7%		\$1,258.43
		Resident Engineering, Surveying & Testing 14.75%		\$2,651.68
		Est. Watermain Cost		\$23,685.36

Storm Sewer

100% Property Owner Cost

Quantity	Unit	Description	Unit \$	Total
				\$0.00
				\$0.00
				\$0.00
				\$0.00
		Sub-Total		\$0.00
		Contingencies 10%		\$0.00
		Design Engineering 7%		\$0.00
		Resident Engineering, Surveying & Testing 14.75%		\$0.00
		Est. Storm Sewer Cost		\$0.00

Roadway Construction

100% Property Owner Cost

Quantity	Unit	Description	Unit \$	Total
				\$0.00
				\$0.00
				\$0.00
				\$0.00
		Sub-Total		\$0.00
		Contingencies 10%		\$0.00
		Design Engineering 7%		\$0.00
		Resident Engineering, Surveying & Testing 14.75%		\$0.00
		Est. Roadway Cost		\$0.00

Driveway

100% Property Owner Cost

Quantity	Unit	Description	Unit \$	Total
				\$0.00
				\$0.00
				\$0.00
				\$0.00
		Sub-Total		\$0.00
		Contingencies 10%		\$0.00
		Design Engineering 7%		\$0.00
		Resident Engineering, Surveying & Testing 14.75%		\$0.00
		Est. Driveway Cost		\$0.00

Sidewalk

100% Property Owner Cost

Quantity	Unit	Description	Unit \$	Total
				\$0.00
				\$0.00
				\$0.00
				\$0.00
		Sub-Total		\$0.00
		Contingencies 10%		\$0.00
		Design Engineering 7%		\$0.00
		Resident Engineering, Surveying & Testing 14.75%		\$0.00
		Est. Sidewalk Cost		\$0.00

II. Interceptor Acreage Charges

Acres		Total
34.90	\$175.00	\$6,107.50

III. Laterals/Services Cost

Sanitary Sewer Laterals

Quantity	Unit	Description	Unit \$	Total
				\$0.00
1	EA.	8" x 4" PVC Service Branch	\$50.00	\$50.00
1	EA.	8" x 6" PVC Service Branch	\$80.00	\$80.00
35	L.F.	4" Diameter Schedule 40 PVC Sewer Service	\$18.00	\$630.00
35	L.F.	8" Diameter Schedule 40 PVC Sewer Service	\$20.00	\$700.00
				\$0.00
		Sub-Total		\$1,460.00
		Contingencies 10%		\$146.00
		Design Engineering 7%		\$102.20
		Resident Engineering, Surveying & Testing 14.75%		\$215.35
		Total Sanitary Service Cost		\$1,923.55

Water Services

Quantity	Unit	Description	Unit \$	Total
				\$0.00
76	L.F.	10" Diameter DR 18 PVC Watermain	\$36.00	\$2,736.00
1	EA.	10" Gate Valves and Boxes	\$1,900.00	\$1,900.00
				\$0.00
		Sub-Total		\$4,636.00
		Contingencies 10%		\$463.60
		Design Engineering 7%		\$324.52
		Resident Engineering, Surveying & Testing 14.75%		\$683.81
		Total Water Service Cost		\$6,107.93

Storm Sewer Laterals

Quantity	Unit	Description	Unit \$	Total
				\$0.00
				\$0.00
				\$0.00
				\$0.00
		Sub-Total		\$0.00
		Contingencies 10%		\$0.00
		Design Engineering 7%		\$0.00
		Resident Engineering, Surveying & Testing 14.75%		\$0.00
		Total Storm Service Cost		\$0.00

IV. Assessment Report

Total Assessable Frontage & Areas

Sanitary Sewer	2218.00	L.F.
Sanitary Sewer Laterals	2.00	E.A.
Watermain	471.33	L.F.
Watermain Services	1.00	E.A.
Storm Sewer	0.00	L.F.
Storm Sewer Laterals	0.00	E.A.
Street Construction	0.00	L.F.
Driveway	0.00	S.F.
Sidewalk	0.00	L.F.

Assessment Rates

Sanitary Sewer:

Est. Sanitary Sewer Cost	\$62,852.66
Less Lateral Cost Adjustment	<u>(\$1,923.55)</u>
Total Assessable Costs	\$60,929.11

Rate per Linear Foot \$27.47

Sanitary Sewer Laterals:

Est. Sanitary Sewer Laterals Cost \$1,923.55

Rate Per Lateral \$961.78

Watermain:

Est. Watermain Cost	\$23,685.36
Less Lateral Cost Adjustment	<u>(\$6,107.93)</u>
Total Assessable Costs	\$17,577.43

Rate per Linear Foot \$37.29

Watermain Services:

Est. Watermain Services Cost \$6,107.93

Rate Per Lateral \$6,107.93

Storm Sewer:

Est. Storm Sewer Cost	\$0.00
Less Lateral Cost Adjustment	<u>\$0.00</u>
Total Assessable Costs	\$0.00

Rate per Linear Foot \$0.00

Storm Sewer Laterals:

Est. Storm Sewer Laterals Cost \$0.00

Rate Per Lateral \$0.00

Road Construction:

Est. Road Construction Cost \$0.00

Rate per Linear Foot \$0.00

Village of Howard 50% cost share / foot \$0.00

Assessable 50% cost share / foot \$0.00

Driveway:

Est. Driveway Cost \$0.00

Rate/Square Foot \$0.00

Village of Howard 50% cost share / foot \$0.00

Assessable 50% cost share / foot \$0.00

Sidewalk:

Est. Sidewalk Cost \$0.00

Rate per Linear Foot \$0.00

V. Financing Summary

<u>Total Project Costs:</u>			
Sanitary Sewer			\$62,852.66
Watermain			\$23,685.36
Storm Sewer			\$0.00
Street Construction			\$0.00
Driveway			\$0.00
Sidewalk			\$0.00
Interceptor charges			\$6,107.50
Total Project Cost			\$92,645.52
<u>Total Assessment Financing:</u>			
Sanitary Sewer Mains	2218.00 L.F. @	\$27.47	\$60,929.11
Sanitary Sewer Laterals	2.00 E.A. @	\$961.76	\$1,923.55
Watermain	471.33 L.F. @	\$37.29	\$17,577.43
Water Services	1.00 E.A. @	\$6,107.93	\$6,107.93
Storm Sewer Mains	0.00 L.F. @	\$0.00	\$0.00
Storm Sewer Laterals	0.00 E.A. @	\$0.00	\$0.00
Street Construction	0.00 L.F. @	\$0.00	\$0.00
Driveway	0.00 S.F. @	\$0.00	\$0.00
Sidewalk	0.00 L.F. @	\$0.00	\$0.00
Interceptor Acreage	34.90 Acres @	\$175.00	\$6,107.50
ASSESSABLE PROJECT COSTS			\$92,645.52
<u>Village Cost Sharing Contribution</u>			
			\$0.00
Other Funding Sources			\$0.00
TOTAL FINANCING			\$92,645.52

RESOLUTION NO. 2011-6

**AMENDED FINAL RESOLUTION REGARDING PAYMENT OF
SPECIAL ASSESSMENTS FOR BENEFITTED PROPERTY
ON FREDRICK COURT & PRIVATE DRIVE FOR
PUBLIC IMPROVEMENTS, IN THE VILLAGE OF HOWARD
BROWN COUNTY, WISCONSIN
(DAIS PROPERTY VH-235)**

WHEREAS, the Village Board of the Village of Howard, Brown County, Wisconsin having previously adopted and approved a Final Resolution No. 2010-28 which authorized the levying of special assessments for benefitted property on Fredrick Court & Private Drive for public improvements pursuant to Section 66.0703, Wis. Stats.; and

WHEREAS, the owners, Charles and Jennifer Dais, of Parcel No. VH-235, has filed an appeal for special assessments, Dais vs. Village of Howard, Brown County Case No. 10 CV 2346; and

WHEREAS, the Village Board of the Village of Howard and Mr. and Mrs. Dais had reached an agreement to resolve the appeal for special assessments levied against Tax Parcel VH-235 as described below.

NOW, THEREFORE, BE IT RESOLVED by the Village Board of the Village of Howard, Brown County, Wisconsin as follows:

1. Pursuant to Section 66.0703(12), Wis. Stats., the Final Resolution No. 2010-28 and the Engineer's Report including the Schedule C of Special Assessments shall be modified with respect to the payment of the deferred special assessment without accrued interest levied against Tax Parcel VH-235 as follows:

The special assessment levied against Parcel VH-235 as set forth in Schedule C of the Engineer's Report shall be due and payable when the following events occur:

- 1) The parcel is divided by a Certified Survey Map or Plat creating two or more lots with frontage on Fredrick Court; and
- 2) A lateral is installed connecting one of the lots to water main on Fredrick Court

At the time events 1) and 2) occur, the principal balance without accrued interest shall be due and payable in full within thirty (30) days of the invoice from the Village. Late fees, interest and penalties would apply to delinquent payment of this special assessment.

2. In all other respects Final Resolution No. 2010-28 shall remain in full force and effect. The Clerk of the Village of Howard is directed to publish this Resolution as a Class 1 Notice and is further directed to mail a copy of this Amended Resolution to Charles and Jennifer Dais.

3. If any section, sentence or clause or any special assessment set forth or referred to herein shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining sections or assessments approved herein, which shall remain in full force and effect.

This Resolution shall remain in full force and effect from after its passage and publication according to law and the filing of a Stipulation and Order for Dismissal of Brown County Case No. 10 CV 2346 without costs to either party.

Adopted this ____ day of _____, 2011.

VILLAGE OF HOWARD

Burt R. McIntyre, Village President

ATTEST:

Robert Bartelt, Village Administrator/Clerk

DATE OF PUBLICATION:
