



**Meeting:** Village Board  
**Meeting Date:** 04/11/11  
**Agenda Item:** 6b

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

## VILLAGE BOARD MEETING STAFF REPORT

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

**REVIEWED BY:**

**REPORT FROM:** Geoffrey S. Farr, PE, Director of Public Works

**AGENDA ITEM:** Review and take action on Ordinance 2011-9, requiring the Worthington Estates property owner erect and maintain a MUTCD compliant stop sign at the Moraine Terrace driveway, and direct that law enforcement staff monitor the driveway and cite motorists for failure to stop.

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### **POLICY ISSUE**

Should the Village Board require property owners to install a stop sign at the Worthington Estates driveway to Moraine Terrace?

### **BACKGROUND INFORMATION**

Village staff has received complaints regarding traffic entering Moraine Terrace from the Worthington Estates multifamily development at 1045 through 1081 Roland Lane, parcel VH - 602. Complaints include that:

- driveway traffic is entering Moraine Terrace at high rates of speed,
- driveway traffic is failing to yield to traffic on Moraine Terrace, and that
- Roland Lane traffic is using the Worthington Estates development as a through street to Moraine Terrace.

Staff reviewed the driveway access situation at Worthington Estates and found the existing driveway accessing Moraine Terrace does not comply with current driveway standards per Village of Howard Code Chapter 32 Article VI, nor did it comply with the standards in effect at the time of installation. In addition, the driveway can be considered hazardous and does not support the orderly and safe operation of a public street.

The high entry speeds and failure to yield upon entering public street from a driveway is due in part to the lack of a standard sloping driveway apron and curb and gutter pan that would normally cause vehicles to slow down due to the "bump" that would occur when a car would enter the street. Installing a compliant driveway would add a "speed bump" that would naturally slow vehicles down.

Drivers are required by SS. 348.18 (4), attached below, to yield to all traffic on a highway when entering from a non highway access such as a driveway or alley etc. As such, the police can already cite motorists for failure to yield the right of way in this situation. Also attached is Page 25 of the Wisconsin Department of Transportation Motorists Handbook. Right of Way and access from

driveways is outlined under "Intersections" on the page. As a side note it is also required that motorists stop prior to crossing a sidewalk. A sidewalk section is part of a standard driveway.

Adding a stop sign to the Worthington Estates driveway at the sidewalk for traffic entering Moraine Terrace would slow traffic and hopefully increase yield compliance. A stop sign would also provide officers an additional tool to achieve improved yield compliance and improve intersection sight distance.

During the review of the Worthington Estates driveway it was noted that the two adjacent driveways westerly of the Worthington Estates at 1900 through 1980 Moraine Terrace, parcel VH-604, also do not comply with driveway standards, could be considered hazardous and do not support the orderly and safe operation of a public street.

**PRIOR ACTION/REVIEW**

None

**FISCAL IMPACT:**

- |                              |             |
|------------------------------|-------------|
| 1. Is There A Fiscal Impact? | <u>Yes.</u> |
| 2. Is it Currently Budgeted? | <u>No</u>   |
| 3. If Budgeted, Which Line?  | <u>N/A</u>  |

**RECOMMENDED ACTION**

Village Staff recommends that the Village Board approve Ordinance 2011-9 requiring the Worthington Estates property owner to erect and maintain a MUTCD compliant stop sign at the Moraine Terrace driveway.

If the Village Board agrees with this action, the following motion could be used, "***Motion to approve Ordinance 2011-9.***"

**POLICY ALTERNATIVE(S)**

The Village Board could take the following actions:

1. Require that the property owners apply for new driveway permits and install new driveways within 90 days bringing the installations up to code. If the property owners do not comply with the replacements the Village Board may direct that Village staff remove and install the driveways and assess 100% of the costs to the property owners.
2. Require that one of the Worthington Estates driveways be permanently removed at property owner or Village expense to eliminate Roland Lane through traffic that is causing part of the problem (while maintaining fire department access).
3. Direct that law enforcement staff monitor the Moraine Terrace driveways and cite motorists for failure to yield.
4. Table the suggested motion and request additional information.

**ATTACHED INFORMATION**

- I. Ordinance 2011-9
- II. Page 7 of Wisconsin Statutes 346 - Rules of the Road
- III. Page 25 of Wisconsin Driver Handbook, May 2010
- IV. Map of area
- V. Photos of driveways on Moraine Terrace

**COPIES FORWARDED TO:**

WORTHINGTON ESTATES INC  
VH-602  
C/O WADE T MICOLEY  
2360 DOUSMAN ST

VH-604  
GERALD C. AND GLORIA P. BIGELOW  
1575 MESA DRIVE  
GREEN BAY, WI 54313-93670

**ORDINANCE 2011-09**

**ORDINANCE PROVIDING FOR THE INSTALLATION OF A STOP SIGN AT THE INTERSECTION OF MORAIN TERRACE & MORLEY ROAD**

**WHEREAS**, the Village Board finds that the installation of a stop sign at the southerly driveway of Worthington Estates, parcel VH-604, at its intersection with Moraine Terrace & Morley Road would promote increased sight distance and improved safety for the traveling public.

**NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE BOARD OF THE VILLAGE OF HOWARD** pursuant to Section 349.07(8) Wis. Stats. and Chapter 34, Article V. Stop and Yield Signs, Section 183 of the Traffic Code of the Village of Howard Municipal Code of Ordinances that a stop sign be installed as follows:

**34-183 Designation of Location.**

The location of the stop sign(s) identified below shall be added to the Village's official traffic map pursuant to Section 34-3:

- (1) Stop sign added at the south bound driveway access of parcel VH-604 to the intersection of Moraine Terrace & Morley Road.

**BE IT FURTHER ORDAINED** that the appropriate Village Officials are hereby authorized and directed to place an official traffic sign in compliance with this Ordinance and the location of the stop sign adopted by this Ordinance shall be added to the official traffic map for the Village of Howard.

Approved by the Village Board of the Village of Howard, Wisconsin, this 11<sup>th</sup> day of April 2011.

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Burt McIntyre, Village President

ATTEST:

\_\_\_\_\_  
Robert Bartelt, Village Administrator

deposit is returned, the amount of the railroad crossing improvement surcharge shall also be returned.

(4) The clerk of the circuit court shall collect and transmit to the county treasurer the railroad crossing improvement surcharge as required under s. 59.40 (2) (m). The county treasurer shall then pay the secretary of administration as provided in s. 59.25 (3) (f) 2. The secretary of administration shall deposit all amounts received under this subsection in the transportation fund to be appropriated under s. 20.395 (2) (g).

History: 1997 a. 237; 2003 a. 33, 139, 326.

## SUBCHAPTER III

## RIGHT-OF-WAY

**346.18 General rules of right-of-way.** (1) **GENERAL RULE AT INTERSECTIONS.** Except as otherwise expressly provided in this section or in s. 346.19, 346.20, 346.215, or 346.46 (1), when 2 vehicles approach or enter an intersection at approximately the same time, the operator of the vehicle on the left shall yield the right-of-way to the vehicle on the right. The operator of any vehicle driving at an unlawful speed forfeits any right-of-way which he or she would otherwise have under this subsection.

(2) **TURNING LEFT OR MAKING A U-TURN AT INTERSECTION.** The operator of a vehicle within an intersection intending to turn to the left or make a U-turn shall yield the right-of-way to any vehicle approaching from the opposite direction.

(3) **RULE AT INTERSECTION WITH THROUGH HIGHWAY.** The operator of a vehicle shall stop as required by s. 346.46 (2) (a), (b) or (c) before entering a through highway, and shall yield the right-of-way to other vehicles which have entered or are approaching the intersection upon the through highway.

(3m) **UNCONTROLLED "T" INTERSECTION.** At an intersection where traffic is not controlled by an official traffic control device or by a traffic officer, the operator of a vehicle approaching the intersection on a highway which terminates at the intersection shall yield the right-of-way to any vehicle approaching the intersection on a highway which continues through the intersection.

(4) **ENTERING HIGHWAY FROM ALLEY OR NONHIGHWAY ACCESS.** The operator of a vehicle entering a highway from an alley or from a point of access other than another highway shall yield the right-of-way to all vehicles approaching on the highway which the operator is entering.

(5) **MOVING FROM PARKED POSITION.** The operator of any vehicle that has been parked or standing shall, while moving such vehicle from such position, yield the right-of-way to all vehicles approaching on the highway.

(6) **RIGHT-OF-WAY WHERE YIELD SIGN INSTALLED.** The operator of a vehicle, when approaching any intersection at which has been installed a yield sign, shall yield the right-of-way to other vehicles which have entered the intersection from an intersecting highway or which are approaching so closely on the intersecting highway as to constitute a hazard of collision and, if necessary, shall reduce speed or stop in order to so yield.

(7) **ENTERING ALLEY OR DRIVEWAY FROM HIGHWAY.** (a) The operator of any vehicle intending to turn to the left into an alley or private driveway across the path of any vehicle approaching from the opposite direction shall yield the right-of-way to the vehicle.

(b) The operator of any vehicle crossing a sidewalk or entering an alley or driveway from a highway shall yield the right-of-way to any pedestrian, vehicle or conveyance on the sidewalk or in the alley or driveway.

History: 1979 c. 210; 1987 a. 25, 28; 1991 a. 316; 1993 a. 490; 2009 a. 46, 97.

A driver who makes a left turn that results in an accident is not always guilty of more negligence than the other driver; the comparison is for the jury. *Pucci v. Kausch*, 51 Wis. 2d 513, 187 N.W.2d 138 (1971).

**346.19 What to do on approach of emergency vehicle.**

(1) Upon the approach of any authorized emergency vehicle giving audible signal by siren the operator of a vehicle shall yield the right-of-way and shall immediately drive such vehicle to a position as near as possible and parallel to the right curb or the right-hand edge of the shoulder of the roadway, clear of any intersection and, unless otherwise directed by a traffic officer, shall stop and remain standing in such position until the authorized emergency vehicle has passed.

(2) This section does not relieve the operator of an authorized emergency vehicle from the duty to drive with due regard under the circumstances for the safety of all persons using the highway.

History: 1993 a. 490.

Section 346.19, regarding the requirements on the approach of an emergency vehicle, is the proper statute to invoke when the proof requirements for fleeing under s. 346.04 are not met. 76 Atty. Gen. 214.

**346.195 Owner's liability for vehicle failing to yield the right-of-way to an authorized emergency vehicle.**

(1) Subject to s. 346.01 (2), the owner of a vehicle involved in a violation of s. 346.19 (1) for failing to yield the right-of-way to an authorized emergency vehicle shall be liable for the violation as provided in this section.

(2) The operator of an authorized emergency vehicle who observes a violation of s. 346.19 (1) for failing to yield the right-of-way to an authorized emergency vehicle may prepare a written report indicating that a violation has occurred. If possible, the report shall contain the following information:

(a) The time and the approximate location at which the violation occurred.

(b) The license number and color of the vehicle involved in the violation.

(c) Identification of the vehicle as an automobile, motor truck, motor bus, motorcycle or other type of vehicle.

(3) Within 24 hours after observing the violation, the operator of the authorized emergency vehicle may deliver the report to a traffic officer of the county or municipality in which the violation occurred. A report that does not contain all the information in sub. (2) shall, nevertheless, be delivered and shall be maintained by the county or municipality for statistical purposes.

(4) (a) Within 48 hours after receiving a report containing all the information in sub. (2) and after investigating the violation, the traffic officer may prepare a uniform traffic citation under s. 345.11 and may personally serve it upon the owner of the vehicle.

(b) If with reasonable diligence the owner cannot be served under par. (a), service may be made by leaving a copy of the citation at the owner's usual place of abode within this state in the presence of a competent member of the family at least 14 years of age, who shall be informed of the contents thereof.

(c) If with reasonable diligence the owner cannot be served under par. (a) or (b) or if the owner lives outside of the jurisdiction of the issuing authority, service may be made by certified mail addressed to the owner's last-known address.

(5) (a) Except as provided in par. (b), it shall be no defense to a violation of this section that the owner was not operating the vehicle at the time of the violation.

(b) The following are defenses to a violation of this section:

1. That a report that the vehicle was stolen was given to a traffic officer before the violation occurred or within a reasonable time after the violation occurred.

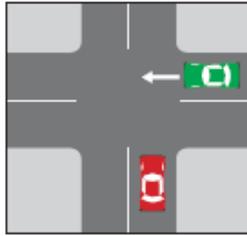
2. That the owner of the vehicle provides a traffic officer with the name and address of the person operating the vehicle at the time of the violation and the person so named admits operating the vehicle at the time of the violation. In such case, the person operating the vehicle and not the owner shall be charged under this section.

3. That the vehicle is owned by a lessor of vehicles and at the time of the violation the vehicle was in the possession of a lessee,

## RIGHT-OF-WAY

Vehicles or pedestrians are likely to meet one another where there are no signs or lights to control traffic. These rules tell who goes first and who must wait in different traffic situations. The one who must wait is yielding right-of-way to the one who goes first.

The law says **who** must yield the right-of-way. It does not **give** anyone the right-of-way. You should do everything you can to keep from hitting a pedestrian or another vehicle. This includes bicycles and animal-drawn vehicles.



### Intersections

At an intersection where there are no signs or traffic lights, you must yield to vehicles coming from the right.

At a four-way stop, the driver reaching the intersection first goes first (after coming to a complete stop.) If more than one vehicle arrives at the same time, the vehicle on the right goes first. You must yield to vehicles already on the main road if you are entering a road from a driveway, alley or roadside.

You must yield to traffic already in a roundabout, traffic circle or rotary.

You must yield to cross traffic if your roadway dead-ends.

### Passing

When passing a vehicle traveling in the same direction, you must yield to it even if it is slowing or coming to a stop.



### Pedestrians

You must yield where necessary to avoid striking pedestrians who are crossing the road.

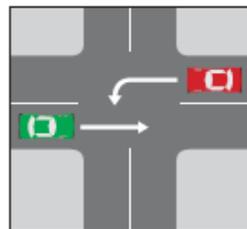
You must yield to pedestrians when you are entering or exiting a driveway, alley or parking lot.

**You must stop before crossing a sidewalk if you are entering or crossing a highway from a driveway, alley or parking lot.**

It is illegal to drive on a sidewalk except to cross it.

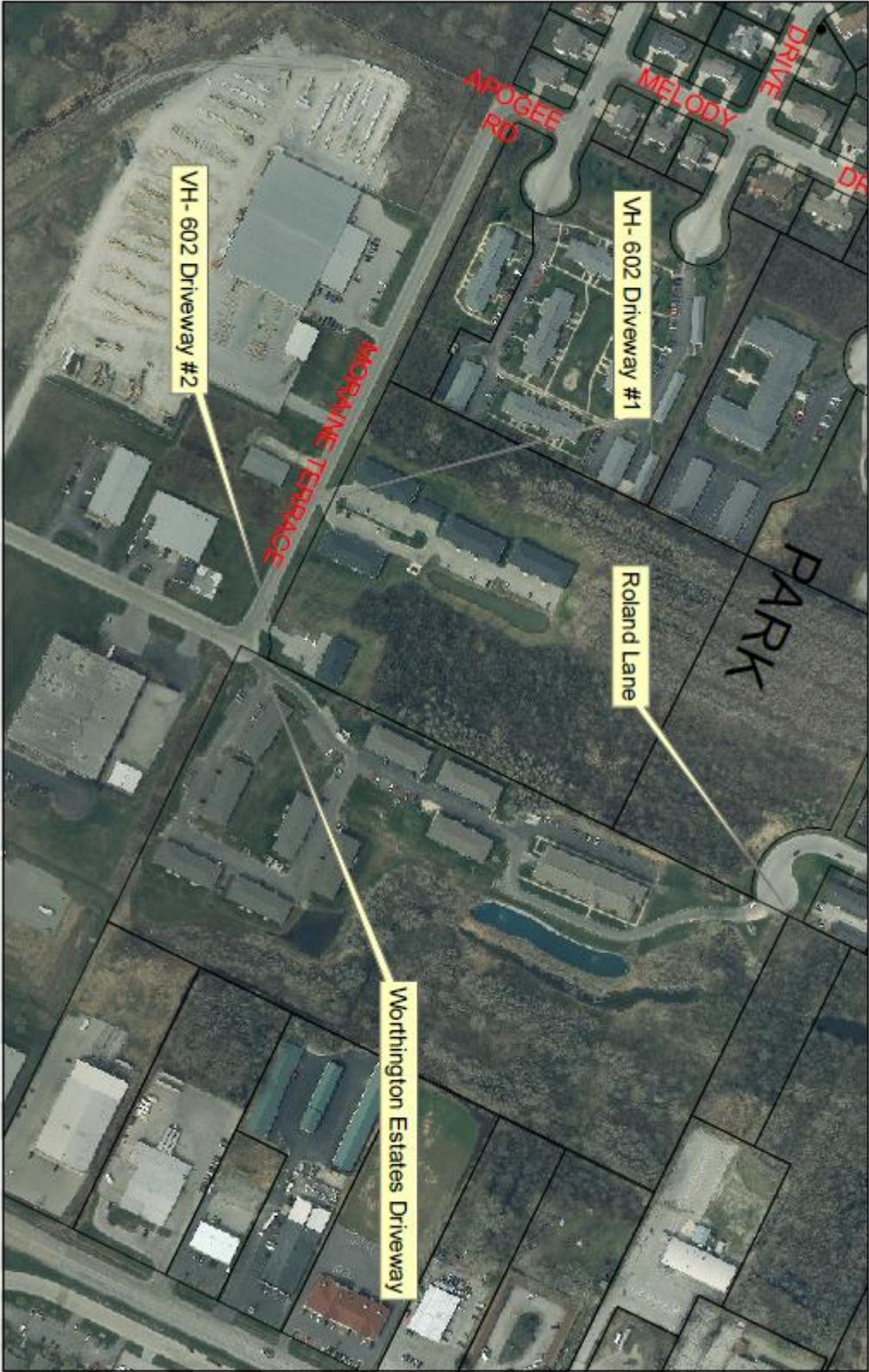


Pedestrians using a dog guide or carrying a white cane have absolute right-of-way (even if not at an intersection.) Do not use your horn as it could startle the blind pedestrian. If you see anyone in the roadway with a dog guide or a white cane, stop at least ten feet away until the person is off the roadway.



### Left Turns/U-turns

Drivers making a left turn or U-turn must yield to vehicles approaching from the opposite direction, including bicycles.



**VH- 604 REGENCY HEIGHTS**



**VH- 604 REGENCY  
HEIGHTS**



**VH- 602 DRIVEWAY #1**



**VH- 602 DRIVEWAY #1**



**VH- 602 DRIVEWAY #1**



**VH- 602 DRIVEWAY #2**



**VH- 602 DRIVEWAY #2**

