

MINUTES

**VILLAGE OF YORKVILLE
VILLAGE BOARD
VILLAGE BOARD ROOM
UNION GROVE MUNICIPAL CENTER
MONDAY, SEPTEMBER 13, 2021**

Call to Order

Village Board President Douglas Nelson called the meeting to order at 5:30 p.m.

Roll Call

The following Village Board members were present: Douglas Nelson, Robert Funk, Daniel Maurice, Steve Nelson and Cory Bartlett. Also present were Robert Kordus II and Karl Willick representing Asphalt Contractors, Heather Mogden representing Hall, Render, Killian, Heath & Lyman, Remzy Bitar representing Municipal Law & Litigation Group, Attorney Tim Pruitt, Engineer Mark Madsen and Administrator/Clerk Michael McKinney.

New and Unfinished Business - Discussion and possible action on the following:

Asphalt Contractors, Inc. presentation on the 2021 55th Drive paving and drainage program project and contract

Heather Mogden stated that the special provisions of this contract supersede its general specifications and asked which contract standards were being applied to this project. She noted that the liquidated damages applied by the Village to the first pay request were applied after the pay request was submitted, adding that she does not have a record of how the liquidated damages were calculated.

Karl Willick stated that, while there are some subtle variations in the road surface, it is well-constructed and is at least in average condition. He noted that the Village's expectations regarding this project need to be more clearly explained, adding that he would like to meet with Village representatives on-site to review the condition of the road. He stated that the Village needs to provide notice to a contractor when seeking liquidated damages for a project. He added that Asphalt Contractors wants to provide a good product to the Village without further legal involvement.

Robert Kordus II stated that Asphalt Contractors provided a proposal to the Village for this project based upon the project's specifications, adding that ride control was not included in the project specifications. He noted that there should not be an expectation that Asphalt Contractors construct a high-quality road if the project specifications did not require them to do so. He stated that the first pay request for this project was altered without his permission. He noted that the special provisions of this contract supersede its general specifications. He stated that he would seek a defamation claim against the Village if it held Asphalt Contractors in default on this project.

No formal action was taken by the Village Board on this agenda item.

Closed Session: 2021 55th Drive paving and drainage program project and contract

Motion (S. Nelson, Maurice) to enter into closed session at 5:47 p.m., pursuant to Wisconsin Statutes Section 19.85(1)(g)* to discuss the 2021 55th Drive paving and drainage program project and contract with litigation counsel. Roll Call - Bartlett, Yes; S. Nelson, Yes; D. Nelson, Yes; Maurice, Yes; Funk, Yes. Motion Carried.

The Village Board met in closed session to discuss the 2021 55th Drive paving and drainage program project and contract with litigation counsel.

Motion (S. Nelson, Maurice) to return to open session at 6:13 p.m., Motion Carried (MC).

2021 55th Drive paving and drainage program project and contract

Motion (Bartlett, Maurice) to authorize the Village's litigation counsel to contact Asphalt Contractors' counsel within the next 30 days to discuss the 2021 55th Drive paving and drainage program project and contract, MC.

Adjournment

Motion (Funk, Maurice) to adjourn, MC. The meeting was adjourned at 6:15 p.m. The next scheduled Village Board meeting is Monday, September 13, 2021, at 6:00 p.m.

Michael McKinney
Administrator/Clerk

* Wisconsin Statutes Section 19.85(1)(g) - Conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved.