



N64W23760 Main Street
Sussex, Wisconsin 53089
Phone (262) 246-5200
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Email: info@villagesussex.org
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AGENDA
VILLAGE BOARD
VILLAGE OF SUSSEX
6:00 PM - TUESDAY, NOVEMBER 24 , 2020
SUSSEX CIVIC CAMPUS – BOARD ROOM 2nd FLOOR
N64W23760 MAIN STREET

1. Roll call.
2. Pledge of Allegiance.
3. Consideration and possible action on minutes from the Village Board meetings held on November 10, 2020.
4. Communications and Public Hearing(s)
 - A. Village President Report. Report on meetings attended/up-coming, communications, and recognitions.
 - B. Public Hearing on the 2021 Village of Sussex Budget
5. Committee Reports
 - A. Board of Fire Commissioners Report on discussion and action taken at the previous meeting, future agenda items and upcoming meetings.
 - B. Community Development Authority Report on discussion and action taken at the previous meeting, future agenda items and upcoming meetings.
 - C. Park & Recreation Board Report on discussion and action taken at the previous meeting, future agenda items and upcoming meetings.
 - D. Pauline Haass Library Board Report on discussion and action taken at the previous meeting, future agenda items and upcoming meetings.
 - E. Plan Commission Report on discussion and action taken at the previous meeting, future agenda items and upcoming scheduled meetings.
 - F. Public Safety and Welfare Report on discussion and action taken at the previous meeting, future agenda items and upcoming meetings.
6. Staff Reports on upcoming events, projects in process, future agenda items and scheduled meetings.
7. Comments from citizens present.

8. Old Business.
 - A. Recommendation and possible action on Resolution 20-27 Adopting the 2021 Budget of the Village of Sussex, its Utilities and special funds, and levying property taxes, and directing implementation for the same including directing the Clerk to not place certain debt on the tax levy, and the Administrator to implement the personnel, policy, and programs of the budget.
 - B. Recommendation and possible action on Resolution 20-28 implementing the various fee changes for 2021 included as part of the 2021 budget.
9. New Business.
 - A. Introduction and set forth the public hearing on Resolution 20-26 of the Village Board of the Village of Sussex to Vacate and Discontinue a Pedestrian Way within the Spring Green Heights Subdivision.
 - B. Consideration and possible action on Sewer RCA agreement for Hickory Drive Property LLC.
10. Consideration and possible action on resignations and appointments.
 - A. Consideration of Trustee Appointment to the Plan Commission
11. Adjournment

Anthony LeDonne
Village President

Jeremy Smith
Village Administrator

It is possible that members of and possibly a quorum of members of other governmental bodies of the municipality may be in attendance at the above stated meeting to gather information; no action will be taken by any governmental body at the above stated meeting other than the governmental body specifically referred to above in this notice. Please note that, upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information or to request this service, contact the Village Clerk at 246-5200.

DISCLAIMER- THE FOLLOWING ARE DRAFT MINUTES FROM
THE SUSSEX VILLAGE BOARD
AND ARE SUBJECT TO CHANGE UPON APPROVAL OF THE VILLAGE BOARD

**VILLAGE OF SUSSEX
SUSSEX, WISCONSIN**

**Minutes of the Village Board Meeting of
November 10, 2020**

1. Roll Call

The meeting was called to order by President LeDonne at 6:00 pm.

Members present: Greg Zoellick, Lee Uecker, Scott Adkins, Ron Wells, Wendy Stallings, Mike Bartzen and President Anthony LeDonne.

Also present: Assistant Village Administrator Kelsey McElroy Anderson, Attorney John Macy, and members of the Public.

2. Pledge of Allegiance

President LeDonne led the pledge of allegiance.

3. Meeting Minutes

A motion by Bartzen, seconded by Stallings to approve the October 27, 2020 minutes of the Village Board meeting as presented. Motion carried 7-0

4. Communications and Public Hearings

A. Village President Report

President LeDonne announced the meetings for the coming week.

5. Committee Reports

5.A. Finance and Personnel Committee

5.A.1. Motion by Bartzen, seconded by Uecker to approve of the October Check Register and P-card Statement in the amount of \$2,455,090.24. Motion carried 7-0

5.A.2. Motion by Bartzen, seconded by Stallings to approve the October Ace Hardware bill for payment in the amount of \$1,257.34. Motion carried 6-0
LeDonne Abstained.

5.A.3. Motion by Bartzen, seconded by Stallings to approve of an Operator License for Alexander Kavanaugh and Stephanie Kendall subject to the standard conditions for operator license approval.

Motion carried 7-0

5.A.4. Motion by Bartzen, seconded by Adkins to approve an amendment to the premise description for the Class A license for Meijer's N51W24952 Hwy K, Sussex, WI License #20-011A to allow for the grocery pick-up service.

Motion carried 7-0

5.A.5. There was consensus to table action on the Class B Beer and Liquor license for Quad Graphics, Inc. at the request of the petitioner.

5.A.6. Motion by Bartzen, seconded by Uecker to approve the 2020 Third Quarter Investment Report as presented.
Motion carried 7-0

5.A.7. Motion by Bartzen, seconded by Stallings to allocate the remaining \$300,000 of surplus from 2019, which was originally set aside for possible Covid expenditures, to fund cycle gaps in park buildings (\$100,000), diamonds and courts (\$100,000), and playgrounds (\$100,000).

Motion carried 7-0

5.B. Public Works Committee

5.B. Motion by Adkins, seconded by Bartzen to approve of bills for payment in the amount of \$546,219.33.
Motion carried 7-0

6. Staff Reports

Ms. McElroy Anderson stated that the north section of Maple Avenue will open on Friday, November 13th. Leaf collection continues and is on schedule. The water main repairs on Highway 164 and Laurel Court are complete. The new Fire Chief, Kris Grod, starts on Monday.

Mr. Macy stated that he had nothing to report, but he was available for any questions from the Board.

7. Comments from Citizens Present

No one presented wished to speak.

8. Old Business

There was no old business.

9. New Business

Trustee Zoellick requested an update on the Finley Property on Main Street as well as the sale of the vacant well properties at a future meeting.

10. Consideration on resignation and appointments

10.A. Motion by LeDonne, seconded by Zoellick to appoint Trustee Greg Zoellick to the Plan Commission.

A roll call vote was taken:

Zoellick – Aye
Uecker – Nay
LeDonne – Aye
Adkins – Nay
Stallings – Nay
Wells – Aye
Bartzen - Nay

The motion failed, due to a super majority of 2/3 of the board not in agreement. Per Village Ordinance, Village Board members appointed to the Plan Commission require a 2/3 vote for approval.

11. President LeDonne stated that the board would now consider a motion to convene into executive session under Wis. Stats. 19.85(1)(c) when considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility with respect to a potential contract amendment with the Village Administrator.

Motion by LeDonne, seconded by Bartzen to convene into executive session. A roll call vote was taken.

Motion carried 7-0

The Village Board went into closed executive session at 6:22 pm.

The Village Board went back into open session at 7:20 pm.

Motion by Adkins, seconded by Stallings to approve the employment contract for the Village Administrator, in the form presented by Trustee Bartzen, with one modification: The severance payment that is identified in Section 6.A. of the Agreement is amended to read "12 Months" of severance. The remainder of the draft contract presented by Trustee Bartzen shall remain as presented.

Motion carried 4-3

(LeDonne, Zoellick, and Wells voted Nay)

12. Adjournment

Motion by LeDonne, seconded by Stallings to adjourn at 7:22 pm.

Motion carried 7-0

Respectfully submitted,

Kelsey McElroy-Anderson
Assistant Village Administrator

**VILLAGE OF SUSSEX
NOTICE OF PUBLIC HEARING REGARDING 2021 BUDGET**

On November 24, 2020 at 6:00 P.M., the Village Board of the Village of Sussex will hold a public hearing for the purpose of hearing the comments of any citizens related to the proposed Village budget for 2021. A summary of the proposed budget is published herewith. The detailed proposed budget is available for inspection at the Civic Center, N64W23760 Main Street between 8:00 A.M. and 5:00 P.M., Monday through Friday and on the Village website (www.villagesussex.org). This public hearing will be held in the Village Board room on the second floor of the Civic Center.

GENERAL FUND BUDGET SUMMARY	BUDGET 2020	2021 PROPOSAL	PERCENTAGE CHANGE
REVENUES:			
Taxes - Property	7,719,340	7,888,491	2.19%
Taxes - Other	560,000	571,100	1.98%
Intergovernmental Revenues	1,058,435	1,171,322	10.67%
Licenses & Permits	224,300	231,300	3.12%
Fines, Forfeitures & Penalty	302,300	281,600	-6.85%
Public Charges for Services	640,973	677,258	5.66%
Special Charges - Garbage	422,610	440,581	4.25%
Commercial Revenues	159,911	158,822	-0.68%
Miscellaneous/Other Revenues	48,917	66,700	36.35%
Total Revenues:	<u>11,136,786</u>	<u>11,487,174</u>	3.15%
Transfers from Other Funds:	186,000	335,900	80.59%
Use of Surplus/Designated Funds	149,119	577,927	287.56%
TOTAL REVENUES:	<u>11,471,905</u>	<u>12,401,001</u>	8.10%
EXPENDITURES:			
General Government	797,829	789,946	-0.99%
Public Safety	3,395,799	3,551,866	4.60%
Health & Sanitation	523,827	536,175	2.36%
Operations (streets and engineering)	879,919	881,414	0.17%
Library	740,547	740,547	0.00%
Parks, Recreation & Cultural Services	1,253,552	1,311,919	4.66%
Capital Outlay	1,511,187	2,055,083	35.99%
Total Expenditures:	<u>9,102,660</u>	<u>9,866,950</u>	8.40%
Transfers to Other Funds:	2,369,245	2,534,051	6.96%
TOTAL EXPENDITURES:	<u>11,471,905</u>	<u>12,401,001</u>	8.10%

Projected Fund Balances - Estimates for Informational Purposes Only

	Estimated Fund Balance 1/1/20	2021 Revenues	2021 Expenditures	Estimated Fund Balance 12/31/21	Property Taxes
General Fund	1,534,854	12,401,001	12,401,001	1,534,854	5,437,377
Library Impact Fees	296,636	30,368	-	327,004	-
Park Impact Fees Fund	214,495	84,146	-	298,641	-
Recreation Scholarship Fund	20,115	7,900	6,600	21,415	-
Cemetery Fund	10,371	14,250	14,599	10,022	-
Debt Service Funds	512,409	3,148,032	3,328,032	332,409	2,451,114
Capital Projects Fund	1,100,000	50,000	1,064,500	85,500	-
Tax Incremental Financing District	(2,844,196)	807,308	756,788	(2,793,676)	758,984
Water Utility*	19,571,535	2,928,832	2,899,736	19,600,631	-
Sewer Utility*	33,652,949	2,983,666	3,273,299	33,363,316	-
Community Development Authority*	249,241	46,301	290,640	4,902	-
Stormwater Utility*	14,394,599	669,366	742,533	14,321,432	-
Totals	<u>68,713,008</u>	<u>23,171,170</u>	<u>24,777,728</u>	<u>67,106,450</u>	<u>8,647,475</u>

*Net assets, not available cash

The Village's outstanding general obligation debt at December 31, 2020 is projected to be \$46,304,228. The balance in the Village's Designated General Fund at December 31, 2020 is projected to be \$4,112,480. The public is encouraged to provide written and/or oral comments and questions on the proposed budget. Please take notice that the annual payment for Refuse and Recycling for 2021 is established at \$144.69 per single family unit. It is imposed on single family homes and duplexes. The total charge is intended to defray the cost of providing garbage service to those Village residences for 2021. This charge will be automatically added as a line item on your 2020 property tax bill as a "special charge" for services unless paid prior to 11/15/2020. Published by order of the Village Board of the Village of Sussex.

Samuel E. Liebert
Clerk-Treasurer

Publish: Community NOW, Northwest, November 4, 2020. Proof of publication required



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MEMORANDUM

To: Village Board
From: Sam Liebert, Administrative Services Director
Re: Village Board Meeting- November 24, 2020
Date: November 20, 2020

4.A. Village President Report- report on meetings attending and upcoming communications, and recognitions including Successfully Sussex Awards.

4.B. The Public Hearing on the 2021 Village of Sussex Budget will be held. A brief power point will highlight the 2021 Budget and comments from the public will be heard.

8.A. Staff recommends approval of Resolution 20-27 Adopting the 2021 Budget of the Village of Sussex, its Utilities and special funds, and levying property taxes, and directing implementation for the same including directing the Clerk to not place certain debt on the tax levy, and the Administrator to implement the personnel, policy, and programs of the budget. Please see the budget, Resolution, and Exhibits for more information.

8.B. Staff recommends approval of Resolution 20-28 implementing the various fee changes included as part of the 2020 budget. Please see attached resolution for more information.

9.A. Staff recommends the Village Board set the public hearing for January 5, 2021 for Resolution 20-26 of the Village Board of the Village of Sussex to Vacate and Discontinue a Pedestrian Way within the Spring Green Heights Subdivision. This resolution is the first step to eliminate the old driveway right of way for Well 3 which the Village Water Utility no longer needs. Please see the attached memo for additional information.

9.B. Staff recommends approval of the Sewer RCA agreement for Hickory Drive Property LLC. Hickory Drive Property LLC desires to develop a 100-unit Senior Living Facility, which they own, located at W235N6350 Hickory Drive in the Village of Sussex. This agreement allows the Village to have a look back period for RCA charges with the new senior housing Project as the specific sewer use had to be estimated. The Village has done similar agreements in the past when specific usage could not be ascertained. Please see the full details of the agreement and staff are available for questions.

10.A. Consideration and possible action Trustee Plan Commission Appointment.

11. Adjournment.

RESOLUTION #20-27

WHEREAS: The Village Administrator, as required by the Village Code, has prepared and submitted to the Village Board a proposed budget for all departments of the Village for fiscal year 2021 and

WHEREAS: The Village Board has, at budget work sessions, amended such budget and authorized a public hearing to be held on such budget, and

WHEREAS: A public hearing was held after proper notice on November 24, 2020 at 6:00 P.M., and

WHEREAS: Following the public hearing the Village Board wishes to adopt a budget for fiscal year 2021; and

WHEREAS: The Village of Sussex has the following General Obligation principal and interest payments due during fiscal year 2021:

1.	2013 General Obligation Refunding Bonds	\$ 170,340
2.	2013 General Obligation Corporate Purpose Bonds	\$ 253,833
3.	2013 General Obligation Community Development Bonds	\$ 148,888
4.	2014 General Obligation Promissory Notes	\$ 4,616
5.	2015 General Obligation Promissory Notes - Series A	\$ 304,758
6.	2015 General Obligation Promissory Notes - Series C	\$ 207,050
7.	2015 General Obligation Refunding Bonds - Series F	\$ 243,138
8.	2016 General Obligation Promissory Notes - Series A	\$ 167,750
9.	2016 General Obligation Street Improvement Bonds - Series B	\$ 234,600
10.	2016 General Obligation Promissory Notes - Series D	\$ 204,463
11.	2017 General Obligation Bonds - Series A	\$ 187,750
12.	2017 General Obligation Promissory Notes - Series B	\$ 349,100
13.	2017 General Obligation Corporate Purpose Bonds - Series D	\$ 168,863
14.	2018 General Obligation Refunding Bonds - Series B	\$ 87,819
15.	2018 General Obligation Street Improvement Bonds - Series C	\$ 203,594
16.	2019 General Obligation Corporate Purpose Bonds - Series A	\$ 63,275
17.	2019 General Obligation BAB Refunding Bonds - Series C	\$ 499,500
18.	2020 General Obligation Street Improvement Bonds - Series A	\$ 195,597

WHEREAS: The Village has sufficient funds on hand or can reasonably anticipate the receipt of sufficient funds to make the principal and interest payments as required for portions of the above listed debt, and

WHEREAS: The Village Board wants to see its policies, directives, and programs carried out as efficiently as possible so directs the Village Administrator, and Village Clerk to implement the initiatives and services called for within the 2021 budget; and

NOW, THEREFORE, BE IT RESOLVED by the Village Board of the Village of Sussex, Waukesha County, Wisconsin, that:

1. The proposed General Fund, Debt Service Fund, Tax Increment Financing District Fund, CDA, Cemetery, Water, Sewer, and Stormwater Fund budgets for Fiscal Year 2021 as amended at the various work sessions are hereby adopted.

2. The General Fund budget includes funds to be placed into the Cash Capital/Depreciation Fund for future equipment and facility replacement. This fund is part of the Village's strategic financial policy adopted with the intent to minimize borrowing and efficiently replace the Village's equipment and facilities and ensure payment over time by those who receive benefit from the equipment and facilities.
3. The Clerk-Treasurer is hereby authorized and directed to place upon the tax roll of the Village of Sussex a levy in the amount of \$7,888,491 in order to meet the cost of debt service and general operating expense, and the amount of \$740,462 for TIF expenses of the Village of Sussex for fiscal year 2021. The Village Clerk is further authorized and directed not to place on the 2020 tax roll a levy to meet the principal and interest payments for debt due in 2021 with other payment sources and the amount of levy necessary for debt without other payment sources is provided for in the general fund budget.
4. The Village Administrator is hereby authorized and directed to implement the personnel changes set forth in the budget including updating the Village of Sussex Personnel Handbook and its addendums and implementing salary and benefit adjustments for all employees, including the Paid on Call Fire Department staff, for 2021, not to exceed total funds budgeted for salaries and wages among all budgets. The Village Administrator is further authorized and directed to implement the services, programs, and policies outlined in the budget and as set forth in Exhibit A.

Adopted this 24th day of November, 2020.

Anthony LeDonne, Village President

ATTEST: _____
Samuel E. Liebert, Clerk-Treasurer

Appendix A - Regular: Revision Date 11/2020

Title	Pay Grade	Min	Max
Administrator	12	\$109,402	\$139,000
Assistant Village Administrator	11	\$96,929	\$113,415
Finance Director	11		
Public Works Director/Engineer	11		
Fire Chief	10	\$92,508	\$104,982
Assistant DPW - Operations	9	\$81,673	\$99,456
Administrative Services Director	9		
Assistant Engineer	8	\$70,783	\$87,119
Parks and Recreation Director	8		
Assistant/Deputy Chief	<u>8^</u>		
Foreman	7	\$55,827	\$80,552
Captain/Lieutenant	<u>7^</u>		
Assistant to Finance Director	6	\$51,743	\$67,678
Assistant to Development Director	6		
Deputy Clerk	6		
PW W/ Certifications (Water or Sewer)	6*		
Full-time Firefighter/Paramedic	<u>5</u>	\$48,623	\$64,774
PW Employee	5		
Recreation Coordinator	5		
Part-time Firefighter/Paramedic	<u>4!</u>	\$38,798	\$56,353
Communications Coordinator	4		
Administrative Assistant II	4		
Senior Coordinator	3	\$38,009	\$50,686
Special Events Coordinator	3		
Firefighter/EMT	<u>2!</u>	\$35,025	\$45,638
Maintenance Technician	2		
Administrative Assistant	2		
Cleaner	1	\$27,883	\$43,071

Appendix A - Limited Term and Seasonal: Revision Date 11/2020

Title	Pay Grade	Min	Max
Recreation Instructor III	LT	\$20.00	\$31.00
Seasonal II	S	\$15.65	\$25.00
Fire Recruit	<u>LT</u>	\$9.40	\$15.00
Recreation Instructor II	LT	\$9.40	\$15.00
Site Supervisor	LT	\$8.00	\$12.95
Seasonal Parks	S	\$8.00	\$12.95
Recreation Instructor I	LT	\$8.00	\$12.95
Intern		As appropriate per project and educational background	

Appendix A - Notes

*	<p>Public Works employees move to pay grade 6 when they earn either their water operator certification - grade 1 (distribution and groundwater) or sewer operator certification - basic. Upon receiving both water and sewer certifications they receive a pay increase of \$1,500, but the total annual salary may not exceed the maximum for the PW with Certifications pay grade. See memo for additional information and requirements.</p>
	<p>Paid on call Fire positions are paid 70% of their hourly rate for duties aside from fire/rescue runs and paid-on-premise time. Employees are grandfathered into the pay structure prior to January 1, 2018 if the new structure would result in a lower hourly rate for fire/rescue runs. Training and other activities, however, shall be paid at 70% of the hourly rate for fire/rescue runs in the post January 1, 2018 pay structure regardless of status. The new pay structure shall go into effect for grandfathered employees once the hourly rate for fire/rescue runs in the new pay structure would exceed their hourly rate for fire/rescue runs as of December 31, 2017 or no later than January 1, 2021. Only employees in the new pay structure will be eligible for increases to their hourly rate for fire/rescue runs.</p> <p>Firefighting wages are based upon 2,763 hours per year (212 hours per 28 day) schedule.</p>
!	<p>These positions are paid an additional \$.25 per hour for each completed preferred certification, as outlined in the job description. This adjustment is applicable to the fire/rescue runs hourly wage.</p>
^	<p>The following monthly stipends are paid to Paid on Call Fire Officers for those in these roles prior to January 1, 2020.</p> <ul style="list-style-type: none">Assistant/Deputy Chief - \$504.69Captain - \$331.79Lieutenant - \$249.99

RESOLUTION NO. 20-28

WHEREAS: The Village Board has adopted the 2021 budgets including the General and Cemetery Fund Budgets, Water, Sewer, and Stormwater Utility Budgets and

WHEREAS: As part of the 2021 adopted budget the Village Board recommended adjustment of certain fees to reflect the cost increases realized by the Village over the past number of years for providing said services, and

WHEREAS: This resolution implements those fee adjustments for various services provided by the Village in keeping with the Village Board's adopted budget, and

WHEREAS: These fee adjustments are related to the cost of providing service and are equal to or in most cases less than the actual cost of providing said service.

NOW, THEREFORE, BE IT RESOLVED by the Village Board of the Village of Sussex, Waukesha County, Wisconsin, that:

1. The following garbage charges were announced with the Official Notice of the Budget Public Hearing, and were made part of the 2021 adopted budget, and are established as follows:
 - A. Garbage costs shall be billed at \$144.69 per unit for 2021. Duplexes are considered two units. The Village does not collect garbage through its contract with the garbage and recycling vendor from residential units larger than two families nor from commercial, institutional, industrial, or other uses. Residences on private roads or in condo developments are also not part of the garbage/recycling contract.

The Village does provide other recycling/garbage services outside of the regular weekly garbage/recycling vendor provided services. Said services are paid for through general fund taxes and or separate fees and each service has separate rules as it relates to who may participate or who is provided said service (resident, business, etc.) based upon the nature of the service and or service partners.
2. Yard waste passes will be increased to \$30/year. Punch cards remain the same price.
3. Increase occupancy fees to \$75 for residential and \$150 for commercial/industrial properties.
4. Increase the fee for a Zoning Board of Appeals to \$1,500.
5. The above rates shall remain in effect until superceded by a new resolution and unless otherwise stated are effective January 1, 2021.
6. The Village Clerk is hereby authorized and directed to administratively implement these changes in all fee schedules, and for billing, collection, and financial record keeping purposes.

Adopted: November 24, 2020

Village President

ATTEST: _____
Clerk-Treasurer

MEMORANDUM

TO: Kasey Fluet, Assistant Development Director
VILLAGE OF SUSSEX

FROM: Eric J. Larson, Village Attorney
MUNICIPAL LAW & LITIGATION GROUP, S.C.

DATE: November 6, 2020

RE: **Village of Sussex**
Vacation of a Pedestrian Way per Wisconsin Statutes Section 66.1003

Dear Kasey,

Per your request and the timeline you forwarded on October 26, 2020, the following are the necessary procedures that must be followed for the Village Board to follow to vacate the pedestrian way:

1. Map and descriptions. You provided the documents that I will attach as exhibits including a map and legal descriptions. From what you provided I created an Exhibit 2 which is a list of the property owners and addresses, but please confirm that I have done so accurately and in accordance with your intent.
2. Notice to DOT and/or the Commissioner of Railroads. I believe the pedestrian way is not within ¼ mile of a state trunk highway or connecting highway (it might have been prior to the jurisdiction transfer of former STH 74, but no more) so no notice of the discontinuance must be provided to the State Secretary of Transportation. Also, this pedestrian way does not include a railroad crossing, so no notice must be provided to the Commissioner of Railroads.
3. Lis Pendens. We must file a Notice of Pendency of Discontinuation with Waukesha County Register of Deeds. The notice should contain a brief statement of the object thereof, and a map and description of land to be affected thereby. §§66.1003(9) & 840.11(1). This must be filed prior to the introduction of the resolution described in item 4, below. See attached Exhibit A. **It is important for this to be recorded before the matter comes before the Village Board, so please confirm whether I am directed to proceed.** I will await your authorization to record the lis pendens.
4. November 24, 2020: Village Board: Introduction of Resolution. The matter should come before the Village Board on November 24, 2020 for the following purposes:
 - A. A resolution must be prepared and introduced at a Village Board meeting. The resolution is to declare that the public interest requires that a pedestrian walkway in Spring Green Heights subdivision is to be vacated and

discontinued. §66.1003(4)(a), Stats. It is only “introduced,” not acted on at this meeting. See attached Exhibit B.

- B. The Village Board should set the date for the hearing on the resolution. The date must be at least 40 days after the introduction of the resolution. §66.1003(4)(b), Stats. I understand you anticipate the hearing will be January 26, 2021.
- C. The Village Board should refer the resolution, map and legal description for review and report by the Plan Commission, and to request a report from the Plan Commission by the time of the Village Board meeting when the Board will consider passing the resolution. §62.23(5), Stats.
- D. The Village Board action at this meeting could be along these lines:

I move that a public hearing be scheduled for January 26, 2021, at _____ p.m., or as soon thereafter as practicable, regarding the Resolution to Vacate and Discontinue pedestrian walkway in Spring Green Heights subdivision, which is being hereby introduced at this meeting pursuant to Wisconsin Statutes Section 66.1003(4)(a), and to refer the matter to the Plan Commission for report and recommendation.

- 5. December 15, 2020: Plan Commission. The matter should come before the Plan Commission on December 15, 2020 for review and recommendation. The Plan Commission action at this meeting could be along these lines:

I move to recommend to the Village Board that the Resolution to Vacate a pedestrian walkway in Spring Green Heights subdivision be adopted.

Note that you could conduct the CSM review related to this pedestrian way vacation simultaneously. If desired, and if the CSM is prepared in time, the Plan Commission could review the CSM and provide its recommendation, under a separate agenda item at this same meeting.

- 6. Notice of Hearing. The notice of public hearing must state where and when the discontinuance resolution will be acted on, and describe what will be discontinued. §66.1003(8)(b), Stats. The following notice requirements apply:

- A. Publish Class 3 notice of the hearing, under ch. 985, Stats. See attached Exhibit C. I understand you intend to publish on December 30th, January 6th and January 13th.
- B. Provide personal service of the notice of hearing (“in the manner provided for service of a summons in circuit court”) to all property owners whose property abuts or fronts upon the public road being discontinued, at least 30 days before hearing. §66.1003(4)(b), Stats. If possible, service can be admitted by the owners, using the attached forms. See attached Exhibit D.

C. The notice must state where and when resolution will be acted on, and describe what public road sections will be discontinued. §66.1003(8)(b), Stats. See attached Exhibits C and D.

7. January 26, 2020: Public Hearing. The Village Board must conduct the public hearing.

8. Village Board Action. The Village Board should review the Plan Commission report, discuss and take action on the resolution.

A. NOTE SUPERMAJORITY REQUIREMENT: If a written objection is filed with the Village Clerk by any property owner which abuts the pedestrian way to be discontinued; or by the owners of more than 1/3 of the frontage of the lots and lands abutting on the remainder of the pedestrian way which lies within 2,650 feet from the ends of the public way proposed to be discontinued (or the portion thereof within the Village); then the Village Board must pass the resolution by a 2/3 vote of the members present and voting on the matter.

B. The Village Board action could be taken along these lines:

I move that the Resolution of the Village Board of the Village of Sussex to Vacate and Discontinue a pedestrian walkway in Spring Green Heights subdivision be adopted as presented, subject to a Certified Survey Map (CSM) being created and recorded to show the resulting parcels in a manner approved by the Village and all abutting owners, and the CSM and discontinuance resolution being recorded together.

Note, if you choose to schedule the CSM review to operate simultaneously with the vacation process, and if the Plan Commission has made its recommendation, the Village Board could act on the CSM under a separate agenda item at this same meeting.

9. Record the Resolution. Once the CSM has received all necessary approvals and signatures, it should be recorded with the Waukesha County Register of Deeds by the Village Clerk, along with the Resolution which discontinues a pedestrian way in Spring Green Heights subdivision.

If you have any questions, please let me know. Thanks.

Eric

EJL:egm
attachment(s)

C:\MyFiles\JPM\Sussex\Vacate Public Way\Discontinuance Memo re public way 11.6.20.docx

RESOLUTION OF THE VILLAGE BOARD OF THE VILLAGE OF SUSSEX
TO VACATE AND DISCONTINUE A PEDESTRIAN WAY WITHIN THE
SPRING GREEN HEIGHTS SUBDIVISION

WHEREAS, pursuant to Wis. Stat. § 66.1003, the Village Board has statutory authority to vacate and discontinue Village right of way within its jurisdiction; and

WHEREAS, the League of Wisconsin Municipalities legal counsel determined in an opinion dated November 14, 1977 that the proper method to vacate a pedestrian way is pursuant to Wisconsin Statutes Section 66.296, now codified as 66.1003, which opinion is shared by the Village Attorney and the Village Board for reasons described in the League of Wisconsin Municipalities legal opinion; and

WHEREAS, the public interest requires vacation of a pedestrian way as depicted and described in Exhibit 1, as this is a segment of public way that has no utility and the land can be used by the abutting owners; and

WHEREAS, this Resolution was introduced in this form before the Village Board of the Village of Sussex on November 24, 2020; and

WHEREAS, following introduction of this Resolution, the Village Board set a date for a public hearing which was not less than forty (40) days after the date on which this Resolution was introduced, specifically on January 26, 2021; and

WHEREAS, notice of public hearing stating when and where this Resolution would be acted upon and stating what public way is proposed to be discontinued was published as a Class 3 Notice under Chapter 985, Wisconsin Statutes, and in addition was served on the owners of all of the frontage of the lots and lands abutting upon the public way sought to be discontinued (said properties as described in Exhibit 2) in a manner provided for the service of Summons in Circuit Court at least 30 days before the hearing; and

WHEREAS, no written objections to the proposed discontinuance have been filed with the Village Clerk by any of the owners abutting on the public way sought to be discontinued, or by the owners of more than one-third of the frontage of the lots or lands abutting on the remainder of the public way which lies within 2,650 feet from the ends of the public way proposed to be discontinued or which lies within that portion of the 2,650 feet that is within the Village limits; or if such objection has been filed, two-thirds of the members of the Village Board voting on the proposed discontinuance have voted in favor of the discontinuance; and

WHEREAS, no landlocked parcel will be created by the proposed discontinuance; and

WHEREAS, the owners of all of the lands abutting a portion of the pedestrian public way have submitted, or will submit prior to this Resolution taking effect, a certified survey map for approval under Chapter 236 of the Wisconsin Statutes, which will combine the properties along with the vacated public way; and

WHEREAS, the Village Board has conducted such public hearing on January 26, 2021, pursuant to such notice; and

WHEREAS, following due consideration of all information received from Owners, the Village Engineer, and in the course of the public hearing of this matter and being duly advised, the Village Board, by this Resolution, does hereby declare the public interest requires the vacation and discontinuance of the pedestrian public way as specifically described and identified on Exhibit 1, and the Village Board further finds that the vacation and discontinuance of the pedestrian public way will not land lock any property.

NOW THEREFORE, BE IT RESOLVED by the Village Board of the Village of Sussex, Waukesha County, Wisconsin, that the public way depicted in the attached Exhibit 1 is hereby discontinued pursuant to Wis. Stat. § 66.1003, subject to approval and delivery to the Village Clerk for recording, and recording with the Waukesha County Register Deeds, Wisconsin of a certified survey map which combines the vacated right of way with the abutting land currently known as parcel numbers SUXV0245.055.001 and SUXV0245.056;

BE IT FURTHER RESOLVED, that upon receipt by the Village of the original certified survey map bearing approval of all necessary governmental bodies and parties-in-interest, the Village Clerk shall record a certified copy of this Resolution together with said certified map with the Waukesha County Register of Deeds.

PASSED AND ADOPTED by the Village Board of the Village of Sussex, Waukesha County, Wisconsin, this ____ day of _____ 2020

VILLAGE BOARD, VILLAGE OF SUSSEX

Anthony LeDonne, Village President

ATTEST:

Sam Liebert, Village Administrative Services Director, Clerk/Treasurer

AGREEMENT

THIS AGREEMENT dated this ___ day of _____, 2020, between Hickory Drive Property LLC, a Wisconsin corporation, and the Village of Sussex, a municipal corporation of the State of Wisconsin, located in Waukesha County (hereinafter referred to as the “Village”).

WHEREAS, Hickory Drive Property LLC desires to develop a 110 unit Senior Living facility on a certain parcel of real estate, which Hickory Drive Property LLC owns, located at W235N6350 Hickory Drive, SUXV0246.961.002 in the Village of Sussex, Waukesha County, Wisconsin (hereinafter referred to the “Property”); and

WHEREAS, pursuant to the conditions of approval for the Developers Agreement and Building Permit and based upon annual projected water usage of 2,236,065 gallons per year the Village levied a reserve capacity assessment for sanitary sewer systems in the amount of \$5,500 per REC (A REC is 52,000 gallons) which equates to 43 RECs; and

WHEREAS, pursuant to the conditions of approval for the Developers Agreement and prior to the issuance of a building permit Hickory Drive Property LLC shall pay the Village the fee of \$236,500.00 for the reserve capacity assessment (RCA) for sanitary sewer systems to be used by the Village in the Village’s sanitary sewerage collection and treatment facilities; and

WHEREAS, Hickory Drive Property LLC does not have precise water usage data nor can the Village precisely calculate the water usage that this use will have, but rather has estimated usage figures; and

WHEREAS, Hickory Drive Property LLC wishes to avoid paying a higher RCA amount than necessary without precise water usage data; and

WHEREAS, Hickory Drive Property LLC and the Village desire to enter into an agreement regarding the reserve capacity assessment for sanitary sewer systems in the event that actual water usage exceeds the projected water usage of 2,236,065 gallons.

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties hereto, Hickory Drive Property LLC and the Village hereby agree as follows:

1. Reserve Capacity Assessment- Sanitary Sewer.

As provided in the Village Land Division and Development Ordinance, Hickory Drive Property LLC has paid as a one-time fee a reserve capacity assessment to be used by the Village in the Village’s sanitary sewerage collection and treatment facilities for the benefit of Hickory Drive Property LLC. The Village levied such assessment in conformity with the Developers Agreement, pursuant to Chapter 66 Subchapter VII, Wisconsin Statutes. The projected reserve capacity assessment was based upon water usage of 43 RECs at a rate of \$5,500 per REC, for a sum of \$236,500.00, which sum shall be paid prior to the issuance of a building permit.

In the event that actual water usage by Hickory Drive Property LLC exceeds 2,236,065 gallons per year, the Village may levy an assessment against the Property based upon

the difference between the 2,236,065 gallons and the actual water used per year. If there is additional water usage the charge will be based on the number of additional REC's and fractions therein multiplied by the rate per REC in effect for that year.

Hickory Drive Property LLC hereby waives, pursuant to Section 66.0703(7)(b), Wisconsin Statutes, any and all requirements of the Wisconsin Statutes which must be met prior to the imposition of special assessments, including, but not limited to, the notice and hearing requirements of Chapter 66, Subsection VII, Wisconsin Statutes and agrees that the Village may proceed immediately to levy the Special Assessments as outlined herein.

Hickory Drive Property LLC further waived its right to appeal from the Special Assessments and stipulates that the amount of the Special Assessment levied against its property has been determined on a reasonable basis and the benefits to its property from the proposed improvements exceed the amount of the Special Assessment against such property.

In addition, Hickory Drive Property LLC waives its right under Section 66.0627 and agrees to promptly pay any special charges which may be levied against its property. The municipality shall levy such assessments in conformity with this Agreement, pursuant to Chapter 66 Subchapter VII and Section 66.0627, Wisconsin Statutes.

2. The Village will look at REC usage annually for the first five years after occupancy of the building is granted to verify water usage per this agreement. Hickory Drive Property LLC also understands that if changes are made to the use of the facility that result in additional water/sewer usage that additional REC's may be due at that time of change of use of the facility, if such use occurs.

The Village does not waive any rights provided under Sussex Sewer Service Code, including those with regard to enlargement, adjustment, termination or limitation to any changes to charges.

3. This agreement is binding upon Hickory Drive Property LLC, owners, their successors and assigns, and any and all future owners of the property (the "Successors").

Dated this _____ day of _____, 2020

Hickory Drive Property LLC
A Wisconsin Corporation

Village Board of the Village of Sussex

By: _____
Owner(s)

By: _____
Village President

Attest: _____
Village Clerk