

Village of Port Edwards

PLANNING, LEGISLATIVE, PROPERTY AND INFORMATION TECHNOLOGY COMMITTEE MEETING

Tuesday, September 5, 2023

5 P.M. AT THE MARSHALL BUEHLER CENTER

Join Zoom Meeting – <https://us06web.zoom.us/j/87804864388?pwd=bFlrY1VTL2tMVnNNMkd0VzVQdGdxQT09>

Meeting ID: 870 0486 4388, Passcode: 601482, One tap mobile, +13092053325,,87804864388#,,, *601482# US

Phone Audio only: Meeting Dial-in number: 715-423-6698, Access Code ID: 02067

Agenda:

1. Call to order.
2. Roll call.
3. Approve the agenda.
4. Approve minutes from the August 1, 2023 meeting.
5. Public comments on agenda items.
6. Chairperson comments.
7. Enter into closed session per §19.85(1)(e) *Deliberating or negotiating the purchase of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session* to discuss the listing and sale prices for 231/241 Market Avenue and take possible action.
8. Exit closed session and take any action coming out of the closed session.
9. Consideration and possible MOTION to accept proposed pool filling policy.
10. **MOTION** to approve CSM for property owned by Charles Lester.
11. Consideration and possible MOTION on Pavloski Development LLC & Village/Town of Saratoga Boundary Agreements.
12. Discuss Old Business
13. Discuss New Business
12. Discuss any correspondence
13. Future Agenda Items
14. Next meeting date
15. Adjourn

Tiara Grunden - Chairman

VILLAGE OF PORT EDWARDS
Port Edwards, Wisconsin

COMMITTEE: Planning,
Legislative, Property,
Information Technology

DATE: August 1, 2023

TO: BETSY MANCL

cc: JOSEPH ZURFLUH
DAILY TRIBUNE
WFHR/WGLX
JASON WORDEN

ERIK SAYLOR
CALEB MCGREGOR
SCOTT DREW
LONN RADTKE

JEN MOORE
TIARA GRUNDEN
NICK ABTS

Purpose of Meeting: **Regular Monthly Meeting**

Attendance: T. Grunden, C. McGregor, J. Moore, B. Mancl

Citizens: Eric Hummel

Subjects Discussed, Action Taken, and Board Action Required:

1. ***Call to order:*** Meeting called to order by Grunden at 4:00 p.m.
2. ***Roll Call:*** All Present.
3. ***Approve the Agenda:***
4. ***Approve the minutes of previous month's meeting:*** **MOTION** (McGregor/Moore) to approve minutes of the July 5, 2023 meeting.
5. ***Public comments on agenda items:*** None
6. ***Committee Chairman's comments:*** None
7. ***MOTION (Grunden/Moore) to enter into closed session per §19.85(1)(e) Deliberating or negotiating the purchase of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session:(Roll call vote, aye)***
 - Discussion and possible motion to approve the listing and sale prices for 231 & 241 Market Avenue.
 - Discussion and possible motion for the terms of the sale of 140 Market Avenue.

8. *Exit closed session and take any action as a result of the closed session:* **MOTION**
(Grunden/McGregor) to have the listing of the price for Mission Coffee at \$100,000.00 and offer \$4,000.00 in grants and \$50,000.00 in micro loan. All ayes.
9. *Discussion and possible MOTION to consider changes to the pool filling fees:* Current policy is \$250.00 per pool/1 truck load. Discussion around other municipalities and their charges. Water charge is \$3.50/2,000 gallons of water. Tabled until next meeting once more information is provided.
10. *Discuss old business:*
- Ripple Creek Apartments discussion. No change in scenario that was previously discussed.
 - Discussion and clarification on Chapter 5.13.
12. *Discuss new business:* None.
13. *Correspondence received:* None
14. *Future Agenda Items:* Chapter 5.13, pool filling and Chapter 8.
15. *Next meeting date:* September 5, 2023 at 5:00 pm at the Marshall Buehler Center.
16. *Adjourn:* Adjourned at 5:23 pm.

Tiara Grunden – Chairman

**VILLAGE OF PORT EDWARDS
DEVELOPMENT AGREEMENT WITH
PAVLOSKI DEVELOPMENT LLC for
THE NEPCO LAKE DEVELOPMENT**

THIS AGREEMENT, entered into this 13th day of August, 2013 by and between the Village of Port Edwards, a Village under the laws of the State of Wisconsin, governed by a Board of Trustees, referred to herein as the "VILLAGE", and Pavloski Development, LLC, a Wisconsin Limited Liability company, referred to herein as "DEVELOPER."

WITNESSETH:

WHEREAS, the DEVELOPER and its affiliate companies are the fee owners of approximately 470 acres of land in the VILLAGE of Port Edwards, Wood County Wisconsin, said land being shown on the map in Exhibit 1 and legally described in Exhibit 2 attached hereto and incorporated herein, hereinafter referred to as "SUBJECT LANDS"; and

WHEREAS, the VILLAGE desires to see divided and developed, and the DEVELOPER desires to divide and develop the SUBJECT LANDS by creating a multi-phase development of approximately 250 lots with lakefront access to be used for residential purposes by the use of the standard regulations as set forth in Chapters 236 and 703 of the Wisconsin Statutes and the VILLAGE ordinances regulating land subdivision, platting and development, subject to the terms of this Agreement; and

WHEREAS, this Agreement is generally consistent with the current federal, state and municipal laws and regulations that apply to the SUBJECT LANDS in the VILLAGE; and

WHEREAS, the VILLAGE and the Town of Saratoga shall enter into a Boundary Agreement for the general purposes of promoting economic development of the SUBJECT LANDS, creating an anticipated estimated additional taxable real estate base of \$80,000,000; and

WHEREAS, this Agreement anticipates the establishment of a Boundary Agreement concerning the SUBJECT LANDS between the VILLAGE and the Town of Saratoga for a period of 10 years and will expire if not extended in 10 years; and

WHEREAS, the contemplated improvements to the SUBJECT LANDS shall be privately owned. To the extent that any improvements are to be dedicated to the VILLAGE, such improvements shall be installed and financed by DEVELOPER; and

WHEREAS, the DEVELOPER represents to the VILLAGE that the private roads which are constructed to service the developments in the SUBJECT LANDS, are to remain private and are to be turned over to a homeowners association, which will own and maintain the roads and right of ways; and

WHEREAS, this Agreement is entered into for the purpose of setting forth and memorializing for the parties and subsequent owners, the understandings and covenants of the parties concerning the development of any future platting of the SUBJECT LANDS and the conditions imposed thereon; and

WHEREAS, the DEVELOPER agrees that the DEVELOPER will withdraw any property in the SUBJECT LANDS currently enrolled in the Forest Crop program or the Managed Forest Land program such that the VILLAGE shall receive the benefit for any municipal portion of penalties and withdrawal fees assessed against early withdrawal of either program; and

WHEREAS, the DEVELOPER agrees that an administrative fee will be assessed against the sale of each developed or platted property in the SUBJECT LANDS, payable to the VILLAGE.

NOW, THEREFORE, IT IS HEREBY AND HEREIN MUTUALLY AGREED, in consideration of each party's promises and considerations herein set forth, as follows:

1. **Construction of Public Infrastructure Improvements.** The DEVELOPER, at its sole expense, may construct certain public infrastructure improvements.
2. **Representations and Warranties.** DEVELOPER represents and warrants to VILLAGE, as a material inducement of the Village to enter into this Agreement, that:
 - A. All construction work performed by the DEVELOPER, its employees, agents, or contractors hereunder shall be consistent with a first-class and high-quality development and shall include only new or like-new materials of high quality.
 - B. DEVELOPER has the full authority and right to enter into this Agreement and to bind its affiliated entities owning the SUBJECT LANDS to this Agreement, to engage in the activities described herein, and engage in the development of the SUBJECT LANDS.
3. **Easements.** DEVELOPER shall grant to the VILLAGE such utility and drainage easements as well as any other easements or access rights that are reasonably determined by the VILLAGE to be necessary or appropriate to the performance of the VILLAGE'S obligations or enjoyment rights or use of the SUBJECT LANDS and infrastructure improvements hereunder.
4. **DEVELOPER to Pay VILLAGE Costs and Expenses.** DEVELOPER shall reimburse the VILLAGE for all reasonable administrative, legal, planning, engineering and other professional costs incurred in the creation, administration, enforcement or execution of this Agreement, the Boundary Agreement, the Revenue Sharing Agreement, and any other agreements created in relation to the proposed and/or actual development of the SUBJECT PROPERTY, as well as all reasonable engineering expenses incurred by the VILLAGE in designing, approving, constructing, installing, and inspecting said improvements described herein.

5. Miscellaneous.

- A. DEVELOPER agrees that all construction items required under this Agreement are items for which DEVELOPER is responsible for completing and all work shall be done at DEVELOPER's sole expense.
- B. If any portion, section, subsection, sentence, clause, paragraph or phrase of this Agreement is for any reason held invalid by a Court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Agreement.
- C. The action or inaction of the VILLAGE shall not constitute a waiver or amendment to the provisions of this Agreement. To be binding, amendments or waivers shall be in writing, signed by the parties and approved by written resolution of the VILLAGE. The VILLAGE's failure to promptly take legal action to enforce this Agreement shall not be a waiver or release.
- D. The DEVELOPER represents to the VILLAGE that the SUBJECT LANDS will comply with all state, VILLAGE and federal laws and regulations. DEVELOPER agrees to obtain all required federal, state, VILLAGE and other local permits.
- E. DEVELOPER shall establish a homeowner's association via a recorded declaration of covenants, conditions and restrictions for each development.
- F. Should any unsold Outlot be forfeited to the State or other governmental entity for non-payment of taxes, the DEVELOPER, its successor or assigns, agrees that each lot located within the SUBJECT LANDS shall be responsible for an equal share of the VILLAGE's costs to maintain and administer said common areas of said Outlot.
- G. All communal septic systems shall be conveyed to the homeowner's association which shall maintain said communal septic systems. Should the homeowner's association fail to maintain said communal septic systems as required by this Agreement, the DEVELOPER, its successor or assigns, agrees that each lot or unit located within that subject property shall be responsible for an equal share of the VILLAGE's costs to maintain.
- H. This Agreement anticipates that the VILLAGE will make every effort to work with the DEVELOPER to institute any required amendments to facilitate the development of the SUBJECT LANDS in accordance with all federal, state and VILLAGE laws and regulations.

6. Violation of Agreement. Except as otherwise provided in this Agreement, upon any default by DEVELOPER, its successors or assigns, of any of the covenants and agreements herein contained, the VILLAGE shall give the defaulting party thirty (30) days mailed notice thereof (via certified mail), and if such default is not cured within said thirty (30) day period,

the VILLAGE is hereby granted the right and the privilege to declare any deficiencies governed by this Agreement due and payable to the VILLAGE in full.

7. **Dedications to the VILLAGE.** The DEVELOPER agrees to maintain the roadways and right-of ways in a condition that is in conformity with the conditions prescribed to public VILLAGE roads and right of ways.
8. **Improvement Dedications to the VILLAGE.** The DEVELOPER, upon presentation to the VILLAGE of evidence of good and marketable title to subject property, and upon completion of all construction work and certification of completion by the VILLAGE Engineer, shall make the following dedications to the VILLAGE:
 - A. A site suitable for the location of a VILLAGE fire department substation.
 - B. A pole building constructed for the storage of a water tanker for use at agreed upon location for a VILLAGE fire department substation.
 - C. A site suitable for the location of a VILLAGE yard waste recycle center, as mutually agreed by the VILLAGE and the DEVELOPER.
9. **Improvement Dedications to a Homeowners Association.** The DEVELOPER shall dedicate the remainder of the roadways and right-of ways improvements to the homeowner association or associations upon terms and conditions contained in the homeowner's association articles of incorporation or bylaws.
10. **Phased Development.** The SUBJECT LANDS will be developed over a period of years. The development will consist of a number of plats.
 - A. Each lot and/or outlot developed and transferred from the DEVELOPER to another party shall contain a deed restriction referencing this Agreement and the fact that, after 10 years from the effective date of this Agreement, said lot or outlot will become a part of the VILLAGE.
 - B. Any homeowner's association(s) created as a result of the development of the SUBJECT LANDS during the term of this Agreement shall include in its articles of incorporation or bylaws reference to this Agreement and the fact that, after 10 years from the effective date of this Agreement, all lots or outlots within the SUBJECT LANDS will become a part of the VILLAGE.
11. **Claim Waiver.** The DEVELOPER agrees to waive any and all claims against the VILLAGE, further, the DEVELOPER shall hold the VILLAGE, its respective governing boards, its agents, employees, contractors, and representatives harmless from any and all claims made by itself and third parties for damages sustained or costs incurred as a result of the SUBJECT LANDS approval and development as a result of the DEVELOPER's negligence.

12. **Disclaimer; Limitation of Liability.**

A. The Village is a governmental entity entitled to governmental immunity under law, including Wis. Stat. § 893.80. Nothing contained in this Agreement shall waive the rights and defenses to which the Village may be entitled under law, including all of the immunities, limitations, and defenses under Wis. Stat. § 893.80, or any subsequent amendments thereof.


B. THE VILLAGE HEREBY DISCLAIMS ANY REPRESENTATION OR WARRANTY OF ANY KIND OR NATURE WITH RESPECT TO THE PROPERTY, THE PROJECTS OR THE WORK PERFORMED OR TO BE PERFORMED WITH RESPECT THERETO, THE SUITABILITY OF THE PROPERTY FOR THE DEVELOPER IMPROVEMENTS OR FOR ANY OTHER PURPOSE OR USE OR ANY OTHER ASPECT OF THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES AS TO THE CONDITION OF THE PROPERTY, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT WHATSOEVER SHALL THE VILLAGE BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE, OR SIMILAR DAMAGES, WHETHER FOR LOST PROFITS, LOST REVENUES, OR OTHERWISE, REGARDLESS OF WHETHER THE PARTIES MAY HAVE BEEN ADVISED OF THE POSSIBILITY OF THE SAME. ANY OBLIGATION OR LIABILITY WHATSOEVER OF VILLAGE WHICH MAY ARISE AT ANY TIME UNDER THIS AGREEMENT OR ANY OBLIGATION OR LIABILITY WHICH MAY BE INCURRED BY VILLAGE PURSUANT TO ANY OTHER INSTRUMENT, TRANSACTION, OR UNDERTAKING CONTEMPLATED HEREBY SHALL NOT BE PERSONALLY BINDING UPON, NOR SHALL RESORT FOR THE ENFORCEMENT THEREOF BE HAD AS TO THE ASSETS OR PROPERTY OF, VILLAGE'S ELECTED OR NONELECTED OFFICIALS, BOARD MEMBERS, EMPLOYEES, OR AGENTS, REGARDLESS OF WHETHER SUCH OBLIGATION OR LIABILITY IS IN THE NATURE OF CONTRACT, TORT, OR OTHERWISE.

13. **Indemnification.** DEVELOPER shall indemnify, defend and hold harmless VILLAGE, its Board, and the agents, employees, elected or non-elected officials, and contractors from any claim, damages, liabilities, losses, or expenses, of any kind or nature, including attorneys' fees, which one or more of the same may suffer or be held liable, arising out of or resulting from (a) the boundary shift to the original boundary predating the boundary agreement effective 1/1/2014 of the SUBJECT PROPERTY to the VILLAGE, or (b) the negligent or intentional acts or omissions of DEVELOPER, its employees, agents, contractors, or others for whom DEVELOPER may be responsible. Such indemnification shall survive this Agreement, and be binding upon the DEVELOPER, for a period of three (3) years after termination of this Agreement. At all times during this Agreement, and the three (3) years after termination, the DEVELOPER shall maintain sufficient assets to indemnify the VILLAGE.

14. **Assignment of Contract.** The obligations of the DEVELOPER under this contract cannot be assigned without the express written consent of the VILLAGE, which consent may be withheld at the VILLAGE'S sole discretion.
15. **Limited Approval.** Approval of this Agreement by the VILLAGE in no way constitutes approval of anything other than that which is explicitly specified in this Agreement.
16. **Agreement Effect.** This Agreement shall run with the SUBJECT LANDS and be binding upon and extend to the representatives, heirs, successors and assigns of the parties hereto and shall be recorded against the title to the property.
17. **MFL and Forest Crop Withdrawal.** The DEVELOPER agrees to withdraw any real estate within the SUBJECT LANDS currently enrolled in the Forest Crop or Managed Forest Land programs prior to the Boundary Agreement being effective so that the share of benefit for any penalty assessed against the DEVELOPER for withdrawal from the program will accrue to the VILLAGE.
18. **Administrative Fee.** The DEVELOPER agrees to assess an administrative fee of two thousand dollars, (\$2,000) from the purchaser of each waterfront lot/unit sold from the property for the benefit of the VILLAGE. The DEVELOPER shall advance the sum of one hundred thousand dollars, (\$100,000) to the VILLAGE immediately upon the Boundary Agreement becoming effective. The \$100,000 shall be an advance against the first fifty sales of waterfront property. After the first fifty sales the administrative fee shall be collected at the close of each sale of waterfront lot and will be disbursed to the VILLAGE by the closing agent.
19. **Boundary Agreement.** The Boundary Agreement with the VILLAGE and the town of Saratoga shall be effective by January 1, 2014 or the entire Agreement is null and void. This Development Agreement will terminate when the Boundary Agreement expires.
20. **Zoning.** This Development Agreement anticipates the VILLAGE and the town of Saratoga will enter into a Boundary Agreement. The VILLAGE zoning ordinances and permit processes shall remain in effect in the Boundary Agreement throughout the term of the Boundary Agreement and that each shall continue to be administered by the VILLAGE during the term of the Boundary Agreement.

IN WITNESS WHEREOF, the VILLAGE, and the DEVELOPER have caused this Agreement to be duly executed on the day and year first above written.

VILLAGE of PORT EDWARDS




President, Ed Saylor



Clerk, Diane M. Tremmel

Subscribed and sworn to before me this 15th day of November, 2013, at
Port Edwards, Wisconsin.



Kim Holcomb

SEAL

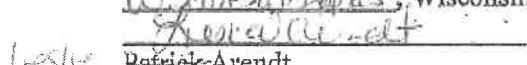
Notary Public, State of Wisconsin
My commission expires: 10-29-2017

Pavloski Development, LLC



Brad Pavloski, member

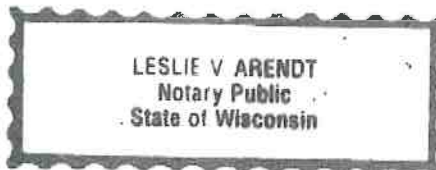
Subscribed and sworn to before me this 22 day of November, 2013, at
Wyanoke, Wisconsin.



Leslie V. Arendt

SEAL

Notary Public, State of Wisconsin
My commission is permanent expires 8/19/17



Pavloski Development, LLC

Pat Pavloski
Pat Pavloski, member

Subscribed and sworn to before me this 22 day of November, 2013, at
Wisconsin Rapids, Wisconsin.

Leslie V. Arendt
Signature of Notary Public

Leslie Patrick Arendt
Notary Public, State of Wisconsin
My commission is permanent exp. 12/31/17

SEAL

LESLIE V. ARENDT
Notary Public
State of Wisconsin

DRAFTED BY:

Patrick Arendt
Attorney at Law LLC
PO. Box 623
Wisconsin Rapids, WI 54495-0623
715 423 4445

BOUNDARY AGREEMENT BETWEEN THE VILLAGE OF PORT EDWARDS AND THE TOWN OF SARATOGA

This Boundary Agreement (the "Agreement") is made between the VILLAGE OF PORT EDWARDS, Wood County, Wisconsin (the "Village") and the TOWN OF SARATOGA, Wood County, Wisconsin (the "Town"), together referred to as the "Parties." This Agreement is entered into under authority granted by sections 66.0301 and 66.0305 of the Wisconsin Statutes.

RECITALS

- A. The Village and the Town share a common border on the south side of Nepco Lake. The two communities and their common boundary line can be seen more specifically by the map located at **Exhibit 1** ("Common Boundary Line").
- B. The Village and the Town desire to enter into this Agreement for the general purposes of promoting economic development and increasing the tax base of both the Village and the Town in a manner that addresses the existing and future needs of the Parties and best provides for the public health, safety, morals, order, convenience, prosperity, and the general welfare of the Parties and their residents.
- C. The Village and the Town believe that the boundary adjustments established by this Agreement are reasonably compatible with the characteristics and future growth plans of both Parties, taking into consideration present and potential economic market conditions, transportation infrastructure, sewer, water and storm drainage facilities, and other infrastructure, fiscal capacity, political boundaries, school district boundaries, and community character and social customs.
- D. The boundary adjustments established by this Agreement are not the result of arbitrariness but rather reflect identification of larger undeveloped but developable parcels the development of which has been determined to benefit both Parties. This Agreement reflects due consideration of the area's potential for growth, allows for orderly economic growth, and provides for the reasonably efficient delivery of municipal services.
- E. Entering into this Agreement should not produce significant adverse environmental consequences to the natural environment and may help reduce significant environmental

consequences to the natural environment by promoting the orderly and coordinated development within the affected area.

- F. This Agreement is generally consistent with the current federal, state and municipal laws and regulations that apply in the Village and the Town.
- G. This Agreement adequately addresses the delivery of necessary municipal services to the residents affected by this Agreement.
- H. Wis. Stat. § 66.0301 authorizes municipalities to jointly exercise powers delegated to them and, therefore, to make agreements concerning boundaries between municipalities.
- I. The Village and the Town recognize that boundary agreements often provide for the best use of land and natural resources, as well as high-quality economic development, increased tax base and efficient municipal services.
- J. It is in the best interests of the Parties to reach agreements concerning boundaries and municipal service issues to avoid duplication of municipal services and to provide an effective means of planning each community's future growth.
- K. Wis. Stat. § 66.0305 authorizes municipalities to share revenue from taxes and special charges and thereby enter into a revenue sharing agreement (*See **Exhibit 6.***)

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in accordance with the authority granted to them under the Wisconsin statutes and for their mutual benefit and in the public interest, the Village and the Town agree as follows:

1. TERRITORY SUBJECT TO THE AGREEMENT

The territory subject to the terms of this Agreement is shown by the map at **Exhibit 2**, and is legally described in **Exhibit 3** (the "Territory").

2. AGREEMENT TERM; DELAYED EFFECTIVE DATE

This Agreement shall be binding upon approval and execution by the Parties. The Agreement shall have a delayed Effective Date and shall commence on January 1, 2014, and shall terminate 10 years thereafter on December 31, 2023.

3. BOUNDARY ADJUSTMENT

- a. During the term of this Agreement, and as permitted by Wis. Stat. § 66.0301(6)(d), there shall be no other procedure for altering the municipal boundaries that are the subject matter of this Agreement. This Agreement provides the exclusive procedure for altering said municipal boundaries. (Note: The “municipal boundaries that are the subject matter of this Agreement” are described in the Exhibits. The Common Boundary Line is depicted in Exhibit 1, the Transition Boundary Line in Exhibit 4, and the Ultimate Boundary Line in Exhibit 5.)
- b. During the term of this Agreement, the Territory shall be in the Town. The Town clerk shall be responsible for filing and recording the relevant ordinance pursuant to Wis. Stat. § 66.0301(6)(e), which ordinance shall include **Exhibit 4** and be in such form as is mutually agreed by the Village and Town. As a result of this boundary change, the mutually agreed upon common municipal boundary between the Village and the Town shall be referred to as the “TRANSITION BOUNDARY LINE” and is depicted in **Exhibit 4**.
- c. Upon the termination of this Agreement, the Territory shall return to the Village. Prior to the end of the term of this Agreement, the Village clerk shall be responsible for filing and recording the relevant ordinance pursuant to Wis. Stat. § 66.0301(6)(e), which ordinance shall include **Exhibit 5** and be in such form as is mutually agreed by the Village and Town. In returning the Territory to the Village, the Parties intend that the mutually agreed upon common boundary between the Village and the Town shall revert back to the configuration that existed prior to this Agreement. This boundary is depicted in **Exhibit 5**, and is referred to as the “ULTIMATE BOUNDARY LINE.”

4. ZONING, SUBDIVISION AND LAND DEVELOPMENT

- a. During the term of this Agreement, the Territory shall continue to be subject to only Village ordinances and regulations relating to land use and land development which includes, but is not limited to, general zoning, shoreland zoning, shoreland-wetland zoning, floodplain zoning, zoning enforcement, subdivision and platting, impact fees, stormwater regulations, public nuisance regulations related to land use, housing code, building code, plumbing code, electrical code, building inspection and permits. These ordinances and regulations shall be administered and enforced by the Village, which shall have exclusive jurisdiction regarding such land use and land development matters. Any fees related to building or development reviews, inspections, approvals or permits shall be retained by the Village, unless otherwise agreed to.
- b. During the term of this Agreement, and consistent with Section 4.a. above, the Territory shall continue to **not** be subject to any Town or Wood County ordinances and regulations relating to land use and land development which includes, but is not limited to, general zoning, shoreland zoning, shoreland-wetland zoning, floodplain zoning, zoning enforcement, subdivision and platting, impact fees, stormwater regulations, public nuisance regulations related to land use, housing code, building code, plumbing code, electrical code, building inspection and permits.
- c. Zoning, shoreland zoning, shoreland-wetland zoning, floodplain zoning, building inspection and permits, and subdivision plat approvals regarding the Territory that were made by the Village prior to execution of this Agreement shall remain in full force and effect with respect thereto, as if there were no change in jurisdiction.

5. MUNICIPAL SERVICES

- a. With respect to the Territory, the Village agrees to provide fire, emergency medical services and paramedic services, building and zoning, shoreland zoning, shoreland-wetland zoning, floodplain zoning, inspection, permitting and such other services as are consistent with the authority described in Section 4 above, including the Village's zoning, shoreland zoning, shoreland-wetland zoning, floodplain zoning, building inspection and permits,

subdivision and land development authority. The Village shall assign and provide fire numbers. The Village shall provide assessment services for the Territory. To that end, the Village Assessor shall assess the properties in the Territory, update the tax rolls as appropriate and address any and all questions regarding assessment of the properties in the Territory. The Village Assessor shall attend the Town's Board of Review to defend assessments in the Territory.

- b. Except for those services set forth in Section 5.a., and solely during the term of the Agreement, the Town agrees to provide such other municipal services to the Territory as are provided to other properties and residents within the Town. These services include, but are not limited to, police protection and election services. A resident in the Territory may vote in the Town provided that the resident meets general election requirements.
- c. The Town and Village reaffirm the pre-existing maintenance agreement regarding Town Line Road, which shall remain in effect. Similarly, the Village owns the right-of-way and shall continue to maintain Nepco Lake Road.

6. PROPERTY TAXES AND SPECIAL ASSESSMENTS

- a. During the term of this Agreement, the Territory shall be subject to the Town's property tax assessment and collection authority.¹
- b. Upon the termination of this Agreement, the Territory shall be subject to the Village's property tax assessment and collection authority.
- c. Although the Town has no current plans to impose any special assessments or additional fees in the Territory, the Town retains its statutory authority to impose special assessments in accordance with law. The Town and Village agree to work together in good faith regarding any assessments that may be imposed. The Town and Village also agree to work together in good faith regarding collection and repayment of any special assessments imposed during the term of this Agreement, particularly where collection of the assessment is anticipated to extend beyond the term of the Agreement.

¹ See also Section 5.a. regarding Village's and Village assessor's responsibilities.

7. REVENUE SHARING

During the term of this Agreement, the Village and the Town agree to share all property tax revenues related to the Territory. The terms of this revenue sharing agreement are set forth in Exhibit 6.

8. GOOD FAITH COOPERATION

- a. The Village and the Town shall cooperate in good faith to implement this Agreement. The Village and the Town agree that they shall not hinder the performance and implementation of this Agreement in any way and that they will not oppose this Agreement in any way privately or publicly, either when communicating with any government agency which is charged with review and evaluation of any part of this Agreement, or otherwise.
- b. If a dispute between the Parties arises under this Agreement, the Parties shall attempt to resolve the dispute through direct discussion and negotiation. If the dispute cannot be resolved by the Parties, the Parties, by mutual agreement, may agree to submit the dispute to a third party for non-binding mediation. If the dispute is not resolved by these procedures, either Party may give the other 10 days notice of an impasse and thereafter commence an action in circuit court. The Parties shall continue to perform according to the terms of this Agreement during the pendency of any such litigation or mediation proceeding. Costs of mediation shall be shared equally by the Parties. Each Party shall be responsible for its own litigation costs.

9. BINDING EFFECT

This Agreement shall bind and accrue to the benefit of all successors of the Parties. This Agreement is for the exclusive benefit of the Parties and their successors and assigns and shall not be deemed to give any legal or equitable right, remedy or claim to any other person or entity. This Agreement shall not be affected by a change in the form of government of either of the Parties.

10. RECORDING

The Village shall promptly record a notice of this Agreement in the office of the Wood County Register of Deeds.

11. CHALLENGE TO AGREEMENT; ADVANCEMENT OF MUTUAL INTERESTS

- a. Both Parties waive the right to challenge the validity or enforceability of this Agreement or any of its provisions or to challenge any actions properly taken pursuant to and in accordance with this Agreement.
- b. In the event of a court action by a third party challenging the validity or enforceability of this Agreement or any of its provisions, both Parties will continue to cooperate with one another in good faith to reach a mutually satisfactory resolution.
- c. The Parties acknowledge that in order to effectively implement this Agreement, it may be necessary to obtain the cooperation of other governmental agencies. In all matters necessary to implement this Agreement, the Parties agree to seek the cooperation of all relevant agencies.
- d. Notwithstanding the foregoing, or any other provision of this Agreement, neither Party intends to or is waiving its governmental immunity or agreeing to act in a manner that limits or otherwise jeopardizes available insurance coverage for defense or damages.

12. ENTIRE AGREEMENT

This Agreement contains the entire agreement of the Parties with respect to the subject matter thereof, and all prior discussions, drafts, agreements, and writings are specifically superseded by this Agreement. This Agreement represents the mutual intent of the Parties and the fact that one or more of its provisions was drafted by one Party or another shall not be construed to the benefit or detriment of either Party.

13. AMENDMENT

This Agreement may be amended by the approval and execution of a written amendment signed by both Parties. To be effective, an amendment must be in writing and approved by both Parties.

14. SEVERABILITY

- a. In the event that any provision in this Agreement is found invalid or unenforceable by a court, the Parties agree that they will negotiate in good faith and expend their best efforts to remedy the unenforceable or invalid provision. Representatives of the Village and the Town shall meet promptly to discuss how they might satisfy the intent of this Agreement by alternative means. The Village and Town shall use their best efforts to find, draft and implement a means of successfully accomplishing the intent of this Agreement. If necessary, they shall discuss appropriate amendments to this Agreement to maintain, as closely as possible, the original terms, intent and balance of benefits and burdens of this Agreement.
- b. In the event a court finds Sections 1, 2, 3 4, 5, 6, and/or 7 of this Agreement to be invalid or unenforceable and the Parties are unable to agree on a remedy or an amendment to this Agreement within 60 days of the date that the court found the Section to be invalid or unenforceable, this Agreement shall be deemed void except as to the return of the Territory to the Village, which shall be deemed to occur effective on the date that the Agreement is deemed void. In such event, the ULTIMATE BOUNDARY LINE shall become the common boundary between the Village and the Town. From such point forward, all regulations, municipal services, property tax and special assessment authority, and any other authority that was acquired by the Town by this Agreement or as a result of this Agreement, will also return to the Village. If any special assessment was imposed by the Town prior to such point, the Village and Town shall work together in good faith with regard to same, as provided in Section 6.
- c. With regard to all other Sections of this Agreement, if any such Section is found to be invalid or unlawful, and the Parties are unable to agree on a remedy or an amendment of the Agreement within 60 days of the date the court found the Section to be invalid or unenforceable, then such invalidity or unenforceability shall not affect the other provisions of this Agreement and such other provisions shall be binding on the Parties.

15. NO WAIVER

Failure of either Party to require strict performance of any provision of this Agreement shall not constitute a waiver of the provision or any of either Party's rights

under this Agreement. Rights and obligations under this Agreement may only be waived or modified in writing. Waiver of one right, or release of one obligation, shall not constitute a waiver or release of any other right or obligation.

16. RISK ALLOCATION

The Parties are governmental entities entitled to governmental immunity under law, including Wis. Stat. § 893.80. Nothing contained herein shall waive the rights and defenses to which each Party may be entitled under law, including all of the immunities, limitations, and defenses under Wis. Stat. § 893.80, or any subsequent amendments thereof. Each party shall bear the risk of its own actions pursuant to this Agreement.

17. AUTHORITY

Each Party represents that it has the authority to enter into this Agreement and that all necessary procedures have been followed to authorize this Agreement. Copies of the resolutions of the governing bodies of both Parties, authorizing this Agreement are attached hereto as **Exhibits 7 and 8**, and executed copies of same shall be attached when adopted. Each person signing this Agreement represents and warrants that he or she has been duly authorized to do so.

18. COUNTERPARTS

This Agreement may be signed in counterparts which, when taken together, shall be effective as if all signatures appeared on the same original.

[Signatures on following two pages.]

IN WITNESS WHEREOF, the Parties hereto have caused the execution of this Agreement by the authority of their respective governing bodies, to be binding when approved and fully executed. (See Section 2. regarding Delayed Effective Date.)

Approved by the Town Board on this 7th day of August, 2013, with a delayed effective date of January 1, 2014.

TOWN OF SARATOGA

ATTESTED to August 13, 2013.

Terry Rickaby, Town Chairperson

Heidi Kawleski, Town Clerk

Dan Forbes, Supervisor

Patty Heeg, Supervisor

Douglas Passineau, Supervisor

John Frank, Supervisor

AUTHENTICATION

The above signatures of Terry Rickaby, Dan Forbes, Douglas Passineau, Patty Heeg, John Frank and Heidi Kawleski are hereby authenticated as of July 31, 2013.

Constance L. Anderson, SBN 1013080
MEMBER: STATE BAR OF WISCONSIN

Approved by the Village Board on this ____ day of August, 2013, with a delayed effective date of January 1, 2014.

VILLAGE OF PORT EDWARDS

Ed Saylor, Village President

ATTESTED to _____, 2013.

Joseph M. Terry, Village Administrator

Diane Tremmel, Village Clerk/Treasurer

AUTHENTICATION

The above signatures of Ed Saylor, Joseph M. Terry and Diane Tremmel are hereby authenticated as of _____, 2013.

_____, SBN _____

MEMBER: STATE BAR OF WISCONSIN

ACKNOWLEDGMENT

I hereby acknowledge that the above-named person(s) who are known to me as Ed Saylor, Joseph M. Terry and Diane Tremmel, executed the above document on this ____ day of _____, 2013.

Notary Public, State of Wisconsin
My commission expires: _____.

**EXHIBITS to
BOUNDARY AGREEMENT BETWEEN THE VILLAGE OF PORT EDWARDS AND
THE TOWN OF SARATOGA**

(Each and all of which are incorporated in the Agreement by reference.)

Exhibit 1 – Map Showing Common Boundary Line between Village of Port Edwards (“Village”) and Town of Saratoga (“Town”)

Exhibit 2 – Map of Territory

Exhibit 3 – Legal Description of Territory

Exhibit 4 – Transition Boundary Line

Exhibit 5 – Ultimate Boundary Line

Exhibit 6 – Revenue Sharing Agreement

Exhibit 7 – Town Resolution Approving Boundary Agreement and Revenue Sharing Agreement

Exhibit 8 – Village Resolution Approving Boundary Agreement and Revenue Sharing Agreement

EXHIBIT 1

COMMON BOUNDARY LINE

VILLAGE OF PORT EDWARDS / TOWN OF SARATOGA



EXHIBIT 2

THE TERRITORY = SHADED PARCELS
VILLAGE OF PORT EDWARDS / TOWN OF SARATOGA

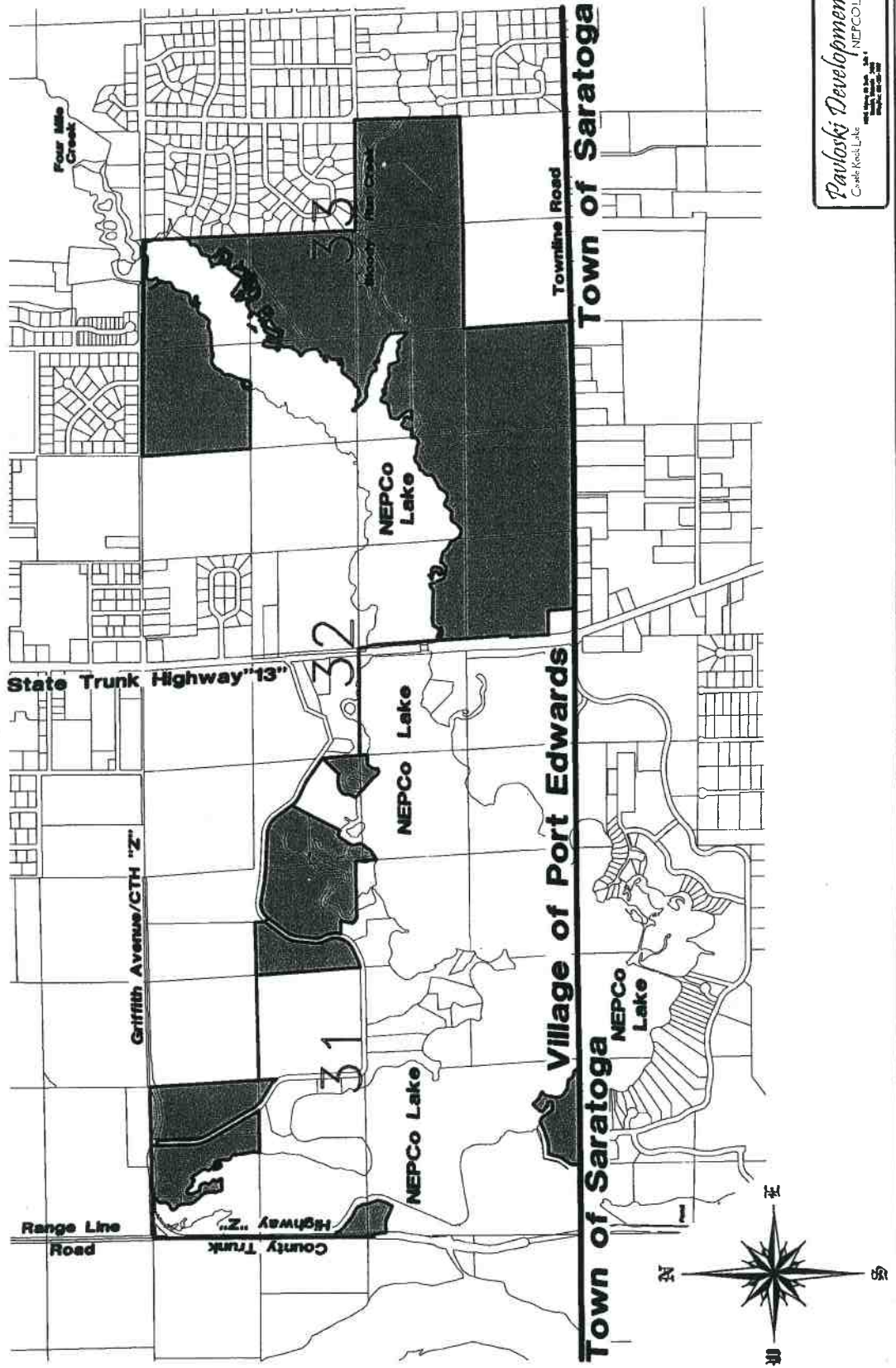


EXHIBIT 3

The N Frl. $\frac{1}{2}$ of the NW $\frac{1}{4}$ of Section 31, Township 22 North, Range 6 East, Village of Port Edwards, Wood County, Wisconsin, **EXCEPT** Wood County Certified Survey Map No. 5261 **ALSO EXCEPT** the West 150 feet of the South 465 feet. **ALSO EXCEPT** all lands below the ordinary high water mark of Nepco Lake. **ALSO EXCEPT** Commencing at the Northwest corner of said Section 31, thence S $00^{\circ}18'27''$ E along the West line of the Northwest Quarter of said Section 31 a distance of 865.43 feet to the POINT OF BEGINNING, thence N $00^{\circ}18'27''$ W along the West line of the Northwest Quarter of said Section 31 a distance of 865.43 feet to the Northwest corner thereof, thence N $88^{\circ}50'01''$ E along the North line of the Northwest Quarter of said Section 31 a distance of 404 feet, thence S $01^{\circ}09'59''$ E a distance of 20 feet to the ordinary high water line of NEPCo Lake, thence Westerly, Southwesterly and Southerly along said ordinary high water line to a point which lies N $89^{\circ}02'25''$ E a distance of 107 feet from the POINT OF BEGINNING, thence S $89^{\circ}02'25''$ W a distance of 107 feet to the POINT OF BEGINNING. Including any and all islands lying adjacent to the aforementioned ordinary high water line, if any.

PIN: 2700551A, 2700551B and part of 2700551C

Part of the South Half of the Fractional Northwest Quarter of Section 31, Township 22 North, Range 6 East, Village of Port Edwards, Wood County, Wisconsin lying Northerly and Easterly of a road through the Northeast corner thereof known as Nepco Lake Road. **EXCEPT** road.

PIN: 2700552A

That part of the South 400 feet of the South Frl. $\frac{1}{2}$ of the NW $\frac{1}{4}$ of Section 31, Township 22 North, Range 6 East, Village of Port Edwards, Wood County, Wisconsin lying Southerly and Westerly of a line that is 75 feet Southerly and Westerly of and parallel with the ordinary high water mark of the Western shore of Nepco Lake **EXCEPT** road. **ALSO EXCEPT** Commencing at the West Quarter corner of said Section 31, thence N $89^{\circ}13'41''$ E along the South line of the Northwest Quarter of said Section 31 a distance of 399.59 feet, thence N $01^{\circ}03'57''$ E a distance of 41.53 feet to the **POINT OF BEGINNING**, thence N $25^{\circ}50'43''$ W a distance of 97.47 feet, thence S $60^{\circ}51'11''$ E a distance of 50.00 feet, thence S $01^{\circ}03'57''$ W a distance of 63.38 feet to the **POINT OF BEGINNING**.

Part of PIN: 2700552B

That part of the North 350 feet of the SW Frl. $\frac{1}{4}$ of Section 31, Township 22 North, Range 6 East, Village of Port Edwards, Wood County, Wisconsin lying Westerly of a line that is 75 feet Westerly of and parallel with the ordinary high water mark of the Western shore of Nepco Lake **EXCEPT** all lands below the ordinary high water mark of Nepco Lake. **ALSO EXCEPT** highway. **ALSO EXCEPT** Commencing at the West Quarter corner of said Section 31, thence N $89^{\circ}13'41''$ E along the North line of the Southwest Quarter of said Section 31 a distance 399.59 feet, thence S $20^{\circ}05'50''$ E a distance of 142.80 feet, thence S $18^{\circ}21'22''$ W a distance of 105.22 feet to the **POINT OF BEGINNING**, thence S $24^{\circ}06'23''$ W a distance of 127.68 feet, thence S $89^{\circ}13'41''$ W a distance of 314.35 feet to the Easterly right-of-way line of County Trunk Highway "Z", thence N $01^{\circ}47'01''$ W along said Easterly right-of-way line a distance of 69.11 feet, thence N $02^{\circ}41'06''$ W along said Easterly right-of-way line a distance of 49.12 feet, thence N $83^{\circ}44'36''$ E a distance of 88.19 feet, thence S $82^{\circ}44'53''$ E a distance of 64.10 feet, thence S $66^{\circ}53'22''$ E a distance of 197.53 feet, thence N $25^{\circ}46'50''$ E a distance of 87.34 feet to the **POINT OF BEGINNING**.

Part of PIN: 2700552B

33 acres, more or less, in Village of Port Edwards, Wood County, Wisconsin, described as the SE ¼ of the Fractional NE ¼ of Section 31, Township 22 North, Range 6 East, EXCEPT: WCCSM Nos. 4508, 5261, and 5952 and except that part lying Southerly of Nepco Lake Road and Westerly of WCCSM No. 4508.

PIN: 2700550

Part of the SW Frl. ¼ of Section 31, Township 22 North, Range 6 East, Village of Port Edwards, Wood County, Wisconsin, described as follows:

Commencing at the Southwest corner of said Section 31, thence East along the South line of the SW Frl. ¼ of said Section 31 a distance of 875.12 feet to the Northeast corner of the NW Frl. ¼ of the NW ¼ of Section 6, Township 21 North, Range 6 East and the Point of Beginning, thence North to a point which lies 50 feet Southeasterly of the Southeast edge of the canal between the Five Mile Creek reservoir and Nepco Lake, thence Northeasterly along a line which is 50 feet Southeasterly of and parallel with the Southeast edge of said canal to Westerly shoreline of Nepco Lake, thence Southeasterly along said Westerly shoreline to the South line of the SW Frl. ¼ of said Section 31, thence West along said South line to the Point of Beginning.

EXCEPT all lands below the ordinary high water mark of Nepco Lake.

ALSO EXCEPT any islands within Nepco Lake.

PIN: 2700554A

The N ½ of the SWNW of Section 32, Township 22N, Range 6E, EXCEPT WCCSM NoS. 5206, 5261, and 5952.

PIN: 2700568C

The NW Frl. ¼ of the SE ¼ of Section 32, Township 22 North, Range 6 East, Village of Port Edwards, Wood County, Wisconsin, **EXCEPT** that part lying North of Nepco Lake, **ALSO EXCEPT** highway. **ALSO EXCEPT** all lands below the ordinary high water mark of Nepco Lake. **INCLUDING** any and all islands.

PIN: 2700573

The NE Frl. ¼ of the SE ¼ of Section 32, Township 22 North, Range 6 East, Village of Port Edwards, Wood County, Wisconsin, **EXCEPT** that part lying North of Nepco Lake. **ALSO EXCEPT** all lands below the ordinary high water mark of Nepco Lake.

PIN: 2700570C

The SE ¼ of the fractional SE ¼ of Section 32, Township 22N, Range 6E.

PIN: 2700574B

The SW ¼ of the fractional SE ¼ of Section 32, Township 22N, Range 6E EXCEPT Hwy ROW and EXCEPT the South 300 feet of the West 300 feet North and East of the Hwy.

PIN: 2700574

The N ½ of the NW Frl. ¼ of the SW ¼ of Section 33, Township 22 North, Range 6 East, Village of Port Edwards, Wood County, Wisconsin. **EXCEPT** all lands below the ordinary high water mark of Nepco Lake. **INCLUDING** any and all islands.

Part of PIN: 2700582A

The S ½ of the NW ¼ of the fractional SW ¼ of Section 33, Township 22N, Range 6E.

Part of PIN: 2700582A

The SW ¼ of the fractional SW ¼ of Section 33, Township 22N, Range 6E.
PIN: 2700583

The NE ¼ of the fractional SW ¼ of Section 33, Township 22N, Range 6E.
PIN: 2700581

The NW ¼ of the fractional SE ¼ of Section 33, Township 22N, Range 6E.
PIN: 2700585

The SW Frl. ¼ of the NW ¼ of Section 33, Township 22 North, Range 6 East, Village of Port Edwards, Wood County, Wisconsin, **EXCEPT** that part lying North and West of Nepco Lake. **ALSO EXCEPT** all lands below the ordinary high water mark of Nepco Lake.
PIN: 2700579B

The SE ¼ of the fractional NW ¼ of Section 33, Township 22N, Range 6E, **EXCEPT** all lands below the ordinary high water mark of Nepco Lake.
PIN: 2700580 and 2700580B

The NE Frl. ¼ of the NW ¼ of Section 33, Township 22 North, Range 6 East, Village of Port Edwards, Wood County, Wisconsin, **EXCEPT** all lands below the ordinary high water mark of Nepco Lake.
PIN: 2700575

The NW Frl. ¼ of the NW ¼ of Section 33, Township 22 North, Range 6 East, Village of Port Edwards, Wood County, Wisconsin, **EXCEPT** all lands below the ordinary high water mark of Nepco Lake.
PIN: 2700577.

The S ½ of the SW Frl. ¼ of the NW ¼ of Section 32, Township 22 North, Range 6 East, Village of Port Edwards, Wood County, Wisconsin, **EXCEPT** Wood County Certified Survey Map Nos. 5206, 5261 and 5952. **ALSO EXCEPT** all lands below the ordinary high water mark of Nepco Lake.
INCLUDING any and all islands **ALSO INCLUDING** those lands below the ordinary high water mark of Nepco Lake located between such islands and the Northerly shoreline of Nepco Lake.
PIN: 2700568D

That part of the NW Frl. ¼ of the SW ¼ of Section 32, Township 22 North, Range 6 East, Village of Port Edwards, Wood County, Wisconsin lying North of Nepco Lake: **EXCEPT** Wood County Certified Survey Map No. 5206. **INCLUDING** any and all islands **ALSO INCLUDING** those lands below the ordinary high water mark of Nepco Lake located between such islands and the Northerly shoreline of Nepco Lake.
PIN: 2700568E

EXHIBIT 4

TRANSITION BOUNDARY LINE

VILLAGE OF PORT EDWARDS / TOWN OF SARATOGA

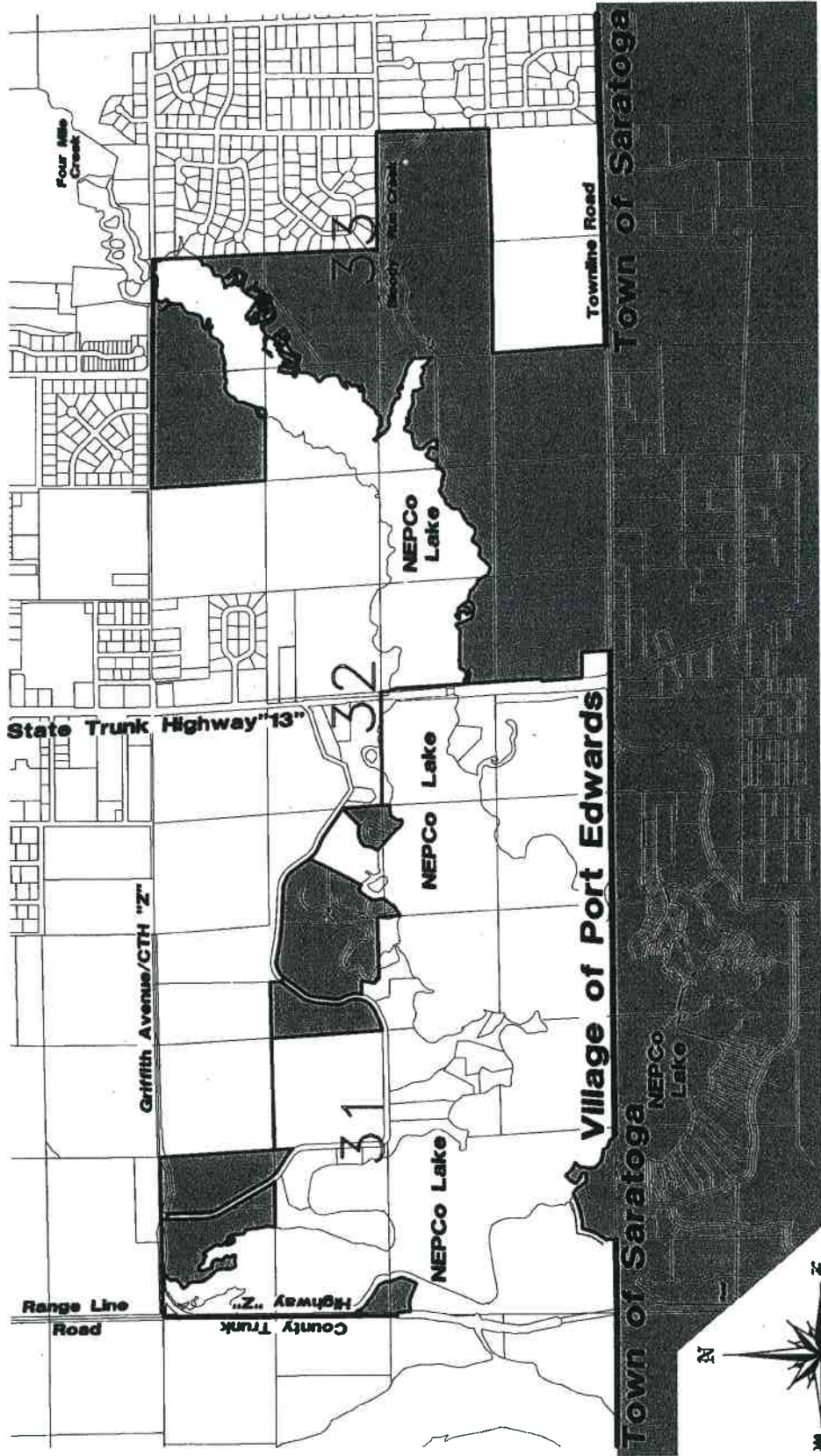


EXHIBIT 5

ULTIMATE BOUNDARY LINE

VILLAGE OF PORT EDWARDS / TOWN OF SARATOGA



**REVENUE SHARING AGREEMENT
BETWEEN THE VILLAGE OF PORT EDWARDS AND THE TOWN OF SARATOGA**

This Revenue Sharing Agreement (the "Agreement") is made between the VILLAGE OF PORT EDWARDS, Wood County, Wisconsin (the "Village") and the TOWN OF SARATOGA, Wood County, Wisconsin (the "Town"), together referred to as the "Parties." This Agreement is entered into under authority granted by section 66.0305 of the Wisconsin Statutes.

RECITALS

- A. The Village and the Town share a common border on the south side of Nepco Lake. The two communities and their common boundary line can be seen more specifically by the map located at **Exhibit 1** ("Common Boundary Line").
- B. The Village and the Town desire to enter into this Agreement for the general purposes of promoting economic development and increasing the tax base of both the Village and the Town in a manner that addresses the existing and future needs of the Parties and best provides for the public health, safety, morals, order, convenience, prosperity, and the general welfare of the Parties and their residents.
- C. The Village and the Town believe that the revenue sharing established by this Agreement is reasonably compatible with the characteristics and future growth plans of both Parties, taking into consideration present and potential economic market conditions, transportation infrastructure, sewer, water and storm drainage facilities, and other infrastructure, fiscal capacity, political boundaries, school district boundaries, and community character and social customs.
- D. The boundary adjustments established by this Agreement are not the result of arbitrariness but rather reflect identification of larger undeveloped but developable parcels the development of which has been determined to benefit both Parties. This Agreement reflects due consideration of the area's potential for growth, allows for orderly economic growth, and provides for the reasonably efficient delivery of municipal services.
- E. This Agreement is generally consistent with the current federal, state and municipal laws and regulations that apply in the Village and the Town.
- F. This Agreement adequately reflects financing for the delivery of necessary municipal services to the residents affected by this Agreement and the boundary agreement entered into by the Village and the Town.
- G. The Parties have reached agreements concerning boundaries and municipal service issues to avoid duplication of municipal services and to provide an effective means of planning each community's future growth.



H. Wis. Stat. § 66.0305 authorizes municipalities to share revenue from taxes, special assessments and special charges.

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in accordance with the authority granted to them under the Wisconsin statutes and for their mutual benefit and in the public interest, the Village and the Town agree as follows:

1. TERRITORY SUBJECT TO THE AGREEMENT

The territory subject to the terms of this Agreement is shown by the map at Exhibit 2, and is legally described in Exhibit 3 (the "Territory").

2. AGREEMENT TERM

This Agreement shall be binding upon approval and execution by the Parties. The Agreement shall have a delayed Effective Date and shall commence on January 1, 2014, and shall terminate 10 years thereafter on December 31, 2023.

3. REVENUE SHARING

a. During the term of this Agreement, the Village and the Town agree to share all property tax revenues related to the Territory described as follows:

i. Revenue included in this Agreement:

1. Property taxes derived from the Territory (as shown in **Exhibit 2** and legally described in **Exhibit 3** during the term of the Agreement).
2. Special assessments, if any, derived from the Territory collected during the term of this Agreement. (See also Boundary Agreement Section 6, which is incorporated by reference.)

ii. Revenue Excluded from the Agreement:

1. Permit and inspection fees shall be paid to the Party issuing the permit or conducting the inspection and shall be excluded from this Agreement.
2. Impact fees for the Territory derived from the Developer's Agreement between the Village and the Developer shall be excluded from this Agreement and shall be paid to the Village of Port Edwards.

3. Any penalty or withdrawal fees for withdrawal of any portions of the Territory from Managed Forest Law status. Any penalty or withdrawal fee shall be paid to the Village of Port Edwards.

iii. Formula for Sharing

1. With respect to the Territory, the Village of Port Edwards shall receive 80% of the tax revenue from real estate property taxes, and the Town of Saratoga shall receive 20% of the tax revenue from real estate property taxes, after reasonably agreed upon costs for calculation and collection.
2. State road aid shall be shared based upon the municipal services provided and any road sharing agreements between the Parties.

iv. Dates for Sharing Revenue

1. By March 1 and September 1 of each year during the term of this Agreement, the Town shall pay to the Village the revenue collected subject to this Agreement.
2. Assessed value reports for the Territory shall be shared by September 1 of each year.

4. TERMINATION

As set forth in Section 2 above, this Agreement shall terminate on December 31, 2023, or on the date the Boundary Agreement between the Village and the Town terminates and the Territory returns to the Village. The duty to share property tax revenues as set forth in this Agreement shall survive the termination of the Boundary Agreement.

5. GOOD FAITH COOPERATION

- a. The Village and the Town shall cooperate in good faith to implement this Agreement. The Village and the Town agree that they shall not hinder the performance and implementation of this Agreement in any way and that they will not oppose this Agreement in any way privately or publicly, either when communicating with any government agency which is charged with review and evaluation of any part of this Agreement, or otherwise.
- b. If a dispute between the Parties arises under this Agreement, the Parties shall attempt to resolve the dispute through direct discussion and negotiation. If the dispute cannot be resolved by the Parties, the Parties, by mutual agreement, may agree to submit the dispute to a third party for non-binding mediation. If the dispute is not resolved by these procedures, either Party may give the other 10 days notice of an impasse and thereafter commence an action in circuit

court. The Parties shall continue to perform according to the terms of this Agreement during the pendency of any such litigation or mediation proceeding. Costs of mediation shall be shared equally by the Parties. Each Party shall be responsible for its own litigation costs.

6. BINDING EFFECT

This Agreement shall bind and accrue to the benefit of all successors of the Parties. This Agreement is for the exclusive benefit of the Parties and their successors and assigns and shall not be deemed to give any legal or equitable right, remedy or claim to any other person or entity. This Agreement shall not be affected by a change in the form of government by either of the Parties.

7. CHALLENGE TO AGREEMENT; ADVANCEMENT OF MUTUAL INTERESTS

- a. Both Parties waive the right to challenge the validity or enforceability of this Agreement or any of its provisions or to challenge any actions properly taken pursuant to and in accordance with this Agreement.
- b. In the event of a court action by a third party challenging the validity or enforceability of this Agreement or any of its provisions, both Parties will continue to cooperate with one another in good faith to reach a mutually satisfactory resolution.
- c. The Parties acknowledge that in order to effectively implement this Agreement, it may be necessary to obtain the cooperation of other governmental agencies. In all matters necessary to implement this Agreement, the Parties agree to seek the cooperation of all relevant agencies.
- d. Notwithstanding the foregoing, or any other provision of this Agreement, neither Party intends to or is waiving its governmental immunity or agreeing to act in a manner that limits or otherwise jeopardizes available insurance coverage for defense or damages.

8. ENTIRE AGREEMENT

This Agreement contains the entire agreement of the Parties with respect to the subject matter thereof, and all prior discussions, drafts, agreements, and writings are specifically superseded by this Agreement. This Agreement represents the mutual intent of the Parties and the fact that one or more of its provisions was drafted by one Party or another shall not be construed to the benefit or detriment of either Party.

9. AMENDMENT

This Agreement may be amended by the approval and execution of a written amendment signed by both Parties. To be effective, an amendment must be in writing and approved by both Parties.

10. SEVERABILITY

- a. In the event that any provision in this Agreement is found invalid or unenforceable by a court, the Parties agree that they will negotiate in good faith and expend their best efforts to remedy the unenforceable or invalid provision. Representatives of the Village and the Town shall meet promptly to discuss how they might satisfy the intent of this Agreement by alternative means. The Village and Town shall use their best efforts to find, draft and implement a means of successfully accomplishing the intent of this Agreement. If necessary, they shall discuss appropriate amendments to this Agreement to maintain, as closely as possible, the original terms, intent and balance of benefits and burdens of this Agreement.
- b. In the event a court finds Sections 1, 2, 3, and/or 4 of this Agreement to be invalid or unenforceable and the Parties are unable to agree on a remedy or an amendment to this Agreement within 60 days of the date that the court found the Section to be invalid or unenforceable, this Agreement shall be deemed void. From such point forward, all regulations, municipal services, property tax and special assessment authority, and any other authority that was acquired by the Town by this Agreement or as a result of this Agreement, will also return to the Village. If any special assessment was imposed by the Town prior to such point, the Village and Town shall work together in good faith with regard to same, as provided in Section 6 of the Boundary Agreement.
- c. With regard to all other Sections of this Agreement, if any such Section is found to be invalid or unlawful, and the Parties are unable to agree on a remedy or an amendment of the Agreement within 60 days of the date the court found the Section to be invalid or unenforceable, then such invalidity or unenforceability shall not affect the other provisions of this Agreement and such other provisions shall be binding on the Parties.

11. NO WAIVER

Failure of either Party to require strict performance of any provision of this Agreement shall not constitute a waiver of the provision or any of either Party's rights under this Agreement. Rights and obligations under this Agreement may only be waived or modified in writing. Waiver of one right, or release of one obligation, shall not constitute a waiver or release of any other right or obligation.

12. RISK ALLOCATION

The Parties are governmental entities entitled to governmental immunity under law, including Wis. Stat. § 893.80. Nothing contained herein shall waive the rights and defenses to which each Party may be entitled under law, including all of the immunities, limitations, and defenses under Wis. Stat. § 893.80, or any subsequent amendments thereof. Each party shall bear the risk of its own actions pursuant to this Agreement.

17. AUTHORITY

Each Party represents that it has the authority to enter into this Agreement and that all necessary procedures have been followed to authorize this Agreement. Each person signing this Agreement represents and warrants that he or she has been duly authorized to do so.

18. COUNTERPARTS

This Agreement may be signed in counterparts which, when taken together, shall be effective as if all signatures appeared on the same original.

IN WITNESS WHEREOF, the Parties hereto have caused the execution of this Agreement by the authority of their respective governing bodies, to be binding when approved and fully executed. (See Section 2. regarding Delayed Effective Date.)

Approved by the Town Board on this 7th day of August, 2013, with a delayed effective date of January 1, 2014.

TOWN OF SARATOGA

ATTESTED to August 7, 2013.

Terry Rickaby, Town Chairperson

Heidi Kawleski, Town Clerk

Dan Forbes, Supervisor

Patty Heeg, Supervisor

Douglas Passineau, Supervisor

John Frank, Supervisor

AUTHENTICATION

The above signatures of Terry Rickaby, Dan Forbes, Douglas Passineau, Patty Heeg, John Frank and Heidi Kawleski are hereby authenticated as of August 7, 2013.

Constance L. Anderson, SBN 1013080
MEMBER: STATE BAR OF WISCONSIN

Approved by the Village Board on this ____ day of August, 2013, with a delayed effective date of January 1, 2014.

VILLAGE OF PORT EDWARDS

Ed Saylor, Village President

ATTESTED to _____, 2013.

Joseph M. Terry, Village Administrator

Diane Tremmel, Village Clerk/Treasurer

AUTHENTICATION

The above signatures of Ed Saylor, Joseph M. Terry and Diane Tremmel are hereby authenticated as of _____, 2013.

_____, SBN _____

MEMBER: STATE BAR OF WISCONSIN

ACKNOWLEDGMENT

I hereby acknowledge that the above-named person(s) who are known to me as Ed Saylor, Joseph M. Terry and Diane Tremmel, executed the above document on this ____ day of _____, 2013.

Notary Public, State of Wisconsin

My commission expires: _____.

**EXHIBITS to
REVENUE SHARING AGREEMENT BETWEEN THE VILLAGE OF PORT EDWARDS
AND THE TOWN OF SARATOGA**

**(Exhibits 1, 2 and 3 of the Revenue Sharing Agreement
are identical to Exhibits 1, 2 and 3 of the Boundary Agreement, and such exhibits are incorporated
in the Revenue Sharing Agreement by reference and as if set forth in full herein.)**

Exhibit 1 – Map Showing Common Boundary Line between Village of Port Edwards (“Village”) and
Town of Saratoga (“Town”)

Exhibit 2 – Map of Territory

Exhibit 3 – Legal Description of Territory

VILLAGE OF PORT EDWARDS
WOOD COUNTY, WISCONSIN
VILLAGE BOARD RESOLUTION NO. 2013-_____
APPROVING BOUNDARY AGREEMENT AND REVENUE SHARING AGREEMENT
WITH TOWN OF SARATOGA

WHEREAS, the Town Board of the Town of Saratoga ("Town") and the Village Board of the Village of Port Edwards ("Village") noticed a joint public hearing for review and consideration of a Boundary Agreement and Revenue Sharing Agreement pursuant to Wis. Stats. § 60.0301 and 60.0305, which public hearing was held on June 26, 2013 in the Saratoga Town Hall; and,

WHEREAS, Affidavits of Publication for the June 26, 2013 public hearing are available from the Town Clerk and Village Clerk, respectively; and,

WHEREAS, the Town Board of the Town of Saratoga ("Town") and the Village Board of the Village of Port Edwards ("Village") noticed a joint public hearing for review and consideration of a Boundary Agreement pursuant to Wis. Stats. § 60.0301, which public hearing was held on July 31, 2013 in the Alexander Park Shelter House in Port Edwards, WI; and,

WHEREAS, on July 3, 2013, Notices of the Public Hearing were sent by certified mail by Christopher J. Renner, RLS to property owners, as required by statute and set forth in the Affidavit of Mailing available from the Town Clerk and/or Village Clerk; and,

WHEREAS, Affidavits of Publication for the July 31, 2013 public hearing are available from the Town Clerk and Village Clerk, respectively; and,

WHEREAS, the Village Board has reviewed the Boundary Agreement and Revenue Sharing Agreement presented at the public hearings, has considered input from the public at both public hearings and throughout the process of evaluating and drafting the Boundary Agreement and Revenue Sharing Agreement, and has considered the public interest as a whole; and

NOW, THEREFORE, FOLLOWING DUE CONSIDERATION, THE VILLAGE BOARD OF THE VILLAGE OF PORT EDWARDS HEREBY RESOLVES AS FOLLOWS:

1. The Village Board hereby finds that proper notice of the Boundary Agreement and Revenue Sharing Agreement have been made, as follows:
 - a. As required by Wis. Stat. § 66.0301(6)(c) *Intergovernmental Agreement*, notice of the public hearings for the Boundary Agreement was published at least 20 days before the public hearing and notice was given to affected property owners.
 - b. As required by Wis. Stat. § 66.0305(3) *Revenue Sharing*, notice of the public hearing for the Revenue Sharing Agreement was published as a class 3 notice.



2. The Village Board specifically makes the findings set forth in the Boundary Agreement presented at the public hearing on July 31, 2013 and the Revenue Sharing Agreement attached thereto, and finds that the Boundary Agreement and Revenue Sharing Agreement are in the public interest of the residents of the Village of Port Edwards.
3. The Village Board hereby approves the Boundary Agreement and Revenue Sharing Agreement, subject to approval of same by Resolution of the Town Board of the Town of Saratoga and compliance of the Town and Village with the requirements set forth in Wis. Stat. § 66.0301. For the Village, said requirements include the following:
 - a. The Village shall publish the Boundary Agreement as required by Wis. Stat. § 66.0301(6)(c).
 - b. Following expiration of the required thirty (30) day period, and provided that no request for a referendum is made, the Village shall prepare an ordinance as specified in Wis. Stat. § 66.0301(6)(e) for consideration and approval by the Village Board.
4. The Boundary Agreement and Revenue Sharing Agreement shall have a delayed effective date of January 1, 2014.

Approved by the Village Board on this _____ day of August, 2013.

VILLAGE OF PORT EDWARDS

Ed Saylor, Village President

ATTESTED to as of August _____, 2013.

Joseph M. Terry, Village Administrator

Diane Tremmel, Village Clerk/Treasurer

**TOWN OF SARATOGA
WOOD COUNTY, WISCONSIN
TOWN BOARD RESOLUTION NO. 2013-08-07
APPROVING BOUNDARY AGREEMENT AND REVENUE SHARING AGREEMENT
WITH VILLAGE OF PORT EDWARDS**

WHEREAS, the Town Board of the Town of Saratoga ("Town") and the Village Board of the Village of Port Edwards ("Village") noticed a joint public hearing for review and consideration of a Boundary Agreement and Revenue Sharing Agreement pursuant to Wis. Stats. § 60.0301 and 60.0305, which public hearing was held on June 26, 2013 in the Saratoga Town Hall; and,

WHEREAS, Affidavits of Publication for the June 26, 2013 public hearing are available from the Town Clerk and Village Clerk, respectively; and,

WHEREAS, the Town Board of the Town of Saratoga ("Town") and the Village Board of the Village of Port Edwards ("Village") noticed a joint public hearing for review and consideration of a Boundary Agreement pursuant to Wis. Stats. § 60.0301, which public hearing was held on July 31, 2013 in the Alexander Park Shelter House in Port Edwards, WI; and,

WHEREAS, on July 3, 2013, Notices of the Public Hearing were sent by certified mail by Christopher J. Renner, RLS to property owners, as required by statute and set forth in the Affidavit of Mailing available from the Town Clerk and/or Village Clerk; and,

WHEREAS, Affidavits of Publication for the July 31, 2013 public hearing are available from the Town Clerk and Village Clerk, respectively; and,

WHEREAS, the Town Board has reviewed the Boundary Agreement and Revenue Sharing Agreement presented at the public hearings, has considered input from the public at both public hearings and throughout the process of evaluating and drafting the Boundary Agreement and Revenue Sharing Agreement, and has considered the public interest as a whole; and

NOW, THEREFORE, FOLLOWING DUE CONSIDERATION, THE TOWN BOARD OF THE TOWN OF SARATOGA HEREBY RESOLVES AS FOLLOWS:

1. As of August 7, 2013, the Town Board hereby finds that proper notice of the Boundary Agreement and Revenue Sharing Agreement have been made, as follows:
 - a. As required by Wis. Stat. § 66.0301(6)(c) *Intergovernmental Agreement*, notice of the public hearings for the Boundary Agreement was published at least 20 days before the public hearing and notice was given to affected property owners.
 - b. As required by Wis. Stat. § 66.0305(3) *Revenue Sharing*, notice of the public hearing for the Revenue Sharing Agreement was published as a class 3 notice.



2. The Town Board specifically makes the findings set forth in the Boundary Agreement presented at the public hearing on July 31, 2013 and the Revenue Sharing Agreement attached thereto, and finds that the Boundary Agreement and Revenue Sharing Agreement are in the public interest of the residents of the Town of Saratoga.
3. The Town Board hereby approves the Boundary Agreement and Revenue Sharing Agreement, subject to approval of same by Resolution of the Village Board of the Village of Port Edwards and compliance of the Town and Village with the requirements set forth in Wis. Stat. § 66.0301. For the Town, said requirements include the following:
 - a. The Town shall publish the Boundary Agreement as required by Wis. Stat. § 66.0301(6)(c).
 - b. Following expiration of the required thirty (30) day period, and provided that no request for a referendum is made, the Town shall prepare an ordinance as specified in Wis. Stat. § 66.0301(6)(e) for consideration and approval by the Town Board.
4. The Boundary Agreement and Revenue Sharing Agreement shall have a delayed effective date of January 1, 2014.

Approved by the Town Board on this 7th day of August, 2013.

TOWN OF SARATOGA

ATTESTED TO: As of August 7, 2013.

Terry Rickaby, Town Chairperson

Heidi Kawleski, Town Clerk

Dan Forbes, Supervisor

Patty Heeg, Supervisor

Douglas Passineau, Supervisor

John Frank, Supervisor

As the Village Treasurer, I am providing the following information regarding a possible transfer of roads in the Boundary Agreement area to the Village:

The Development Agreement states in part:

“Whereas, the Developer represents to the Village that the private roads which are constructed to service the development in the subject lands are to remain private and are to be turned over to a homeowners association, which will own and maintain the roads and right of ways.”

“9. Improvement Dedications to a Homeowners Association. The Developer shall dedicate the remainder of the roadways and right-of-ways improvements to the homeowner association or associations upon terms and conditions contained in the homeowner’s association articles of incorporation or bylaws.”

Per Mr. Hummel’s June 26th memo on how to accomplish a transfer:

- (1) He refers to a portion of the tax dollars that the boundary agreement residents will pay but will not benefit from because they do not have sewer and water. The sewer and water are not paid from the tax revenue. That is why those residents who have sewer and water are billed quarterly by the Port Edwards Water Utility (separate entity).
- (2) He refers to additional tax revenue of \$250,000 after the properties are returned to the Village. He is using this figure as the basis for paying for maintenance of the roads, etc.

We cannot collect any more tax than what the State will allow us to collect. This is known as the allowable levy which is figured out on the Levy Limit Worksheet.

Any adjustment to the allowable tax levy is figured on the Levy Limit Worksheet as determined by the Department of Revenue. There is an adjustment for an annexation which reads as follows: “(Line M) Cities or villages enter the amount of increase in tax levy for an annexation of land from a town. The amount includes the **town’s portion** of collected property taxes for the annexed parcels.”

The Town of Saratoga’s portion of collected property taxes for the boundary area in 2023 (2022 taxes) is \$37,854.10. Therefore, that is approximately all the additional tax revenue that we would be able to receive for the “annexation” adjustment.

I have spoken with various employees from the Department of Revenue on this matter. This is not an annexation by statute; therefore, it appears that there will be no adjustment to the levy when the properties are returned.

In short, the Village will gain a substantial number of properties and value, but with NO additional tax revenue.

MEETING DATE: 9/5/2023		REPORT TO PLPIT		AGENDA ITEM # Click here to enter text.
PRESENTING COMMITTEE: PLPIT	COMMITTEE CONTACT: Tiara Grunden	STAFF CONTACT: Duane Gau Interim Administrator	PREPARED BY: Duane Gau	
ISSUE: Pavloski Development LLC & Village/Town of Saratoga boundary agreements.				
ISSUE BACKGROUND/PREVIOUS ACTIONS: <p>In August 13, 2013, the Village and Pavloski Development LLC entered into a developer's agreement, for a housing development at Nepco Lake. After that agreement the Village entered into a boundary agreement with Town of Saratoga for the Nepco Lake for the same area of the housing agreement on January, 1 2014.</p> <p>The Village/Saratoga boundary agreements ends December 31, 2023. At the same time the Pavloski Development LLC developer's agreement ends too.</p> <p>Highlights of Pavloski Development LLC developer's agreement:</p> <ul style="list-style-type: none"> • Pavloski developed a Homeowners association • All road and right of way are to be private • All infrastructure improvements are at the developer's expense • Developer shall dedicate the roadways and right -of- way improvements to the homeowner's association (see Treasure memo to the VB on no new tax from the transfer of NEPCO Lake Development) • Developer agrees to maintain the roadways and rights-of-way as the same condition as the Village • Developer to dedicate a suitable site for fire department substation (2 acers have been dedicated) • Developer is to construct a pole building for the storage of a water tanker for use at agree upon locations. (This has not been done) • Developer to dedicate a suitable site for yard waste recycle center. (This has not been done) 				
RECOMMENDED ACTION: Recommend to Village Board to direct staff to contact Pavloski Development LLC to provide pole building for the storage of a water tanker for use at agree upon location and dedicate a suitable site for yard waste recycle center according to Section 8 Improvement Dedications to the VILLAGE subsections B & C of the Village of Port Edwards Development Agreement with Pavloski Development LLC for the NEPCO lank development enter into 13th day of August, 2013 signed by both parties respectfully in November 2013.				
COST/BENEFIT ANALYSIS and JUSTIFICATION <i>(attach separate spreadsheets or other documentation as applicable)</i>				
ITEMIZE ALL ANTICIPATED COSTS (Direct or Indirect, Start-Up/One-Time, Capital, Ongoing & Annual, Debt Service, etc.) None.				
ITEMIZE ALL ANTICIPATED BENEFITS (Subjective, Financial, Operational, Service-related, etc.) Meet the agreed upon dedications requirement of the Development Agreement.				
FUNDING SOURCE(s) – Must include Account Number/Description/Budgeted Amt CFY/% Used CFY/\$ Remaining CFY Click here to enter text.				
OTHER OPTIONS CONSIDERED: Click here to enter text.				
TIMING REQUIREMENTS/CONSTRAINTS: ASAP				
ATTACHMENTS (describe briefly): 2013 Pavloski Development LLC the NEPCO Lake Development Agreement & Town of Saratoga boundary agreement				