

**OFFICIAL PROCEEDINGS
JOINT MEETING OF THE VILLAGE OF DARIEN
PLAN COMMISSION AND VILLAGE BOARD
Wednesday, June 2, 2022 – 7:00 PM
Darien Village Hall, 24 N. Wisconsin St.
Darien, WI 53114**

1. **Call to Order.** Village President and Plan Commission Chairperson Jane Stiles called the meeting to order at 7:14 p.m. in the Boardroom at Darien Village Hall and via Zoom teleconference application.
2. **Roll Call – Village Board.** President Jane Stiles and Trustees Kevin Atkinson, Elizabeth Baumann, Sandi Seefeldt, and Ken Truckey were present. Trustee William Volmar was absent.
3. **Roll Call – Plan Commission.** Chairperson Stiles, Trustees Atkinson and Truckey, and citizen members Dean Logterman, Bruce Lindstrand, Jim Stirmel, and Greg Epping were present.

Administrator/Clerk-Treasurer Lindsey Peterson, Zoning Administrator & Code Enforcement Officer Shannon Markley, Public Works Superintendent Mike Veley, Village Attorney Brad Lochowicz, Village Engineer Jason Feucht, Village Planner Ben Rohr (via Zoom), and Municipal Advisor Brian Roemer (via Zoom) were also in attendance.

**Ms. Peterson made an announcement that there was concern that not everyone received proper notice about the Tax Increment District Public Hearing, so the decision had been made to postpone the public hearing to ensure everyone receives proper notice. She stated the 2nd Public Hearing for the Tax Increment District creation would now be held on Wednesday, June 29th at 7:00 p.m.

4. **Pledge of Allegiance.**
5. **Presentation of Proposed Comprehensive Plan Amendments.** Ben Rohr from Vandewalle and Associates presented the proposed amendments to the Village of Darien Comprehensive Plan. He stated the Village updated its Comprehensive Plan in 2021. This plan guides future growth and development and includes a map called the Future Land Use Map. The proposed amendments are directly related to the Future Land Use Map. They are to change the Village's Future Urban Service Area to allow the parcel for the proposed NewCold development to be served with utilities. This amendment is in line with review from SEWRPC relating to the Village's request to amend the Sewer Service Area. He stated that the second Comprehensive Plan Amendment was to provide additional context and clarity on the Future Land Use Map adding an Existing Village Urban Service Area Boundary on the Future Land Use Map.
6. **Public Hearing regarding the proposed Comprehensive Plan Amendments (Village Board) (See the Public Hearing Notice which was published on April 28, 2022).** Attorney Lochowicz presented an overview of how the public hearing would be conducted. He stated that two minutes would be provided for any individual that wished to speak on the specific public hearing item. He stated the Village was asking for those present to be respectful of all speakers and of the Village representatives there to conduct Village business.

President Stiles made a motion to open the Public Hearing. Trustee Truckey seconded, and the motion carried 5-0.

Jane Mayer, N3089 Foundry Road, Darien-She stated that her question was, for NewCold to come here, how many municipalities did they approach.

Attorney Lochowicz stated that he did not think that question was related to the public hearing topic, but that it was up to the Chair how much leeway was allowed. He also stated that any questions that the Commission or Board wanted answered that came out of the public hearing could get responses from staff if the Chair wished to have answers.

Ms. Mayer stated she would tell them how she felt about it. She said this affects her because she lives on Foundry Road and she found out that this company will be located in the Village, but will have 200 semis going down Foundry Road. That is what she heard. She stated that they will be paying taxes in the Town for the road that they are using. She said if the Village wants them to locate in the Village, then they should use County Road X and Highway 14. She said if there are certain weight limits, then they are required to use County Roads and Highway Roads. Why are they sending trucks down her road when she has children?

Dave Henderson, W8841 County Road X, Darien-He stated he had a bunch of stuff to talk about, but the meeting was transferred. He stated he just had a simple question pertaining to taxes. NewCold is a billion-dollar company, but the Village is using the school's tax money to support it. He stated there would be hundreds and hundreds of trucks on the road, but the Village is supporting them and NewCold is not paying anything back for 20 years, unless you are talking about the twelve cents for electricity, water, taxes. He said the problem is every one of you is not giving any information back, so we can ask a question, but can't get any response. That's not an open forum, that's a dictatorship.

Bridget McCarthy, W7538 Pleasant St, Delavan-She stated that the first thing she would like to say is that the meetings are frustrating. There are a lot of people there not speaking, because they don't know what to speak on. But they are there and their voices, even though they are not saying anything audibly, deserve to be heard. She said she asks them to take seriously the people in the room. She said they are confused and want answers but don't have a lot of information. She said when we talk about a future urban service boundary, she is confused, because NewCold courted the Township and presented there, and at the time said they didn't need sewer and water, they would use septic and well water. The idea that we would extend utilities down Beloit Street and mess with Beloit Street again, and have additional trucks, she doesn't know how many, but thinks it is over 200 per day, but NewCold won't give a direct answer. They are going to have a more extensive top on the road and more concrete and they are asking all residents of the Village to put up with this for a company that has already said, we can just use septic and well. She said this looks very fishy to them, and she knows that they are not in the job of answering questions. She stated she isn't understanding why it is so important to run the water and sewer out there, knowing that in a TID NewCold would be reimbursed.

Christina Green, Sweet & Maier-She stated she represents Ed & Sandy Anderson who live on Wise Road. She stated she already hand delivered letters today that raised questions about the validity of the annexation. She stated she is not certain, but they may want to get the Village attorney's opinion, so it doesn't cause any further issues for the Village. She said looking at the drawn out future urban service area, she noticed that her client's property is included. She said she didn't know a lot about what was going on because she didn't have time to absorb it and didn't get a lot of answers, but she thought that if you were changing someone's designation on a Comprehensive Plan, you had to provide them notice. She said that her letter today was trying to say to slow down, and she knows that NewCold has promised the world, and is the best thing since sliced bread, but they are not getting anything from NewCold. She said residents are getting twelve cents a year. She said think about that, think about your neighbors and friends. She said the Village is willing to throw them under the bus.

She said no one knows what NewCold is promising us. She said it isn't tax income, because they don't want to pay that for 20 years. She said think about it and let them know what it is they are promising.

Susan Ehlen, 223 Oak Street, Darien-She stated she works at Sharon Telephone and goes down Highway C every day, X to C. She said it is ridiculous. She is already coming to a stop sign and waiting on Highway 14 every day. How will she get to work on time? She can't see 200 more added to this. She said she doesn't see what we are getting out of this either. It does seem very secretive, like it is being pushed through. She said it just doesn't smell right.

Judy Gause, 171 S. Walworth Street, Darien-She stated she is very opposed to their proposal. They are taking more farmland. We need farmland. We have already lost more than 7,000 acres of farmland from this community and we need it for the future. Farmland is worth value as farmland. Prime farmland is going for \$14,000 an acre in Illinois. She stated we already have a war in Ukraine. They are having a problem getting out their food. She said this is causing problems in Egypt, Turkey and potential problems in Africa. Stop gobbling up farmland. She said she doesn't want them to annex anything, and if they don't annex anything, they don't have to worry about any water or sewer projects. She said she really feels that NewCold has played us for fools.

President Stiles made a motion to close the Public Hearing. Trustee Atkinson seconded, and the motion carried 5-0.

7. **Resolution No. PC2022-03 – Plan Commission consideration of resolution recommending Comprehensive Plan Amendments to the Village Board.** Trustee Atkinson asked about the comment brought up during the public hearing on notice requirements to individual property owners regarding a change in designation on a Comprehensive Plan map. Attorney Lochowicz stated that his understanding was that this is not required, but he recommended a follow-up by Mr. Rohr from Vandewalle and Associates. Mr. Rohr stated that state statute requires a 30-day public notice published in the paper, and notices sent to all neighboring jurisdictions and all overlapping jurisdictions. It is not sent to any landowner or property owner in the community. Attorney Lochowicz stated that the only time he knew a notice was required to be sent was when allowable use of a property was going to change. Mr. Rohr stated that was correct, that that was why there were notices required with a Zoning Ordinance Amendment. President Stiles asked Attorney Lochowicz if there was any concern with approving this. Attorney Lochowicz stated that he had no concern about the body approving this if that's what was decided on. President Stiles made a motion to approve Resolution No. PC2022-03, recommending the Comprehensive Plan Amendments to the Village Board. Trustee Truckey seconded, and the motion carried 7-0.
8. **Ordinance No. 320 – Village Board consideration of ordinance adopting the Comprehensive Plan Amendments, as recommended by the Plan Commission.** Trustee Truckey made a motion to adopt Ordinance No. 320. Trustee Baumann seconded, and the motion carried 5-0.
9. **Presentation of Proposed Sanitary Sewer Service Area Amendment.** Joel Dietl, Chief Land Use Planner from Southeastern Wisconsin Regional Planning Commission (SEWRPC) presented the proposed amendment to the Village of Darien Sewer Service Area. He stated that his organization prepares these amendments. He states the authority to do this was delegated to SEWRPC by the Wisconsin Department of Natural Resources (DNR), and that authority was established by Administrative Code NR121. This code states that Sewer Service Area plans have to be prepared and periodically updated. The plans identify the boundary of the sanitary sewer area and any environmental corridors. He stated within environmental corridors, development is not usually allowed on public sewer. He stated this was just an amendment to the Village's plan, changing the

small area for the NewCold development. He explained the process for requesting an amendment. He stated the change must be approved by the local community, the local sewage treatment operation, in this case WalCoMet, and SEWRPC's Commission. He stated once SEWRPC provides approval, amendments and all information are sent to the DNR. He stated that this has nothing to do with public water or zoning. Just strictly sewer service. He stated that they also review plans for consistency with the Comprehensive Plan. Lastly, he states they do provide housing information as an appendix to these plans as well. He stated this information is advisory. He stated they do these updates because often times these areas where sewer may need to be provided are not located in the city or village. Sometimes they are in the town and require annexation. You cannot get sewer service, even if it is designated on the plan, if you are not in the city or village. He stated he would stay to listen and answer any questions if needed.

10. **Public Hearing regarding the Village of Darien proposed Sanitary Sewer Service Area Amendment (Village Board) (See the Public Hearing Notice that was published on May 19, 2022 & May 26, 2022).** President Stiles made a motion to open the public hearing. Trustee Truckey seconded, and the motion carried 5-0.

Bridget McCarthy, W7538 Pleasant St, Delavan-She stated that looking at the proposed amendment map from SEWRPC, it is missing a stream. She stated that there is a stream that goes off of Wise Road and she would think and hope that it would be an environmental corridor. She stated that they are ignoring the stream that runs near the development and she would hope that they would consider that before making any approvals to the map.

Christina Green, Sweet & Maier-She said there is a stream that should be identified as an environmental corridor, and we are rushing through everything and there seems to be errors. Errors create litigation, litigation is not good for anyone. Please, please, please slow down. Listen to the packed room. She said they are not talking, but just being here is talking. Slow down and do it right. There is a stream that should be identified on here. She stated the agent from SEWRPC just testified that you cannot put a sewer in an environmentally sensitive area. She stated they should listen and have some discussions.

Susan Ehlen, 223 Oak Street, Darien-She said it is supposed to be their community, but she feels that their voices aren't heard. She stated that decision are made without them really knowing what is going on, such as an amendment to annex into the Village. She stated that she didn't know, until she went onto the website and saw that the document was signed already and then she said I really have to pay attention. She said she thinks now a lot of people are. She said she just wants to be heard and thought of as equals, not below.

Judy Gause, 171 S. Walworth Street, Darien-she stated she is opposed to expanding the sewer out there. She stated she is opposed to annexing to the Village, any part of the Darien Township.

Nancy Haggerty, 790 N. Water Street, Milwaukee-She stated that she is the attorney for NewCold. She said NewCold is looking to locate here and invest and create jobs for a food storage facility. She stated they are working hard to meet all requirements. She stated that in April, they held three public information open houses where they had the site plan and traffic plan and everything they could think of that people might have been interested to learn about. She stated she looks around the room and sees a lot of faces that were at those meetings, and she is glad, but there are obviously others who didn't come to the meetings and if they feel they didn't see any details, then she said they would be happy to post those materials here so people don't feel like they are in the dark. She is still hearing comments that could have been cleared up, for example, all the driveways are planned to come off of

X. There was an objection to the previous placement of driveways on Foundry Road, so that change was made long ago. She stated there is also a Village Ordinance that states if you are in the Village, you cannot utilize well and septic. She stated that there was a question regarding this, but it was not an option under the ordinances. She said if there is any way that they can do anything to provide more details, they would be happy to do that.

Ms. Peterson stated that she is a full-time employee of the Village and would also be happy to speak to anyone with questions, or anyone seeking more information. She stated her contact information was on the website and people should feel free to reach out for information at any time.

Sandy Anderson, N2605 Wise Road, Darien-she stated that people in this room do not care about the sewer, they do not care about anything. They care about the 150-foot building that will be put behind these kids' farm. She stated that they are farmers, they do not live in Chicago. She said she knows this is not on the topic, but everyone in the room feels that they do not want this. Every single meeting they come to is growing. She said they need to look around and see who is here and who cares. She said there was more discussion about loaning picnic tables to a church than at one of these meetings. She said people are not impressed by their big displays and stuff. Nobody cares. We are a farm community and that's what we want. She drives down the road everyday and can't imagine a building being put there. She said if they have a heart, they would feel the same way.

President Stiles made a motion to close the public hearing. Trustee Truckey seconded, and the motion carried 5-0.

11. **Plan Commission recommendation of proposed Sanitary Sewer Service Area Amendment to Village Board.** Trustee Atkinson and Trustee Truckey asked for clarification on the creek that was brought up during the public hearing. Mr. Dietl asked if it was the stream close to County Trunk Highway X that was being discussed. President Stiles stated it is on the north side of the road and across the Dunn's property. Mr. Dietl stated that this stream is not an environmental corridor. He stated there are several criteria to determining an environmental corridor. He stated there is a point system in place to determine environmental corridors and this stream did not meet the criteria. He stated that there are wetlands around here and those areas are shown on the map in purple. He stated there could even be more wetlands not mapped, but they wouldn't meet the width criteria. He stated it is possible for things to change over time with more rainfall, maybe someday this could be large enough to become an environmental corridor. Maps are updated every five years, or when the local community asks for mapping. However, he said based on the information he has, this does not meet the criteria for an environmental corridor.

Trustee Truckey asked if there were ever plans for development in that area in the future, could water and sewer be run out there. Mr. Dietl stated that all sanitary sewer extensions also come through himself and his office. He stated they review to ensure that the extensions actually match the plans. There is also another administrative code that these plans must meet. All engineers working on projects know that they must send those plans to SEWRPC for review. He stated when he reviews, he looks at, is that project inside the sewer service area and outside the environmental corridors. He stated that since things can change, there are guidelines for how to handle a development in a newly established environmental corridor as well.

Trustee Seefeldt asked if the date on the map, April 2020 was the date the map was last updated. Mr. Dietl stated that that date was the date the aerial photograph was taken.

Trustee Truckey made a motion to recommend the proposed Sanitary Sewer Service Area Amendment to the Village Board. Trustee Atkinson seconded, and the motion carried 7-0.

12. **Resolution No. 2022-14 – Resolution for adoption of a Village of Darien Sanitary Sewer Service Area Amendment.** Trustee Truckey made a motion to adopt Resolution No. 2022-14 for the Darien Sanitary Sewer Service Area Amendment. Trustee Baumann seconded, and the motion carried 5-0.
13. **Adjourn – Village Board.** At 8:14 p.m., President Stiles made a motion to adjourn the Village Board. Trustee Baumann seconded, and the motion carried 5-0.

President Stiles stated that the Village Board was now adjourned, but the Plan Commission would continue on for the presentation of the proposed Tax Increment District No. 4 Project Plan. She stated, as was announced at the beginning of the meeting, the public hearing and potential action on Tax Increment District creation would now take place on June 29th at 7p.m.

14. **Presentation of Proposed Tax Increment District No. 4 Project Plan.** Ms. Peterson stated that Brian Roemer from Ehlers was available via Zoom for the presentation. Mr. Roemer provided a visual for his presentation via Zoom. Mr. Roemer stated that he would be presenting on the changes to the Project Plan from the last time the Plan Commission met. He explained that a meeting of the Joint Review Board (JRB) was held on May 4th, as well as a public hearing for the Plan Commission. At the JRB meeting, all the taxing jurisdictions (the County, the School District, and the Technical College District, as well as one public member), reviewed the initial plan and made recommendations for changes. Mr. Roemer stated several items requested by the Joint Review Board have now been included in the developer agreement and the Project Plan for consideration following the rescheduled public hearing. Mr. Roemer presented some Tax Increment Financing basics and how the overlapping districts will continue to receive taxes on the parcel as is (base value). He stated the Joint Review Board must review again, and a legal opinion must be provided stating all is complete. He explained that while the district is in place, there is no change to the tax rate as a result of the development, however, tax rate could change based on the annual budget, just like in previous years. He stated that upon closure of the TID, the tax rate could be lowered. He stated that the TID would be required to close at the point at which all project costs have been expended within the plan, at the point that the cumulative balance exceeds the future costs, or at any time that the Village chose to close the District.

Mr. Roemer stated that since the Plan Commission met on May 4th, the Village has included a payment in the TID Project Plan for Walworth County for additional traffic on County Road X. This payment is \$150,000 for 15 years. He stated that there has also been a cap put on the total incentive offered to the developer. He stated the cashflow was revised to include the Town payment required for annexed territory and the County payment for Highway X. He stated there was an adjustment made to the assumptions for the GO Bond payments based on the interest rate environment. He stated that the incentive calculation was adjusted, and then the incentive was capped at \$38 million. He stated that this cap was factored by taking the cost of the repayment over time for infrastructure (water, sewer and some road restoration) to the developer, because they are paying for the initial cost. The cap also includes the difference in taxes the developer would pay in the Town versus the Village. With those two amounts, the capped incentive of \$38 million was calculated. He stated that with this change, the Village is now able to look at closing the district in 17 years rather than 20.

He then presented a breakout of the incentive and how each amount was determined. He stated that the County discussed these changes at their Finance Committee meeting and did approve the changes to the Project Plan.

Mr. Roemer also provided a risk assessment. He stated that a developer's agreement would be required. He stated that no incentive payments would be made to the developer until the development was completed on time and had a Phase I assessed value of \$118 million by 1/1/25.

Additionally, all private and public improvements must be completed before payments begin. He stated that the developer will pay for the site infrastructure built to Village requirements, and then the Village will repay the developer for the infrastructure through the increment created. He stated additional main and sewer work will be needed off the site, and the Village will borrow for these projects and pay the bond payments through the increment collected. He stated that the Village will pay their costs first, before any incentive payments are made. The Village will be able to prepay as well, meaning the Village can close the District even earlier if funds are available to prepay. The developer will also be required to maintain this value throughout the life of the TID. The agreement also includes a jobs guarantee, stating the company will employ at least 40 full-time employees. He stated that there are many guarantees that assure that the Village can pay all costs no matter what the outcome of the development is.

Mr. Roemer then outlined the next steps, with the rescheduled TID Public Hearing and Plan Commission consideration on June 29th. The Village Board will then consider the Project Plan at their July 18th meeting, and the Joint Review Board will meet soon after to consider final approval.

15. **Public Hearing regarding the proposed Project Plan, Boundaries and creation of Tax Incremental District No. 4 (Plan Commission) (See the Public Hearing Notice which was published on May 19, 2022 & May 26, 2022).** *(This item was not considered at this meeting**)*
16. **Resolution No. PC 2022-01 – Resolution Designating Proposed Boundaries and Approving a Project Plan for Tax Incremental District No. 4, Village of Darien, Wisconsin.** *(This item was not considered at this meeting**)*
17. **Adjourn – Plan Commission.** At 8:39 p.m., Trustee Truckey made a motion to adjourn the meeting for the Plan Commission. President Stiles seconded, and the motion carried 7-0.

Respectfully Submitted,

Lindsey Peterson, Administrator/Clerk-Treasurer

Date approved by Village Board: June 20th, 2022