



May 24, 2024

To: Mayor Mitch Reynolds
Council President Chris Kahlow
Council Member Mark Neumann
La Crosse City Council
La Crosse City Plan Commission

Re: Resolution 24-0701 Regarding the Residents at Rivercrest

Dear Public Servants:

Resolution 24-0701 addresses the long term homes for six families in Rivercrest Village – but it requires amendment for those residents to be secure and safe from unnecessary displacement. The six families live on property (Parcel 17-50325-200) leased from the City for more than 25 years. Resolution 24-0701 should be amended to:

- A. Extend the lease of the property for a term no less than ten (10) years.
- B. Omit the new requirement of a 100 foot buffer until the need for a buffer is substantiated by reasonable evidence and then provide the residents a reasonable (at least three year) period to move their personal property.
- C. Require insurance at a level that is commercially reasonable.

History of the Resolution 24-0701

Resolution 24-0701, introduced by Council Member Neumann, came out of discussion between the residents, Mr. Neumann and me as representative of Rivercrest Partners, LLC on May 2, 2024. At the May 2, 2024 meeting, the primary action discussed was the preparation of a resolution that would allow negotiation of a new, longer term lease that would provide the current residents with security in their homes. At the end of the May 2, 2024 meeting, Mr. Neumann asked that I provide items that should be included in the resolution and that were discussed at the meeting. The list I provided later that day was:

“The lease negotiation would include the parties working in good faith to reach resolution on (a) reasonable fair market rent, (b) indemnification of the City of Claims regarding occupant personal and property injuries within the 100 foot “buffer zone” of Pammel Creek caused by failure of the Pammel Creek wall, (c) reasonable insurance sufficient to meet the indemnification obligation, (d) a reasonably long term and (e) a reasonable notice provision if City determines it requires use of the property. The negotiations could also include a sale of the land outside the 100 foot buffer and lease of the remainder with the proper indemnification provisions.”

The short term lease authorized by Resolution 24-0701 does not authorize negotiation but instead states the terms of a short term lease that will ultimately result in the displacement of residents in early 2025 (the removal of the electrical, water and sewer facilities would determine the actual date of displacement). Oddly, the Staff Report accompanying the Resolution does not appear to anticipate the imposition of terms of a short term lease but indicates support for negotiation of a lease that will allow the residents to continue at their long term homes. Notably, the Staff Report's Summary/Purpose says:

“To authorize the Mayor and his Staff to enter into good faith negotiations for a one-year extension of an agreement that will otherwise expire on June 30, 2024, with Rivercrest Village Partners, regarding the lease for Parcel 17-50325-200 (5050 Mormon Coulee Rd) where over past years the Partners have extended the operation of their Mobile Home Park business onto that land. Non-exclusive parameters for this negotiation include the achievement of (a) a reasonable fair market rent, (b) the indemnification of the City for Claims regarding occupant personal injury and property loss within a 100-foot “buffer zone” of Pammel Canal caused by failure of the Pammel Canal wall, (c) reasonable insurance sufficient to meet the indemnification obligation. The negotiations may consider an opening toward a subsequent, future longer-term lease and possibly the sale of some land at some future time dependent upon the achievement and maintenance of the 100-foot setback from the Pammel Canal wall free of all encroachments or placement of personal property within that reserved public land.”

and the recommendation in the Staff Report is to: *“Attempt the renegotiation of a land lease agreement within the parameters identified by the Common Council.”* The proposed amendments should be made to Resolution 24-0701 to allow terms that protect the current residents in a manner that is both safe and secure.

Negative Effects of Forced Displacement

Not extending the lease for a longer term and displacing the current residents from the Rivercrest Village is poor public policy. The unwarranted displacement without good reason would be devastating to the residents personal, social and financial ways. The six families have occupied property leased from the City (Parcel 17-50325-200) in Rivercrest Village for more than twenty years. They have invested their time and treasure in building their homes and lives on the property.

The social and emotional impacts of the City's proposed displacement would be significant. The residents' homes are the only homes for these six families. They have built lives there. Resident Diane Fagan, 4802 Rivercrest Drive North, has fostered several children in her home, two of which still reside there, and has grandchildren that live in Rivercrest. The destruction of her “forever home” will not only displace her but also deprive her children and foster home of a safe place – “Nana's House”. Resident Virginia Kreyer 4806 Rivercrest Drive North says “Over the past 18 years we planted 8 trees and watched them grow from saplings to full blown trees.” Now, “the prospect of losing our home is a devastating loss ... we can't afford to deal with the crisis and live elsewhere”. Sixteen year resident Lara Philbrick-Dewald moved to her home after an extremely difficult divorce says she was terrified when she moved to her home, but now “my home is a sanctuary. A place I can go and not have to worry it will be gone.”

Although the residents' homes are technically "mobile" due to their size, age and type (permanent additions, garages, sheds etc.) makes the cost of moving prohibitive, and in most cases impossible, other than demolition. Additionally, even if they were able to move, there are no locations to move them to. Rivercrest Park, which is adjacent, does not have space for more than two of the homes and the cost for such a short move would be more than \$40,000. Many of the six families are on a fixed income and that cost is unaffordable.

When addressing the cost of a relocation, resident Idilko Schwartz, moved to La Crosse and invested her life savings for her "forever home". Virginia Kreyer notes "We will never find housing this affordable at our age". These homes provide affordable housing to six families. Alternative affordable housing in La Crosse is neither available nor practical for the affected residents.

Additionally, during the past twenty plus year period the residents have built additions to their mobile homes, added garages, planted trees and raised families and cared for their parents – all with the permission of the City. The residents installed these improvements without thinking the City would ask them to move. In fact, as recently as August 16, 2023 the City issued resident Jeff Thompson a building permit to construct a \$40,000 garage on his lot. The investment was not made lightly by Mr. Thompson. Indeed Mr. Thompson was making an investment in a property his recently deceased mother had lived in for 25 years and to which he was moving into after a 30 year absence from La Crosse.

No Evidence Supports the Imposition of A Buffer Zone

The full history of the discussion regarding Parcel 17-50325-200 is set forth in my April 24, 2024 letter which is on Legistar and available at the drop box link attached to this letter (along with the other documents referenced herein). In a nutshell, when the initial twenty-five year lease ended in 2022, the City and Rivercrest discussed both a lease extension and the possibility of Rivercrest purchasing Parcel 17-50325-200. The lease for the parcel was extended for one year, until June 30, 2023 so the City could determine whether it was open to sell the property to Rivercrest. In October of 2023, the parties began to discuss an extension of the lease. Rivercrest assumed the short extension was to allow time for negotiation of a longer term lease to secure the rights of the residents to live on the property as the City determined it would not sell the Parcel 17-50325-200.

Without any knowledge nor notice to the residents or Rivercrest, City staff had prepared reports in August 2023 with a recommendation that the City not only not sell Parcel 17-50325-200, but that it not lease the Parcel 50325-200 either. If the City was to lease Parcel 17-50325-200 then the City staff reports indicated they would like to see a 100 foot buffer from Pammel Creek. The City staff reports assert that the rationale for their action is the threat of a wall collapsing at the Pammel Creek wall adjacent to the affected property owners BUT the third party report relied upon by the City staff indicates no such danger and states that the areas about which the City showed concern are only "cosmetic". Further, the City staff reports does not weigh a small risk against the cost of the pain, suffering and hardship the proposed displacement of the residents would cause.

Immediately prior to the issuance of the Staff reports, the City obtained the Pammel Creek Canal Structural Evaluation and Maintenance Assessment by Jewell Associates Engineers, Inc. dated August 2, 2023 (the "Jewell Report"), on which the August 3, 2023 report is based, concludes that any deterioration of the wall of the Pammel Creek Canal is only cosmetic ("... it is our determination that the joint deterioration at this time is only cosmetic and does not affect the canals overall structural integrity or ability to function properly.") and recommended a regular maintenance plan to retain the structural integrity of the Pammel Creek Improvements.

All agree that public safety is very important. Undoubtedly, if City staff believed the Pammel Creek Canal wall was at an unreasonable risk of collapse then City staff would have acted quickly to (a) provide notice to properties upstream and downstream from Parcel 17-50325-200, (b) deny new improvements within 100 feet of the wall such as the new power line pole and (c) built repair or replacement contingencies into the City's Public Improvement budget. Clearly, further study is needed before a firm determination that public safety requires the imposition of 100 foot buffer especially when weighed against the tremendous personal, social and financial costs to the current residents.

Amendments required in Resolution 24-01701 to avoid Unnecessary Family Displacement

In order to safeguard the homes and lives of the six families residing on Parcel 17-50325-200) Resolution 24-0701 should be amended to:

- A. Extend the lease of the property for a term no less than ten (10) years.
- B. Omit the new requirement of a 100 foot buffer until the need for a buffer is substantiated by reasonable evidence and then provide the residents a reasonable (at least three year) period to move their personal property.
- C. Require insurance at a level that is commercially reasonable.

Thank you for your attention to this matter.

Sincerely,

O'FLAHERTY LAW, LLC



Sean O'Flaherty
sean@lacrosselaw.com
(608) 785-3255

SOF/pjc

cc: Residents at Rivercrest:
Theresa Moore
Diane Fagan
Jeff Thompson
Ted and Marlene Dewald
Idiko Erdos
Virginia Kreyer
Richard Warren
City Clerk Nikki Elsen
City Attorney Stephen Matty
Rivercrest Partners, LLC