

RESOLUTION NO. 2023-24

**RESOLUTION OF THE VILLAGE BOARD OF THE VILLAGE OF CALEDONIA
AUTHORIZING THE VILLAGE TO ENTER INTO A SETTLEMENT AGREEMENT
IN RACINE COUNTY CASE NO. 2022-CV-520, MARK GRACYALNY, FOUR MILE
ROAD, LLC, MARK AND DEBRA HAMMOND, THOMAS MICHELS AND SHIRLEY
MOZEJEWSKI V. VILLAGE OF CALEDONIA AND CALEDONIA SEWER AND
WATER UTILITY DISTRICT**

The Village Board of the Village of Caledonia, Racine County, Wisconsin do resolve as follows:

WHEREAS, per Village Board Resolution No. 2021-56, the Village of Caledonia imposed special assessments upon certain real property in the Village of Caledonia for watermain and sewer improvements along Four Mile Road in the Village as further set forth in such resolution;

WHEREAS, certain real property owners, those being Mark Gracyalny, Four Mile Road, LLC, Mark and Debra Hammond, Thomas Michels and Shirley Mozejewski contested the imposition of the special assessments imposed upon their real property by filing a lawsuit in Racine County Circuit Court Case No. 2022-CV-520 against the Village of Caledonia and the Caledonia Sewer and Water Utility District ("Lawsuit");


WHEREAS, after review and discussion with Special Legal Counsel, the parties have renegotiated a resolution of the lawsuit per the Settlement Agreement in Racine County Case No. 2022-CV-520 attached hereto as **Exhibit A** and incorporated herein (the "Settlement Agreement");

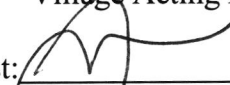
NOW, THEREFORE, BE IT RESOLVED THAT the Settlement Agreement attached hereto as **Exhibit A** and incorporated herein, is hereby approved and the President and Clerk are authorized and directed to execute said Settlement Agreement on behalf of the Village.

BE IT FURTHER RESOLVED THAT all Village officials, officers, and employees are authorized and directed to take such steps as are lawful and necessary in furtherance of and abiding by said Settlement Agreement.

28 Adopted by the Village Board of the Village of Caledonia, Racine County, Wisconsin, this day of March, 2023.

VILLAGE OF CALEDONIA

By: 
Lee Wishau
Village Acting President

Attest: 
Joslyn Hoeffert
Village Clerk

SETTLEMENT AGREEMENT
RACINE COUNTY CASE NO. 2022-CV-520

The parties to this Settlement Agreement are all the parties to the referenced case, pending in the Circuit Court of Racine County. The parties have agreed to settle and resolve all issues specified in the referenced case, on the provisions listed below, with the referenced case to be dismissed on its merits, without costs or fees to either party, with all cost deposits to be returned to Appellants.

1. Respondents shall cancel the special assessments against the property of Appellants as individually described in Exhibit A ("Property"), annexed hereto and incorporated by reference, for both water and sewer, in the respective amounts referenced in Exhibit A.

2. No Appellant shall be required to connect their Property to either the sewer or water systems of Respondents unless:

- (a) The parcel, upon which the Building is located, is rezoned or a conditional use permit is granted;
- (b) The parcel, upon which the Building is located, is divided pursuant to Title 14 of the Code of Ordinances for the Village of Caledonia;
- (c) A well serving the existing Building fails (a pump failure is not considered a well failure) or must be abandoned; or
- (d) The private onsite wastewater treatment system serving the Property needs to be replaced or if a change in use requires modification or abandonment, or if the system fails.

3. No Appellant may connect the Property to either the sewer and water systems of Respondents, except upon compliance with the following:

a. Connection of any Appellant's Property to the water system of Respondents, may be made in 2022 or any year thereafter. Should any Appellant seek to make such a connection in 2022 and before 2041, payment shall be made pursuant to Resolution 2021-56, Amended Special Assessment Report pages 10-11, paragraph 14, in addition to any applicable impact or connection fees:

- Mark Gracyalny \$21,977.15
- Mark and Debra Hammond \$6,973.56
- Thomas Michels \$6,973.56
- Shirley Mozejewski \$6,973.56
- Four Mile Road, LLC \$6,973.56

b. Connection of any Appellant's Property to the sewer system of Respondents, may be made in 2022 or any year thereafter. Should any Appellant seek to make such a connection in 2022 and before 2041, payment shall be made pursuant to Resolution 2021-56, Amended Special Assessment Report pages 27-28, paragraph 14, in addition to any applicable connection fees:

- Mark Gracyalny \$66,106.35
- Mark and Debra Hammond \$9,945.74
- Thomas Michels \$9,945.74
- Shirley Mozejewski \$9,945.74
- Four Mile Road, LLC \$9,945.74

c. Connection of any Appellants' Property to either the water or sewer systems in 2041 or thereafter will require payment in full of the amount set forth above.

d. The provisions of this Agreement are covenants that run with the land and shall be binding upon and inure to the benefit of the parties to this Agreement and their respective heirs, successors and assigns.

4. Upon execution of this Settlement Agreement by all parties, the referenced case shall be dismissed on its merits, with all cost deposits to be returned to Appellants, by Stipulation of the parties and Order of the Court.

5. This Settlement Agreement may be executed in one or multiple counterparts, each constituting an original, but all of which together shall constitute the complete Settlement Agreement.

This Settlement Agreement shall become effective when signed by Appellants and by authorized representatives of Respondents. It may be recorded in the office of the Register of Deeds for Racine County.

[Signature Pages to Follow]

Dated: JAN 13, 2023

Mark Gracyalny
Mark Gracyalny

Dated: _____

Mark Hammond

Dated: _____

Debra Hammond

Dated: _____

Thomas Michels

Dated: _____

Shirley Mozejewski

Four Mile Road, LLC

Dated: _____

By: _____
Its: _____

Village of Caledonia

Dated: _____

Lee Wisman
By: LEE WISMAN
Its: ACTING VILLAGE PRESIDENT

Caledonia Sewer and Water Utility District

Dated: _____

Howard Stacey
By: Howard Stacey
Its: President Utility District

Dated: _____

Mark Gracyalny

Dated: 1/12/2023

Mark Hammond

Dated: 1/12/2023

Debra Hammond

Dated: _____

Thomas Michels

Dated: _____

Shirley Mozejewski

Four Mile Road, LLC

Dated: _____

By: _____
Its: _____

Village of Caledonia

Dated: _____

By: LEE WISHAW
Its: ACTING VILLAGE PRESIDENT

Caledonia Sewer and Water Utility District

Dated: _____

By: Howard Stacey
Its: PRESIDENT UTILITY COMMISSION

Dated: _____

Mark Gracyalny

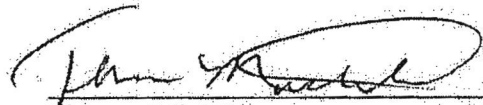
Dated: _____

Mark Hammond

Dated: _____

Debra Hammond

Dated: 1-10-2023



Thomas Michels

Dated: _____

Shirley Mozejewski


Four Mile Road, LLC

Dated: _____

By: _____
Its: _____

Village of Caledonia

Dated: _____



By: LEE WUJHAN
Its: ACTING VILLAGE PRESIDENT

Caledonia Sewer and Water Utility District

Dated: _____

By: _____
Its: _____

Dated: _____

Mark Gracyalny

Dated: _____

Mark Hammond

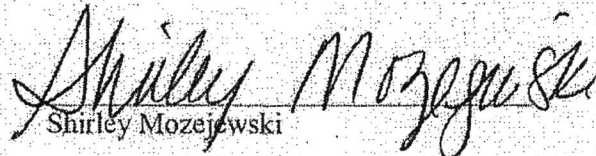
Dated: _____

Debra Hammond

Dated: _____

Thomas Michels

Dated: 11/21/23


Shirley Mozejewski

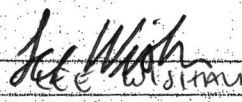
Four Mile Road, LLC

Dated: _____

By: _____
Its: _____

Village of Caledonia

Dated: _____

By: 
Its: ACTING VILLAGE PRESIDENT

Caledonia Sewer and Water Utility District

Dated: _____

By: _____
Its: _____

Dated: _____

Mark Gracyalny

Dated: _____

Mark Hammond

Dated: _____

Debra Hammond

Dated: _____

Thomas Michels

Dated: _____

Shirley Mozejewski

Four Mile Road, LLC

Dated: 1/12/2023

By: [Signature]
Its: BRETT STACHE
MEMBER

Village of Caledonia

Dated: _____

By: [Signature]
Its: LEE WHAN
ACTING VILLAGE PRESIDENT

Caledonia Sewer and Water Utility District

Dated: _____

By: _____
Its: _____

EXHIBIT A

1. Mark Gracyalny property located at 13140 Four Mile Road, Franksville, WI 53126; Tax No: 104-04-22-19-067-000. Total assessment \$88,083.50 (\$66,106.35 for sewer and \$21,977.15 for water).
2. Mark and Debra Hammond property located at 12628 Four Mile Road, Franksville, WI 53126; Tax No: 104-04-22-19-074-000. Total assessment \$16,919.30 (\$9,945.74 for sewer and \$6,973.56 for water).
3. Thomas Michels property located at 12708 Four Mile Road, Franksville, WI 53126; Tax No.: 104-04-22-19-075-000. Total assessment \$16,919.30 (\$9,945.74 for sewer and \$6,973.56 for water).
4. Shirley Mozejewski property located at 12616 Four Mile Road, Franksville, WI 53126; Tax No: 104-04-22-19-072-000. Total assessment \$16,919.30 (\$9,945.74 for sewer and \$6,973.56 for water).
5. Four Mile Road, LLC property located at 13623 Four Mile Road, Franksville, WI 53126; Tax No.: 104-04-22-30-020-000. Total assessment \$16,919.30 (\$9,945.74 for sewer and \$6,973.56 for water).