

REGULAR MEETING OF THE MAYOR AND BOARD OF TRUSTEES
Gregory J. Bielawski Municipal Center, Carol Stream, DuPage County, Illinois

October 5, 2009

Mayor Frank Saverino, Sr. called the Regular Meeting of the Board of Trustees to order at 8:00 p.m. and directed Village Clerk Beth Melody to call the roll.

Present: Mayor Frank Saverino, Trustees Anthony Manzzullo, Don Weiss, Greg Schwarze, Matt McCarthy, Rick Gieser and Pam Fenner

Also Present: Village Manager Joe Breinig, Assistant Village Manager Bob Mellor, Attorney Stewart Diamond, Village Clerk Beth Melody & Deputy Village Clerk Wynne Progar

Mayor Saverino led those in attendance in the Pledge of Allegiance.

MINUTES:

Trustee Weiss moved and Trustee Fenner made the second to approve the Minutes of the Meeting of September 21, 2009 as presented. The results of the roll call vote were:

Ayes: 6 Trustees Manzzullo, Weiss, Schwarze, McCarthy, Gieser & Fenner
Nays: 0
Absent: 0

AUDIENCE PARTICIPATION AND PUBLIC HEARINGS:

Trustee Schwarze read a Proclamation Declaring October 4-10, 2009 as Fire Prevention Week in Carol Stream,

Trustee Fenner read a Proclamation Declaring October 2009 as Breast Cancer Awareness Month in Carol Stream.

Trustee Weiss read a Proclamation Declaring Saturday, October 24, 2009 as Make a Difference Day in Carol Stream.

Continuing the Historical Recollection Series, Joe Bird, former President of the Carol Stream Fire Protection District, spoke about the early years, before incorporation of the Village of growing up in Birdville, which was located east of Gary Avenue at Doris Avenue. He even had the original mortgage papers for his house in the Village and the certificate of occupancy and building permit for the basement he dug under it. Trustee Gieser presented Mr. Bird with a Village mug and 50th anniversary pin.

CONSENT AGENDA:

Trustee McCarthy moved and Trustee Schwarze made the second to establish a Consent Agenda for this meeting. The results of the roll call vote were:

Ayes: 6 Trustees Manzzullo, Weiss, Schwarze, McCarthy, Gieser & Fenner
Nays: 0
Absent: 0

Trustee Fenner moved and Trustee Manzzullo made the second to put the following items on the Consent Agenda for this meeting. The results of the roll call vote were:

Ayes: 6 Trustees Manzzullo, Weiss, Schwarze, McCarthy, Gieser & Fenner
Nays: 0
Absent: 0

1. 2009 Tax Levy Determination
2. Purchase of Panasonic Laptop Squad MDCs
3. Proposed Increase in DUI Fines
4. Glenbard North High School Request for Raffle License
5. Appointment of Jim Ridge to the Police Pension Board
6. Regular Bills, Addendum Warrant of Bills

Trustee McCarthy moved and Trustee Manzzullo made the second to approve the Consent Agenda for this meeting by Omnibus Vote. The results of the roll call vote were:

Ayes: 6 Trustees Manzzullo, Weiss, Schwarze, McCarthy, Gieser & Fenner
Nays: 0
Absent: 0

The following is a brief description of those items approved on the Consent Agenda for this meeting.

2009 Tax Levy Determination:

The proposed tax levy for the Carol Stream Public Library is \$3,456,555.00. This is an increase of 1,015% over their 2008 levy/extension. The Board established that the above amount needed to fund the Library for the 2011 fiscal year and directed staff to publish a notice for a public hearing on the proposed tax levy to be held on November 2, 2009.

Purchase of Panasonic Laptop Squad MDCs:

The Board approved the waiver of bid and purchase of seven (7) Mobile Data Computers MDCs at the State bid price of \$3,725.00 from CDS Office Technologies.

Proposed Increase in DUI Fines:

The Board approved the immediate change to the fine structure for DUI cases, effective September 7, 2009 as follows:

DUI

- Minimum fine – 1st offender rises to \$1500 from \$1000
 - if BAC is higher than .16, the minimum fine is \$2000
 - 2nd offender DUI fine is \$2000

Reckless Driving

For CDL 1st offenders and weak cases reduced to Reckless Driving, the minimum fine rises from \$1500 to \$1750.

If the Reckless driving case was good, but there was some compelling reason to reduce the charge, the fine rises to \$2500.

Rescission of Summary Suspensions

The rescission for a 1st offender rises to \$1000 from \$500.

Glenbard North High School Request for Raffle License:

The Board approved a raffle license with waiver of fidelity bond and fees for Glenbard North High School for the "Volley for the Cure" event.

Appointment of Jim Ridge to the Police Pension Board:

The Board concurred with the Mayor's appointment of Jim Ridge to the Police Pension Board.

Regular Bills, Addendum Warrant of Bills:

The Board approved the payment of the Regular Bills in the amount of \$686,766.77. The Board approved the payment of the Addendum Warrant of Bills in the amount of \$716,963.80.

REGULAR MEETING:

Bid Opening for the Property at the Southwest Corner of Elk Trail and Bluff Street:

Community Development Director, Bob Glees reported that the notice of bid for the property at the southwest corner of Elk Trail and Bluff Street has appeared in the Daily Herald once a week for three consecutive weeks and that he has received one bid. Mr. Glees opened the single bid envelope and examined the contents stating that the determination is that it is an acceptable bid by F&F Realty containing a bid for \$25,000 and a certified check for \$5,000 accompanied the bid. The Board then directed staff to prepare the necessary ordinance and deed transferring the property to be brought to the Board at their meeting on October 19, 2009 for approval.

Request for Local Amendment to the International Fire Code:

Consideration of a request to allow a tent, canopy or membrane structure to be used as a smoking shelter.

Trustee McCarthy said that this a request by Flip Flops for a temporary canopy smoking shelter for the winter months. Right now the Fire Code prohibits that and this amendment would change that to allow it for a temporary use. He said that after looking at the initial amendment would make it permanent and he said that he would be happy with a two year sunset for the amendment. The Board could then look at it again or just let the temporary use die. Trustee McCarthy said that he would like to see added that the membrane structure has to be some form of fire retardant feature and he said that he understands the economic issues that the owners are not ready to spend from \$5 to \$15,000 on a permanent structure at this time. However if the Board approves this and the economy has improved, they would plan on making a permanent structure that would conform to all fire related and building codes. One of the owners, Mr. Sabalasky said that at this point they have run out of time for this winter and he wouldn't want to bet

on next winter either, to get the permanent structure going. He said that they would have to expand the patio as well as the kitchen, and would create a domino effect of changes. The game plan is to have a permanent structure put up in the future. Trustee McCarthy said that he and possibly others, would like to see the structure moved to the north corner, instead of where it had been placed, and Mr. Sabalasky said that it could be moved, that it was just easier to keep an eye on the activity there than if moved to the north.

Trustee Schwarze said that these structures are prohibited right now and that even permanent structures prohibit consumption of food or alcohol and Mr. Breinig commented that the Zoning Code is what governs eating and drinking in such structures and there is change sought for the Zoning Code regulation. Trustee Schwarze said the he understands the Fire District's reluctance to allow this because the International Fire Code is a minimum standard. It is not uncommon to make things a little more stringent, but it is very uncommon to make things a little less stringent. He can understand their point, and he can also understand the plight of the business owner with the no smoking regulations. Trustee Schwarze said that he is ok to make some changes to allow 120 square foot tent-type structure and that he agrees with Trustee McCarthy that the material should have some sort of fire retardency to it and he would like to see a fire extinguisher mounted under the structure and have the staff trained by the Fire District on the correct way to use that extinguisher. Trustee Schwarze said that he isn't quite sure on how that can be put into the ordinance. Mr. Breinig said that the practical question would be, in a structure to be used in cold and inclement weather is there a fire extinguisher that can be store and then used in these elements and Trustee Schwarze said that there are types that can function under those conditions. In regard to a timeline for allowing this use to be revisited, he agrees with Trustee McCarthy, but he is concerned that this would allow anyone to put up the same type of structure without a permit. Mr. Breinig said that this would put the smoking shelter of the 120 sq. ft. or less under the same zoning regulation where a permit would not be required. Trustee Schwarze said that this is bothersome and asked if this could be written so that it would only allow this particular structure. Mr. Diamond said that you could state that a permit is required and that it could be approved administratively and the structure could then be inspected, other wise it would require a Zoning change. Mr. Breinig said that typically any structure less than 120 sq. ft. is not inspected, but if that is wanted then Finance could possibly add the requirement to the business license process. There was discussion regarding the time limit for use and it was determined that the Code states that anything under 180 days is considered temporary, so that would not need to be modified. Mr. Breinig noted that if the sunset provision is two years, then the Board can review whether requirements have changed and/or there are changes in the law as well as in materials and technology.

Trustee Gieser asked if the 15 feet from an entrance will still be maintained in this case and is this structure designated only as a smoking structure, not as an extension of the business where services are provided for eating and drinking. It was stated that no food or drink will be allowed in the structure and it will be moved to the east of the door.

Trustee McCarthy asked the Board if the conditions noted in this discussion were to be included in a proposed ordinance, would they be in favor?

Trustee Manzzullo asked if this was only pertaining to Flip Flops or would it be for every business in the Village? Mr. Breinig said that this would be for anyplace where the Building Code would apply, but probably not to a single family residence. Commissioner Manzzullo asked if there was lighting or heating elements in such structures and was told that there none. He said that in relation to snow and wind. What is the safety of such temporary structures and Mr. Sabalasky said in the case of Flip Flops, when

severe weather conditions become obvious, they take the shelter down. Mr. Breinig said that there are only so many things that the Village can control and that at some point the business owners have to step up and take care of their patrons safety.

Commissioner Schwarze asked if this type of request can be approved one business at a time and Mr. Breinig said yes, it is call permitting. But if we starting a permitting process for this type of structure, then there will a whole host of things that would then become eligible for permitting and staff has tried to craft this process to include only business use for smoking purposes. Mr. Glees said that the Code drew the line at 120 sq. ft. because any item under that threshold would be tents and canopies that would be use for personal recreation uses. He said that the only change is that Smoking would be allowed under those structures. Mayor Saverino said that he is reluctant in this matter because of the opinion of the Fire District, and he is concerned that while no one else is asking, there may be many more businesses doing this. Mr. Breinig commented that the Fire District does no care what size the shelter is, they do not believe that smoking should be allowed in a membrane structure. There is no way to cure that and there is no remedy and they are standing behind the Fire Code.

Trustee Weiss commented that he is concerned about the letter received from the Fire District stating that they would not advise changing the Code, they are the experts, they are in charge of public safety and this is the area they deal in and as Trustees we should be aware of the need for safety within the community. He said that is inclined to take the advice of the Fire District.

Trustee McCarthy moved to authorize staff to prepare an amendment to the local Fire Code in accordance with the discussion this evening. Trustee Fenner made the second. The results of the roll call vote were:

Ayes:	5	Trustees Manzzullo, Schwarze, McCarthy, Gieser & Fenner
Nays:	1	Trustee Weiss
Absent:	0	

REPORT OF OFFICERS:

Trustee Manzzullo thanked Joe Bird for his recollections and he thanked all of the residents that came to the Oktoberfest. He asked everyone to pray for our troops and for the families of our fallen soldiers.

Trustee McCarthy commented that the Shape of Carol Stream, with the participation of all of the taxing bodies was a great format and that he would like to see this as an annual event. He said that the Oktoberfest was a success and he thanked the Youth Council for their participation in helping with the kids games and he also reminded all drivers to watch out for the kids now that it is getting dark earlier.

Trustee Gieser said that he is disappointed that the Olympics will not be held in Chicago, but that a Carol Stream resident, Andy Hines, will be participating with the US Volleyball Team in the 2012 Games and hopefully the 2016 Games and is wished well. He said that condolences go to the Schweitzer Family. Trustee Gieser noted that there will be a Historical Recollection Round Table on Tuesday, October 6, 2009 with the CS Fire District and thanks to Joe Bird. On a personal note, he wished a Happy Anniversary to his wife on their 16th.

Trustee Schwarze thanked everyone for their participation in the Shape of Carol Stream.

He thanked Joe Bird for his recollections and reminded all that the 2010 Census is coming up and the questionnaires will be mailed sometime in March. The Fire District Open House in on Saturday, October 10th from 11 a.m. to 3 p.m. and reminded everyone to Shop in Carol Stream.

Trustee Weiss thanked all that participated in the Shape of Carol Stream and especially those that called or e-mailed their questions. He said that the meeting will be rebroadcast on Tuesdays and Saturdays at 7 p.m.

Mr. Diamond said that John Schweitzer was a very active Trustee when he became the Village Attorney. He said that he served a term as Village President and was tireless in his devotion to the Village and was instrumental in keeping the Village non-political.

Village Manager Joe Breinig said that the Staff asks that everyone sign up for the on-line newsletter. The current paper edition will be the final mass circulation newsletter. He announced that there will be shuttle buses to all of the events on Kuhn Road on Saturday, the 10th, the Water Reclamation Center, the Park District Vehicle Storage Facility, the Library property for the food drive by the Carol Stream Rotary.

Mayor Saverino said that Oktoberfest and the carnival was a great event in spite of the weather. He thanked Trustee Weiss for the Shape of Carol Stream by the Itasca Bank and that everyone did a great job and he would like to start now to have this be an annual event. Mayor Saverino noted that he did not say that there would be a new property tax, just that everything, including that, was in consideration to bring in more needed revenue to the Village. He added that a property tax would be the last thing ever! Mayor Saverino thanked Joe Bird for his memories. He added that it is too bad that there will be no Olympics in 2016 since it would have provided for a good upturn for businesses and will be a big blow financially for everyone, even out in the suburbs.

At 9:20 p.m. Trustee Schwarze moved to adjourn, Trustee McCarthy made the second. The results of the roll call vote were:

Ayes:	6	Trustees Manzzullo, Weiss, Schwarze, McCarthy, Gieser & Fenner
Nays:	0	
Absent:	0	

FOR THE BOARD OF TRUSTEES

Minutes approved by the President and Board of Trustees on this

19th day of October, 2009.

Beth Melody
Village Clerk