

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

February 20, 2007

Mayor Pro-Tem Pamela Fenner called the Regular Meeting of the Board of Trustees to order at 8:00 PM and directed Deputy Clerk Wynne Progar to call the roll.

Present: Trustees McCarthy, Gieser, Saverino, Stubbs and Fenner
Absent: Mayor Ferraro, Trustee Shanahan and Village Clerk Koester
Also Present: Village Manager Breinig, Assistant Village Manager Mellor, Attorney Diamond, Treasurer Manzzullo and Deputy Clerk Progar

Mayor Pro-Tem Fenner led those in attendance in the Pledge of Allegiance.

MINUTES:

Trustee Gieser moved and Trustee McCarthy made the second to approve the Minutes of the Meeting of February 5, 2007 as presented. The results of the roll call vote were:

Ayes: 5 Trustees McCarthy, Gieser, Saverino, Stubbs & Fenner
Nays: 0
Absent: 1 Trustee Shanahan

AUDIENCE PARTICIPATION & PUBLIC HEARINGS:

There were none.

CONSENT AGENDA:

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

Ayes: 5 Trustees McCarthy, Gieser, Saverino, Stubbs & Fenner
Nays: 0
Absent: 1 Trustee Shanahan

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

Ayes: 5 Trustees McCarthy, Gieser, Saverino, Stubbs & Fenner
Nays: 0
Absent: 1 Trustee Shanahan

1. Variance-Zoning Code: T-Mobile 1335 ATR- **Ordinance 2007-02-05**
2. From Plan Comm.: - No Action required: Lot 1 – SEC Gary/Lies
3. From Plan Comm.: - No Action required: Lot 2 – SEC Gary/Lies
4. Final Plat of Subdivision:-Crème de la Crème-SEC Gary/Stark-**R. 2244**
5. Tubeway Sanitary Lift Station-Award bid-Glenbrook Excavating & Concrete, Inc.
6. Letter of Credit Reduction # 2-Fountains at Town Center

7. **R. 2243:** Adopt DMMC Legislative Positions & Priorities-2007 session
8. **R. 2245:** Accept easement grant/conveyance-560 N. Schmale Rd.
9. **R. 2246:** MFT resolution-Appropriate funds for 2007 road projects
10. **Stricken:** Appeal of Building Code Requirement- Town & Country
11. Raffle License Request/fee waiver: CS Chamber of Commerce
12. Regular Bills, Addendum Warrant of Bills, Treasurer's Report 1/31/07

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

Ayes:	5	Trustees McCarthy, Gieser, Saverino, Stubbs & Fenner
Nays:	0	
Absent:	1	Trustee Shanahan

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

Variance-Zoning Code: T-Mobile 1335 ATR - Ordinance 2007-02-05:

At their meeting on February 12, 2007,. The Combined Plan Commission/Zoning Board of Appeals recommended approval of a variation to allow an increase of the maximum height of a tower and antenna from 55 feet to 80 feet and a variance to allow an antenna structure to be located in a required front yard. The Board concurred with the recommendations and adopted Ordinance 2007-02-05, AN ORDINANCE GRANTING A VARIATION FOR ACCESSORY STRUCTURE HEIGHT AND YARD OBSTRUCTION – (T-MOBILE, 1335 COUNTY FARM ROAD).

Final Plat of Subdivision:-Crème de la Crème-SEC Gary/Stark-R. 2244:

At their meeting on February 12, 2007,. The Combined Plan Commission/Zoning Board of Appeals recommended approval of a the final plat of subdivision for the property at the southwest corner of Gary Avenue and Stark Drive. The Board concurred with the recommendation and adopted Resolution 2244, A RESOLUTION APPROVING A FINAL PLAT OF SUBDIVISION – (SOUTHWEST CORNER OF GARY AVENUE AND STARK DRIVE).

Tubeway Sanitary Lift Station-Award bid-Glenbrook Excavating & Concrete, Inc.:

The Board awarded a bid for the replacement of the Tubeway Sanitary Lift Station to Glenbrook Excavating and Concrete, Inc. as the lowest, responsible and responsive bidder, in the amount of \$397,000.

Letter of Credit Reduction # 2-Fountains at Town Center:

Town & Country Homes has submitted Reduction Request #2 for Fountains at Town Center. All the work as shown on the reduction request has been completed per the approved plans and Village specifications. The amount of this reduction is \$685,846.06 with a remaining balance of security of \$578,918.91.

R. 2243: Adopt DMMC Legislative Positions & Priorities-2007 session:

The Board adopted R. 2243, A RESOLUTION TO ADOPT MUNICIPAL LEGISLATIVE POSITIONS AND PRIORITIES FOR THE 2007 LEGISLATIVE SESSION.

R. 2245: Accept easement grant/conveyance-560 N. Schmale Rd.:

The Board adopted R. 2245, A RESOLUTION ACCEPTING A GRANT OF PUBLIC UTILITY AND STORM WATER MANAGEMENT AND CONVEYANCE EASEMENTS- (NORTH SHORE HOLDINGS, 570 N. SCHMALE ROAD).

R. 2246: MFT resolution-Appropriate funds for 2007 road projects:

The Board adopted R. 2246, A RESOLUTION FOR IMPROVEMENT BY MUNICIPALITY UNDER THE ILLINOIS HIGHWAY CODE.

Raffle License Request/fee waiver: CS Chamber of Commerce:

The Board approved a request for a raffle license and waiver of fee for the Carol Stream Chamber of Commerce.

Regular Bills, Addendum Warrant of Bills, Treasurer's Report 1/31/07:

The Board approved the payment of the Regular Bills in the amount of \$454,499.84.

The Board approved the payment of the Addendum Warrant of Bills in the amount of \$633,874.76.

The Board received the Treasurer's Report for the month ending January 31. 2007.

REGULAR MEETING:

Sign Code Variation: Peacock Engineering – 720 Center Street:

At their meeting on February 12, 2007, the Combined Plan Commission/Zoning Board of Appeals denied a request for a sign code variation for Peacock Engineering, 720 Center Street. In general, the PC/ZBA has final authority of such matters, but the decision can be appealed to the Village Board. Trustee Stubbs indicated that he is not in favor of the larger signs as requested. Since the petitioner was not present at this meeting, Trustee Stubbs moved and Trustee Saverino made the second to concur with the PC/ZBA decision to deny the requested sign code variation. The results of the roll call vote were:

Ayes:	5	Trustees McCarthy, Gieser, Saverino, Stubbs & Fenner
Nays:	0	
Absent:	1	Trustee Shanahan

License Agreement to Allow Fence on Village Property at 1358 Georgetown Drive:

Trustee Stubbs said that this started as Village property and it should stay Village property unless there is a an agreement that recognizes that the Village will still own the property. He said that he does not see the allowance of a fence that is on Village property. Mr. Fred Bircher, owner of the property appeared before the Board. Trustee Stubbs asked if the older fence, the existing fence is on Village property and the resident wants to replace the existing fence even though it is not on the proper boundary lines. Mr. Bircher said that they have owned the property for over nine years and the fence was in its present location. He said that he believes that the fence was put up at the time the property was built in 1981, and it does encroach over the property line. He said that he was technically aware of it , but really didn't think it was that big a deal until he got a chance to really look at the dimensions that the backyard would look like if the fence was brought back into the property guidelines. It would make a considerable difference. Trustee Fenner asked how that additional ground was being used and Mr. Bircher said that it is grass and in answer to the question, he said that they did have a dog until about one year ago. He noted that the current fence has probably been in place for at least twenty years. Trustee Fenner said that she has a huge problem with this mainly for the precedent setting nature of the solution. She views that Village property is the property of everyone and when you fence it in, you take it away from everyone and allowing one individual to do this sets a precedent for others to extend their fence onto Village property.

Mr. Breinig said that the situation here is not a case where this is a park, it is a common area that a sidewalk runs through. You could make an argument that the Birchers will be maintaining the grass that the Village would otherwise have to maintain by having this license. In response to Trustee Stubbs question, this is a license agreement, it is not a transfer of title or ownership. As the investigation of this matter has progressed, it is now seen as an existing condition, it really doesn't compromise things. Mr. Breinig said that this will remain open space, not a covered surface and since the fence was already there it is not a case for precedence.

Trustee Stubbs asked if there are any other encroachments on that property and was told that on this property there is one and Mr. Bircher has agreed to address it. The other encroachment is the side of the fence on the east side of the property. The east fence encroaches a storm sewer and the Birchers have agreed to move the fence further to the west will help that problem. Trustee Stubbs asked if there are any other property owners that could approach the Village with a similar request. Mr. Breinig said that it looks like there are some others that could have a conflict. Trustee Fenner said that the precedent that would be set would be the licensing of the areas for fences that do not interfere with easements. Mr. Breinig said that this is not putting fence up to fence, there is a significant amount of green there. Mr. Diamond added that the license is terminable upon three months notice so in the event it would become a problem, it can be withdrawn and the owner is obligated to remove the fence. Trustee McCarthy said that he has a concern regarding precedent and what others may come forward and ask for. His other concern is how this license agreement was written, by staff, or by the Village attorney and what costs are associated with it. The Village attorney has drawn up the agreement and it is not a license. There is no fee for the agreement. Trustee McCarthy said that he does not believe that the Village should bear the cost of the attorney's time for a resident's license for this property. He said that, at minimum, the resident should pay the recovery of the costs of creating the license. Trustee Gieser asked how long the license would be for, and it was determined that it would only cover the current owner and would be passed along to successive owners. Trustee McCarthy asked what would happen is the current owner sold the property and Mr. Breinig said that agreement would be recorded to the property and any successive owner would find that the agreement expires with the change of ownership.

Trustee McCarthy moved to approve the agreement with the resident paying the attorney's fees for the document being recaptured. Trustee Gieser made the second. The results of the roll call vote were:

Ayes:	5	Trustees McCarthy, Gieser, Saverino, Stubbs & Fenner
Nays:	0	
Absent:	1	Trustee Shanahan

Trustee Fenner explained to the Birchers that the action of the Board is to allow them to license that 7 feet but that they are to reimburse the Village for the costs of the attorney's fees for drafting the document.

REPORT OF OFFICERS:

Trustee Saverino presented the Police Department with a check for \$1,000 for the DARE program from Joe Salerno, owner of Salerno's Chapels. He commended the Public Works department for their great work moving snow around.

Trustee Gieser said that we should enjoy the weather.

Treasurer Manzullo stated that if there are any questions regarding the revenue and expenditure statements he would be happy to provide answers.

At 8:25 PM Trustee Saverino moved and Trustee McCarthy made the second to move to Executive Session to discuss Collective Negotiating Matters and Acquisition of Real Property

and to adjourn directly from that session without taking any further action. The results of the roll call vote were:

Ayes:	5	Trustees McCarthy, Gieser, Saverino, Stubbs & Fenner
Nays:	0	
Absent:	1	Trustee Shanahan

FOR THE BOARD OF TRUSTEES