

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

**January 3, 2005**

Mayor Ross Ferraro called the Regular Meeting of the Board of Trustees to order at 8:00 pm and directed Village Clerk Janice Koester to call the roll.

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

Boy Scout Troop 98 presented the Colors and led those in attendance in the Pledge of Allegiance.

**MINUTES:**

Trustee McCarthy moved and Trustee Gieser made the second to approve the Minutes of the Meeting of December 6, 2004 as presented. The results of the roll call vote were:

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

**AUDIENCE PARTICIPATION AND PUBLIC HEARINGS:**

Dick Wilson from the Carol Stream Rotary Club introduced Rodrigo Bueno Therezo who is here from Sao Paulo Brazil and Juan Perez and Alex Gemmes who within the next two weeks will find out what country they will be assigned to in next August. Rodrigo Bueno Therezo presented the mayor with a token from his native city and Mayor Ferraro presented each of the young men with tokens from the Village and wished them all well.

**FIRE AND POLICE COMMISSION APPOINTMENT:**

Trustee Shanahan moved and Trustee Gieser made the second to confirm the appointment of Michael Drager as a Fire and Police Commissioner. The results of the roll call vote were:

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

Mayor Ferraro then swore in Mr. Drager and wished him well.

**CONSENT AGENDA:**

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

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

Trustee Fenner moved and Trustee McCarthy 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, Stubbs, Fenner and Shanahan  
Nays: 0  
Absent: 1 Trustee Saverino

1. Rainbow Academy-Final PUD, Spec.Use-Day Care –Ord. 2005-01-02
2. Voice Logger System Lease Recommendation – Police
3. Ord. 2005-01-01: Amend Chap.10, Art. 6- Scavenger License fee
4. Ord. 2005-01-03: Library Referendum for Consolidated Election
5. R. 2109: Adopt VantageCare Retirement Health Savings
6. R. 2110: Declare surplus property-Dictaphone system
7. R. 2111: MFT resolution
8. Value City Sales Tax Sharing-change payee
9. Temp. waive Chap. 6- required 120 days/curb and gutters. Town & Country
10. Request budget transfer- Community Dev. – scanner equipment
11. Regular Bills – 12-17-04, and 12-29-04
12. Addendum Warrants – 12-20-04 and 1-3-05
13. Treasurer's Report – Month end, November 2004

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

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

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

**Rainbow Academy-Final PUD, Spec.Use-Day Care –Ord. 2005-01-02:**

At their meeting on December 13, 2004, the Combined Plan Commission/Zoning Board of Appeals recommended approval of a special use permit for a day care center, pre-school learning center and nursery school and a final Planned Unit Development Plan in accordance with staff recommendations. The Board concurred with the recommendation and adopted Ordinance 2005-01-02, AN ORDINANCE APPROVING A FINAL PLANNED UNIT DEVELOPMENT PLAN AND A SPECIAL USE PERMIT FOR A DAY CARE CENTER, PRE-SCHOOL LEARNING CENTER AND NURSERY SCHOOL – (NORTHWEST CORNER OF MERRIMAC LANE AND KUHN ROAD.)

**Voice Logger System Lease Recommendation – Police:**

The Board authorized the Police Department to execute a 5 year lease agreement with Word Systems of Oak Park for a Mirra 12-channel digital recorder at \$2,966 per year.

**Ord. 2005-01-01: Amend Chap.10, Art. 6- Scavenger License fee:**

The Board approved Ordinance 2005-01-01, AN ORDINANCE AMENDING CHAPTER 10-1-19, ARTICLE 6 OF THE CAROL STREAM VILLAGE CODE PERTAINING TO THE ANNUAL SCAVENGER LICENSING FEE which changes the annual fee from \$250.00 to 750.00.

**Ord. 2005-01-03: Library Referendum for Consolidated Election:**

The Board adopted Ordinance 2005-01-03, AN ORDINANCE PROVIDING FOR AND REQUIRING THE SUBMISSION OF THE QUESTION OF ISSUING \$19,500,000 GENERAL OBLIGATION BONDS TO THE VOTERS OF THE VILLAGE OF CAROL STREAM, DUPAGE COUNTY, ILLINOIS, AT THE CONSOLIDATED ELECTION TO BE HELD ON THE 5<sup>TH</sup> DAY OF APRIL, 2005.

**R. 2109: Adopt VantageCare Retirement Health Savings:**

The Board adopted Resolution 2109, A RESOLUTION ADOPTING THE VANTAGE CARE RETIREMENT HEALTH SAVINGS (RHS) PROGRAM.

**R. 2110: Declare surplus property-Dictaphone system:**

The Board adopted Resolution 2110, A RESOLUTION DECLARING SURPLUS PROPERTY OWNED BY THE VILLAGE OF CAROL STREAM.(Dictaphone System)

**R. 2111: MFT resolution:**

The Board adopted Resolution 2111, A RESOLUTION FOR MAINTENANCE OF STREETS AND HIGHWAYS BY MUNICIPALITY UNDER THE ILLINOIS HIGHWAY CODE.

**Value City Sales Tax Sharing-change payee:**

The Board authorized the execution of an indemnity agreement between Melvin Isenstein and the Village in regard to the payment of the Value City sales tax sharing/Stark Farm Annexation Agreement.

**Temp. waive Chap. 6- required 120 days/curb and gutters. Town & Country:**

The Board approved a waiver of the Building Code which requires the installation of concrete curb and gutters prior to the issuance of a building permit to Town & Country Homes. This will allow them to begin construction of their model homes.

**Request budget transfer- Community Dev. – scanner equipment:**

The Board approved a budget transfer of \$4,800 from Records Storage to Computer Equipment to provide for the purchase of a scanner and PC scanner controller.

**Regular Bills – 12-17-04, and 12-29-04:**

The Board approved the payment of the Regular Bills for 12-17-04 in the amount of \$330,351.82 and for 12-29-04 in the amount of \$586,164.89.

**Addendum Warrants – 12-20-04 and 1-3-05:**

The Board approved the payment of the Addendum Warrant of Bills for 12-20-04 in the amount of \$578,431.18 and for 1-3-05 in the amount of \$786,820.08.

**Treasurer's Report – Month end, November 2004:**

The Board received the Treasurer's Report for the month ending November 30, 2004.

**REGULAR MEETING:**

**Variation- Air Conditioning Equipment in a corner side yard – 178 El Paso Lane:**

At their meeting on December 13, 2004, the Combined Plan Commission/Zoning Board of Appeals recommended denial of the requested variance for air conditioning in a corner side yard. Ken Guzel appeared before the Board. He presented pictures of the

side of his house that faces the street that showed a fence, garage, and air conditioner condenser. After several minutes of a prepared statement, Mr. Guzel was reminded that the only matter that can be addressed by the Board at this meeting is the granting of a variance for this particular matter. At this point, Attorney Diamond stated that there is no ordinance before the Board for this meeting. He said that at other times when there is a recommendation from the Plan Commission for denial, the Board can concur with the recommendation by motion. If it is a contested case, and the person seeking the variation may wish to go forward with action to a court, the legal advice to the Board has always been to have an ordinance drafted to deny the variance on the grounds that the standards have not been met. If Mr. Guzel would like to prepare something in writing, in greater detail for the Board, as to why the variance should be granted the Board could ask him to prepare the information and submit it.

In response to the question, Community Development Director Bob Glees stated that it is his understanding that Mr. Guzel was completely prepared at the Plan Commission meeting and that everything that was received was included in the Plan Commission packet. It was the consensus of the Board to have Mr. Guzel present his additional information in written form and to continue this matter to the next meeting.

Trustee Fenner moved and Trustee McCarthy made the second to continue this matter to the next meeting. The results of the roll call vote were:

Ayes: 4	Trustees McCarthy, Gieser, Stubbs, and Fenner
Nays: 0	
Abstain: 1	Trustee Shanahan
Absent: 1	Trustee Saverino

**Request to allow Non-Sales Tax-Generating Uses in the Central Park Commercial Development:**

Trustee Fenner asked owner Doug Salemi if he has an intended use right now for the space and he responded that he does not. He said that he is talking to several interested parties, Lynn's Dance Academy, a dry cleaning use and a hair salon type use. It was determined that the three uses would be approximately 21% of the building area. Trustee Fenner asked if the request is to waive the non-sales tax-generating use for 25% of the building. Mr. Salemi said that he is asking for the future allowance of that amount so that when he would have to replace a tenant he would not have to come back for a special use each time. Village Manager Joe Breinig said that in the annexation agreement for this property it was specified to be retail. A successor developer requested relief from that and the relief was granted with the understanding that any future relief would have to be done on a case by case basis by petition to the Village Board. Mr. Breinig said that the staff questioned if the Board would elect to remove that requirement because there have been two or three requests for relief that have been granted. Trustee Fenner asked if that requirement if for any other development and was told no, but there has never been an annexation agreement where you have to vary from it either. Mr. Diamond said that this was specifically done in a situation where the Village was concerned about a loss of sales tax revenue and the developer as a part of annexing the property agreed to this restriction. It was determined that the rest of building has already been leased to sales tax generating businesses. Mr. Salemi stated that he would be willing to sign an agreement that this 25% variance for non sales tax generating uses would be perpetual and that there would not be a request to change that percentage. Trustee Fenner said that she realizes why this restriction was made at the time, but she feels that because this is the only shopping center with it bothers her. Mayor Ferraro said that this happened a long time ago and the reason for it was fully

explained at that time. Trustee Fenner asked if there is still a valid reason and Mayor Ferraro said yes.

Trustee Stubbs said that since there is a decreasing amount of available commercial areas, in terms of tax revenue, he said that it behooves us to not allow this request because this was a condition that the developer knew and this user should have been informed of it. He said he would have a hard time giving variances to this without knowing just what variance we are going to allow. If there is a specific need that is not tax generating that the community benefits at large, then maybe there could be a consideration. We have done this on other properties, such as the day care. We are coming up on the budget process and are looking at projections of sales tax revenue and he has a hard time allowing this variance at this point in time.

Trustee Shanahan said that this petitioner should have known about these restrictions ahead of time since they were there from the beginning. Mr. Salemi said that the PUD agreement does not address sales tax generating uses, and even his attorney missed that too. He said that he is just asking for a little relief in getting tenants.

Mayor Ferraro asked what else can be put there besides a restaurant since there would be a parking shortage for another restaurant. Mr. Salemi asked if he should shorten the building and just use the two uses. Mayor Ferraro said that he doesn't think so. He added that there are only so many things that can be put out there because of the parking. Trustee Shanahan said that this has been discussed when it was done and here it is back again. Mayor Ferraro said that because of the other uses that have been permitted since that time he does not have a problem with it. Trustee McCarthy said that he agrees with Trustee Stubbs that he would be more than willing to listen to a case by cases basis, but I don't like the idea of a blanket 25%. Mayor Ferraro explained that this is only one unit and it would put the staff through the whole process every time a user changed. Attorney Diamond said that such changes would not require a public hearing so that it can come quite quickly before the Board. The issue for the Board is if they would like to make the decision knowing that there is a signed lease for the property or the other opportunity would be that if you were very close to signing a lease to have the Board approve that particular use and give 60 to 90 days to actually sign the lease. Trustee Fenner said that she does not have a problem with the three uses that were mentioned. I don't have a problem with allowing the 25% because I just don't want to hear about this anymore. I understand our need for sales tax dollars but I think that we are restricting you in business and we have to get this moving. Mr. Diamond suggested that the Board could as a middle course, to authorize a waiver for a period of 90 days from either a dance studio or dry cleaner. If they are not able to reach either of those, they could come back to the Board. He noted that there is some difficulty to get someone to put their name on a lease if there is any contingency in it and this would be another possibility for the Board to consider. A motion could be made to grant a waiver in the limitation to a the specific types of businesses for 120 days for a dance studio or a dry cleaner. This motion would require a 2/3 vote, but not a public hearing. The Mayor would get to vote on this and 5 votes are needed. Trustee Fenner made the motion and Trustee Gieser made the second. The results of the roll call vote were:

Ayes:	5	Mayor Ferraro, Trustees McCarthy, Gieser, Fenner, and Shanahan
Nays:	1	Trustee Stubbs
Absent:	1	Trustee Saverino

#### REPORT OF OFFICERS:

Mayor Ferraro said that on the February/March water billing there will be an opportunity for customers to make a tax deductible donation for the Tsunami disaster victims. Any donations will be given to the American Red Cross for the ongoing relief efforts. He asked everyone to make some kind of contribution for these unfortunate people that have survived.

Trustee McCarthy said that he hopes to see a lot of contributions through the water billing. He said that he hopes that everyone here had a good Holiday season. Keep warm over the winter.

Trustee Shanahan wished everyone a Happy and Safe New Year.

Trustee Stubbs concurred with Trustee Shanahan, adding a wish for prosperity to all.

Trustee Gieser also said Happy New Year, he thanked the social service unit for all of their would for Christmas Sharing and congratulated Ryan Bean from the Indianapolis Colts who made the playoffs. If anyone is interested in learning what it is like to be a comedian or just improve their speech and presentation skills, the Carol Stream Arts Group is doing a comedy workshop on January 19<sup>th</sup> and more information can be gotten on their web site, Carol Stream Arts .org.

Village Clerk Koester wished everyone a Happy New Year.

Village Manager Breinig reminded that there will be a Committee of the Whole meeting on January 31<sup>st</sup> at 7:00 pm.

Attorney Diamond said that on the Consent Agenda the Board approved an ordinance that will result in a question being put on the ballot on the Consolidated Election on April 5, 2005. This is a request for the voters to act on a \$19,500,000 general obligation bond issue. That is something that does not go directly to the Village, the Village Board responded to a request from the Carol Stream Library Board seeking that that question be put on the referendum, so the action of the Village Board at this meeting in putting it on the referendum is to allow the citizens to consider that matter. Because of a peculiarity in Illinois law, the library's levy appears as a part of the Village's levy. The Village still does not levy its own real estate taxes, but this is a request from the Library. The action of the Board is simply to place this matter on the ballot.

Trustee Stubbs moved and Trustee Shanahan made the second to move to Executive Session to discuss Threatened Litigation and to adjourn directly from that session with no further action taken. The results of the roll call vote were:

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

The meeting adjourned at 8:59 pm.

FOR THE VILLAGE BOARD OF TRUSTEES

