

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

May 2, 2005

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

Present: Mayor Ferraro, Trustees McCarthy, Gieser, Saverino, Stubbs, Fenner and Shanahan
Absent: none
Also Present: Village Manager Breinig, Attorney Kostopulos, Village Clerk Koester and Deputy Clerk Progar

Mayor Ferraro 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 April 18, 2005 as presented. The results of the roll call vote were:

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

SWEARING IN CEREMONY:

Mayor Ferraro introduced The Honorable Judge Kenneth L. Popejoy who will swear in the newly appointed and elected officials.
Judge Popejoy swore in Michael P. Drager as a Fire and Police Commissioner; Matthew McCarthy as Trustee for his first elected term; Frank Saverino as Trustee for his second elected term; and Pamela Fenner as Trustee for her fourth elected term.
Suzanne Hlotke read a poem she wrote, dedicating it to all of the Board.
There was short intermission to allow everyone to enjoy some refreshments.
At 8:25 pm, the Regular Meeting continued.

AUDIENCE PARTICIPATION AND PUBLIC HEARING:

Mayor Ferraro read a proclamation regarding "Cover the Uninsured Week".
Trustee Shanahan read a proclamation regarding "Motorcycle Awareness Month".

CONSENT AGENDA:

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

Ayes: 6 Trustees McCarthy, Gieser, Saverino, Stubbs, Fenner and Shanahan
Nays: 0
Absent: 0

Trustee Shanahan 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: 6 Trustees McCarthy, Gieser, Saverino, Stubbs, Fenner and Shanahan
 Nays: 0
 Absent: 0

1. Special Use- Ancillary Retail Use-121-131 North Ave.- Ord. 2005-05-23
2. Text Amendment-building codes- Ord. 2005-05-22
3. Contract Amendment-2005-06 GIS Implementation Project
4. Award of Contract of Materials Testing-2005 Flexible Pavement Project
5. Review of a Mock-up of Village's new Economic Development Brochure
6. Ordinance 2005-05-21: Amend Code- Water & Sewer Rates
7. Resolution 2131: Maintenance of Streets- MFT
8. Reappointment of Michael Draeger to Fire & Police Board
9. Request for Amplification Permit Variance-VofCS
10. Regular Bills, Addendum Warrant of Bills

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

Ayes: 6 Trustees McCarthy, Gieser, Saverino, Stubbs, Fenner and Shanahan
 Nays: 0
 Absent: 0

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

Special Use- Ancillary Retail Use-121-131 North Ave.- Ord. 2005-05-23:

At their meeting on March 28, 2005, the Combined Plan Commission/Zoning Board of Appeals recommend approval of a Special Use permit to allow ancillary retail sales in accordance with staff recommendations. The Board concurred with the recommendation and adopted Ordinance 2005-05-23, AN ORDINANCE GRANTING A SPECIAL USE PERMIT FOR ANCILLARY RETAIL USE – (121-131 E. NORTH AVENUE).

Text Amendment-Building Codes- Ord. 2005-05-22:

The Board adopted Ordinance 2005-05-22, AN ORDINANCE AMENDING THE VILLAGE CODE OF ORDINANCES REGARDING BUILDING CONSTRUCTION AND MAINTENANCE CODES.

Contract Amendment-2005-06 GIS Implementation Project:

The Board approved a contract amendment for the 2005-06 Geographical Information System (GIS) with Northern Illinois University in the amount of \$19,949.00.

Review of a Mock-up of Village's new Economic Development Brochure:

The Board agreed that the update was much better than the original and approved it subject to the typographical errors being corrected.

Award of Contract of Materials Testing-2005 Flexible Pavement Project:

The Board awarded a contract for the 2005 Flexible Pavement Project Material Testing be awarded to Testing Services Corporation with the estimated budget of \$18,214.00.

Ordinance 2005-05-21: Amend Code- Water & Sewer Rates:

The Board adopted Ordinance 2005-05-21, AN ORDINANCE AMENDING SECTION 13-3-13 OF THE VILLAGE CODE PERTAINING TO WATER AND SEWER RATES.

Resolution 2131: Maintenance of Streets- MFT:

The Board adopted Resolution 2131, A RESOLUTION FOR MAINTENANCE OF STREETS AND HIGHWAYS BY MUNICIPALITY UNDER ILLINOIS HIGHWAY CODE – 05-00000-01-GM.

Request for Amplification Permit Variance-VofCS:

The Board approved a request for a variance to the amplification ordinance to allow sound amplification to be used at Town Center activities from May 2005 – December, 2005.

Regular Bills, Addendum Warrant of Bills:

The Board approved the payment of the Regular Bills in the amount of \$123,551.57.. The Board approved the payment of the Addendum Warrant of Bills in the amount of \$772,129.54.

REGULAR MEETING:

Trustee Stubbs asked if the term "quasi-criminal" could restrict what the Board can do by something that is or isn't legal unless it is within a current legal process and asked the attorney for an explanation of the definition. Attorney Margaret Kostopulos said that "quasi-criminal" is a legal term which means that it is a type of action which is initiated by a governmental body or a "quasi" governmental body, that is an action brought against an individual by a governmental body, but it is not under the criminal code, such as a felony or a misdemeanor. For instance, a traffic violation is a quasi-criminal action. An ordinance violation is a quasi-criminal action, so it is an action taken by a governmental body against an individual which could result in a non-jail able offense. The penalty could be a fine however. Trustee Stubbs asked if guilt would have been determined at this point and Ms. Kostopulos said that it is just an action by the governmental body and no determination of guilt has been made. It is a definition of a type of action. It does not in any way limit the Board's authority. The action is not a criminal action nor is it a civil action such as between two individuals.

Mr. Breinig commented that the intent of this is not to curb the authority of the Board, it is intended to address circumstances that have occurred where an individual did not exercise the right to appeal. The Village took them to court and after being in the court process, then they expressed an interest in appearing before the Board of Appeals. It is not replacing anything, it merely clarifying the fact that before you go to court you have every opportunity to appear before the Board as the Building Code appeal authority, but once it is in court, before a judge, other wise things can get to be a mess and people can then manipulate the process and try to get continuances by going back and forth between the courts and the Village. He noted that a decision by the Board is not necessarily binding upon the court. Ms. Kostopulos said that court actions always start with the lowest forum and move up. Once an action moves from a lower body to the court then it is inappropriate to take a step backwards. An example would be that when

a decision is taken in a lower court and then is taken forward to an appeal court, it could never go back down to the lower court. This keeps the process clean and not allowing conflicting rulings on the same issue, and it does not keep an individual from raising any defenses they may have just because it has been moved on to the next level.

Trustee Stubbs that item F-1 be approved. Trustee Shanahan made the second. The results of the roll call vote were:

Ayes:	6	Trustees McCarthy, Gieser, Saverino, Stubbs, Fenner and Shanahan
Nays:	0	
Absent:	0	

REPORT OF OFFICERS:

Mayor Ferraro said that he would be at the next meeting on May 16, 2005. He said that he will be having surgery on May 5th and he is not sure if he will be able to attend the Mother's Day celebration at the Town Center, but he hope that everyone will attend the Mother's Day breakfast from 9 am to 11 am on Saturday May 7, 2005.

Trustee McCarthy said that it is an honor to be sworn in for his first full term and he thanked all of those who supported him. He said that he looks forward to seeing everyone at the Mother's Day breakfast and he also wished Mayor and Mrs. Ferraro a Happy 39th anniversary.

Trustee Saverino said that he will not be able to attend the Mother's Day breakfast since he will be out of town and said that he knows it will be a great breakfast since the Public Works guys do a great job. Trustee Saverino congratulated Stan Helgerson latest finance award from the State, and also thanked the Staff for their work on re-doing the community brochure and doing such a great job.

Trustee Fenner thanked everyone for their support and said that she was honored to serve another 4 years. She thanked Mayor Ferraro for having Judge Popejoy here, it was an honor to be sworn in by him, and thanked staff for providing the refreshments.

Trustee Gieser thanked the Historical Society for hosting the "Chair Affair" as it was a nice time and well attended. The Mother's Day breakfast is always a good event and he stated that the deadline is June 10 for the Community Pride Award program and urged people to nominate properties or even volunteer to be a judge. Trustee Gieser stated that after reading things in the news lately, in Hoffman Estates, hug your children, love your children and if you have anyone close to you who you think is having a rough time, be there for them, help them, and if you are that person, try to get some help. He said that it is a very upsetting situation to him.

Trustee Stubbs congratulated the other Trustees on their election.

Trustee Shanahan congratulated the elected Trustees. He hopes to see everyone at the Mother's Day breakfast. On another different note, Trustee Shanahan said that he would like to have staff and the Board look at the fences that back up to our roadways, highways and public easements and to discuss if there is anything that can be done about their appearance. Trustee Fenner commented that this sounds like a retreat topic. It was the consensus of the Board to make this a discussion item for the Board Retreat.

Clerk Koester also congratulated all of the elected Trustees.

Attorney Kostopulos congratulated the Trustees on their elections and noted that she is always pleased to be at the Carol Stream Board meetings.

Mr. Breinig asked for some consensus from the Board in regard to the complaints received about the exterior conditions around Recycle America. Recycle America has indicated that they would like to put up a temporary snow fence on a portion of the property, which they believe will help curb the blowing of debris. It would be temporary

because the Fence Code does not allow a snow fence to be up for an extended period of time. There is a procedure whereby the Board can set aside rules on a temporary basis for a period of not greater than 120 days. Staff is recommending that Recycle America be allowed to do this. It is up to them to come up with a permanent solution, but at least in the interim we can let them see if this will help curb the blowing of debris along the frontage of the property and even onto the adjacent property. In the meantime, during this 120-day period, they will be formulating a permanent solution or an on-going solution. This will come back to you in the future since the Board cannot act on the matter since it was not on the agenda. Mr. Breinig asked if this is something the Board can live with while they try to find a better solution. Mayor Ferraro said that he is ok with the 120 days, and he would like to discuss some of the other problems that are evident on this property. Mr. Breinig said that putting up the snow fence does not call off the monitoring of the property for other enforcement problems. Trustee Shanahan said that it seems ridiculous that they cannot come up with a plan in less than 120 days. Trustee Fenner said that she does not like the four months either. This is ok for a stopgap measure, but it should not take four months to come up with a plan. It was the determination that they should have no more than 30 days for the formulation of a plan and if they need longer than that they can come back to the Board. They would have 30 days from May 3rd. This matter will be an agenda item for the next meeting.

Mr. Breinig displayed the new logo for Town Center events and said that there will be water bottles distributed at the different events have a label with the logo and the events on it. It is hoped that the bottles will be available for the Mother's day event.

Mayor Ferraro told everyone that this afternoon he was invited to shave the head of the principal of Western Trail School if the students brought in 15,000 box tops for education. The students went slightly more than the requirement and the Mayor did shave the principal's head as well as two other teachers.

At 8:57 pm Trustee Shanahan moved and Trustee Stubbs to adjourn. The results of the roll call vote were:

Ayes:	6	Trustees McCarthy, Gieser, Saverino, Stubbs, Fenner and Shanahan
Nays:	0	
Absent:	0	

FOR THE BOARD OF TRUSTEES