

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

August 15, 2005

Mayor Pro-Tem Thomas Shanahan called the Regular Meeting of the Board of Trustees to order at 8:00 pm and directed Deputy Village Clerk Wynne Progar to call the roll.

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

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

MINUTES:

Trustee Fenner moved and Trustee McCarthy made the second to approve the Minutes of the Meeting of August 1, 2005 as presented. The results of the roll call vote were:

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

AUDIENCE PARTICIPATION & PUBLIC HEARINGS:

Vintage Cars and Rods presented a check for \$648.00 for the Christmas Sharing Program. They also presented plaques to Trustee Frank Saverino and the Village to thank them for allowing the use of the Town Center. The presenter said that the Town Center is the best venue they have ever had and that increases the contributions that are donated to the Sharing Program as well as the Marine's Toy for Tots Program. Representatives of the Marine Corps League presented the Village a Commander's Award for their participation in the Toys for Tots collection drives.

CONSENT AGENDA:

Trustee Gieser moved and Trustee Saverino 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 & Shanahan
Nays: 0
Absent: 0

Trustee McCarthy moved and Trustee Saverino 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 & Shanahan
Nays: 0
Absent: 0

1. From PC-no action required: NEC St. Charles & Morton Rd.-zoning upon annexation to I-Industrial District
2. From PC-no action required: Lakewood Homes-Fisher Farm-Zoning
3. Special Use-Outdoor activities -140 E. Fullerton/Ord. 2005-08-46
4. Variation-Zoning Code: 365 E. North Avenue-Ord, 2005-08-47
5. Variation-Zoning Code: 392 Flint Trail-Ord, 2005-08-48
6. Flex 125 Plan
7. Contract extension-CS Correspondent newsletter
8. Letter of Credit Reduction #5-Jason Court Subdivision
9. Letter of Credit Reduction #1- Fountains at Town Center
10. Letter of Credit Reduction #1-Aldi's
11. Final acceptance: 04/05 Joint Crackfill Project
12. Final Payment & acceptance: 04/05 Pond Shoreline
13. Final Payment & acceptance: 04/05 Asphalt Surface Treatment Project
14. Ord. 2005-08-45: Amend Code- Real Estate Transfer Tax
15. Allow temporary gravel parking lot- Prince Industries
16. Regular Bills, Addendum Warrant of Bills, Treasurer's Report 7/31/05

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

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

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

Special Use-Outdoor activities -140 E. Fullerton/Ord. 2005-08-46:

At their meeting on August 8, 2005, the Combined Plan Commission/Zoning Board of Appeals recommended approval of a special use permit for outdoor activities and operations in accordance with staff recommendations. The Board concurred with the recommendation and adopted Ordinance 2005-08-46, AN ORDINANCE GRANTING A SPECIAL USE FOR OUTDOOR ACTIVITIES & OPERATIONS – (McCOLLISTER'S, 140 E. FULLERTON AVENUE).

Variation-Zoning Code: 365 E. North Avenue-Ord, 2005-08-47:

At their meeting on August 8, 2005, the Combined Plan Commission/Zoning Board of Appeals recommended approval of a variance to the Zoning Code for additional parking spaces in accordance with staff recommendations. The Board concurred with the recommendation and adopted Ordinance 2005-08-48, AN ORDINANCE GRANTING A LANDSCAPE VARIATION – (WARE MALCOMB, INC., 365 E. NORTH AVENUE).

Variation-Zoning Code: 392 Flint Trail-Ord, 2005-08-48:

At their meeting on August 8, 2005, the Combined Plan Commission/Zoning Board of Appeals recommended approval of a variance to the Zoning Code to allow an addition to a non-conforming structure. The Board concurred with the recommendation and adopted Ordinance 2005-08-48, AN ORDINANCE GRANTING A VARIATION ALLOWING AN ADDITION TO A NONCONFORMING STRUCTURE – (392 FLINT TRAIL).

Flex 125 Plan:

The Board approved a modification to the Flex 125 Plan to extend the time for incurring expenses for health and dependent care up to 2.5 months after the end of the plan year.

Contract extension-CS Correspondent newsletter:

The Board approved a contract extension for year 2 to Profile Graphics, Inc. of Bartlett, IL based upon the CPI-U adjusted pricing of \$8,938.51.

Letter of Credit Reduction #5-Jason Court Subdivision:

The Board approved a Letter of Credit Reduction # 5 requested by The Patrick Group for the Jason Court Subdivision. 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 \$54,259.00 and the remaining balance of security is \$199,072.17.

Letter of Credit Reduction #1- Fountains at Town Center:

The Board approved a Letter of Credit Reduction # 1 requested by Town & Country Homes for the Fountains at Town Center. All the work shown on the reduction request has been completed per the approved plans and Village specifications. The amount of this request is \$441,879.84 and the remaining balance of security is \$274,400.09.

Letter of Credit Reduction #1-Aldi's:

The Board approved a Letter of Credit Reduction # 1 requested by Aldi's Inc. for Aldi's Inc, 330 Schmale Road. All the work as shown on the reduction request has been completed per the approved plans and Village specifications. The amount of this request is \$244,978.75 and the remaining balance of security is \$28,750.00.

Final acceptance: 04/05 Joint Crackfill Project:

The Board gave final acceptance of the 2004 Joint and Crackfill Project by Scodeller Construction, Inc. of South Lyons, Michigan.

Final Payment & acceptance: 04/05 Pond Shoreline:

The Board gave final acceptance of the 2004/05 Pond Shoreline Maintenance Project by LaFayette Home Nursery and approved a final payment of \$5,782.50.

Final Payment & acceptance: 04/05 Asphalt Surface Treatment Project:

The Board gave final acceptance of the 2004/05 Asphalt Surface Treatment Project to Midwest Tar Sealer Co. and approved a final payment of \$5,491.31.

Ord. 2005-08-45: Amend Code- Real Estate Transfer Tax:

The Board adopted Ordinance 2005-08-45, AN ORDINANCE OF THE MAYOR AND BOARD OF TRUSTEES OF THE VILLAGE OF CAROL STREAM AMENDING THE CODE OF ORDINANCES REGARDING REAL ESTATE TRANSFER TAXES.

Allow temporary gravel parking lot- Prince Industries:

The Board approved a temporary gravel parking lot for Prince Industries, 745 N. Gary Avenue for a period of time not to exceed 18 months and in accordance with the recommendations noted in the memo by Donald T. Bastian, Village Planner on August 9, 2005.

Regular Bills, Addendum Warrant of Bills, Treasurer's Report 7/31/05:

The Board approved the payment of the Regular Bills in the amount of \$378,344.00.

The Board approved the payment of the Addendum Warrant of Bills in the amount of \$454,562.48.

The Board accepted the Treasurer's Report for month ending July 31, 2005.

COMMENTS:

Trustee Stubbs asked for confirmation of the number of vehicles that will be parked at 140 Fullerton by McCollister's, which is three vans, four tractors and eight trailers.

REGULAR MEETING:

Update on DuPage Mayors & Managers Conference (DMMC) Request to Participate in the Creation of a Quiet Zone along the Chicago Central & Pacific Railroad (CC&P).

Director of Engineering Services Jim Knudsen said that the DuPage Mayors and Managers Conference is asking the Village to participate in the process for the creation of a Quiet Zone. He noted that there is no financial commitment required to participate and noted that the City of Elmhurst has volunteered to be the lead agency to submit a Notice of Intent to create the quiet zone.

Trustee Gieser moved and Trustee Saverino made the second to approve the Delegation of Authority to participate in the process of creating a quiet zone. The results of the roll call vote were:

Ayes: 5 Trustees McCarthy, Gieser, Saverino, Stubbs, & Fenner

Nays: 1 Trustee Shanahan

Absent: 0

Award of Contract for Professional Engineering Services – Stormwater Management Program Development & Funding Study:

Trustee Gieser asked why the Village should do this and Mr. Knudsen said that the Village currently spends between \$400/4500,000 a year on stormwater management. The Village is looking for a way to finalize our stormwater management program which is required by NPDES regulations. The second part of the study is to find a reliable and dedicated funding source. This is Phase I and Phase II will be the implementation of the results of Phase I.

Trustee McCarthy moved and Trustee Fenner made the second to award the contract for Professional Engineering Services for stormwater management program development and funding study to AMEC, Clark Dietz, Indianapolis, IN in an amount not to exceed \$110,650.25. The results of the roll call vote were:

Ayes: 6 Trustees McCarthy, Gieser, Saverino, Stubbs, Fenner & Shanahan

Nays: 0

Absent: 0

Variation request – Waive Village Code requirement allowing no more than 3 dogs at any one residence:

Robert and Phyllis Prindle appeared before the Board. Mrs. Prindle read a statement regarding their understanding of the matter concerning the 12 dogs that they have in their home, and asked for a reasonable amount of time to take care of their animals.

Mr. Breinig stated that the Village Code has a limitation of three dogs and it has been in place for a number of years. On April 29th, acting on a complaint, the Community Development Department went out to look at the situation and verified that there were more than three dogs. At that time, it appears that Mr. Prindle was given a copy of the inspection report from Community Development. From that point forward, until the Police Department followed up on July 14th, there was nothing done and the 12 dogs remained at that location. They are small dogs, but that is not the issue, the size of the dogs does make any difference to the Code. The Prindles contacted the Village and indicated that they would come in for a variance and would come to the August 1st Board Meeting to make their case. Since they did not appear at the August 1st meeting there was no reason to believe that there would be any effort on their part to come in, because there had been nothing done since April 29th. As a result, under the Village Manager's direction, the Police Department started issuing tickets. The issuance of tickets were suspended when either the parties weren't home or they did not answer the door. The Village does not go out looking for numbers of dogs, this began with a complaint.

Mayor Pro-Tem Shanahan said that when a variance to the Code is requested, there must be something particularly special about the situation or property as to why a variance should be granted. He said that he cannot find anything about this situation that is unique.

Trustee McCarthy said that he agrees that there is nothing extraordinary in this request that would allow a variance to the Code.

Trustee Saverino said that he is a dog lover but he cannot imagine how anyone could care for 12 dogs. He said that if the Board allows these 12 dogs to be kept, someone will want to keep 12 German Shepherds, or 12 Pit Bulls because a precedent has been set the Board would have to approve another variation.

Trustee Fenner said that the ordinance restricting the number of dogs came about because there were so many residences that had several dogs that were not being controlled or picked up after. There were a tremendous amount of complaints of noise and health issues. It is understood that the Prindles care for their dogs and take care of them, but rules have to apply to everyone in the Village.

Trustee Stubbs said that 12 dogs seem excessive. The Code allows 3 dogs per residence and there is nothing that indicates that the number of dogs is determined by lot size, or by the size of the dogs. He said that he would support a reasonable amount of time for the owners to get into compliance.

Trustee Gieser said that a reasonable amount of time should be allowed, but the Ordinance does have to be complied with as it is written.

Manager Breinig asked if they had any idea how much time would be needed to get down to three dogs and Mr. Prindle said that they are looking to buy another house in an area that does not restrict the number of dogs a person can have. Mr. Breinig said that it is his understanding that DuPage County also has a three dog limit as well. Mr. Prindle said that the web site does not state a limit on the number of dogs. He said that if he cannot sell his house he will need time to comply with the Code.

Mr. Diamond recommended that the tickets that have been issued be continued and Mr. Breinig noted that they are hanging tickets, and will not be going to court. He said that the Board can continue this matter to the next meeting to give the Prindles a chance to determine just how much time they will need, or the Board can set a date tonight that they will have to comply.

Trustee Fenner suggested that the Prindles do the research to find out where they can live with the 12 animals, come back to the Board in 30 days with a report, either that they are going to find a home in another location or with a plan on how they are going to get rid of 9 animals to come into code requirements. It was suggested that this would be on

the agenda of the second meeting in September. Trustee Fenner moved and Trustee Stubbs made the second to continue this matter to the meeting of September 19, 2005. The results of the roll call vote were:

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

Speed Limit Reduction on Spring Valley Drive:

Michael Weldon, 1312 Oriole Trail spoke about the use of Spring Valley Drive as a speed way and that there have been many occasions where speeding cars take out mail boxes and destroy landscaping and lawns. He also presented a petition of 125 names of residents of the surrounding streets that are requesting a multi-way stop sign control and the corners of Spring Valley Drive and Robin Drive.

Mayor Pro-Tem Shanahan explained that this particular intersection does not meet State warrants for a stop sign and it never has. He added that stop signs do not control speed and when the stop signs were put up the last time, people were doing panic stops and then racing down the next street. Most of the violation tickets written were to homeowners in the area and it was their complaints that eventually got the stop signs removed. In addition, Trustee Shanahan noted that a stop sign is good only as much as it is enforced, and the Village cannot put a police car at every stop intersection.

Trustee Fenner said that in 1992 there was a temporary stop sign installed which was before she was elected to the Board. At the meeting prior to her installation, the Board agreed to take the temporary stop sign down. At the meeting following Trustee Fenner's installation, another vote was taken and the stop sign was made permanent. From that time until 2001, something was working since no complaints were made to the Board. In 2003 the sign was removed and now there are an overwhelming number of people that want the stop sign re-installed.

Darla MacLean, 1098 Spring Valley Drive said that they have put a berm in front of their home to protect it from speeding drivers who constantly miss the curve and come into their yard because they are driving too fast. She noted that only the side yard is safe for children to play in because of all of the cars that speed through the intersection and she would like to have the stop sign put back.

Trustee Shanahan commented that if this stop sign is put up, he does not want all of the residents that get tickets to come to the Board to complain, or that there is no enforcement of people running the stop sign.

Trustee Fenner said that the stop sign should be there even though it does not meet warrants because it does help with traffic control. She said that Engineering Services has recommended that the speed limit on Spring Valley Drive be reduced to 25 mph and she does agree that this should be done as well.

Trustee Saverino said that he agrees with the 25 mph speed limit and that he does not understand why the sign was taken down.

Mr. Breinig said that nationally there is a manual on Uniform Traffic Control Devices that sets the standards, and part of the standards concern the number of accidents reported. He commented that everybody is not as diligent as Mrs. MacLean is in reporting because the numbers of events being reported tonight are significantly different from what has been reported. Comments were made that tire track in lawns and knocked down mail boxes were not reported since they were not insurance claims and residents did not bother calling police.

Trustee Shanahan asked Village Attorney Diamond if the Village can put up this stop sign if it does not meet warrants, and enforce it. Mr. Diamond said that as a home rule community, if there is a belief that this is an area that requires the stop sign, the Village would be able to enforce it. It could be argued in a class action suit that all of the tickets are invalid, but it would be a very unlikely possibility.

Trustee McCarthy said that he agrees the stop sign should be erected to protect the children that live in the area, and that drivers that use a rolling stop should be ticketed.

Trustee Stubbs said that he believes that there has been enough information brought forward to put up a stop sign and he agrees with lowering the speed limit to 25 mpg.

Trustee Gieser said that the speed needs to be reduced on this street since that appears to be the main problem and he would agree that a stop sign could help as well.

Trustee Fenner also suggested that the speed indicator trailer be used in that area as well.

Trustee Shanahan commented that he fees that 25 mph is too slow, but he is only one of six for the vote. He also suggested to all of the residents, that no matter what the incident is, a knocked over mailbox or tracks in the grass, call the Police and report it.

Mr. Breinig asked if this can be approved as an ordinance at this meeting and subject to review and approval be put into effect after signature. Mr. Diamond said that this is possible.

Trustee McCarthy moved and Trustee Saverino made the second to authorize an ordinance that would AMEND CHAPTER 8, ARTICLE 5 OF THE CAROL STREAM TRAFFIC CODE providing that the northern intersection of Robin Drive and Spring Valley Road be added as a stop intersection and to reduce the speed on Spring Valley Drive from 30 miles per hour to 25 miles per hour. The results of the roll call vote were:

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

This is Ordinance 2005-08-49.

REPORT OF OFFICERS:

Trustee Gieser moved and Trustee Fenner made the second to change the date of the next meeting from September 5th to September 6th due to the Labor Day celebration. The results of the roll call vote were:

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

Trustee Saverino thanked the Vintage Cars and Rods for their contribution to the Christmas Sharing fund and their support for the Toys for Tots program. The next show will be on September 8th from 6:30 to 9:00 pm. The rain date is September 15th.

Trustee McCarthy also thanked the Car club of their donation and he reminded everyone that school is starting soon, so watch for the kids while driving.

Trustee Stubbs reminded everyone of the concert and movie next Thursday.

Trustee Gieser thanked staff for providing recycling bins at the Town Center. There will be a concert and a movie both this Thursday and next Thursday.

Trustee Fenner moved and Trustee Stubbs made the second to adjourn at 9:05 pm.
The results of the roll call vote were:

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

FOR THE BOARD OF TRUSTEES