

APPROVED
**LAKE ZURICH BOARD OF TRUSTEES
REGULAR MEETING
70 East Main Street**

Monday, June 4, 2007

MOTION was made by Trustee Callahan, seconded by Trustee Poynton, to appoint Trustee McAvoy as Mayor Pro Tempore.

1. CALL TO ORDER AND ROLL CALL

Meeting was called to order at 7:33 pm.

Present were Trustees Branding, Callahan, Johnson, Poynton, McAvoy, and Taylor. Also present were Village Administrator Dixon, Village Attorney Burkland, Deputy Chief Finlon, Public Works Director/Village Engineer Heyden, Finance Director Martynowicz, and Fire Chief Mastandrea. President Tolomei was excused.

2. PLEDGE OF ALLEGIANCE

3. PRESIDENT'S REPORT

No report.

4. PUBLIC COMMENT

Brian Rothas, 271 Washo Drive, attended this evening to address unfinished items of concern with the Wickes development. The approved site plan stated 3" enclosed galvanized fence posts would be used along the lot line, which as of today are not enclosed. Another issue are the lights. A study was recently completed and Engineer Lebbos mentioned the lights are within the allowable standard; however, there are still lights being directed towards the residents. The on/off timer for the lights is also unreliable. Flooding has been an issue this spring, but not in the past. Staff has been out to look at these problems and agreed to work on finding a solution. Trustee McAvoy requested Mr. Rothas prepare a list of unfinished items to submit to the developer for a solution. A letter of credit is being held by the Village of Lake Zurich until all of these issues are resolved.

Rich Sustich, 217 Sandy Point Lane and President of LZPOA, wrote a letter regarding the issues on the lake which involves both the Police Department and the Building & Zoning Department. The LZPOA is hopeful a meeting could be scheduled with IDOT to review their plans to resolve the water runoff into Lake Zurich. Public Works Director/Engineer Heyden stated IDOT has provided plans and has agreed to make modifications to build a water quality structure at the pond. Supplies have been brought to the site and are scheduled to be installed this week. Mr. Sustich requested the Village share these plans with the property owners.

5. APPROVAL OF MINUTES

A. Regular Village Board meeting May 21, 2007

MOTION was made by Trustee Callahan, seconded by Trustee Taylor, to approve the Regular Village Board meeting minutes dated May 21, 2007 as presented.

Voice vote, all in favor. MOTION CARRIED

B. Special Village Board meeting May 29, 2007

Trustee Branding questioned whether a motion and vote was taken to accept a written contract from the PAR Group in the Village's search for an administrator.

Village Attorney Burkland stated a formal vote was not legally necessary but suggested this item be included as a future consent agenda item.

MOTION was made by Trustee Taylor, seconded by Trustee Branding, to approve the Special Village Board meeting minutes dated May 29, 2007.

Voice vote, all in favor. MOTION CARRIED

6. CONSENT AGENDA

Items A and C were asked to be removed from the Consent Agenda for further discussion under Other Business.

B. Marathon Gas, 1125 S. Old Rand Road. The Planning and Development Committee recommends approval and the Board of Trustees approves AN ORDINANCE APPROVING PLANNED UNIT DEVELOPMENT CONCEPT PLANS AND FINAL PLANS, A SPECIAL USE PERMIT, AND SITE PLANS AND EXTERIOR APPEARANCE PLANS FOR 1125 SOUTH RAND ROAD (MARATHON GAS STATION). (Assign ORD. #2007-06-499)

MOTION was made by Trustee Taylor, seconded by Trustee Poynton, to approve the Consent Agenda as read.

AYES: 6 Trustees Branding, Callahan, Johnson, McAvoy, Poynton and Taylor

NAYS: 0

MOTION CARRIED

7. ADMINISTRATOR'S REPORT

No report.

8. ATTORNEY'S REPORT

No report.

9. COMMITTEE AND TRUSTEE REPORTS

Trustee Branding reminded the Board to submit names of interested parties who would like to participate in a forum to help in our search for a new administrator. This forum will be held on Tuesday, June 19th at 7 PM at Village Hall.

10. OTHER BUSINESS

- A. Courtesy review referral. SIV Addition, 1221 Flex Court request for outdoor storage.
- B. Courtesy review referral. Lake Zurich Auto Care, 225 Oakwood Road, request for truck rental and leasing.

Trustee Johnson questioned whether staff would update the Plan Commission of any deficiencies that currently exist for item B as they apply to the Lake Zurich Codes.

Trustee Branding questioned whether there was a limit to the number of tenants allowed at this site or if it was restricted to a single tenant. Village Administrator Dixon replied it is not restricted to a single tenant and has had multiple tenants in the past.

Both of these items will now move forward for review by the Plan Commission without recommendation from the Board.

Consent Agenda Item A:

- A. Warrant dated June 4, 2007. The Finance Committee recommends approval and the Board of Trustees approves the Warrant dated June 4, 2007 in the amount of \$1,267,153.82 which includes the following items over 5% of the total:
- | | | |
|-----------------------------------|--------------|--------|
| 1. Bank of New York | \$386,390.04 | 28.88% |
| 2. Cambridge Bank | \$254,080.93 | 19.00% |
| 3. Wells Fargo Bank | \$252,987.50 | 18.91% |
| 4. Majkowski, Morrison & Morrison | \$70,409.00 | 5.26% |

Trustee Poynton questioned whether the Board had authority to approve the warrant knowing approximately one million dollars of TIF related expenses was included, which exceeds a spending cap outlined in the initial redevelopment ordinance. It was also suggested we defer the TIF related expenses until the redevelopment project plan is properly amended to address any legal errors in the establishment of the TIF district as cited in their decision by the courts in a recent eminent domain lawsuit.

Village Attorney Burkland advised the Board the courts had no jurisdiction to consider the validity of the TIF and stated that the Board had legal authority to disburse the necessary funds as they relate to Phase I and II of the redevelopment plan.

Trustee Johnson questioned whether he was putting himself in any legal jeopardy if he approved the warrant knowing these bills exceeded the 5% above the \$25 million cap. Village Attorney Burkland advised Trustee Johnson he would not be putting himself in any legal jeopardy if acting within his capacity as a member of the Board of Trustees. Village Attorney Burkland stated it is not

unusual to amend the TIF budget if upon review the totals suggest the expenditures exceed the limit stated in the ordinance.

Trustee Poynton requested the TIF expenditures be reviewed to determine exactly where the Village stands at this time. Village Administrator Dixon stated the Board was requesting Steve Friedman attend a Board meeting to discuss these issues. It was agreed to meet on June 18th at 6 pm.

Trustee Branding questioned if the tax increment financing district is out of compliance since the court found four irregularities during its review in the Comet Welding case. Village Attorney Burkland reiterated the court ruling did not invalidate the TIF but rather applied eminent domain law to that particular case.

Village Administrator Dixon reminded the Board severe consequences could occur should the Village decide to withhold payment of debt service on bonds, such as affect the Village's excellent credit rating.

Trustee Branding suggested we pay these invoices from another fund. Village Administrator Dixon stated resident's taxes go into the general fund and all debt from the redevelopment project needs to be withdrawn from the TIF fund.

Trustee Branding requested assurance from the Village Attorney that she had the ability to vote on the warrant.

Village Attorney Burkland then advised Trustee Branding to recuse herself from the vote since much of this discussion and the warrant evolves around the TIF District. The TIF Act states that there is a conflict of interest if a trustee owns property and/or business within the TIF, and under the State Law, Trustee Branding should recuse herself. Trustee Branding did receive a memo regarding this State Law and potential conflict of interest prior to being sworn in as Village Trustee.

MOTION was made by Trustee Callahan, seconded by Trustee Taylor, to approve the Warrant dated June 4, 2007.

AYES: 5 Trustees Callahan, Johnson, McAvoy, Poynton, and Taylor

NAYS: 0

ABSTAIN: 1 Trustee Branding

MOTION CARRIED

Consent Agenda Item C:

- C. 321 Seaton Court. The Planning and Development Committee recommends approval and the Board of Trustees approves AN ORDINANCE APPROVING A VARIATION FOR 321 SEATON COURT. (Assign ORD. #2007-06-500)

Trustee McAvoy reiterated his opinion on the petitioner's plan to build a patio at 321 Seaton Ct. He would vote favorably to a deck or some other permeable surface, but not a patio. Trustee Callahan reminded everyone the detention ponds have been enlarged to allow more residents in the Heatherleigh subdivision a chance to install a patio but also encouraged them to install some type of permeable surface rather than cement.

MOTION was made by Trustee Callahan, seconded by Trustee Johnson, to approve an ordinance approving a variation for 321 Seaton Court.

AYES: 5 Trustees Branding, Callahan, Johnson, Poynton, and Taylor

NAYS: 1 Trustee McAvoy

MOTION CARRIED

11. ADJOURNMENT

MOTION was made by Trustee Taylor, seconded by Trustee Branding, to adjourn the meeting.

Meeting adjourned at 8:24 PM.

Respectfully submitted: *Gloria M. Palmblad, Village Clerk*

Approved by: _____

Village President John G. Tolomei

6/18/07