

Corrected  
APPROVED  
**LAKE ZURICH BOARD OF TRUSTEES**  
**REGULAR MEETING**  
**70 East Main Street**  
Monday, August 3, 2009

**1. CALL TO ORDER** The meeting was called to order at 7:00p.m.

**2. ROLL CALL**

Present were Village President Branding, Trustees Halen, Johnson, Poynton, Rzeznik, Sprawka and Sustich. Also present were Acting Village Administrator/Finance Director Zochowski, Village Attorneys Burkland and Kirlin, Police Chief Finlon, Fire Chief Mastandrea, Park and Recreation Director Perkins, Public Works Director/Engineer Heyden, and Building/Zoning Director Peterson.

**3. PLEDGE OF ALLEGIANCE**

Trustee Sustich asked that the Board offer the agenda up for approval per *Robert's Rules of Order*. He asked that an item be added to the agenda: *Procedures for the creation of and appointments to extramural ad hoc boards and commissions*.

President Branding added it as Item F. under New Business.

Trustee Halen asked why the wording under Public Comment was not expanded to include any comments and not just those that apply to the agenda. President Branding will check with staff to see if it was an omission.

MOTION made by Trustee Sustich, seconded by Trustee Poynton, to approve the agenda as amended.

AYES: 6 Trustees Halen, Johnson, Poynton, Rzeznik, Sustich, and Sprawka

NAYS: 0

MOTION CARRIED

**4. PUBLIC COMMENT**

Todd Ross, 1192 Thorndale Road, lives in Chestnut Corners Subdivision near Quentin Road. He asked for the Board's support to be a liaison to the committee on Quentin Road widening. Mr. Ross said he has been involved in the project for some time and had spoken with former Village Assistant Engineer Ed Lebbos some time ago about the widening. He just learned that the deadline is August 7 to be part an advisory member for Lake County. He provided additional information about the proposed widening and stated his concerns about potential serious negative impact on area homes. He did not want their quality of life jeopardized even though it would improve traffic and safety.

Public Works Director/Engineer Heyden said he had been contacted by Lake County and advised that they were preparing to begin Phase 1 of the improvements. He said this project was quite preliminary at this time, and he would be heavily involved in the plan review process as the project moved forward.

Trustee Rzeznik asked how the County could get qualified applicants since the application was quite simple.

President Branding said Mr. Ross and Trustee Rzeznik would like to represent the Village of Lake Zurich. Trustee Sustich suggested they be appointed.

MOTION made by Trustee Johnson, seconded by Trustee Poynton, to appoint Trustee Rzeznik to represent the Village for the Quentin Road widening project.

AYES: 6 Trustees Halen, Johnson, Poynton, Rzeznik, Sustich, and Sprawka

NAYS: 0

MOTION CARRIED

Alex Rechanik, 1216 Sheridan Court, spoke at length about the adverse impact on Chestnut Corners and Bristol Trails subdivisions from the widening of Quentin Road. He listed many areas of impact including environmental, safety, noise, and decrease in property values. He recommended the Village and its residents organize a protest using various methods and the road be subject to restrictions.

Jim Tarbet, 1195 Cedar Creek Drive, commented on discussion at the last meeting regarding the transfer of \$500,000 from the Water Fund to the General Fund and said it was illegal to do so and outside of the Village's authority. He said there were questions were raised at that meeting and the Treasurer's Report should not have been approved. Additionally, the public does not have access to the warrant, and questioned when the quarterly report would be available.

Director Zochowski said Mr. Tarbet is wrong and the transfer of funds is not illegal. The quarterly report will be presented at the September 8 Board meeting.

Village Attorney Burkland responded that transfers of that type are common and he is confident that the action was legal but will research the issue and report back.

## **5. PRESIDENT'S REPORT**

- A. Location for commemorative clock donated by Lake Zurich Rotary—Main Street and Old Rand Road.

Rich Politowicz, Lake Zurich Rotary president, reviewed their proposal to install the decorative clock they purchased to donate to the Village to be installed on the vacant property on the southeast corner of Main and Old Rand Road. Due to the downtown revitalization, it was understood that the clock might have to be moved.

Brian Burch, 768 Interlaken, suggested options to have the park completed without using public funds through volunteer efforts and public donations and offered his services to prepare a landscape plan.

Motion made by Trustee Poynton, seconded by Trustee Sustich, to refer discussion of park improvements at Main Street and Old Rand Road to the Park and Recreation Advisory Board.

AYES: 6 Trustees Halen, Johnson, Poynton, Rzeznik, Sustich, and Sprawka

NAYS: 0

MOTION CARRIED

B. Reappointment of Chief Terry Mastandrea to Firefighters' Pension Fund Board.

MOTION was made by Trustee Johnson, , seconded by Trustee Sustich, to approve the reappointment of Chief Terry Mastandrea to Firefighters' Pension Fund Board.

AYES: 6 Trustees Halen, Johnson, Poynton, Rzeznik, Sprawka and Sustich

NAYS: 0

MOTION CARRIED

C. Village Clerk announcement on Municipal Bonds.

Director Zochowski provided this report on behalf of the Village Clerk for informational purposes only. He reviewed his memorandum dated July 30, 2009, which is an acknowledgement of Filing Bond Order as required by the Parameters Ordinance that states the Village Clerk must bring this to the attention of the Board. The Series 2009D bonds were purchased by Cornerstone Bank.

**6. CONSIDERATION OF MINUTES**

**A. Minutes of the Committee of the Whole Meeting June 1, 2009**

MOTION made by Trustee Johnson, seconded by Trustee Sustich, to approve the Committee of the Whole for June 1, 2009.

There was some confusion whether the minutes had already been approved so Trustee Johnson withdrew his motion and Trustee Sustich withdrew his second to allow staff to check the records.

**B. Regular Village Board meeting July 20, 2009**

Trustee Sustich commented on the President's Report, Item B, regarding the establishment and appointment to the Route 12 Corridor Committee. He said the ordinance does not actually grant authority and the amendment to the Municipal Code grants authority to establish the committee and make the appointment.

Village Attorney Burkland said the ordinance does create the authority by amending the code and creating a provision that then goes into the code. He said the minutes do accurately reflect what was spoken at the meeting. The ordinance amended the code to create the authority so he does not believe this is incorrect.

Trustee Sustich withdrew that request for the change. He asked that Item 9. B, Approval of the Semi-Monthly Warrant Register dated July 20, 2009, be amended to include the following statement:

*Trustees Halen and Sustich questioned whether approval of the current warrant would cause the village to exceed its appropriation. Village Administrator Vitas made an affirmative declaration that approval of the warrant would not result in the village exceeding its appropriation.*

MOTION was made by Trustee Poynton, seconded by Trustee Sustich, to approve the Regular Village Board meeting minutes of June 15, 2009 as amended.

Voice vote, all in favor.

MOTION CARRIED

**7. OLD BUSINESS - None**

**8. NEW BUSINESS**

- A. Approval of Semi-Monthly Warrant Register Dated August 3, 2009, Totaling \$1,010,977.94.

Trustee Sprawka presented the warrant for approval and reviewed the items over 5% of the total.

Motion by Trustee Johnson, seconded by Trustee Poynton, to approve the semi-monthly warrant register dated August 3, 2009, totaling \$1,010,977.94.

Trustee Sustich said the same issue that came up at the last meeting still remains. The Board is unable to determine whether the Village will exceed its appropriation or cause any program to exceed its allocations by its approval. He asked Director Zochowski if he could make an affirmative declaration that approval of the warrant would not cause either of these excesses.

Director Zochowski responded that he could not make that affirmation because he does not have a report that shows that not even one program does not exceed its allocation.

AYES: 5 Trustees Halen, Johnson, Poynton, Rzeznik, and Sprawka

NAYS: 1 Trustee Sustich

MOTION CARRIED

- B. Agreements with AmAudit, Inc. for auditing municipal franchises and tax and utility costs.

The Village needs to conduct audits of franchise fees, taxes and utility costs. Conducting these audits in-house or with the Village's regular auditors would be cost prohibitive. AmAudit offers its services at a price set as 50% of the savings resulting from the audits for a 36-month period. This is a one-time undertaking. Director Zochowski provided an overview of the proposal for the audit and wanted to be sure the Board understood the terms and would approve them.

Trustee Halen said it was a good idea but asked if there were other companies could provide this service. Trustee Sustich agreed and suggested staff solicit proposals.

MOTION made by Trustee Sustich, seconded by Trustee Halen, to defer the approval of the Municipal Franchise and Tax Audit Agreement and a Utility Cost Audit Agreement with AmAudit, Inc. to allow staff to request proposals from other companies.

AYES: 5 Trustees Halen, Sustich, Poynton, Rzeznik and Sprawka

NAYS: 1 Trustee Johnson

MOTION CARRIED

D. Mollohan, 870 Savoy Court, Request for Variation for a Deck.

Trustee Poynton said the owners of 870 Savoy Court filed an application for interior side yard and rear yard variations to construct a deck on their property in the Concord Village Subdivision. The application satisfies the Village's guidelines for decks in Concord Village set by Board resolution in 2007. The property owners received approval for their deck from the Concord Village Subdivision Homeowners' Association. The Zoning Board of Appeals unanimously recommended approval of the requested variation, which would reduce the require rear yard to 7 feet from 15 feet and the required interior side yard to 2 feet from 5 feet.

The residents were present to answer any questions. Building and Zoning Director Peterson said staff is satisfied with the proposal.

Trustee Sustich asked what it cost the Village and the homeowners for these variations in Concord Village.

Building and Zoning Director Peterson recapped the action of the prior Board to allow these variations but noted that not all homes are eligible to receive them.

Motion by Trustee Poynton, seconded by Trustee Johnson, to approve an Ordinance Granting Variations for 870 Savoy Court. (ORD #2009-07-646)

AYES: 6 Trustees Halen, Johnson, Poynton, Rzeznik, Sustich, and Sprawka

NAYS: 0

MOTION CARRIED

**D. Disposal of Personal Property as Surplus.**

Trustee Sprawka summarized the proposal to declare personal property as surplus property so the Village could dispose of municipal property that is no longer useful or necessary. Various items have been listed as an exhibit to the proposed ordinance and will be sold or disposed of appropriately.

Trustee Johnson asked if the electronics were disposed of properly and responsibly to which Public Works Director/Engineer Heyden responded affirmatively.

Motion by Trustee Sustich, seconded by Trustee Sprawka, to approve an Ordinance Authorizing Disposal of Personal Property Owned by the Village of Lake Zurich. (ORD #2009-07-647)

AYES: 6 Trustees Halen, Johnson, Poynton, Rzeznik, Sustich, and Sprawka  
NAYS: 0  
MOTION CARRIED

**E. Meadow Wood Recapture Ordinance.**

Trustee Sustich summarized the proposed recapture ordinance that would provide a mechanism to reimburse the developer for costs associated with the extension of the water and sanitary sewer systems for use by the Meadow Wood Development and other private properties that would receive a benefit from these improvements. The recapture fees contained herein are assessed to benefit private properties and are required to be paid at the time of permitted connection to these systems from such benefiting property.

Motion by Trustee Sustich, seconded by Trustee Halen, to approve an Ordinance Establishing a Recapture Fee for the Meadow Wood Subdivision for Certain Main and Sanitary Sewer Improvements. (ORD #2009-07-647)

AYES: 6 Trustees Halen, Johnson, Poynton, Rzeznik, Sustich, and Sprawka  
NAYS: 0  
MOTION CARRIED

**F. Procedures for the creation of and appointments to extramural ad hoc boards and commissions.**

Trustee Sustich said this item arose from the action taken at the July 20, 2009 Board meeting when Ordinance 2009-07-641, which amended Title 1, Chapter 4 of the Lake Zurich Municipal Code. He said Boards and Commissions are clearly legally listed under Title 2 of the Municipal Code while the ordinance that was amended referred to Title 1, Chapter 4, which relates to Board meetings and

procedures. He asked Village Attorney Burkland if the authority was properly created to circumvent Title 2.

Village Attorney Burkland responded that the amended provision does provide the authority to both the Village President and Board of Trustees to appoint to commissions and boards and listed three options to grant authority to appoint that are available options to the Board. He believes the chapter is properly placed but it could be amended if the Board chose to do so.

Trustee Sustich said his concern is that the title refers to board meetings and procedures but does not refer to appointments to boards and commissions, so he had prepared a motion that would provide greater clarity. Trustee Halen supported additional clarity so there would not be any confusion.

MOTION made by Trustee Sustich, seconded by Trustee Poynton, to direct the Village Administrator and Village Attorney to investigate and develop proposed amendments to Title 2 of the Lake Zurich Municipal Code to authorize the timely and efficient creation of extra mural ad hoc boards and commissions and to propose procedures for oversight of such ad hoc boards and commissions including, (i) establishment of clear charges and expectations, (ii) balanced selection of members representative of all interested stakeholders, and (iii) identification of a "designated Village official" to work with each board or commission to ensure compliance with statutory requirements, including the Open Meetings Act, and to provide appropriate access to such Village information as may facilitate the board or commission's efforts.

Trustee Rzeznik questioned why it was necessary to amend the ordinance and if Trustee Sustich's concerns could not be addressed without spending time and money to do so.

Trustee Sustich explained why he believed the ordinance was necessary. Discussion followed. Questions about the legal fees necessary to revise the motion came up and were responded to by Village Attorney Burkland.

AYES: 6 Trustees Halen, Johnson, Poynton, Rzeznik, Sustich, and Sprawka

NAYS: 0

MOTION CARRIED

MOTION made by Trustee Sustich that the Board of Trustees direct the Village Administrator and the Village Attorney to prepare amendments to Title 1, Chapter 4, Section 7 (B) of the Lake Zurich Municipal Code to require the advice and consent of the Board of Trustees in the appointment of special committees under said section.

Village Attorney Burkland said the prior motion subsumes this motion. He said is clear that the first motion creates the wall between committees of the board and

ad hoc extramural committees. He will not use that approach for special committees but only for standing committees of the board.

Trustee Sustich said with that understanding he will withdraw his motion.

#### **10. TRUSTEE REPORTS**

Trustee Sprawka asked staff to provide information on the branch pick up program due to the recent heavy winds which Public Works Director/Engineer Heyden provided.

Trustee Johnson referred to the ruling on Rain Tree Homes vs. Village of Long Grove and asked Village Attorney Burkland if that pertains to Lake Zurich. Village Attorney Burkland said Lake Zurich does not impose impact fees so Lake Zurich is not in any violation of the law.

RECESS: The meeting was recessed from 9:01 to 9:07 p.m. to change the video tape and resumed with all Board members present.

#### **11. ADMINISTRATOR'S REPORT – No Report**

#### **12. ATTORNEY'S REPORT – No Report**

#### **13. DEPARTMENT HEAD REPORTS**

- A. Building and Zoning Director Peterson summarized his Economic Development Update and Report on Lake Zurich's Retail Vacancy and reported positive information.
- B. Fire Chief Mastandrea reported on the Village-wide blood drive, which was a tremendous success with 79 units collected. He reported on an event at the Alpine Fest and said members of the CERT, Explorer, and Citizens Post programs worked together to provide first aid and saved a life.
- C. Parks and Recreation Director Perkins provided an update and listing of dates for concerts in the park, the Taste of the Towns on August 30, and the Fall Fest on September 12. He said there have been incidents of vandalism and asked people to call the police if they saw any suspicious activity in the parks.
- D. Police Chief Finlon provided crime statistics on the Alpine Fest. He said expanding the site did help with safety.

#### **14. ADJOURNMENT**

MOTION was made by Trustee Poynton, seconded by Trustee Sprawka, to recess into Closed Session to discuss matters related to pending litigation and specific personnel and to adjourn immediately after the Closed Session without conducting further business.

AYES: 6 Trustees Halen, Johnson, Poynton, Rzeznik, Sustich, and Sprawka



NAYS: 0  
MOTION CARRIED

The meeting adjourned at 9:32 p.m.

Respectfully submitted: Janet McKay, Recording Secretary

Approved by: /s/ President Suzanne K. Branding 8/17/09