

Corrected
LAKE ZURICH BOARD OF TRUSTEES
REGULAR MEETING
70 East Main Street

Monday, June 7, 2010, 7:00 p.m.

1. CALL TO ORDER

The meeting was called to order at 7:03 p.m.

2. ROLL CALL:

Present: Village President Suzanne Branding, Trustee Jeff Halen, Trustee Jim Johnson, Trustee Tom Poynton, Trustee Jonathan Sprawka, and Trustee Rich Sustich. Also present were Village Attorney Ruth Schlossberg, Village Administrator Vitas, Asst. Finance Director Forest, Public Works Director/Village Engineer Heyden, Fire Chief Mastandrea, Police Chief Finlon, Park and Recreation Director Perkins, Building/Zoning Director Peterson, and Police Commander Finlon.

Excused: Trustee Dana Rzeznik.

3. PLEDGE OF ALLEGIANCE

4. PUBLIC COMMENT

Bob Ligas, 59 Linden, spoke about the poor condition of the road and would like the Village to put in the curb, gutter, and sidewalks for the entire street at the Village's expense.

Alex Litovchenko, 47 Linden, agreed with Mr. Legas' comments and also addressed the condition of the road.

Gerrard Gregoire, 35 Linden, said the street is damaged and requested the "basics" (sidewalks, curbs, and gutters).

Mr. Neetu Bhatia, 285 Seaton Court, was present for his request to install a patio in Concord Village.

5. PRESIDENT'S REPORT

A. Moment of Silence for James Zarek, Past Park and Recreation Advisory Board Chairman

President Branding lead a moment of silence for James Zarek, who had been a Park and Recreation Advisory Board Chair in the 70's and the 80's.

B. Certificate of Appreciation to U.S. Army Staff Sergeant Koukal

Read by Secretary McKay and presented to Sgt. Koukal by President Branding. The Board thanked him for his service to his country in both Iraq and

Afghanistan. Sgt. Koukal said his early Explorer training and experience contributed to his leadership skills that he used overseas.

- C. Appointment and Oath of Office for Acting Village Clerk Debra Incardone**
Debra Incardone was sworn in as Acting Village Clerk by President Branding and welcomed by the Board.

- D. Certificate of Achievement for Excellence in Financial Reporting for Fiscal Year Ended April 30, 2009**

Asst. Finance Director Forest presented the certificate of achievement that was awarded to the Village to the Board of Trustees.

- E. Proclamation Click it or Ticket Campaign**

Read by Secretary McKay

- F. Proclamation Proclaiming June as "Leave No Child Inside" Month**

Read by Secretary McKay. Director Perkins thanked Park and Recreation Advisory Board Chair Judi Thode for her involvement and efforts in the initiative.

6. CONSIDERATION OF MINUTES

- A. Minutes of Joint Special Meeting, May 11, 2010**

Upon voice vote, the minutes were approved as submitted.

- B. Minutes of the Village Board Meeting, May 17, 2010**

Trustee *Poynton* should be substituted for Trustee *Johnson* under Item F, *Appointments and to various boards and commissions*.

Upon voice vote, the minutes were approved as corrected.

7. OLD BUSINESS – No items

8. NEW BUSINESS

- A. Appointment of Village Attorney. (Village President)**

Summary: A Request for Qualifications (RFQ) for Legal Services was released in January, 2010. In response to the RFQ mailed to 25 firms, the Village received 15 proposals from various law firms throughout the Chicago metropolitan area. The Village President and Board of Trustees short listed the number of firms to five, which were in turn all interviewed. The President with the advice and consent of the Board members concurred that the firm of Zukowski, Rogers, Flood and McArdle shall serve as the Village Attorney for a two-year term. Subject to this appointment, a legal services agreement shall be entered into at the next regular Village Board meeting.

Motion by Trustee Johnson, seconded by Trustee Sustich, to approve a Resolution Appointing Zukowski, Rogers, Flood and McArdle as the Village Attorney.
(RES. #2010-06-07A)

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

NAYS: 0

ABSENT: 1 Trustee Rzeznik

MOTION CARRIED

B. Semi-Monthly Warrant Register Dated June 7, 2010, Totaling \$497,615.81
(Trustee Halen)

Motion by Trustee Halen, seconded by Trustee Sprawka, to approve the semi-monthly warrant register dated June 7, 2010, totaling \$497,615.81.

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

NAYS: 0

ABSENT: 1 Trustee Rzeznik

MOTION CARRIED

C. 328 Red Bridge Road Request for Permit for a Variation for a Driveway.
(Trustee Poynton)

Summary: The owner at 328 Red Bridge Road requested a variation to reduce the required interior side yard for driveway replacement from 3 feet to 2 feet. The Zoning Board of Appeals unanimously recommended approval of the application.

Motion by Trustee Poynton, seconded by Trustee Sprawka, to approve an Ordinance Approving a Variance for 328 Red Bridge Road. (ORD. 2010-06-712)

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

NAYS: 0

ABSENT: 1 Trustee Rzeznik

MOTION CARRIED

D. 334 Red Bridge Road Request for Permit for a Variation for a Driveway.
(Trustee Poynton)

Summary: The owners at 334 Red Bridge Road requested a variation to reduce the required interior side yard for driveway replacement from 3 feet to 2 feet. The Zoning Board of Appeals unanimously recommended approval of the application.

Motion by Trustee Poynton, seconded by Trustee Sprawka, to approve an Ordinance Approving a Variance for 334 Red Bridge Road. (ORD. 2010-06-713)

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

NAYS: 0

ABSENT: 1 Trustee Rzeznik

MOTION CARRIED

E. My Flavor It Place, 10 E. Main Street request for game room. (Trustee Poynton)

Summary: My Flavor It Place – Ice Cream Shop, opened in 2009 at 10 E. Main Street. A game room was proposed for the installation of coin-operated amusement devices, however, the game room was not remodeled or implemented at that time. The owner was advised of the restrictions to the number of coin-operated amusement devices. Village Code Section 3-2-1E, limits the number of devices based upon square footage, and based upon the code only one coin-operated device is allowed. The owner is seeking relief to permit five coin-operated devices which can be granted by resolution. Staff recommends that the number of coin-operated devices be increased to five for this location.

Motion by Trustee Poynton, seconded by Trustee Johnson, to approve a Resolution Approving the Number of Permitted Coin-operated Amusement Devices at Five for 10 East Main Street. (RES. #2010-06-07B)

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

NAYS: 0

ABSENT: 1 Trustee Rzeznik

MOTION CARRIED

F. 285 Seaton Court, Amend Resolution #2007-07-02A, request for patio. (Trustee Poynton)

Summary: A section of Concord Village was approved as a cluster home subdivision PUD which restricted the open space/buildable area on each lot. This restricted the area in the rear yards for the construction of decks and patios. On behalf of its residents, Concord Village submitted an application to allow certain lots the opportunity to seek variations to the required rear yard setbacks. Per Resolution #2007-07-02A the Village granted relief and identified which lots were permitted to seek a variation for decks and patios. 285 Seaton Court was one of the lots that is prohibited from seeking a variation for the rear yard setbacks for building a patio or deck beyond the buildable area.

Staff recommends denial of the request to amend the Resolution. Amending the resolution will further compromise the approved PUD, specifically the open space requirements. Additional impervious area may negatively impact the engineered detention pond, the required storm water flow and drainage, and further encroachments will impact neighbors and their quality of life.

Mr. Neetu Bhatia, 285 Seaton Court, presented his request to build a patio on a lot that restricts patios and decks. Building and Zoning Director Peterson presented historical information and explained what action had been taken by staff and the board to allow patios and decks for certain lots with certain conditions when none were previously had been permitted.

Trustee Johnson recommended that Item 3 of Guidelines for approval of Patios and Decks at Concord Village have the following verbiage added, “ must be built of permeable materials, or, if elevated, above-ground materials spaced with sufficient drainage to allow 90 percent of water to flow to the soil beneath the footprint of the deck.” He expressed concerns about setting a precedence.

Public Works Director/Engineer Heyden said the Concord Village homeowners’ association spent \$30-50,000 for the last engineering study and summarized the issues that they considered in their calculations to recalculate the impervious surface. He said they performed an in-depth study that carefully calculated the necessary retention then required the size of the ponds to be increased to offset the loss of permeable surface. He stressed that material that is called permeable is not necessarily permeable during a heavy rain event and can act as an impervious surface.

The Board requested the homeowners’ association to conduct a survey to see how many homes have patios or decks, how many square-feet of impervious surface was added, how many homeowners would like to install a patio or deck, and what did the homeowners’ association pay for the last engineering study.

Motion by Trustee Poynton, seconded by Trustee Halen, to table the request to amend Resolution #2007-07-02A regarding 285 Seaton Court to allow the homeowners’ association an opportunity to provide the information requested.

AYES: 4 Trustees Halen, Poynton, Sustich, and Sprawka

NAYS: 1 Trustee Johnson

ABSENT: 1 Trustee Rzeznik

MOTION CARRIED

G. JJ Twigs, 405 N. Rand Road, Request for Special Use Permit for Live Entertainment. (Trustee Poynton)

Summary: Jerry Scanlan (the “Applicant”) is the owner of JJ Twig’s Pizza & Pub (the “Restaurant”), which is the lessee of a portion of the property commonly known as 405 North Rand Road in Lake Zurich, Illinois. The Applicant filed an application with the Village of Lake Zurich dated April 21, 2010, seeking approval of a special use permit to authorize live entertainment accessory to a permitted eating place within the Restaurant. The Lake Zurich Plan Commission conducted a public hearing on May 19, 2010 and after the conclusion of the public hearing the Plan Commission recommended approval of the Application, subject to certain conditions recommended by the Plan Commission: i) hours of operation Sunday through Thursday to end at 10:00 p.m. and on Friday and Saturday to end by 1:00 a.m.; ii) live entertainment to be entirely indoors.

Motion by Trustee Poynton, seconded by Trustee Sprawka, to approve an Ordinance Approving a Special Use Permit for Live Entertainment at 405 North Rand Road, JJ Twigs Pizza and Pub.” (ORD. 2010-06-714)

AYES: 5 Trustees Halen, Johnson, Poynton, Sustich, and Sprawka
NAYS: 0
ABSENT: 1 Trustee Rzeznik
MOTION CARRIED

H. Go Hardball Training Academy, 100 Oakwood Road, Unit H Request for a Special Use Permit. (Trustee Poynton)

Summary: Go Hardball, LLC (the “Applicant”) is the lessee of property commonly known as 100 Oakwood Road, Unit H (the “Subject Property”) in Lake Zurich. The Applicant filed an application with the Village of Lake Zurich dated April 19, 2010, seeking approval of a special use permit to authorize a membership sports and recreation club (SIC # 7997) on the Subject Property. The Lake Zurich Plan Commission conducted a public hearing on May 19, 2010 and voted unanimously to recommend approval of the Special Use Permit.

Kate Mitchum, Go Hardball Vice-president, was present to answer questions.

Motion by Trustee Poynton, seconded by Trustee Halen, to approve an Ordinance Approving a Special Use Permit for a Membership Sports and Recreation Club, 100 Oakwood Road, Unit H Go Hardball Training Academy. (ORD. #2010-06-715)

AYES: 5 Trustees Halen, Johnson, Poynton, Sustich, and Sprawka
NAYS: 0
ABSENT: 1 Trustee Rzeznik
MOTION CARRIED

I. Approvals for Linden Subdivision. (Trustee Poynton)

Summary: Michael J. Schroeder (the “Applicant”) is the owner of the property commonly known as 48 Linden Road and 1140 Honey Lake Road in Lake Zurich, Illinois. Applicant filed applications with the Village of Lake Zurich dated October 19, 2009, seeking approval of a preliminary and final plat of subdivision and approval of site plans for the construction of a subdivision including six single-family lots on the Subject Property. The Subject Property is classified in the Village’s R-5 Single Family Residential District pursuant to the Lake Zurich Zoning Code. The Lake Zurich Plan Commission conducted a public hearing on May 19, 2010, and, after the conclusion of the public hearing, the Plan Commission unanimously recommended approval of the Application.

Bob Legas stressed the critical condition of the street and intersection that is covered in ice in the winter.

Developer Mike Schroeder, 250 Whitney, was present to answer questions.

Public Works Director/Engineer Heyden addressed the current flooding issues and said the new homes will not exacerbate the flooding because the road is crowned and

splits the east and the west. The new development will provide sidewalks and gutters. He suggested a special service area be created to provide a mechanism so the existing homes could have sidewalks, curbs, and gutters, which will be at their expense.

Motion by Trustee Poynton, seconded by Trustee Johnson, to approve an Ordinance Approving a Preliminary and Final Plat of Subdivision and Site Plans for the Linden Subdivision.” (ORD. 2010-06-716)

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

NAYS: 0

ABSENT: 1 Trustee Rzeznik

MOTION CARRIED

J. McReady, 1080 Linden, was opposed to the proposed subdivision and enjoyed the quiet and privacy in the area.

J. Approval of a Plat Amendment to Lot 11 in Astor Subdivision. (Trustee Poynton)

Summary: Astor Development LP (the “Applicant”) is the owner of the property commonly known as Lot 11 of the Astor Subdivision in Lake Zurich, Illinois. The Applicant filed an application with the Village of Lake Zurich seeking approval of a preliminary plan and a final plat of resubdivision of Lot 11. The Subject Property is classified in the Village’s I-1 Limited Industrial District pursuant to the Lake Zurich Zoning Code. The Lake Zurich Plan Commission conducted a public hearing on May 19, 2010, and after the conclusion of the public hearing, the Plan Commission recommended that the Board of Trustees approve the Application.

Kelly Sheehan, Flex Construction, introduced the proposed subdivision.

Motion by Trustee Poynton, seconded by Trustee Sustich, to approve an Ordinance Granting Approval of a Plat Amendment to Lot 11 of the Astor Subdivision. (ORD. 2010-06-717)

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

NAYS: 0

ABSENT: 1 Trustee Rzeznik

MOTION CARRIED

K. Designcraft, Inc. at 850 Telser Road, Request for a Special Use Permit. (Trustee Poynton)

Summary: Astor Development LP (the “Applicant”) is the owner of the property commonly known as Lot 11A of the Astor Subdivision in Lake Zurich, Illinois. The Applicant filed an application with the Village of Lake Zurich dated April 19, 2010, seeking (a) approval of a special use permit to allow additional off-street parking in excess of the applicable standard, (b) approval of site plans, and (c) approval of exterior appearance plans, to authorize development of a facility for manufacturing of

machine prototypes and concept models. The Lake Zurich Plan Commission conducted a public hearing on May 19, 2010, after the public hearing and consideration of all of the facts and circumstances affecting the Application, the Plan Commission recommended approval of the Application.

Kelly Sheehan, Flex Construction, introduced the proposed manufacturing facility. Designcraft president Erick Stern, 650 Telser Road, was present to answer questions and explained why they needed the expansion.

Motion by Trustee Poynton, seconded by Trustee Halen, to approve an Ordinance approving a Special Use Permit, Site Plans, and Exterior Appearance Plans for Lot 11A Of the Astor Subdivision - Designcraft.” (ORD. #2010-06-718)

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

NAYS: 0

ABSENT: 1 Trustee Rzeznik

MOTION CARRIED

L. Courtesy review of Walmart proposed expansion. (Trustee Poynton)

Summary: Walmart is proposing an expansion to the existing store at 820 South Rand Road. They will be seeking a PUD amendment, site plan, and exterior appearance approvals.

Project attorney Bruce Goodman introduced the proposed expansion of the existing Walmart store and gave an overview of the plans. Civil engineer Tracy Richard of Manhard Consulting displayed the renderings and described the exterior appearance.

There was consideration of proposal and general comments regarding the project. This item was forwarded to the Plan Commission with no recommendation.

M. Tuf-Tite, 1200 Flex Court, Request to Reduce Letter of Credit. (Trustee Poynton)

Summary: The Village received a request from the owner of Tuf-Tite to reduce the letter of credit. The Public Works Department and Engineering Division have inspected the public and site improvements and find the reduction amount of \$186,766.56 acceptable.

Motion by Trustee Poynton, seconded by Trustee Halen, to reduce the Letter of Credit #450024767-201 to the amount of \$20,752.00 for Tuf-Tite.

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

NAYS: 0

ABSENT: 1 Trustee Rzeznik

MOTION CARRIED

N. Sonic, 205 S. Rand Road Request to Release Bond. (Trustee Sprawka)

Summary: The Village received a request from the owner of Sonic, 205 N. Rand Road to release Bond #37BSBFL419. The Public Works Department Engineering Division has inspected the public and site improvements and recommend the release of bond to be acceptable.

Motion by Trustee Sprawka, seconded by Trustee Sustich, to release Bond #37BSBFL419 in the amount \$218,813.00 for the Sonic development.

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

NAYS: 0

ABSENT: 1 Trustee Rzeznik

MOTION CARRIED

O. Shops of Lakeview, 195 South Rand Road, Request to Reduce Letter of Credit.
(Trustee Sustich)

Summary: The Village received a request from Kimco Realty Corporation on behalf of JFN-FNC Lake Zurich, LLC to release the bond requirement of the developer of The Shops of Lakeview. The Public Works Department and Engineering Division have inspected the improvements and determined several items are unsatisfactory and outstanding. A new bond or letter of credit in the amount of \$86,000 would allow for the original letter of credit to be returned.

Motion by Trustee Sustich, seconded by Trustee Poynton, to accept a letter of credit or bond in the amount of \$86,000 to replace bond #42BCSEX9440 in the amount of \$968,269.50 for the Shops of Lakeview development.

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

NAYS: 0

ABSENT: 1 Trustee Rzeznik

MOTION CARRIED

P. Ordinance Ascertainning Prevailing Wage Rates for Public Works Projects.
(Trustee Sprawka)

Summary: The State of Illinois requires municipalities to annually ascertain the prevailing rate of wages for laborers, mechanics, and other workers employed in performing construction of public works projects for the Village. The proposed ordinance accepts the prevailing rate of wages as determined by the Illinois Department of Labor as of June 2010.

Staff noted an error in the proposed ordinance and will make the correction.

Motion by Trustee Sprawka, seconded by Trustee Sustich, to approve an Ordinance Ascertainning the Prevailing Rate of Wages for Laborers, Mechanics, and Other Workers for Lake Zurich Public Works Projects as of June 2010 as corrected. (ORD. #2010-06-719)

AYES: 5 Trustees Halen, Johnson, Poynton, Sustich, and Sprawka
 NAYS: 0
 ABSENT: 1 Trustee Rzeznik
 MOTION CARRIED

Q. Non-home rule sales tax referendum. (Village President)

Summary: During the development of the Fiscal Year 2011 budget, dramatic expenditure reductions took place while significant revenue shortfalls were recognized for the current and future fiscal years. The Administration recommended the addition of several new local taxes for future implementation. One such tax, a Municipal Utility Tax, was recently adopted by the Village Board for a period not to exceed two years. The self-imposed two-year limitation allows the Village to explore the introduction of a local Municipal Retailers' Occupation Tax and a Municipal Service Occupation Tax to ultimately replace the Municipal Utility Tax.

Unlike the Municipal Utility Tax which is only imposed on property owners within the corporate limits, the non-home rule sales tax benefits a community by spreading the tax across a broader segment of the region. The purpose of this tax is to provide the Village with sufficient revenues in order to maintain and improve the public infrastructure, and to provide for general property tax relief. The proposed ordinance establishes the referendum question and prescribes a .25% of 1% rate if approved at referendum.

Village Administrator Vitas noted to corrections that he had already made to the draft ordinance. After discussion, it was unanimously agreed that the tax should be at the rate of .50 rather than .25 of 1%

Motion by Trustee Poynton, seconded by Trustee Sustich, to approve an Ordinance Authorizing and Directing the Submission to the Electors of the Village of Lake Zurich the Question Whether the Village shall Impose a Municipal Retailers' Occupation Tax and a Municipal Service Occupation Tax at the rate of ½% and with corrections to the draft. (ORD. #2010-06-720)

AYES: 5 Trustees Halen, Johnson, Poynton, Sustich, and Sprawka
 NAYS: 0
 ABSENT: 1 Trustee Rzeznik
 MOTION CARRIED

9. TRUSTEE REPORTS – No Report

10. ADMINISTRATOR'S REPORT

Quarterly Performance Reports for Fiscal Year 2010 4th Quarter
 Presented by Village Administrator Vitas. He reported good progress has been made.

11. **ATTORNEY'S REPORT**

Village Attorney Schlossberg thanked the Board for their vote of confidence and expressed her willingness to serve the Village

12. **DEPARTMENT HEAD REPORTS**

A. Finance Director Zochowski: Treasurer's Report for April 2010
Presented by Asst. Finance Director Forest.

B. Building and Zoning Director Peterson: Update on new retail development.

13. **ADJOURNMENT**

MOTION made by Trustee Poynton, seconded by Trustee Sprawka, to adjourn the meeting.

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

NAYS: 0

ABSENT: 1 Trustee Rzeznik

MOTION CARRIED

The meeting was adjourned at 9:42 p.m.

Respectfully submitted by: Janet McKay, Recording Secretary

Approved by: /s/ Suzanne K. Branding, Village President 6-21-10