

VILLAGE OF LIBERTYVILLE
BOARD OF TRUSTEES
June 14, 2011

President Weppler called to order a meeting of the Board of Trustees at 8:10 p.m. in the Village Hall, 118 West Cook. Those present were: President Terry Weppler, Trustees Richard Moras, Todd Gaines, Jay Justice, and Jim Moran. Trustees Donna Johnson and Drew Cullum were absent.

OATHS OF OFFICE

President Weppler issued the oath of office to four new firefighter/paramedics. The Village welcomed Michael Gremppka, Jered Woodward, Patrick Schultz, and David Popp to the Libertyville Fire Department.

CERTIFICATE OF APPRECIATION – Ken Chapin

Mr. Ken Chapin was not in attendance so the item was deferred.

ITEMS NOT ON THE AGENDA

President Weppler asked if anyone present had something to bring before the Board that was not already listed on the agenda. There were no items presented.

OMNIBUS VOTE AGENDA

President Weppler introduced the Omnibus Vote Agenda and asked if any member wanted an item removed for separate discussion.

OMNIBUS VOTE AGENDA

- A. Minutes of the May 24, 2011 Meeting
- B. Minutes of the May 24, 2011 Executive Session
- C. Bills for Approval
- D. **ORDINANCE 11-O-39: Extend Moratorium – Demolition Permits in C-1 District**
- E. **ORDINANCE 11-O-40: CLCJAWA Director & Alternate**
- F. **RESOLUTION 11-R-14: SWALCO Director & Alternate**
- G. Appoint GLMV Chamber Representative
- H. Intergovernmental Agreement – Traffic Signal Maintenance
- I. Contract – Streetlight Energy
- J. **ORDINANCE 11-O-41: Prevailing Wage Rate**
- K. Extend Contract – Mosquito Management
- L. Use of Village Property – Cook Library
- M. Use of Village Property – Adler Cultural Center
- N. License Agreement – Condell Medical Center Sign
- O. Accept Public Improvements – Cambridge Knoll

Trustee Moras moved to adopt the items listed on the Omnibus Vote Agenda in a single group pursuant to the omnibus vote procedures of the Libertyville Municipal Code. Trustee Justice seconded. The Mayor asked for Board and public comment. The motion carried on roll call vote as follows:

AYES: Trustees Moras, Gaines, Justice, and Moran
NAYS: None
ABSENT: Trustees Johnson and Cullum

PLAN COMMISSION REPORT – Amend Development Plan, 19500-2000 USG Drive

President Wepler explained that at their May 16, 2001 meeting, the ARC heard a request from C.B. Richard Ellis for a 99-space parking lot expansion at 1950-2000 USG Drive. The Commission recommended approval with the change in size of a Honey Locust from 2-inch to 3-inch diameter at breast height. The Engineering Division reviewed and approved documents regarding storm water retention.

The Mayor noted that although the site is governed by a Planned Development, minor changes to the site that are consistent with the intent of the plan can be approved by the Village Board without a Plan Commission hearing. Administrative Staff recommended approval of an Amendment to the Planned Development subject to the following: 1) The dbh for the Honey Locust be changed from 2-inch to 3-inch, and 2) At the time of application for a building permit, a revised Site Plan exhibit be submitted reflecting all proposed and existing striped parking spaces in compliance with the minimum number required handicap parking spaces per the Illinois Accessibility Code. A minimum number of 287 spaces are required for the floor plan. The Mayor then asked for questions. Mark Studtmann of C.B. Richard Ellis was available for Board questions. Trustee Moras moved to approve the request for a Major Adjustment to the Planned Development Final Plan at 1950-2000 USG Drive. Trustee Gaines seconded. The Mayor asked for Board and public comment. The motion carried on roll call vote as follows:

AYES: Trustees Moras, Gaines, Justice, and Moran
NAYS: None
ABSENT: Trustees Johnson and Cullum

PLAN COMMISSION REPORT – Zoning Code Text Amendment

President Wepler introduced the Plan Commission report regarding a request from Midwest Motors, Inc. for a text amendment to the Zoning Code to allow for the operation of a used car dealership in an I-1, Limited Industrial District. The proposal would include allowing used cars sales as a permitted use in the I-1 District and would establish the minimum number of parking spaces for such use.

The Plan Commission noted in the report that the Comprehensive Plan calls for consolidation of auto dealers into one location as much as physically possible. The C-5, Vehicle Dealer District along South Milwaukee Avenue was created to implement this goal. The Village does not allow used car vehicle sales unless they are accessory to new vehicles sales. Therefore, the Commission did not find the proposed amendment consistent with the Comprehensive Plan or the direction of the Zoning Code. The Mayor explained that a motion to recommend approval subject to the following condition:

1) The following text be stricken from the proposed amendment, Section 7-2.2(h)(9), “except for outdoor display of up to 5 such vehicles which are returned indoors between the hours of 10:00 p.m. and 6:00 a.m.” failed with a vote of 0-5. The Mayor then asked for questions.

Ben Ripstein of Midwest Motors and his attorney Mark Eiden addressed the Board. Mr. Eiden explained that all car sales would take place indoors, and only high end sales, 50,000 and up, would take place. Outdoor parking would be limited to employees and visitors. Mr. Ripstein added that the cars sold would not be average sales similar to those sold in the C-5 District but a more boutique sale with cars stored indoors. He explained that they would store from 30-40 cars, and parking would be for a few test drivers, employees, and deliveries. He thanked the Board for its consideration. He stated that the customers could also use other local businesses. He also stated that the facility would have opulent furnishings, and the detailed cars in the showroom would have like-new condition.

The Mayor questioned the number of cars at Mr. Ripstein’s Volo facility and his ability to sell new cars as well.

Trustee Moras expressed concern with the Text Amendment changes to the zoning rules regarding used car sales. Mr. Ripstein stated that a large sales facility would not be cost effective. The group discussed permanent versus temporary land use, and Mr. Ripstein explained that the State of Illinois provides strictly defined regulations. Trustee Gaines stated that although he had no opposition to Mr. Ripstein’s business, he did not favor changing the entire I-1 District. Mr. Eiden, noting that there are some retail sales allowed in the I-1 District, stated that this proposal would not change the character of the use. Director of Community Development John Spoden explained that the I-3 District allows auto and truck sales, I-1 is limited to boats, and the Zoning Code does not allow for primarily used car sales. Mr. Eiden stated that auto repairs, a related business, are allowed in I-1.

Rich Delisle, representing the property owner, addressed the Board. He explained that there had been a 10-month vacancy at the location. He had checked Mr. Ripstein’s operation, and no cars had been stored outdoors. He added that the use is similar to CDW and a business park.

Glen Bockwinkel, representing the car dealerships, stated their objection to used car sales. He stated that he feared the integrity of used car operations that might eventually come to Libertyville. He explained the dealers' commitment to Mile of Cars with resulting Village tax benefits and their additional advertising dollars used to bring business. He added that no dealer favored used car sales.

Attorney Jim Babowice stated that the use was a departure from the Comprehensive Plan. The approval would not be limited to a special use but would become a right in the I-1 District.

Mr. Eiden reiterated that the text as written was not open-ended. He added that the cars would be stored indoors and that the operation would look nothing like a used car sales lot. He noted that the Comprehensive Plan is not mandatory but a policy guide only.

Mr. Ripstein stated that this sales method is the wave of the future, and it was not fair to compare his product to other used car facilities.

Trustee Gaines questioned why the request had not been for a Special Use rather than a Text Amendment. The Board and Village Attorney discussed amending the code and moving on to a special use. Trustee Moras moved to approve the Text Amendment with the amendment outlined in the agenda supplement. The Mayor asked for clarification. Mr. Babowice asked if the item needed to be renoticed. Village Attorney David Pardys stated that the Board could approve the Text Amendment, modify, and renotify. The request could also be sent to the Plan Commission and renoticed as a special use. Trustee Moras stated that he feared unintended issues, and although he appreciates new business, he remained uncomfortable about approval of this request. Trustee Gaines noted that he too had legitimate concerns. Mr. Eiden asked what would satisfy the Text Amendment language. The Mayor explained that the Board was likely to vote against the proposal, and he added that even sending it back to the Plan Commission would not guarantee a change in the vote. Trustee Moras added that with the unanimous denial from Plan Commission, he was not sure what would satisfy the concerns. The Mayor suggested withdrawal of the motion and returning the item to the Plan Commission for review as a Special Use. He reminded Mr. Ripstein that there were no guarantees. Mr. Ripstein stated that he wanted the Board to vote. Trustee Moras added that allowing for the Text Amendment could lead to litigation and legal costs. Mr. Ripstein stated that he understood the risks, but still felt that this was a great use.

The motion failed on roll call vote as follows:

AYES: None

NAYS: Trustees Moras, Gaines, Justice, and Moran

ABSENT: Trustees Johnson and Cullum

CONTRACT – Fireworks Display

President Wepler introduced a contract for fireworks. The Village Budget included \$15,000 for the 2011 Fourth of July fireworks display. The Fire Department received three bids for the display and evaluated them based on criteria, which would give the best fireworks show. Johnny Rockets bid the most shells for the main show and finale. Additionally, Johnny Rockets has performed shows in Libertyville in the past and met all safety requirements. The Fire Department recommended approval. The Mayor asked for questions.

Trustee Justice moved to award the contract to Johnny Rockets Fireworks Productions, and Trustee Moras seconded. The Mayor asked for Board and public comment. The motion carried on roll call vote as follows:

AYES: Trustees Moras, Gaines, Justice, and Moran

NAYS: None

ABSENT: Trustees Johnson and Cullum

PURCHASE FOUR REPLACEMENT POLICE VEHICLES

President Wepler introduced an item regarding replacement of four Crown Victoria Police Interceptor vehicles. The fiscal year 2011-2012 Fleet Services budget included \$100,000 for the replacement. Public Works obtained a price quote from Landmark Ford, the State of Illinois vendor for Police Interceptor vehicles.

The cut-off date to order the 2011 Ford Crown Victoria was May 1, 2011 because the Ford Corporation is discontinuing this model. Landmark Ford has vehicles available for purchase by the Village. Other vendors contacted were not able to obtain the 2011 Crown Victoria vehicles.

Administrative Staff recommended awarding the purchase of the four Police vehicles to Landmark Ford for the sum of \$98,412. One shop manual will be purchased for \$185.00, making the total purchase amount \$98,597. The Mayor asked for questions. Trustee Moran asked why the department wanted the Crown Victoria model. Police Chief Clint Herdegen explained that the department equipment can be easily exchanged, and the model had been very reliable. Cost savings was a major factor.

Trustee Moras moved to award the purchase to Landmark Ford for the sum of \$98,597, and Trustee Gaines seconded. The Mayor asked for Board and public comment. The motion carried on roll call vote as follows:

AYES: Trustees Moras, Gaines, Justice, and Moran

NAYS: None

ABSENT: Trustees Johnson and Cullum

AMEND ENGINEERING CONTRACT – Parking Lot Project

President Wepler, who owns property in the TIF District, asked Trustee Moras to act of President Pro Tem for discussion and voting. Trustee Moras explained that Gewalt-Hamilton Associates (GHA) was hired to provide design and limited construction related services for the west side parking lot improvements. Since the time of the approved agreement, several significant staff changes have occurred which have altered the management of the project. Originally, Streets & Utilities Superintendent Marty Wittrock was going to be the point person for both the utility relocation and the reconstruction. With Wittrock taking over as Superintendent and the fact that the Department is currently down two employees in Streets & Utilities, Wittrock cannot devote the amount of time originally anticipated.

Staff asked GHA to provide an amended agreement to increase the number of construction oversight hours for the parking lot projects. A proposal for an additional \$18,152 was provided for these services. The amount will be dependent upon the amount of time actually spent on the project. Administrative Staff recommended approval of the amended agreement with GHA in an amount not to exceed \$18,152. Director of Public Works John Heinz explained that using time and material formula is less expensive than a lump sum contract.

Trustee Gaines moved to approve the amendment to the contract with Gewalt-Hamilton Associates for any amount not to exceed \$18,152. Trustee Moras seconded. The Mayor asked for Board and public comment. The motion carried on roll call vote as follows:

AYES: Trustees Moras, Gaines, Justice, and Moran

NAYS: None

ABSENT: Trustees Johnson and Cullum

WAIVE BIDS, AUTHROIZE PURCHASE – Parking Lot Lights

President Pro Tem Moras explained that in order to save money on the west side parking lot construction, Staff decided to purchase several of the “hardware” items directly from suppliers. This avoids contractor mark-up. One of the items is the light fixture (poles/bollards and luminaries) that will be used in the parking lot. Sternberg decorative light fixtures were selected several years ago for the downtown streetscape projects and are going to be used in the parking lot.

With only one source for these lights, the Village Board would need to waive bidding and authorize the purchase from the supplier. The company is KSA Lighting LLC, and the amount quoted is \$24,430.00 for nine 12-foot lights and 4 bollard lights. There is sufficient funding in the TIF to cover the costs, and Staff recommended approval of the waiver and purchase. The President Pro Tem asked for questions.

Trustee Justice moved to approve the waiver of bids and authorize the purchase in the amount of \$24,430.00. Trustee Gaines seconded. With no further discussion, the motion carried on roll call vote as follows:

AYES: Trustees Moras, Gaines, Justice, and Moran

NAYS: None

ABSENT: Trustees Johnson and Cullum

PLAN COMMISSION REPORT – Amend Development Plan, 119-163 N. Milwaukee Avenue

President Wepler explained that at their February 28, 2011 meeting, the Plan Commission heard a request from MJK Real Estate Holdings to amend the Planned Development Final Plan for Libertyville Crossings to allow for additional signage. The petitioner proposed installing two projecting signs to increase driver awareness of the entrance to the center.

The Plan Commission concurred with the petitioner that the single access to the site marked ingress and egress a challenge and there is a need to identify the access drive. The petitioner proposed the two signs at the entrance to the site to allow drivers to note the merchants available at the center. The consensus of the Commission was to support some form of education of users of the site, but they did not find the proposed signage accomplished that task. Members suggested marketing the center as a whole and possibly adding the name of the center to the sign. The petitioner stated that the name had been removed at the request of the Appearance Review Commission and that he did not think that adding the name of the center would help the situation. Staff noted that the

ARC development condition was for removal of the gable top to a flat top to match the cornice detail of the building. A motion to recommend Village Board approval failed with a vote of 1-5. The Mayor then asked for discussion.

Mr. Walter Hainsfurther, architect, Skip Silverman of North Shore Sign, and Jeff Silverman, developer, were present for discussion. The Mayor stated that although he understood the denial, he found the sign appropriate. Trustee Moras stated that he did not think the name of the plaza was significant. Trustees Justice concurred that the signage need was legitimate.

Trustee Moras moved to approve the signage, and Trustee Gaines seconded. The Mayor asked for Board and public comment. The motion carried on roll call vote as follows:

AYES: Trustees Moras, Gaines, Justice, and Moran

NAYS: None

ABSENT: Trustees Johnson and Cullum

REQUEST ALTERNATE FIRE PROTECTION – First Presbyterian Church

President Wepler explained that the Village had received a request from the First Presbyterian Church to approve an alternate fire protection method for the existing sanctuary and chapel as part of a plan for the overall construction of a new addition to the church. Explanation of the alternate methods was provided. Village Code allows the Fire Chief, Fire Marshall, and Building Commissioner to approve alternate fire protection methods, based upon certain factors referenced in Section 405(d). As part of the request for alternate fire protections, the church originally asked for 5 years to bring the sanctuary and chapel into compliance with a fire sprinkler system. The original request for 5 years for the alternative fire protection methods and fire sprinklers were approved by the Fire Chief, Fire Marshal, and Building Commissioner.

At the May 24, 2011 meeting, the church changed their original request and asked for an additional 5 years for a total of ten years before being required to fire sprinkler the existing chapel. Staff was asked to review the new request, and after discussing the church's second request, felt that the original 5-year extension was sufficient and followed past practice to allow the phasing of a fire sprinkler system. The most recent 5-year approvals for alternative fire protections were given to St. Joseph's Church and the Redmond Building at Church and Milwaukee.

Unless amended by the Village Board to further extend the Christian Life Center (CLC) addition permit from 5 years to 10 years, the chapel would need to be fire sprinkled within a maximum of 5 years from the date of issuance of the CLC permit. Staff recommended approval of a maximum of five years for sprinkling in accordance with the information presented and the previous approval of the alternative fire methods as noted. The Mayor then asked for comments.

The Mayor asked for clarification regarding the differences in the approvals for St. Joseph and the Redmond Building versus the First Presbyterian Church. Director John Spoden explained that the previous approvals were not for a PUD but for a use change and a remodel. The Mayor noted that this extension was a legitimate plan. Director Spoden stated that the building permit might be extended as enforcement for the 10-year

sprinkling plan. Fire Chief Rich Carani stated that the provisions suggested would make the sanctuary and chapel safe. Trustee Moras stated that as it is, the church is less safe than with the provisions suggested. The building will be safer and will ultimately be sprinkled per the Village Code. Trustee Gaines agreed. The Mayor asked if it was legal to approve the alternate method. Village Attorney David Pardys explained that the temporary occupancy permit could be terminated if the sprinklers were not completed. The building permit is renewable for up to ten years with proper application. The Board could recommend renewal conditions so that future Boards could renew. Responding to the Mayor's question, Pardys stated that an ordinance would add strength to the recommendation.

Jim Babowice, attorney for the church, asked if the conditions of the Village Code 405(d) were satisfied, noting that the 10-year provision would be written into the development agreement. Attorney Pardys noted that the development agreement supersedes the Village Code. Approval of an ordinance will take place at the next meeting. Reverend Brian Paulson thanked the Village Board and Staff for the latitude required to meet the deadlines and financing requirements.

PETITIONS AND COMMUNICATIONS

President Wepler stated that ComEd had been contacted to check into power outages in the Village. He had asked for the ComEd engineers to make an analysis and complete corrective actions.

President Wepler announced the following:

- Economic Development Commission will meet June 15 at 7:30 a.m.
- Historic Preservation Committee will meet June 15 at 4:00 p.m.
- Libertyville Days begins June 16
- Libertyville Days Parade is Saturday, June 18 at 10:00 a.m. from the commuter station
- Appearance Review Commission will meet June 20 at 7:00 p.m.
- Parking Commission will meet June 21 at 10:00 a.m.
- Marketing Committee will meet June 21 at 4:00 p.m. at Austin's Saloon & Eatery
- ETSB will meet June we at 9:00 a.m. at the Schertz Building
- Plan Commission/ZBA will meet June 27 at 7:00 p.m.
- Streets Committee will not meet June 28 at 7:00 p.m.
- Special Projects Committee will meet June 28 at 7:00 p.m.
- Board of Trustees will meet June 28 at 8:00 p.m.

Trustee Moran asked that Special Projects complete an evaluation of the Village online efficiency. Trustee Moras explained that IT issues are reviewed by the Finance Committee. Trustee Moran explained that his concern was more for the website content and service. He then moved to begin an evaluation of the efficiency, and Trustee Gaines seconded. The Mayor asked for Board and public comment. The motion carried on roll call vote as follows:

AYES: Trustees Moras, Gaines, Justice, and Moran

NAYS: None
ABSENT: Trustees Johnson and Cullum

Trustee Moras then directed Staff to prepare an ordinance allowing for the completion of the Christian Life Center at the First Presbyterian Church using proposed fire barriers for the sanctuary and chapel. The sanctuary will have a sprinkler system installed within five years, and the chapel will have a sprinkler system installed within 10 years. Trustee Gaines seconded. The Mayor asked for Board and public comment. The motion carried on roll call vote as follows:

AYES: Trustees Moras, Gaines, Justice, and Moran
NAYS: None
ABSENT: Trustees Johnson and Cullum

EXECUTIVE SESSION – Potential Litigation

President Wepler explained the need for the Board to meet in Executive Session for discussion of potential litigation. Trustee Moras moved to go into Executive Session, and Trustee Justice seconded. The motion carried on roll call vote as follows:

AYES: Trustees Moras, Gaines, Justice, and Moran
NAYS: None
ABSENT: Trustees Johnson and Cullum

ADJOURNMENT

The Board returned to the regular meeting at 10:45 p.m. With no further business, Trustee Moras moved to adjourn, and Trustee Moran seconded. The motion carried on a unanimous voice vote.

Respectfully submitted,

Sally A. Kowal
Village Clerk