

VILLAGE OF LIBERTYVILLE  
BOARD OF TRUSTEES  
January 11, 2011

President Weppler called to order a meeting of the Board of Trustees at 8:00 p.m. in the Village Hall, 118 West Cook. Those present were: President Terry Weppler, Trustees Donna Johnson, Nick Proepper, Drew Cullum, Richard Moras, Todd Gaines, and Jay Justice.

**KEEP LIBERTYVILLE BEAUTIFUL RESIDENTIAL AWARD**

Dorie Botimer, representing the Keep Libertyville Beautiful Commission, presented a Residential Award to homeowners Robert and Sandra Haidvogel, 1217 Crane Blvd.

**RECYCLING GRANT**

With the financial support of Waste Management, Inc., Libertyville received a \$5,000 grant from Keep America Beautiful, Inc. Libertyville resident Terry Jacobs applied for and received the grant and is developing a program to make recycling easier and more efficient for Village residents. Representatives of Waste Management were on hand to present a “check” to Jacobs and the Village of Libertyville.

**DISTINGUISHED BUDGET PRESENTATION AWARD**

President Weppler presented the Distinguished Budget Presentation Award to Village Finance Director Patricia Wesolowski. This is the fifteenth year the Village has received the award from the Government Finance Officers Association for the highest standards of government budgeting.

**ITEMS NOT ON THE AGENDA**

President Weppler asked if any member of the audience had an item to bring before the Board that was not already listed on the agenda. There were no items.

**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 December 14, 2010 Meeting
- B. Minutes of the December 14, 2010 Executive Session
- C. Bills for Approval – December 28, 2010 & January 11, 2011
- D. **ORDINANCE 11-O-01: LSC Lease Renewal**
- E. **RESOLUTION 11-R-01: American Capital Lease – Public Works Truck**
- F. Copy Machine Lease – Community Development
- G. **RESOLUTION 11-R-02: Development Agreement – 1001 S. Milwaukee Avenue**
- H. ARC Report – Sign, 915 N. Milwaukee Avenue
- I. ARC Reports

Trustee Johnson 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 Proepper seconded. The Mayor asked for Board and public comment. The motion carried on roll call vote as follows:

AYES: Trustees Johnson, Proepper, Cullum, Moras, Gaines, and Justice

NAYS: None

**PLAN COMMISSION REPORT: Text Amendment, Tranel Real Estate**

Due to potential conflict of interest, President Weppler recused himself and withdrew from the meeting. He appointed Trustee Johnson as President Pro Tem. She explained that at the December 14, 2010 meeting, the Village Board reviewed a proposal for a text amendment to allow eighty-foot flag poles on certain properties located in the C-3 District. The issue was continued to the meeting of January 11, 2011, to allow the petitioner to propose language that would allow for content neutrality. While the amendment has been modified since the last Village Board meeting, revisions proposed by the petitioner still limit flagpoles of eighty feet to those which fly the United States flag, or poles which fly flags of political entities or units of government, as well as school, philanthropic or religious groups, but only in combination with the United States flag. As such, the Village attorney believed that the proposed regulation remained subject to possible challenge based upon content-based regulation of speech. President Pro Tem Johnson asked for Board and public comment. Attorney James Babowice, Mr. Roch Tranel, and Mr. Duane Laska were available for comments. Attorney Babowice stated that he had exchanged language with Village Attorney Pardys in regard to content neutrality and unintended consequences. He cited a legal precedent, which would allow Mr. Tranel to fly any flag on his own property. Mr. Laska explained that the flagpole atop the Harris Bank building is over 70 feet high.

Mr. Eric Cima, 231 Cater Lane spoke in favor of the 80-foot flagpole. The Village Attorney continued with concerns involving regulating content no matter the height of the pole. Mr. Fred Michalik, 1221 Parliament Court, spoke in favor of the flag on Mr. Tranel's property. Mr. Peter Warenski, 107 Camelot Lane, stated that he was an Army veteran and member of the VFW Honor Guard, and he spoke to support the flag. He stated that the flag shows how privileged we are to live in the United States, and he strongly endorsed the flag. Mr. Bob Lambert, a Navy veteran, also endorsed the flag. He noted that the Village even has a flag on its logo. He then read the list of names of nine marines recently lost in the war, noting that they needed to be remembered and honored in the preservation of our freedom. A resident at 1020 Ashley Lane opposed the flag due to possible negative consequences with its location. She stated that Milwaukee Avenue is very busy at the site with a traffic light, a fire station, and an electronic sign. She stated that there is already a flag at the location, and a larger flag would cause a traffic hazard. Thomas Thomey, 421 Wedgemere, stated that he too was a patriot and all for flying flags, but he felt that an 80-foot flagpole was too big.

Trustee Moras stated that the decision was challenging, and he was not personally opposed to the amendment. He added that he must consider Village residents' opinions. He explained that he had had a significant number of residents contact him, and all

comments had been negative. Trustee Gaines stated that he had received both positive and negative comments. He added that he did not oppose the height, but he did not favor regulating the content on the pole. Trustee Justice stated that he was in favor of the flag. Trustee Proepper stated that he felt the Plan Commission had acted appropriately. He did not like controlling content, and he was opposed to the amendment. Trustee Cullum concurred, stating that he favored a 45-foot pole and did not want to see three 80-foot poles in the C-3 District. President Pro Tem Johnson thanked the veterans for speaking and applauded their service. She stated that at the previous meeting, she had voiced her opposition to the height of the pole, but stated that she would keep an open mind about the balance of the information. She then explained that all Board Members care about patriotism and all love their country. She added that there is no greater demonstration of that patriotism than our flag and the principles it represents. She stated that as a patriot, she would protect free speech and patriotic ideals. She concluded that she could not support an 80-foot flagpole. She also commented that she would not support regulating the content on the pole since it would infringe on others' right to fly whatever they want. She stated that she felt obligated to protect each individual's freedom of speech, and she reiterated that she would not support the amendment.

Mr. Babowice made some concluding remarks regarding content neutrality and regulating language in the amendment. He added that these did not address the height issue, again noting that Harris Bank has a flagpole that is approximately 45 feet from grade. He asked that the Board Members be polled in regard to height. Trustee Moras stated that he was not prepared to comment, as did Trustee Gaines. Trustee Justice stated that 45 feet was reasonable. The other trustees agreed that 45 feet was adequate.

Mr. Babowice stated that they would like to review their measurements and asked to continue to issue until a May meeting without objection. Attorney Pardys stated that he believed it was possible to remove language and make it content neutral.

Trustee Cullum moved to continue the item until a May meeting, and Trustee Proepper seconded. The President Pro Tem asked for Board and public comment. The motion carried on roll call vote as follows:

AYES: Trustees Johnson, Proepper, Cullum, Moras, Gaines, and Justice

NAYS: None

#### **ZBA REPORT: Fence Variance, 113 Crestfield**

President Wepler introduced a ZBA report for a requested variation to allow construction of a fence at 1131 Crestfield Avenue. Applicant John Clutter made a brief presentation and was available for questions. The Mayor asked for Board comment. Trustee Johnson moved to approve the variation and direct Staff to prepare an ordinance for future Board approval. Trustee Justice seconded. The Mayor asked for Board and public comment. The motion carried on roll call vote as follows:

AYES: Trustees Johnson, Proepper, Cullum, Moras, Gaines, and Justice

NAYS: None

**LIFE STORAGE CENTER – 700-988 E. PARK AVENUE**

**A. Plan Commission Reports**

President Weppler introduced a Plan Commission report for an amendment to the Planned Development at Life Storage Centers. The proposal included the removal of a building facing 5<sup>th</sup> Street and replacement with a parking lot to serve the north buildings. Other improvements included partial demolition of a structure to allow installation of a pedestrian connection from the 5<sup>th</sup> Street parking to the central entrance for the northern building. The improvements require an amendment to the Special Use Permit and changes to Phase 3 of the plan for the site. The consensus of the Plan Commission was to recommend approval. The Mayor asked for comments. Scott Hezner, of the Hezner Corporation, was on hand to answer questions or present further information.

Trustee Proepper moved to concur with the Plan Commission and approve the amendment to the Special Use Permit for a Planned Development. Trustee Moras seconded. The Mayor asked for Board and public comment. The motion carried on roll call vote as follows:

AYES: Trustees Johnson, Proepper, Cullum, Moras, Gaines, and Justice

NAYS: None

Trustee Johnson moved to concur with the Plan Commission and approve the Planned Development with Concept Plan, and Trustee Cullum seconded. The Mayor asked for Board and public comment. The motion carried on roll call vote as follows:

AYES: Trustees Johnson, Proepper, Cullum, Moras, Gaines, and Justice

NAYS: None

Trustee Johnson moved to concur with the Plan Commission and approve the Planned Development with Final Plan, and Trustee Moras seconded. The Mayor asked for Board and public comment. The motion carried on roll call vote as follows:

AYES: Trustees Johnson, Proepper, Cullum, Moras, Gaines, and Justice

NAYS: None

**B. ORDINANCE 11-O-02: SUP Amendment**

President Weppler introduced the ordinance approving an Amendment to the Special Use Permit for a Planned Development in order to further develop a 17.3-acre parcel of land at 700-998 E. Park Avenue. Trustee Proepper moved to approve the ordinance, and Trustee Gaines seconded. The Mayor asked for Board and public comment. The motion carried on roll call vote as follows:

AYES: Trustees Johnson, Proepper, Cullum, Moras, Gaines, and Justice

NAYS: None

**C. ORDINANCE 11-O-03: Concept Plan – Phase 3**

President Weppler introduced an ordinance approving a Planned Development with Concept Plan for Phase 3 at 700-998 E. Park Avenue. Trustee Cullum moved to approve the ordinance, and Trustee Justice seconded. The Mayor asked for Board and public comment. The motion carried on roll call vote as follows:

AYES: Trustees Johnson, Proepper, Cullum, Moras, Gaines, and Justice

NAYS: None

**D. ORDINANCE 11-O-04: Final Plan – Phase 3**

President Weppler introduced an ordinance approving a Planned Development Final Plan for Phase 3 at 700-998 E. Park Avenue. Trustee Johnson moved to approve the ordinance, and Trustee Gaines seconded. The Mayor asked for Board and public comment. The motion carried on roll call vote as follows:

AYES: Trustees Johnson, Proepper, Cullum, Moras, Gaines, and Justice

NAYS: None

Mr. Hezner thanked Director of Community Development John Spoden for his assistance in completing requirements for the development.

**PLAN COMMISSION REPORT: Amend Final Plan & Special Use Permit, 1500 S. Milwaukee Avenue**

President Weppler introduced a Plan Commission report for an Amendment to the Planned Development Final Plan and Amendment to the Special Use Permit for HRC ManorCare. Plans include construction of a 5,000 square foot addition to the facility at 1500 S. Milwaukee Avenue to house 12 skilled nursing beds and 1,500 square feet for physical therapy. A public hearing was held on December 13, 2010 regarding the request. The Commission recommended approval with the following conditions:

1. Plans shall indicate how each building exit complies with 2006 IBC Chapter 10 including each illuminated and graded exit discharge from each exit door to the public way prior to issuing Building Permit.
2. Civil Engineering Plans, Sheet 5 from the Utility Plan shall identify all existing underground sewer and water main facilities prior to issuing Building Permit. Utility Plan shall provide plan and profile of the proposed storm sewer, existing sanitary sewer, and water main identifying proposed ground elevations over the pipe prior to issuing Building Permit.
3. Civil Engineering Plans, Sheet 5 from the Utility Plan shall be revised to show how the proposed grease trap will be accessed for maintenance by cleaning equipment prior to issuing Building Permit.
4. Civil Engineering Plans shall be revised to indicate, for water quality control treatment for this development, per the Lake County Watershed Development Ordinance, hydrocarbon removal technology to be implemented using a volume of 0.5 inches of runoff for the impervious surface tributary area to each treatment device meeting a minimum 70% removal rate for the parking lot.
5. Plan Commission recommends that the petitioner not be required to install a pedestrian public sidewalk between the subject site and the south and west sides of Artaius Parkway with crosswalk connections to the sidewalks located along Florsheim Drive.

The Mayor then asked for Board and public comment. Mr. David Zajicek, attorney for the petitioner, was available for comments and questions.

Trustee Proepper moved to approve the Amendment to the Planned Development (PC 10-41) and direct Staff to prepare an ordinance for approval. Trustee Cullum seconded.

The

Mayor asked for Board and public comment. The motion carried on roll call vote as follows:

AYES: Trustees Johnson, Proepper, Cullum, Moras, Gaines, and Justice

NAYS: None

Trustee Cullum moved to approve the Amendment to the Special Use Permit (PC 10-42) and direct Staff to prepare an ordinance for approval. Trustee Moras seconded. The Mayor asked for Board and public comment. The motion carried on roll call vote as follows:

AYES: Trustees Johnson, Proepper, Cullum, Moras, Gaines, and Justice

NAYS: None

### **AWARD CONTRACT – Utilities Relocation**

President Wepler explained that in order to complete the redesign and repaving of the West Side Parking Lot, it is necessary to relocate all overhead utilities in the area to underground. The contract will provide for the placement of underground conduit for utility mains as well as conduit and cable for the private utility services affected by this project. Payment to the individual companies (ComEd, AT&T, and Comcast) for their labor and material relocation costs will be provided under separate contract. KJWW Engineering provided design services to the Village for this project, and bids were opened on December 1, 2010. The Mayor summarized the four bids. KJWW provided their recommendation, and Administrative Staff concurred with that recommendation to award the contract to Aldridge Electric for the following amount:

Base \$312,546.00

Alt. #1 67,111.28 (place transformers in planter island behind Village Hall)

Alt. #3 47,355.21 (mobile generator for temporary power if needed)

Total \$427,012.49

Funding is available in the TIF Fund. Staff had initially included \$250,000 in the 2010-2011 TIF budget, however the estimate developed by KJWW was in the amount of \$552,000. This project is scheduled for March 15-June 15. Administrative Staff recommended the award of the contract for the Utility Relocations in an amount not to exceed \$427,012.49 to Aldridge Electric Co. The Mayor asked for Board and public comment. Trustee Cullum moved to award the contract to Aldridge Electric, and Trustee Proepper seconded. The Mayor asked for Board and public comment. The motion carried on roll call vote as follows:

AYES: Trustees Johnson, Proepper, Cullum, Moras, Gaines, and Justice

NAYS: None

### **MODIFY PARKING LOT CONFIGURATION – Cook Library**

President Wepler explained that there had been recent discussion regarding the new configuration of the Cook Parking lot and access points which were approved as part of the Library expansion. The current configuration is what the Plan Commission and Village Board approved several years ago. Concerns were raised as to the impact this

configuration would have on various events which utilize Church Street, such as Libertyville Days, Farmers Market, Car Fun on 21, etc. and the exit that has been placed on Church Street from the library parking lot. A revised configuration was presented that would allow two-way traffic off Brainerd by removing the existing sidewalk and relocating the curb on the north side of this access way, widening the drive aisle. During events that utilize Church Street, the Church Street exit would be closed and all traffic would enter and exit the library lot via Brainerd. The Library Board sought formal approval by the Village of Libertyville that the Village would pay for modifications of the driveway and authorizes the change in plans. The removal and replacement of the curb and asphalt was estimated at \$5,000. There were two possible scenarios to consider: 1) Widen the Brainerd access point and temporarily block the Church Street exit when events are scheduled, or 2) Widen the Brainerd access point and permanently close the Church Street exit. The Mayor and Staff recommended authorizing Village Staff to proceed with modifications to the Brainerd access paid for by the Village and take appropriate measures to address the Church Street access when the Library Board determines which of the two options it desires. The Mayor asked for Board comment. Trustee Johnson asked if the phasing of either option would be regulated by Village Public Works. The Mayor said that it could be made a condition of the agreement. Trustee Johnson stated that she would like to add that the work be done in collaboration with Director John Heinz. Trustee Proepper, Cullum, and Moras concurred with authorizing either plan. Trustee Gaines questioned the cost incurred for the possibility of closing Church Street. The Mayor noted that the Library Board had paid \$70,000 for building permits. Trustee Proepper then moved to authorize the Mayor to present both options to the Cook Memorial Library Board, and Trustee Gaines seconded. The Mayor asked for Board and public comment. The motion carried on roll call vote as follows:  
AYES: Trustees Johnson, Proepper, Cullum, Moras, Gaines, and Justice  
NAYS: None

#### **PETITIONS AND COMMUNICATIONS**

- Keep Libertyville Beautiful will meet January 14 at the Liberty at 7:30 a.m.
- All Village offices, except Police, Fire, and the Sports Complex will be closed on January 17 for a furlough day
- Fire Pension Board will meet January 18 at 8:30 a.m. at the North Fire Station
- Parking Commission will meet January 18 at 10:00 a.m.
- Marketing Committee will meet January 18 at 4:00 p.m. at Austin's Saloon & Eatery
- Finance Committee will meet January 18 at 5:30 p.m.
- Appearance Review Commission will meet January 18 at 7:00 p.m. at the North Fire Station
- License and Permits Committee will meet January 18 at 6:30 p.m.
- Fire and Police Committee will meet January 18 at 7:00 p.m.
- Economic Development Commission will meet January 19 at 7:30 a.m.
- Historic Preservation Committee will meet January 19 at 4:00 p.m.
- Plan Commission/ZBA will meet January 24 at 7:00 p.m.

- Bicycle Advisory Commission will meet January 25 at 5:00 p.m.
- Streets Committee will meet January 25 at 7:00 p.m.
- Board of Trustees will meet January 25 at 8:00 p.m.

**EXECUTIVE SESSION**

President Wepler stated that the Board needed to meet in Executive Session for discussion of personnel, litigation, and land acquisition. Trustee Johnson moved to go into Executive Session, and Trustee Justice seconded. The motion carried on roll call vote as follows:

AYES: Trustees Johnson, Proepper, Cullum, Moras, Gaines, and Justice

NAYS: None

**ADJOURNMENT**

The Board returned to the regular meeting at 10:08 p.m., and with no further business, Trustee Proepper moved to adjourn. Trustee Moras seconded. The motion carried on a unanimous voice vote.

Respectfully submitted,

Sally A. Kowal  
Village Clerk